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TASK FORCE ON INDIGENT DEFENSE

Serving Texas since 2002 under the Texas Fair Defense Act and the U.S. Constitution

August 2010

www.courts.state.tx.us/tfid

HARRIS COUNTY ESTABLISHES A PUBLIC DEFENDER OFFICE WITH GRANT FROM TASK FORCE

Awarded \$4.1 Million in Discretionary Grant

At its August 25th meeting the Task Force awarded \$4.1 million in a discretionary grant for a monumental project in Harris County to establish a new pilot public defender program for indigent defendants. Up until this time Harris County has been the largest jurisdiction in the nation without a public defender office program, relying instead on judicial appointments to attorneys on an appointment list. The new pilot program will be a hybrid indigent defense system incorporating a public defender and assigned counsel that will increase predictability of costs, improve quality of representation, and include the defense bar in policy discussions.

Read more about the Discretionary Grants awarded on page four.



AUGUST 2010

Timothy Cole Advisory Panel on Wrongful Convictions

Report to the Texas Task Force
on Indigent Defense

Task Force receives report by Timothy Cole Advisory Panel on Wrongful Convictions

The Task Force received the Timothy Cole Advisory Panel report and research details at its meeting on August 25. This report was the work product of the Timothy Cole Advisory Panel on Wrongful Convictions that was created by HB 498 during the 81st Legislature in 2009. Named after Timothy Cole, the first Texan to be posthumously exonerated of a crime through DNA testing, the Panel was directed to advise the Task Force in the preparation of a study regarding the causes of wrongful convictions and make recommendations to prevent future wrongful convictions. The Panel specifically addressed eyewitness identification procedures, the recording of custodial interrogations, open discovery policies, post-conviction procedures, and the feasibility of creating an innocence commission to investigate wrongful convictions. The report and recommendations will be presented to the Governor, Lieutenant Governor, Speaker of the House, and standing committees with members on the Panel. For the full report and for more information on the Panel, please visit the [Task Force website](#).

Message from Chair

I applaud the dedication and tireless commitment of criminal justice system stakeholders in Harris County in the monumental undertaking of creating a new public defender office. Many people spent much time over several years meeting, collaborating, and turning ideas into reality to advance the criminal justice system. This is a true paradigm shift in the history of indigent defense in Texas. It's clear that Texans want to do great work to make a positive difference and are up to the challenge to do so.

Sharon Keller, Chair, Task Force on Indigent Defense, Presiding Judge, Court of Criminal Appeals

Message from Director

As management guru Peter Drucker said often, you "can only manage what you can measure." And, "what's measured is improved." Since the passage of the Fair Defense Act of 2001, local and state expenditures, timing of appointment of counsel, indigence standards, local written plans, fee schedules, attorney qualifications, and attorney selection processes are being measured. As result, we've seen improvements in these areas. But, there is still much to do and improve upon. This year's Indigent Defense Workshop is going to explain in depth how performance measures can enhance system and individual outcomes for the defense. Attempting to measure attorney performance is not going to be a simple task or one that attorneys will gladly accept but it is something we need to do a better job of for greater accountability and public trust and confidence in our justice system. Please see the article below in this newsletter about the workshop and make your plans to attend.

James Bethke, Director, Task Force on Indigent Defense

Harris County Seeks Chief Public Defender

The job announcement and posting is linked here: [job posting](#).



The mission of the Task Force on Indigent Defense is to promote justice and fairness to all indigent persons accused of criminal conduct. The Task Force assists counties to provide quality representation in a cost-effective manner that meets the needs of local communities and the requirements of state and constitutional laws.

An informational brochure for the Task Force on Indigent Defense (TFID) Discretionary Grant Program. The brochure is titled "TFID Discretionary Grant Program" and "IMPROVING INDIGENT DEFENSE". It contains text about the program's mission, funding, and application process. It also lists "FY 2011 Priorities (Single Year Grants)" and "THE COMPETITIVE DISCRETIONARY GRANT CYCLE...". At the bottom, it provides contact information: "PO BOX 12888, AUSTIN TX 78712-2888, TX TEL: 512.349.2000 WWW.COURTS.STATE.TX.US/TFID".

