

Task Force on Indigent Defense
Procedure Manual for the Indigent Defense Expenditure Report
Fiscal Year 2008
PUBLIC DEFENDER OFFICE SUPPLEMENTAL

Public Defender (PD) offices have unique indigent defense reporting issues. The challenge is to comply with statutory requirements while still making the information compatible with other statewide reporting.

Counties with public defender offices will use this set of instructions and forms instead of the Procedure Manual for the Indigent Defense Expenditure Report for reporting PD office information. **The Procedure Manual for the Indigent Defense Expenditure Report must still be used to report assigned counsel and contract cases.**

For the purpose of the Indigent Defense Expenditure Report, the Task Force uses the definition of public defender set forth in Article 26.044 of the Texas Code of Criminal Procedure:

- (a) In this chapter, "public defender" means a governmental entity or nonprofit corporation:*
- (1) operating under a written agreement with a governmental entity, other than an individual judge or court;*
 - (2) using public funds; and*
 - (3) providing legal representation and services to indigent defendants accused of a crime or juvenile offense, as those terms are defined by Section 71.001, Government Code.*

Based on countywide procedures submitted by the courts, 14 counties have been identified as having public defender offices as defined above: Bexar (appellate, covering 4th court of appeals region), Bowie (also covering Red River), Cameron (juvenile only), Colorado, Dallas, El Paso, Hidalgo (misdemeanor), Kaufman, Lubbock (capital murder covering 7th & 9th administrative judicial regions), Travis (juvenile and mental health), Val Verde (also covering Edwards, Kinney and Terrell), Webb, Wichita and Willacy counties.

Case Counting

Counties with public defender offices must count cases closed or disposed, with the exception of appeals, in order to avoid duplication of case count across fiscal years. Appeals should be counted once the brief has been filed as opposed to when the appeal is disposed due to the lengthy time to disposition. Use the case counting definitions and information provided in the Procedure Manual for the Indigent Defense Expenditure Report Fiscal Year 2008.

The cases reported by the county will have three columns. The first column, report the cases for the assigned counsel system; the second column, report the cases for the contract counsel system; and the third column, report the case for the public defender system. The cases must be reported for each specific court. Include all cases – assigned counsel cases, contract attorney cases, and the public defender cases. The second column is for cases disposed only by the public defender in each respective court.

Reported case counts will be determined by the respective public defender office's internal case tracking system for cases disposed by the office for the various courts within a county. The PD office must report the cases handled in a particular court in the appropriate columns. These case counts are used to assign costs proportionately to the individual courts in the county.

Indirect Costs Rates

Counties may not claim indirect costs, except for the portion attributable to public defender offices. Even then, the indirect cost rates may only be calculated based on **salaries**. Do not include fringe in the indirect cost calculation. PD offices claiming indirect costs must have the allocation schedule or cost allocation plan available in the event of a monitoring site visit. The county must fill in the spaces provided for the rate (percent) and the approving agency.

The Task Force uses definition of indirect costs set forth in the Uniform Grant Management Standards as promulgated by the Office of the Governor.

"F. Indirect Costs

1. *General. Indirect costs are those: (a) incurred for a common or joint purpose benefiting more than one cost objective, and (b) not readily assignable to the cost objectives specifically benefited, without effort disproportionate to the results achieved. The term "indirect costs" as used herein, applies to costs of this type originating in the grantee department, as well as those incurred by other departments in supplying goods, services, and facilities. To facilitate equitable distribution of indirect expenses to the cost objectives served, it may be necessary to establish a number of pools of indirect costs within an entity or in other agencies providing services to an entity. Indirect cost pools should be distributed to benefited cost objectives on bases that will produce an equitable result in consideration of relative benefits derived.*
2. *Cost allocation plans and indirect cost proposals. Requirements for development and submission of cost allocation plans and indirect cost rate proposals are contained in Attachments C, D, and E.*
3. *Limitation on indirect or administrative costs.*
 - a. *In addition to restrictions contained in this Circular, there may be laws that further limit the amount of administrative or indirect cost allowed.*
 - b. *Amounts not recoverable as indirect costs or administrative costs under one Federal or state award may not be shifted to another Federal or state award, unless specifically authorized by Federal or state legislation or regulation."*

Formula

If necessary in reports, a formula is used to determine apportioned costs for individual courts and the public defender. This formula is used for calculation purposes and is not intended to make generic statements about the nature of work in PD offices or work associated with different levels of cases. The Task Force does not believe that all cases (felony, misdemeanor, and juvenile) are equal in terms of workload. However, for the sake of calculation and statewide comparison, and to avoid spending inordinate amounts of resources studying and tracking the different types of cases, all cases are assumed to be identical in this report. Studies will have to be conducted in the future to establish variations of the following equations.

