

# **Legislative Appropriations Request**

**FOR FISCAL YEARS 2014 and 2015**

**Submitted to the  
Governor's Office of Budget, Planning and Policy  
and the Legislative Budget Board**

**by**

**TEXAS INDIGENT DEFENSE COMMISSION**



**Submitted  
August 16, 2012**

**FY 2012-13 LEGISLATIVE APPROPRIATIONS REQUEST**  
**Texas Indigent Defense Commission, Texas Judicial Council**

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**ADMINISTRATOR'S STATEMENT**  
**82<sup>nd</sup> Regular Session, Agency Submission, Version 1**  
**Automated Budget and Evaluation System of Texas (ABEST)**

**Texas Indigent Defense Commission, Texas Judicial Council**

**Overview**

The mission of the Texas Indigent Defense Commission (Commission) is to provide financial and technical support to counties to develop and maintain quality, cost-effective indigent defense systems that meet the needs of local communities and the requirements of the Constitution and state law. Central to the Commission's approach is its commitment to respect local control, providing support where needed, while ensuring that counties understand that with autonomy comes responsibility.

The Commission is composed of five members appointed by the Governor and eight ex officio members.

- Court of Criminal Appeals Presiding Judge **Sharon Keller** of Austin (Chair, ex officio);
- Supreme Court Chief Justice **Wallace Jefferson** of Austin (ex officio);
- Chief Justice of the Texas First Court of Appeals **Sherry Radack** of Houston (ex officio, designated by Governor);
- Second Administrative Judicial Region Presiding Judge **Olen Underwood** of Conroe, (Vice-Chair, appointed by Governor);
- Tarrant County Judge **B. Glen Whitley** of Hurst, (appointed by Governor);
- Bell County Judge **John Burrows** of Temple, (appointed by Governor);
- Victoria County Court at Law Number One Judge **Laura Weiser** of Victoria (ex officio, designated by Governor);
- State Senator **John Whitmire** of Houston (ex officio);
- State Senator **Jeff Wentworth** of San Antonio (ex officio);
- State Representative **Roberto Alonzo** of Dallas (ex officio);
- State Representative **Pete Gallego** of Alpine (ex officio);
- Mr. **Knox Fitzpatrick** of Dallas, (appointed by Governor); and,
- Mr. **Anthony Odiorne** of Georgetown, (appointed by Governor).

**Significant Changes in Policy and Services Provided**

Prior to 2001, Texas had no coordinated system for providing defense services to poor people accused of crimes. The Fair Defense Act of 2001--the original blueprint for indigent defense developed by the Texas legislature over a decade ago-- has served Texas well

and provides necessary structure and guidance to local officials charged with carrying out the responsibilities of the law. A law passed during the 82<sup>nd</sup> Legislative Session, HB 1754, renamed the Task Force on Indigent Defense (Task Force) the Texas Indigent Defense Commission and granted it new autonomy. This legislation required that the Task Force Board be reconstituted as the initial governing body of the Commission. On June 21, 2012, Governor Rick Perry formally announced appointments to the new Commission which marked the official transition from Task Force to Commission.

The duties, responsibilities, members, and staff of the Task Force were all transferred to the Commission, which remains administratively attached to the Office of Court Administration (OCA). The Commission, however, was granted authority to submit its legislative appropriation request separate from the OCA. This change benefits OCA, the Commission, and the state. OCA can seek the funding it needs to effectively serve the courts and administer its statutory responsibilities, and the Commission can present its case for indigent defense funding without having to compete directly with OCA for funding. The Commission is pleased to submit its first separate LAR this year.

The primary purpose of the Commission is to provide funding to counties through grants and to offer technical assistance to local officials to improve or sustain effective indigent defense practices. The Commission understands indigent defense services are provided and funded in large part at the local level. Last year, counties spent \$168 million to provide indigent services compared to the state's \$30 million. To honor the tenets of local control, the Commission applies evidence-based research to its strategies. By deploying an evidence-based practice strategy, the Commission is able to provide local and state officials with reliable information to make informed decisions about indigent defense practices, resulting in a better indigent defense delivery system that meets the needs of the local jurisdictions while fulfilling the requirements of state and constitutional law.

The Commission has implemented a grant program that ensures funds are fairly distributed across the entire state while also promoting compliance and encouraging the growth of more effective indigent defense services. One grant program—which has benefitted all counties—provides formula-based grants. The other offers discretionary-based grants to implement innovative programs, to remedy issues of non-compliance, and to assist counties that demonstrate an overwhelming economic hardship related to the delivery of indigent defense services. To receive a grant under either program, a county must demonstrate its commitment to compliance with the requirements of state law related to indigent defense. A county, however, may not reduce the amount of funds it provides for indigent defense services in the county because of funds provided by the Commission under either program.

#### Impact of 10 Percent Reduction

The Commission's request is based on funding levels needed to assist Texas counties in meeting the state's obligations under the Fair Defense Act, the Texas Constitution, and the 6<sup>th</sup> Amendment of the U.S. Constitution to effectively maintain and improve the delivery

of indigent defense services in Texas. As directed, in addition to our baseline request the Commission has included contingency budgets reducing general revenue dedicated funds by 10 percent.

A 10 percent reduction in grants to counties from the Commission would cut funding to an already underfunded program. Indigent defense is not a discretionary program that can be eliminated. The right to counsel is guaranteed in the Texas Constitution and the United States Constitution. The entire appropriation for this program is derived from general revenue-dedicated funds: about \$26 million comes from court costs that are levied on defendants when they are convicted of a crime, \$2 million comes from fees assessed on surety bonds, and just over \$2 million comes from fees levied on attorneys when they annually renew their licenses. As Speaker Straus noted in a committee hearing earlier this year, "We should make our budget more transparent by spending these fees for their intended purposes, or by not collecting them at all, instead of using them for certification."

A cut of \$6 million or more dollars in grants to counties would weaken the ability of counties to carry out the requirements of the Fair Defense Act at a time when indigent defense expenses are rising and compliance is improving. This cut in grants to counties would amount to the state passing on to counties the costs of representing either approximately 11,000 non-capital felony cases or 34,000 misdemeanor cases.