Task Force Publications Include New Informational Brochures

- Expansion of Regional Capital Public Defender Office
- Discretionary Grant Program
- Information about the Task Force on Indigent Defense

This link to other publications include:

- Representing the Mentally Ill Offender: An Evaluation of Advocacy Alternatives
- Blueprint on Creating a Public Defender Office in Texas
- Overview of the Discretionary Grant Program
- Indigent Defense in the Texas Juvenile Justice System
- Evaluating the Impact of Integrated Electronic Systems in Criminal Case Filings

GRANTS AND REPORTING UPDATE

Discretionary Grants - continued from front page

Montgomery County Receives Award

The Task Force also approved over \$500,000 to Montgomery County to establish a managed assigned counsel program to provide direct client services to indigent persons with charges pending and with documented mental health issues. The county will contract with an attorney-led, non-profit agency to provide case management services, as well as specially trained and supervised attorneys to these defendants. The program in Montgomery County will be one of the first of its kind in Texas and may serve as a new model for indigent defense services in Texas.

Discretionary grants are awarded on a competitive basis to assist local government in creating and developing new programs or processes that improve the delivery of indigent defense services. Types of programs identified as priorities are direct services to indigent defendants, and establishment of public defender offices, including regional, mental health and juvenile.

**Interested in exploring
discretionary grant
opportunities for your
county?**

 **Bryan Wilson at
(512)936-6996**

Task Force Awards Extraordinary Disbursement Grants to Seven Counties

The Task Force awarded \$749,373 to be disbursed to seven counties, Brazoria, Brazos, Cameron, Ector, Fannin, Hill, and Wharton, for extraordinary expenses.

To qualify for this funding, a county must demonstrate indigent defense expenses in the current or immediately preceding county fiscal year constituting a financial hardship to the county. Each request is evaluated on a case-by-case basis against other requests and the amount of funds available.

FY10 Extraordinary Disbursements:

County	Disbursement Amount
Brazoria	\$ 99,000
Brazos	\$ 99,000
Cameron	\$199,000
Ector	\$ 99,000
Fannin	\$ 84,795
Hill	\$ 72,490
Wharton	\$ 96,088
Total to be Disbursed	\$749,373

Task Force Members:

Chair:

Sharon Keller

Presiding Judge, Court of Criminal Appeals

Vice Chair:

Olen Underwood, Presiding Judge, 2nd Administrative Judicial Region of Texas

Roberto Alonzo, State Representative

Jon Burrows, Bell County Judge

Alfonso Charles, Gregg County District Judge

Knox Fitzpatrick, Dallas Attorney, Fitzpatrick, Hagood, Smith & Uhl, L.L.P.

Pete Gallego, State Representative

Wallace B. Jefferson, Chief Justice, Supreme Court

Tony Odiorne, Public Defender, West Texas Regional Capital Public Defender

Sherry Radack, Chief Justice, First Court of Appeals

Jeff Wentworth, State Senator

Glen Whitley, Tarrant County Judge

John Whitmire, State Senator



Counties: Information on Application for FY2011 Formula Grants

The Task Force distributes funds to counties through its Formula Grant program, providing funding that must be used to improve counties' indigent defense systems. The funds are allocated by a formula that sets a \$5,000 floor per grant, with a distribution of additional funds based on a county's percent of state population (estimated by the Texas Data Center in the preceding year) multiplied by the Task Force's remaining budgeted amount for formula grants. Counties must meet minimum spending requirements and maintain a countywide indigent defense plan that complies with statutes and standards set by the Task Force to qualify. The \$5,000 floor provides many smaller counties with a greater percentage of reimbursement of indigent defense expenditures than most large counties receive.

At its August 25th meeting, the Task Force authorized staff to publish and distribute the Request for Application (RFA) for the FY2011 Formula Grant. The Formula Grant budget is \$12 million dollars. Constitutional County Judges will receive the FY2011 Formula Grant Packets by mail in early September. The local administrative district and statutory county judges and financial officers will receive a courtesy letter informing them of the packet about a week later. The allocation schedule is now available on the Task Force website ([here](#)). The Request for Applications will be available on our website in early September when the letters are mailed out. The application is an automatic process where the county judge or designee logs into our system and selects one button informing the Task Force that they want the funds and prints off the resolution and internet submission form to take to the commissioners court.