The basic formula used in summary reports is:

$$\text{Average Costs per PD Case} = \text{Total PD Costs} / \text{Total PD Cases}$$

To determine the assignment of costs to an individual court:

$$\text{PD Costs in Court A} = (\text{Number of PD Cases in Court A}) \text{ multiplied by } (\text{Average Cost per PD Case})$$

In simple terms, the costs are apportioned to each court by multiplying the number of PD cases heard by the average cost of each PD case.

The costs for a court can be split between adult and juvenile cases by applying a similar formula:

$$\text{Juvenile Costs in Court A} = (\text{Juvenile PD Cases in Court A} + \text{No Charges Filed Juvenile PD Cases in Court A} + \text{Appellant/Post Conviction Cases in Court A}) \text{ multiplied by } (\text{Average Cost per PD Case})$$

Substituting yields,

$$\text{Juvenile Costs in Court A} = (\text{Juvenile PD Cases in Court A} + \text{No Charges Filed Juvenile PD Cases in Court A} + \text{Appellant/Post Conviction Cases in Court A}) \text{ multiplied by } (\text{Total PD Costs} / \text{Total Number of PD Cases in County})$$

Thus, an average cost per case is calculated, and this cost rate is applied to the number of each type of case to determine the total costs.

Remember that there are important assumptions underlying this calculation: all cases—whether adult or juvenile, felony or misdemeanor, initial trial or appeal, and charges filed or no charges filed—are treated identically. This assumption is made to avoid asking counties for an inordinate amount of data. It is important to remember this when we compare costs in PD counties to non PD counties.

Discretionary Grant Funded Programs

Grant funded discretionary public defenders or grant funded departments within public defender offices will report all data in the Indigent Defense Expenditure Report (IDER). Counties funded

by direct client service discretionary grants will report both the state funded portion and the county funded portion on the form below. All case count data will be reported on the IDER by court. All investigative, expert witness and other direct litigation costs associated with public defender work will be reported in the PD administrative form. Grant funded programs will continue to demonstrate activity by quarter in their discretionary grant reports to substantiate discretionary grant payments.

Counties participating in a regional public defender program will report any funds paid to or received from the other participating counties as part of an interlocal agreement.

Costs

Personnel - Report all personnel costs by type. For each line item, report the combination of salary and fringe. If a PD office is required to hire special temporary contract attorneys to fill in employee gaps during the time frame include those contract costs into the salary line item. PDs contracting with attorneys may occur to acquire special skills or cover employee leave and must be temporary in nature.

Public Defender Travel and Training – Include travel and training of all types for PD employees.

Public Defender Equipment – Report all capital equipment as defined in UGMS.

Public Defender Other Direct Operating Expenditures – Include identifiable direct costs attributable to operating a public defender program. Examples include supplies, equipment not meeting the UGMS definition, building and machine rental and all other operating cost not specifically required in the other sections.

Other Public Defender Court Related Expenses – All expenses for contract investigators (not including PD employees), expert witnesses, and other direct litigation costs associated with the public defender attorneys must be recorded in the public defender administration page regardless of the court they were associated with. The following expenses will be captured within the PD supplemental report rather than on the individual court page:

- 1) Expert Witness Expenditures – When an expert is requested by a PD attorney and allowed by the court, record the expense in this category.
- 2) Contract Investigator Expenses – When an outside investigator is requested by a PD attorney and allowed by the court, record the expense in this category.
- 3) Other Direct Litigation Expenditures- When transcript or other direct costs are requested by a PD attorney and allowed by the court, record the expense in this category.

Special PD Only Form

Indigent Defense Expenditure Report, PUBLIC DEFENDER OFFICE, BLANK County

Expenditures

October 1, 2007 - September 30, 2008

Expenditure Category

Expenditures

Administrative Expenditures

Public Defender Personnel

Attorney Salaries and Fringe Benefits

Investigator Salaries and Fringe Benefits

Administrative Support Salaries and Fringe Benefits

Total Public Defender Personnel Cost and Fringe Benefits

Please provide the County's average fringe benefit rate (_____%)

Public Defender Travel and Training

Public Defender Equipment

Public Defender Other Direct Operating Expenditures

Total Administrative Expenditures

Other Public Defender Court Related Expenses

Expert Witness Expenditures

Contract Investigator Expenses

Other Direct Litigation Expenditures

Total Court Related Expenses

Regional Public Defender Programs

Total funds received from other participating counties

Total funds paid to other participating counties.

Indirect Expenditures

Indirect Costs (Apply rate to salaries line item only)

Public Defender Indirect Rate (The approving agency _____)

Grand Total of All Public Defender Expenses

Reset

Cancel