Decreased funding for indigent defense would also place Texas counties and the State of Texas in greater jeopardy of lawsuits related to indigent defense. Both Gillespie and Williamson Counties have faced major lawsuits related to the provision of indigent defense services. *Rothergy v. Gillespie County*, 554 U.S. 191 (2008) lasted four years and went all the way to the United States Supreme Court. The Court held that Gillespie County had erred by delaying appointment of counsel. It also held that the right to counsel attaches at the article 15.17 hearing under the Texas Code of Criminal Procedure. On June 8, 2012 the Texas Supreme Court unanimously ruled that a putative class of indigent misdemeanor defendants can proceed in its Section 1983 lawsuit alleging violations of the right to counsel in Williamson County, Texas. The plaintiffs in *Heckman v. Williamson County* claim that the county and its judges provide defendants inaccurate information about the right to counsel, fail to make timely rulings on requests for counsel, and deny appointed counsel to financially eligible defendants. In reversing an intermediate court of appeals decision dismissing the lawsuit, the Texas Supreme Court recognized that, "A criminal defendant's right to counsel--enshrined in both the United States and Texas Constitutions--ranks among the most important and fundamental rights in a free society." (No. 10-0671) The funding and technical support the Commission provides to counties helps to meet their constitutional obligations, thus making such costly lawsuits less likely.

## Exceptional Items

1. The Commission is requesting the restoration of estimated appropriation and unexpended balance authority between biennia. This will allow greater funding levels – in excess of the current sum certain – to be allocated towards indigent defense, which will reduce county burdens. Currently there is over \$7.2 million in juror pay court costs in the Fair Defense Account from FY2011 that may not be spent without permission to carry forward unexpended balances between biennia. Because the funding sources for the Fair Defense Account include court costs and other fee sources that fluctuate from year to year, the sum certain appropriation means that any additional revenue deposited to the account above that amount is unavailable for grants to counties. Staff anticipates this amount will be approximately \$3-4 million in revenue for FY2012 above what is appropriated to the Commission and a similar amount for FY2013. Restoration of estimated appropriation authority rather than a sum certain amount would permit the Commission to spend the full amount of revenue flowing into the Fair Defense Account (as has been done in previous years) by increasing grant awards to counties. Since the money in the account is dedicated and can only be spent for indigent defense, the extra unappropriated funds do not benefit any other program.
2. The Commission is also requesting appropriation of an additional \$154 million over the next biennium, which would allow the Commission to increase grant funding to counties in an amount that would make up the approximately \$77 million per year in increased indigent defense costs counties have incurred since passage of the Fair Defense Act. The Fair Defense Act provided more explicit guidance on how to comply with constitutional requirements that has resulted in increased costs for most jurisdictions. In an effort to safeguard constitutional rights under the Fair Defense Act, the costs expended by local jurisdictions have increased almost 120 percent from \$91.4 million in 2001 to \$198.4 million in 2011. Only a small fraction of this increased expense is covered through current Commission grant programs. In FY2012 \$29.7 million and in FY2013 \$32.5 million in dedicated state funds were available to counties. If current spending levels remain at approximately \$200 million per year (and they have increased every year), counties must make up approximately \$77 million per year in increased costs. To determine the amount of this exceptional item, the \$154 million total has been reduced by the amounts requested in the Commission's first exceptional item (to be funded by dedicated revenue already available in the state treasury), so that the total of both exceptional items for TIDC is \$154 million.

## Conclusion

Since 2001, the Commission has provided necessary funding to encourage and promote a better justice system across Texas. As a result, many jurisdictions have implemented more effective indigent defense delivery systems and thousands more people now have their right to appointed counsel honored. The right to counsel is guaranteed in both the Texas Constitution and the United States Constitution. Indigent defense is not a discretionary program that can be eliminated. Any reduction in funding would inhibit the

development, maintenance, and expansion of good programs that help fulfill a constitutional duty and would further burden Texas counties. The entire appropriation for this program is derived from dedicated fees and court costs assessed on persons convicted of a criminal offense. No General Revenue funds are appropriated for this program. The Commission respectfully requests that funds explicitly dedicated to indigent defense purposes be made available to serve that purpose, and that the state recognize the additional burden counties have assumed since the passage of the Fair Defense Act and appropriate additional revenue to offset those additional costs.

Respectfully submitted,

James D. Bethke  
Executive Director  
Texas Indigent Defense Commission

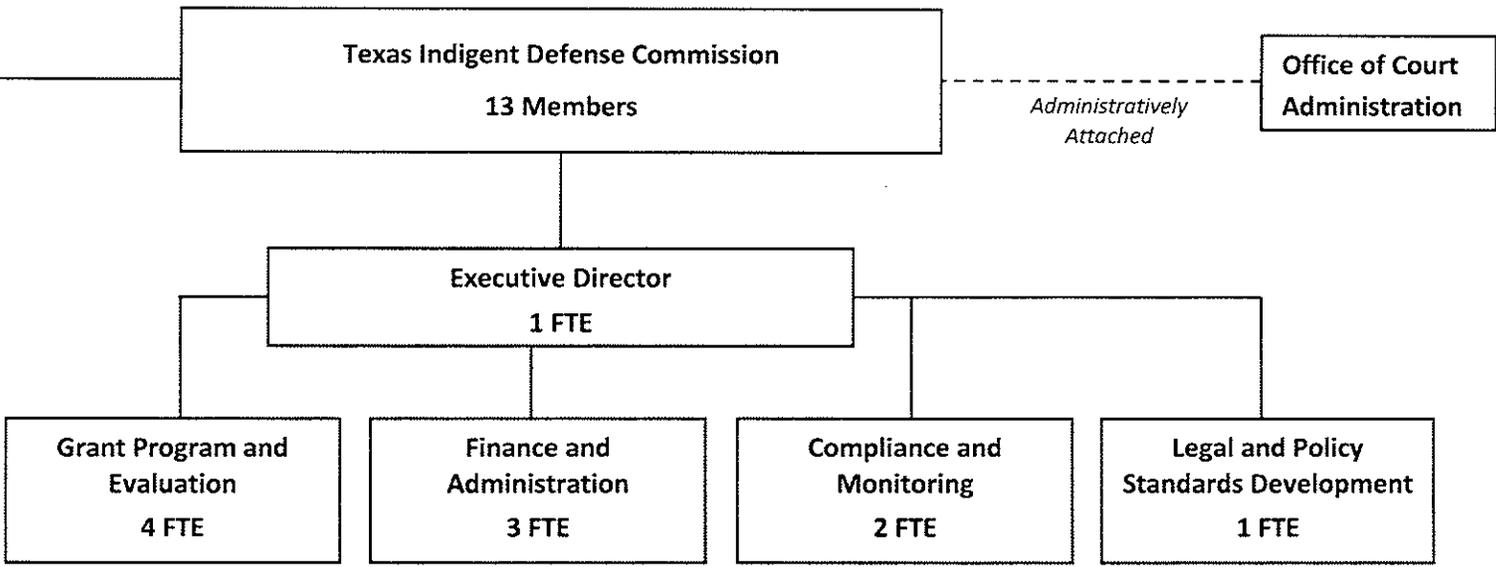
**Texas Indigent Defense Commission Board**

**Ex Officio Members 8 (eight)**

- Presiding Judge of the Court of Criminal Appeals
- Chief Justice of the Supreme Court
- One of the Courts of Appeals Justices serving on the Council who is designated by the governor
- One of the members of the Senate serving on the Council who is designated by the lieutenant governor
- Member of the Senate appointed by the lieutenant governor
- Chair of the House Criminal Jurisprudence Committee
- Member of the House of Representatives appointed by the Speaker of the House
- A county court or statutory county court judge serving on the council who is designated by the governor

**Governor Appointments 5 (five)**

- A district judge serving as a presiding judge of an administrative judicial region
- A judge of a constitutional county court or a county commissioner
- A judge of a constitutional county court or a county commissioner of a county with a population of 250,000 or more
- A practicing criminal defense attorney
- A chief public defender in Texas or the chief public defender's designee, who must be an attorney employed by the public defender's office



**2.A. SUMMARY OF BASE REQUEST BY STRATEGY**  
83rd Regular Session, Agency Submission, Version 1  
Automated Budget and Evaluation System of Texas (ABEST)

**212 Texas Indigent Defense Commission, Texas Judicial Council**

Goal/Objective/STRATEGY	Exp 2011	Est 2012	Bud 2013	Req 2014	Req 2015
4 Improve Indigent Defense Practices and Procedures					
1 Improve Indigent Defense Practices and Procedures					
1 INDIGENT DEFENSE	\$35,332,560	\$29,774,951	\$32,512,893	\$31,143,922	\$31,143,922
TOTAL, GOAL     4	\$35,332,560	\$29,774,951	\$32,512,893	\$31,143,922	\$31,143,922
<b>TOTAL, STRATEGY REQUEST</b>	<b>\$35,332,560</b>	<b>\$29,774,951</b>	<b>\$32,512,893</b>	<b>\$31,143,922</b>	<b>\$31,143,922</b>
<b>METHOD OF FINANCING</b>					
<b>General Revenue Dedicated Funds:</b>					
5073 Fair Defense	\$35,222,891	\$29,774,951	\$32,512,893	\$31,143,922	\$31,143,922
<b>SUBTOTAL</b>	<b>\$35,222,891</b>	<b>\$29,774,951</b>	<b>\$32,512,893</b>	<b>\$31,143,922</b>	<b>\$31,143,922</b>
<b>Other Funds:</b>					
666 Appropriated Receipts	\$30,897	\$0	\$0	\$0	\$0
777 Interagency Contracts	\$78,772	\$0	\$0	\$0	\$0
<b>SUBTOTAL</b>	<b>\$109,669</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
<b>TOTAL, METHOD OF FINANCING</b>	<b>\$35,332,560</b>	<b>\$29,774,951</b>	<b>\$32,512,893</b>	<b>\$31,143,922</b>	<b>\$31,143,922</b>

**2.B. SUMMARY OF BASE REQUEST BY METHOD OF FINANCE**  
83rd Regular Session, Agency Submission, Version 1  
Automated Budget and Evaluation System of Texas (ABEST)

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**212 Texas Indigent Defense Commission, Texas Judicial Council**

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<b>METHOD OF FINANCE</b>	<b>EXP 2011</b>	<b>Est 2012</b>	<b>Bud 2013</b>	<b>Req 2014</b>	<b>Req 2015</b>
<b>GENERAL REVENUE FUND - DEDICATED</b>					
<b>5073 GR Dedicated - Fair Defense Account No. 5073</b>					
<i>REGULAR APPROPRIATIONS</i>					
Regular Appropriations from MOF Table (2010-11 GAA)	\$29,614,044	\$0	\$0	\$0	\$0
Regular Appropriations from MOF Table (2012-13 GAA)	\$0	\$29,774,951	\$32,512,893	\$31,143,922	\$31,143,922
<i>RIDER APPROPRIATION</i>					
Art. IV, OCA Rider 11, Adjust Revenue Estimate (2010-11 GAA)	\$1,397,888	0	0	\$0	\$0
Art IV, OCA Rider 11, UB (2010-11 GAA)	\$12,738,137	\$0	\$0	\$0	\$0
<i>TRANSFERS</i>					
Art IX, Sec 17.104, Contingency Appn. SB 1091, OCW	(\$500,879)	\$0	\$0	\$0	\$0
<i>SUPPLEMENTAL, SPECIAL OR EMERGENCY APPROPRIATIONS</i>					
SB 2, 82nd Leg. 1st Called Session, Sec 13 Basic Civil Legal Services	\$0	\$2,437,944	\$5,175,887	\$0	\$0
HB4, 82nd Leg, Regular Session, Sec. 1 (d) General Revenue-Dedicated	(\$726,628)	\$0	\$0	\$0	\$0

**2.B. SUMMARY OF BASE REQUEST BY METHOD OF FINANCE**  
83rd Regular Session, Agency Submission, Version 1  
Automated Budget and Evaluation System of Texas (ABEST)

**212 Texas Indigent Defense Commission, Texas Judicial Council**

<b>METHOD OF FINANCE</b>	<b>EXP 2011</b>	<b>Est 2012</b>	<b>Bud 2013</b>	<b>Req 2014</b>	<b>Req 2015</b>
<i>LAPSED APPROPRIATIONS</i>					
Regular Appropriations from MOF Table (2010-11 GAA)	(\$7,299,671)	\$0	\$0	\$0	\$0
Art IV, Spec Provisions, Sec 11	\$0	(\$2,437,944)	(\$5,175,887)	\$0	\$0
<b>TOTAL GR Dedicated - Fair Defense Account No. 5073</b>	<b>\$35,222,891</b>	<b>\$29,774,951</b>	<b>\$32,512,893</b>	<b>\$31,143,922</b>	<b>\$31,143,922</b>
<i>OTHER FUNDS</i>					
666 Appropriated Receipts					
RIDER APPROPRIATION					
Art IX, Sec 8.03, Reimbursements and Payments (2010-11 GAA)	\$30,897	\$0	\$0	\$0	\$0
<b>TOTAL, Appropriated Receipts</b>	<b>\$30,897</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
777 Interagency Contracts					
RIDER APPROPRIATION					
Art IX, Sec 8.03, Reimbursements and Payments (2010-11 GAA)	\$78,772	\$0	\$0	\$0	\$0
<b>TOTAL, Interagency Contracts</b>	<b>\$78,772</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
<b>TOTAL, ALL OTHER FUNDS</b>	<b>\$109,669</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
<b>GRAND TOTAL</b>	<b>\$35,332,560</b>	<b>\$29,774,951</b>	<b>\$32,512,893</b>	<b>\$31,143,922</b>	<b>\$31,143,922</b>

**2.E. SUMMARY OF EXCEPTIONAL ITEMS REQUEST**  
83rd Regular Session, Agency Submission, Version 1  
Automated Budget and Evaluation System of Texas (ABEST)

**212 Texas Indigent Defense Commission, Texas Judicial Council**

Priority	Item	2014			2015			Biennium	
		GR and GR Dedicated	All Funds	FTEs	GR and GR Dedicated	All Funds	FTEs	GR and GR Dedicated	All Funds
1	Indigent Defense - Restore Funding	\$15,649,816	\$15,649,816		\$2,816,715	\$2,816,715		\$18,466,531	\$18,466,531
2	Indigent Defense - Full Funding	\$61,350,184	\$61,350,184		\$74,183,285	\$74,183,285		\$135,533,469	\$135,533,469
<b>Total, Exceptional Items Request</b>		<b>\$77,000,000</b>	<b>\$77,000,000</b>		<b>\$77,000,000</b>	<b>\$77,000,000</b>		<b>\$154,000,000</b>	<b>\$154,000,000</b>
<b>Method of Financing</b>									
	General Revenue	\$61,350,184	\$61,350,184		\$74,183,285	\$74,183,285		\$135,533,469	\$135,533,469
	General Revenue - Dedicated	\$15,649,816	\$15,649,816		\$2,816,715	\$2,816,715		\$18,466,531	\$18,466,531
		<b>\$77,000,000</b>	<b>\$77,000,000</b>		<b>\$77,000,000</b>	<b>\$77,000,000</b>		<b>\$154,000,000</b>	<b>\$154,000,000</b>

**2.F. SUMMARY OF TOTAL REQUEST BY STRATEGY**  
83rd Regular Session, Agency Submission, Version 1  
Automated Budget and Evaluation System of Texas (ABEST)

**212 Texas Indigent Defense Commission, Texas Judicial Council**

<b>Goal/Objective/STRATEGY</b>	<b>Base 2014</b>	<b>Base 2015</b>	<b>Exceptional 2014</b>	<b>Exceptional 2015</b>	<b>Total Request 2014</b>	<b>Total Request 2015</b>
<b>4 Improve Indigent Defense Practices and Procedures</b>						
<b>1 Improve Indigent Defense Practices and Procedures</b>						
<b>1 INDIGENT DEFENSE</b>	\$31,143,922	\$31,143,922	\$77,000,000	\$77,000,000	\$108,143,922	\$108,143,922
<b>TOTAL, GOAL 4</b>	<b>\$31,143,922</b>	<b>\$31,143,922</b>	<b>\$77,000,000</b>	<b>\$77,000,000</b>	<b>\$108,143,922</b>	<b>\$108,143,922</b>
<b>TOTAL, STRATEGY REQUEST</b>	<b>\$31,143,922</b>	<b>\$31,143,922</b>	<b>\$77,000,000</b>	<b>\$77,000,000</b>	<b>\$108,143,922</b>	<b>\$108,143,922</b>
<b>General Revenue Funds:</b>						
<b>1 General Revenue Fund</b>	\$0	\$0	\$61,350,184	\$74,183,285	\$61,350,184	\$74,183,285
	<b>\$0</b>	<b>\$0</b>	<b>\$61,350,184</b>	<b>\$74,183,285</b>	<b>\$61,350,184</b>	<b>\$74,183,285</b>
<b>General Revenue Dedicated Funds:</b>						
<b>5073 Fair Defense</b>	\$31,143,922	\$31,143,922	\$15,649,816	\$2,816,715	\$46,793,738	\$33,960,637
	<b>\$31,143,922</b>	<b>\$31,143,922</b>	<b>\$15,649,816</b>	<b>\$2,816,715</b>	<b>\$46,793,738</b>	<b>\$33,960,637</b>
<b>TOTAL, METHOD OF FINANCING</b>	<b>\$31,143,922</b>	<b>\$31,143,922</b>	<b>\$77,000,000</b>	<b>\$77,000,000</b>	<b>\$108,143,922</b>	<b>\$108,143,922</b>
<b>FULL TIME EQUIVALENT POSITIONS</b>	<b>11.0</b>	<b>11.0</b>			<b>11.0</b>	<b>11.0</b>

**3.A. STRATEGY REQUEST**  
 83rd Regular Session, Agency Submission, Version 1  
 Automated Budget and Evaluation System of Texas (ABEST)

**212 Office of Court Administration, Texas Judicial Council**

GOAL:	4	Improve Indigent Defense Practices and Procedures	Statewide Goal/Benchmark:	0	0
OBJECTIVE:	1	Improve Indigent Defense Practices and Procedures	Service Categories:		
STRATEGY:	1	Improve Indigent Defense Practices and Procedures	Service: NA	Income: NA	Age: NA

CODE	DESCRIPTION	Exp 2011	Est 2012	Bud 2013	BL 2014	BL 2015
<b>Output Measures:</b>						
KEY 1	# Monitoring Visits, Technical Support Visits, & Trainings Conducted	123.00	100.00	105.00	105.00	105.00
KEY 2	Percentage of Counties Receiving State Funds	96.06 %	94.00 %	94.00 %	94.00 %	94.00 %
<b>Objects of Expense:</b>						
1001	SALARIES AND WAGES	\$681,522	\$715,122	\$721,482	\$721,482	\$721,482
1002	OTHER PERSONNEL COSTS	\$24,560	\$12,540	\$12,540	\$12,540	\$12,540
2001	PROFESSIONAL FEES AND SERVICES	\$223	\$240	\$240	\$240	\$240
2003	CONSUMABLE SUPPLIES	\$1,752	\$2,200	\$2,200	\$2,200	\$2,200
2004	UTILITIES	\$1,087	\$2,000	\$2,000	\$2,000	\$2,000
2005	TRAVEL	\$37,534	\$35,000	\$35,000	\$35,000	\$35,000
2006	RENT - BUILDING	\$120	\$120	\$120	\$120	\$120
2007	RENT - MACHINE AND OTHER	\$3,141	\$3,100	\$3,100	\$3,100	\$3,100
2009	OTHER OPERATING EXPENSE	\$707,640	\$500,178	\$493,818	\$493,818	\$493,818
4000	GRANTS	\$33,874,981	\$28,504,451	\$31,242,393	\$29,873,422	\$29,873,422
<b>TOTAL, OBJECT OF EXPENSE</b>		<b>\$35,332,560</b>	<b>\$29,774,951</b>	<b>\$32,512,893</b>	<b>\$31,143,922</b>	<b>\$31,143,922</b>

**Method of Financing:**

**3.A. STRATEGY REQUEST**  
 83rd Regular Session, Agency Submission, Version 1  
 Automated Budget and Evaluation System of Texas (ABEST)

**212 Office of Court Administration, Texas Judicial Council**

GOAL:	4	Improve Indigent Defense Practices and Procedures	Statewide Goal/Benchmark:	0	0
OBJECTIVE:	1	Improve Indigent Defense Practices and Procedures	Service Categories:		
STRATEGY:	1	Improve Indigent Defense Practices and Procedures	Service: NA	Income: NA	Age: NA

CODE	DESCRIPTION	Exp 2011	Est 2012	Bud 2013	BL 2014	BL 2015
1	General Revenue Fund	\$0	\$0	\$0	\$0	\$0
<b>SUBTOTAL, MOF (GENERAL REVENUE FUNDS)</b>		<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
<b>Method of Financing:</b>						
5073	Fair Defense	\$35,222,891	\$29,774,951	\$32,512,893	\$31,143,922	\$31,143,922
<b>SUBTOTAL, MOF (GENERAL REVENUE FUNDS - DEDICATED)</b>		<b>\$35,222,891</b>	<b>\$29,774,951</b>	<b>\$32,512,893</b>	<b>\$31,143,922</b>	<b>\$31,143,922</b>
<b>Method of Financing:</b>						
666	Appropriated Receipts	\$30,897	\$0	\$0	\$0	\$0
777	Interagency Contracts	\$78,772	\$0	\$0	\$0	\$0
<b>SUBTOTAL, MOF (OTHER FUNDS)</b>		<b>\$109,669</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
<b>TOTAL, METHOD OF FINANCE (INCLUDING RIDERS)</b>					<b>\$31,143,922</b>	<b>\$31,143,922</b>
<b>TOTAL, METHOD OF FINANCE (EXCLUDING RIDERS)</b>		<b>\$35,332,560</b>	<b>\$29,774,951</b>	<b>\$32,512,893</b>	<b>\$31,143,922</b>	<b>\$31,143,922</b>
<b>FULL TIME EQUIVALENT POSITIONS :</b>		<b>10.7</b>	<b>11.0</b>	<b>11.0</b>	<b>11.0</b>	<b>11.0</b>
<b>STRATEGY DESCRIPTION AND JUSTIFICATION :</b>						

**3.A. STRATEGY REQUEST**  
 83rd Regular Session, Agency Submission, Version 1  
 Automated Budget and Evaluation System of Texas (ABEST)

**212 Office of Court Administration, Texas Judicial Council**

GOAL:	4	Improve Indigent Defense Practices and Procedures	Statewide Goal/Benchmark:	0	0
OBJECTIVE:	1	Improve Indigent Defense Practices and Procedures	Service Categories:		
STRATEGY:	1	Improve Indigent Defense Practices and Procedures	Service: NA	Income: NA	Age: NA

<b>CODE</b>	<b>DESCRIPTION</b>	<b>Exp 2011</b>	<b>Est 2012</b>	<b>Bud 2013</b>	<b>BL 2014</b>	<b>BL 2015</b>
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The Texas Indigent Defense Commission provides financial and technical support to counties to develop and maintain quality, cost-effective indigent defense systems that meet the needs of local communities and the requirements of the Constitution and state law. The Commission administers a statewide grant program, a fiscal and policy monitoring program, a technical support program, and develops policies and standards. The Commission receives all statewide indigent defense information reported by counties and provides reports and analysis to state leadership, legislature, and the public. OCA provides administrative support to the Commission.

**EXTERNAL/INTERNAL FACTORS IMPACTING STRATEGY :**

This strategy is funded from the Fair Defense Account, a dedicated account in General Revenue. The entire funding stream for indigent defense is derived from dedicated court costs and dedicated fees. No General Revenue is appropriated for the purpose of indigent defense. The court costs are amounts paid by a defendant upon conviction for a range of offenses from fine only misdemeanors to felonies. The fees come from attorneys renewing licenses and persons posting a surety bond. With the passage of the Fair Defense Act of 2001, spending for indigent defense in Texas has increased almost 120%, going from \$91 million to over \$198 million annually. This increase is currently offset by \$29 million in FY2012 and \$32 million in FY2013 in state funding disbursed to counties.

### 3.B. RIDER REVISIONS AND ADDITIONS REQUEST

<b>Agency Code:</b> 212	<b>Agency Name:</b> Office of Court Administration /TIDC	<b>Prepared by:</b> Glenna Rhea Bowman	<b>Date:</b> 08/16/12	<b>Request Level:</b> Baseline																		
Current Rider Number	Page Number in 2012-13 GAA	Proposed Rider Language																				
1	IV-25	<p><b>Performance Measure Targets.</b> The following is a listing of the key performance target levels for the Office of Court Administration, Texas Judicial Council. It is the intent of the Legislature that appropriations made by this Act be utilized in the most efficient and effective manner possible to achieve the intended mission of the Office of Court Administration, Texas Judicial Council. In order to achieve the objectives and service standards established by this Act, the Office of Court Administration, Texas Judicial Council shall make every effort to attain the following designated key performance target levels associated with each item of appropriation.</p> <table style="width: 100%; margin-left: 40px;"> <tr> <td style="width: 60%;"></td> <td style="text-align: center; width: 20%;"><u><del>2010</del>2014</u></td> <td style="text-align: center; width: 20%;"><u><del>2011</del>2015</u></td> </tr> <tr> <td>D. Goal: TEXAS INDIGENT DEFENSE COMMISSION</td> <td></td> <td></td> </tr> <tr> <td>D.I.I. Strategy: TEXAS INDIGENT DEFENSE COMMISSION</td> <td></td> <td></td> </tr> <tr> <td><b>Output (Volume):</b></td> <td style="text-align: center;"><u>105</u></td> <td style="text-align: center;"><u>105</u></td> </tr> <tr> <td>Number of Monitoring, Technical Support Visits and Training Conducted</td> <td></td> <td></td> </tr> <tr> <td>Percent of Counties Receiving State Funds for Indigent Defense</td> <td style="text-align: center;">94%</td> <td style="text-align: center;">94%</td> </tr> </table> <p><i>This rider has been changed to reflect currently projected levels of performance for key measures in FY 14-15. New key measures are proposed to more accurately reflect the workload in TIDC/OCA's programs.</i></p>				<u><del>2010</del>2014</u>	<u><del>2011</del>2015</u>	D. Goal: TEXAS INDIGENT DEFENSE COMMISSION			D.I.I. Strategy: TEXAS INDIGENT DEFENSE COMMISSION			<b>Output (Volume):</b>	<u>105</u>	<u>105</u>	Number of Monitoring, Technical Support Visits and Training Conducted			Percent of Counties Receiving State Funds for Indigent Defense	94%	94%
	<u><del>2010</del>2014</u>	<u><del>2011</del>2015</u>																				
D. Goal: TEXAS INDIGENT DEFENSE COMMISSION																						
D.I.I. Strategy: TEXAS INDIGENT DEFENSE COMMISSION																						
<b>Output (Volume):</b>	<u>105</u>	<u>105</u>																				
Number of Monitoring, Technical Support Visits and Training Conducted																						
Percent of Counties Receiving State Funds for Indigent Defense	94%	94%																				
3	IV-26	<p><b>Information Regarding Allocation of Full-Time-Equivalent Positions.</b> The following data regarding allocation of the "Number of Full-Time-Equivalent Positions (FTE)" is provided for informational purposes only, and should not be construed as a cap on the number of FTEs in any one strategy: Strategy A.1.1, Court Administration (<del>47.5</del><u>41.5</u> FTEs); Strategy A.1.2, Information Technology (24.6 FTEs); Strategy A.1.4, Assistance to Administrative Judicial Regions (<del>20</del><u>1.0</u> FTEs); Strategy A.2.1, Indigent Defense (11.0 FTEs); Strategy B.1.1, Child Support Courts Program (86.5 FTEs); Strategy B.1.2, Child Protection Courts Program (31.0 FTEs); Strategy C.1.1, Court Reporters Certification (3.0 FTEs); and Strategy C.1.3, Guardians and Process Servers (<del>20</del><u>3.0</u>); Strategy D.1.1, Indigent Defense (11.0 FTEs);.</p> <p><i>This rider has been revised to reflect the changes in FTEs as detailed in OCA/TIDC's baseline strategy requests.</i></p>																				

### 3.B. RIDER REVISIONS AND ADDITIONS REQUEST

9	IV-26	<p><b>Indigent Defense.</b> Included above in Strategy <del>A-2+D.1.1</del>, Texas Indigent Defense Commission, is \$870,500 in fiscal year <del>2012</del> 2014 and \$870,500 in fiscal year <del>2013-2015</del> for the administration of the Commission. The Texas Indigent Defense Commission shall have authority to make grants to counties from the Fair Defense Account (General Revenue-Dedicated Account No. 5073), with funds being disbursed by the Comptroller. <del>No portion of in no event shall</del> the appropriation made by this section <u>shall</u> be used to offset the Office of Court Administration's administrative support provided to the Texas Indigent Defense Commission <u>except by mutual agreement of the Texas Indigent Defense Commission and the Office of Court Administration</u>. Any unexpended balances in appropriations out of the Fair Defense Account at the end of fiscal year <del>2012</del> 2014 are hereby appropriated for fiscal year <del>2013-2015</del> to the Office of Court Administration, Texas Judicial Council for the same purpose.</p> <p><i>This rider has been changed to reflect the FY 2014-15 biennium. It also requests a change to the provision related to OCA administrative support costs. Over the last ten years, the indigent defense program has grown significantly, as has the administrative effort to support its activities. The proposed change allows the Commission to provide funding to OCA for administrative support upon mutual agreement.</i></p>
12	IV-27	<p><b>Innocence Projects.</b> Out of amounts appropriated above in Strategy <del>A-2+D.1.1</del>, Texas Indigent Defense Commission, \$320,000 in each year of the biennium from the General Revenue- Dedicated Fair Defense Account No. 5073 shall be used by the Commission to contract with law schools at the University of Houston, the University of Texas, Texas Tech University, and Texas Southern University for innocence projects. Also out of amounts appropriated above from the Fair Defense Account, \$80,000 and 1.0 FTE each fiscal year may be used for the administration and coordination of the innocence projects by the Commission. Amounts in this provision are in addition to the grant administration allocation of \$870,500 each fiscal year in Rider 8, Texas Indigent Defense Commission. It is the intent of the Legislature that the amount of each contract with each university shall be \$80,000. Any unexpended balances in the \$320,000 in funds designated for innocence projects as of August 31, <del>2012-2014</del> are hereby appropriated to Strategy <del>A-2+D.1.1</del>, Texas Indigent Defense Commission for the same purpose for the fiscal year beginning September 1, <del>2012</del>2014.</p> <p><i>This rider has been changed to reflect the FY 2014-15 biennium.</i></p>

### 3.B. RIDER REVISIONS AND ADDITIONS REQUEST

<b>Agency Code:</b> 212	<b>Agency Name:</b> Office of Court Administration/ TIDC	<b>Prepared by:</b> Glenna Rhea Bowman	<b>Date:</b> 08/16/12	<b>Request Level:</b> Exceptional
<b>Current Rider Number</b>	<b>Page Number in 2012-13 GAA</b>	<b>Proposed Rider Language</b>		
9	IV-26	<p><b>Indigent Defense.</b> <u>All amounts deposited into the Fair Defense Account (General Revenue-Dedicated Account No. 5073) are appropriated in Strategy D.1.1, Texas Indigent Defense Commission. Any amounts deposited in excess of \$31,143,922 in fiscal year 2014 and \$31,143,922 in fiscal year 2015 are hereby appropriated to the Office of Court Administration, Texas Judicial Council for the same purpose. Any unexpended balances in the Fair Defense Account at the end of fiscal year 2012 and 2013 are hereby appropriated for fiscal year 2014 to the Office of Court Administration, Texas Judicial Council for the same purpose (estimated to be \$12.8 million). Any unexpended balances in the Fair Defense Account at the end of the fiscal year 2014 are hereby appropriated for fiscal year 2015 to the Office of Court Administration, Texas Judicial Council for the same purpose. Included above in Strategy A-2+D.1.1, Texas Indigent Defense Commission, is \$870,500 in fiscal year 2014 and \$870,500 in fiscal year 2013-2015 for the administration of the Commission. The Texas Indigent Defense Commission shall have authority to make grants to counties from the Fair Defense Account (General Revenue-Dedicated Account No. 5073), with funds being disbursed by the Comptroller. <del>No portion of in no event shall</del> the appropriation made by this section <u>shall</u> be used to offset the Office of Court Administration's administrative support provided to the Texas Indigent Defense Commission, <u>except by mutual agreement of the Texas Indigent Defense Commission and the Office of Court Administration.</u> Any unexpended balances in appropriations out of the Fair Defense Account at the end of fiscal year 2012 are hereby appropriated for fiscal year 2013 to the Office of Court Administration, Texas Judicial Council for the same purpose.</u></p> <p><i>This rider has been changed to reflect the most current estimate of revenues for the Fair Defense Account. It also reflects amounts that would be appropriated if Exceptional Items 7 and 8 are approved.</i></p>		

**4.A. EXCEPTIONAL ITEM REQUEST SCHEDULE**  
 83rd Regular Session, Agency Submission, Version 1  
 Automated Budget and Evaluation System of Texas (ABEST)

Agency code: 212

Agency name:

Office of Court Administration, Texas Judicial Council

CODE	DESCRIPTION	Excp 2014	Excp 2015
	Item Name: Indigent Defense - Restore Funding		
	Item Priority: 1		
	Includes Funding for the Following Strategy or Strategies: 04-01-01 Improve Indigent Defense Practices and Procedures		
 <b>OBJECTS OF EXPENSE:</b>			
4000	GRANTS	15,649,816	2,816,715
	<b>TOTAL, OBJECT OF EXPENSE</b>	<b>\$15,649,816</b>	<b>\$2,816,715</b>
 <b>METHOD OF FINANCING:</b>			
5073	Fair Defense	15,649,816	2,816,715
	<b>TOTAL, METHOD OF FINANCING</b>	<b>\$15,649,816</b>	<b>\$2,816,715</b>

**DESCRIPTION / JUSTIFICATION:**

This exceptional item requests restoration of estimated appropriation and unexpended balance authority that was eliminated last session. The removal of estimated appropriation and unexpended balance authority resulted in funds coming into the dedicated account that could not be used for the statutory purposes. Restoration of estimated appropriation and unexpended balance authority will ensure that state funding dedicated by the Legislature for indigent defense purposes is used for its intended purpose. The funds will be used to improve the adequacy of indigent services in Texas.

**EXTERNAL/INTERNAL FACTORS:**

This strategy is funded from the Fair Defense Account, a dedicated account in General Revenue. The entire funding stream for indigent defense is derived from dedicated court costs and dedicated fees. No General Revenue is appropriated for the purpose of indigent defense. The funding is derived from court costs and fees. The court costs are amounts paid by a defendant upon conviction for a range of offenses from fine only misdemeanors to felonies. The fees come from attorneys renewing licenses and persons posting a surety bond. Speaking before a House Appropriations subcommittee in, Speaker Joe Straus said the Legislature should use the fees that Texans pay for their appropriate and intended purposes, instead of using them for budget certification. "We should make our budget more transparent by spending these fees for their intended purposes, or by not collecting them at all, instead of using them for certification." The costs and fees generated for the Fair Defense Account are making a difference. The statutory cap placed on current and future dedicated revenue intended for indigent defense hampers local governments' ability to carry out its constitutional obligation to provide these services. Without a restoration of estimated appropriation authority for indigent defense – in other words, with the continuation of the statutory cap on the Fair Defense Account at a sum-certain revenue amount – future and current revenue streams will be reduced. The end-result is a shifting the financial burden to fulfill this constitutional requirement to the County.

**4.A. EXCEPTIONAL ITEM REQUEST SCHEDULE**  
 83rd Regular Session, Agency Submission, Version 1  
 Automated Budget and Evaluation System of Texas (ABEST)

Agency code: 212

Agency name:

**Office of Court Administration, Texas Judicial Council**

CODE	DESCRIPTION	Excp 2014	Excp 2015
	Item Name: Indigent Defense - Provide Full Funding to Counties Item Priority: 2 Includes Funding for the Following Strategy or Strategies: 04-01-01 Improve Indigent Defense Practices and Procedures		
<b>OBJECTS OF EXPENSE:</b>			
4000	GRANTS	61,350,184	74,183,285
	<b>TOTAL, OBJECT OF EXPENSE</b>	<b>\$61,350,184</b>	<b>\$74,183,285</b>
<b>METHOD OF FINANCING:</b>			
1	General Revenue Fund	61,350,184	74,183,285
	<b>TOTAL, METHOD OF FINANCING</b>	<b>\$61,350,184</b>	<b>\$74,183,285</b>

**DESCRIPTION / JUSTIFICATION:**

This exceptional item would achieve two objectives: first, to offset most of the required increased costs resulting from the Fair Defense Act (FDA) currently borne by counties; and second, to provide a fiscal incentive to counties to improve the way they provide indigent defense services. These funds would be disbursed broadly and equitably to defray the increased indigent defense costs. The State of Texas through the Commission provides about 15 percent of the required cost of indigent defense services and about 28 percent of the increased costs since the passage of the Fair Defense Act in 2001. In contrast, there are 27 states that fully fund indigent defense services. Texas' overall state and county spending ranks 48th out of 50 states in per capita spending and 10th out of the 10 largest states as of 2008 (the most recent year for which data is available).

**EXTERNAL/INTERNAL FACTORS:**

With the passage of the Fair Defense Act of 2001, spending for indigent defense in Texas has increased almost 120%, going from \$91 million to over \$198 million annually. This increase is currently offset by \$29 million in FY2012 and \$32 million in FY2013 in state funding disbursed to counties. If spending levels remain at current levels, counties must make up approximately \$77 million per year in required increased costs. The biennial total needed to cover current increased county spending for indigent defense is \$154 million. To determine the amount of this exceptional item, the \$154 million total has been reduced by the amounts requested in the Commission's first exceptional item (to be funded by dedicated revenue already available in the state treasury), so that the total of both exceptional items for TIDC is \$154 million.

**6.E. ESTIMATED REVENUE COLLECTIONS SUPPORTING SCHEDULE**

83rd Regular Session, Agency Submission, Version 1

Automated Budget and Evaluation System of Texas (ABEST)

Agency Code: **212** Agency name: **Office of Court Administration, Texas Judicial Council**

<b>FUND/ACCOUNT</b>	<b>Act 2011</b>	<b>Exp 2012</b>	<b>Exp 2013</b>	<b>Bud 2014</b>	<b>Est 2015</b>
<b>5073 Fair Defense</b>					
Beginning Balance (Unencumbered):	\$11,819,442	\$7,299,671	\$11,385,357	\$12,833,101	\$15,649,816
Estimated Revenue:					
3195 Additional Legal Services Fee	1,979,463	2,100,000	2,100,000	2,100,000	2,100,000
3704 Court Costs	26,936,461	29,900,000	30,000,000	30,000,000	30,000,000
3858 Bail Bond Surety Fees	2,045,682	2,000,000	2,000,000	2,000,000	2,000,000
Subtotal: Actual/Estimated Revenue	30,961,606	34,000,000	34,100,000	34,100,000	34,100,000
<b>Total Available</b>	<b>\$42,781,048</b>	<b>\$41,299,671</b>	<b>\$45,485,357</b>	<b>\$46,933,101</b>	<b>\$49,749,816</b>
<b>DEDUCTIONS:</b>					
Expended/Budgeted/Requested - Baseline	(35,332,560)	(29,774,951)	(32,512,893)	(31,143,922)	(31,143,922)
Transfer - Employee Benefits (OASI, Insurance, Etc.)	(148,817)	(139,363)	(139,363)	(139,363)	(139,363)
<b>Total, Deductions</b>	<b>\$(35,481,377)</b>	<b>\$(29,914,314)</b>	<b>\$(32,652,256)</b>	<b>\$(31,283,285)</b>	<b>\$(31,283,285)</b>
<b>Ending Fund/Account Balance</b>	<b>\$7,299,671</b>	<b>\$11,385,357</b>	<b>\$12,833,101</b>	<b>\$15,649,816</b>	<b>\$18,466,531</b>

**REVENUE ASSUMPTIONS:**

Based on historical trends, funding from fees should remain constant and continue to provide for this program.

**CONTACT PERSON:**

Sharon Whitfield

**6.I. PERCENT BIENNIAL BASE REDUCTION OPTIONS**  
**10% REDUCTION**  
83rd Regular Session, Agency Submission, Version 1  
Automated Budget and Evaluation System of Texas (ABEST)

**212 Texas Indigent Defense Commission, Texas Judicial Council**

Item Priority and Name / Method of Financing	REVENUE LOSS			REDUCTION AMOUNT			TARGET
	2014	2015	Biennial Total	2014	2015	Biennial Total	
<b>First 5% - Indigent Defense</b>							
<b>Category:</b> Programs - Service Reductions (Other)							
<b>Item Comment:</b> A reduction to this strategy would cut existing funding to an already underfunded program. Since passage of the Fair Defense in 2001, total indigent defense expenditures have increased by \$107 million, more than a 120 percent increase. This proposed reduction of over \$1.5 million per year in grants to counties amounts to the state passing on to counties the costs of representing either approximately 2,750 capital felony cases or 8,500 misdemeanor cases.							
Strategy 4-1-1 Improve Indigent Defense Practices and Procedures							
<u>GR Dedicated</u>							
5073 GR Dedicated	\$0	\$0	\$0	\$1,557,196	\$1,557,196	\$3,114,392	
<b>GR Dedicated Total</b>	\$0	\$0	\$0	\$1,557,176	\$1,557,196	\$3,114,392	
<b>Item Total</b>	\$0	\$0	\$0	\$1,557,176	\$1,557,196	\$3,114,392	
<b>FTE Reductions (From 2014 and FY2015 Base Request)</b>							
<b>Second 5% - Indigent Defense</b>							
<b>Category:</b> Programs - Service Reductions (Other)							
<b>Item Comment:</b> A reduction to this strategy would cut existing funding to an already underfunded program. Since passage of the Fair Defense in 2001, total indigent defense expenditures have increased by \$107 million, more than a 120 percent increase. This proposed reduction of over \$1.5 million per year in grants to counties amounts to the state passing on to counties the costs of representing either approximately 2,750 capital felony cases or 8,500 misdemeanor cases.							
Strategy 4-1-1 Improve Indigent Defense Practices and Procedures							
<u>GR Dedicated</u>							
5073 GR Dedicated	\$0	\$0	\$0	\$1,557,196	\$1,557,196	\$3,114,392	
<b>GR Dedicated Total</b>	\$0	\$0	\$0	\$1,557,176	\$1,557,196	\$3,114,392	
<b>Item Total</b>	\$0	\$0	\$0	\$1,557,176	\$1,557,196	\$3,114,392	
<b>FTE Reductions (From 2014 and FY2015 Base Request)</b>							
<b>GR Dedicated Total</b>			1	\$3,114,352	\$3,114,392	\$6,228,784	

**7.B. DIRECT ADMINISTRATIVE AND SUPPORT COSTS**  
83rd Regular Session, Agency Submission, Version 1  
Automated Budget and Evaluation System of Texas (ABEST)

**212 Texas Indigent Defense Commission, Texas Judicial Council**

Strategy	Exp 2011	Est 2012	Bud 2013	BL 2014	BL2015
<b>4-1-1 Improve Indigent Defense Practices and Procedures</b>					
<b>OBJECTS OF EXPENSE:</b>					
1001 SALARIES AND WAGES	\$603,852	\$715,122	\$721,482	\$721,482	\$721,482
1002 OTHER PERSONNEL COSTS	\$24,560	\$12,540	\$12,540	\$12,540	\$12,540
2001 PROFESSIONAL FEES AND SERVICES	\$223	\$240	\$240	\$240	\$240
2003 CONSUMABLE SUPPLIES	\$1,289	\$2,200	\$2,200	\$2,200	\$2,200
2004 UTILITIES	\$1,087	\$2,000	\$2,000	\$2,000	\$2,000
2005 TRAVEL	\$35,234	\$35,000	\$35,000	\$35,000	\$35,000
2006 RENT - BUILDING	\$120	\$120	\$120	\$120	\$120
2007 RENT - MACHINE AND OTHER	\$3,141	\$3,100	\$3,100	\$3,100	\$3,100
2009 OTHER OPERATING EXPENSE	\$159,908	\$180,178	\$173,818	\$173,818	\$173,818
<b>Total, Objects of Expense</b>	<b>\$829,414</b>	<b>\$950,500</b>	<b>\$950,500</b>	<b>\$950,500</b>	<b>\$950,500</b>
<b>METHOD OF FINANCING:</b>					
5073 Fair Defense	\$829,414	\$950,500	\$950,500	\$950,500	\$950,500
<b>Total, Method of Financing</b>	<b>\$829,414</b>	<b>\$950,500</b>	<b>\$950,500</b>	<b>\$950,500</b>	<b>\$950,500</b>
<b>FULL-TIME-EQUIVALENT POSITIONS (FTE):</b>	10.7	11.0	11.0	11.0	11.0