Formula Grant applications will be due in late October. Counties (those not receiving grant funds or receiving only a portion of their grant) with low indigent defense costs may choose not to apply for a formula grant and instead be covered by the direct disbursement program if they have expenses above their baseline. The Task Force will meet in early December (date yet to be determined) to award the FY2011 Formula grants.



Task Force staff are available to assist. You 'can' give them a call. Don't hesitate to call us if you need assistance. Toll free in Texas: 866.499.0656



Distribution of Grant Funds by Direct Deposit

For those counties still receiving their grant payments by warrant (check), please consider direct deposit for receiving your payments. There are several advantages to receiving your payments by direct deposit versus by warrant such as the ability to trace your payments, no deposit delays, prompt availability of funds and no worry about a lost or stolen warrant.

To begin receiving your payments by direct deposit, simply complete the Vendor Direct Deposit Authorization Form 74-176 and return the completed form back to us. This form is available on the Comptroller's state government website at: www.cpa.state.tx.us/taxinfo/taxforms/74-176.pdf. If assistance is needed in filling out the form or you have additional questions a customer service representative is available Monday thru Friday, 8:00 a.m. to 5:00 p.m. by calling 1-800-531-5441, ext. 3-3600 (toll-free) or 512-463-3360 (in Austin) or by email at www.claims.pin@cpa.state.tx.us.

For County Financial Officers: FY2010 Indigent Defense Expenditure Report (IDER) due by November 1, 2010

The Task Force will issue the IDER manual to all counties to provide information to counties concerning FY10 indigent defense expenditures.

Purpose of the Manual

This report manual provides instructions for submitting the Indigent Defense Expenditure Report (IDER) required for all Texas counties by Texas Government Code Section 71.0351(e). This report is based on case and expenditure data collected by counties throughout each year. The manual may also be used by county financial officers to establish a framework by which to develop and monitor accounts payable and fiscal recording of indigent defense expenses. Implementing a solid data collection framework will simplify collecting the data needed to complete the report.

Contents of the IDER

The report captures the amount of money spent by counties for indigent defense, as well as the number of cases that are associated with those dollars, for the period October 1, 2009 through September 30, 2010. The statute requires that all Texas counties report amounts spent on attorney fees, licensed investigators, expert witnesses, and other direct litigation costs. The Task Force allows counties to capture and report the administrative costs directly associated with providing indigent defense in the county. Additional information on allowable and unallowable costs is provided later in the manual.

Users of This Manual

This manual is written for county fiscal officers and employees responsible for completing the IDER. Other involved stakeholders would also benefit by understanding the report requirements and the data that must be collected.

Use of the Report Data

The data contained in the report is used as the basis for policy evaluation and decisions of the Task Force. For example, in FY2009, the data collected in the IDER was used to calculate an equalization disbursement to counties, which makes accurate data collection and timely submission of the report essential. The report is also used by the Task Force to calculate whether the county has expended the amount necessary to qualify for the formula grant award. The formula for calculating the grant's minimum spending requirement is contained in the Formula Grant Request for Applications issued by the Task Force. Finally, the data is made available to the public in summary and in reported form online.

Information for Counties Interested in Joining Expansion of Regional Capital Public Defender Office

The West Texas Regional Public Defender Office was established three years ago by an Interlocal Agreement among counties in the 7th and 9th judicial regions, with Lubbock County serving as the administrative county. Start-up costs were funded by a grant from the Task Force on Indigent Defense. To provide access to more counties, the Lubbock-based office requested additional grant funds to expand. The Lubbock-based office currently has satellite offices in Amarillo and Midland comprising an 11-person staff dedicated entirely to the defense of indigent defendants charged with capital offenses. On June 10th, 2010 the Task Force on Indigent Defense approved funding for the regional office to begin an expansion effort. \$1,570,483 in funding was recommended and approved to fund the 4th, 5th, and 6th Regions. Additional regions will be eligible in coming years. Here is a [link to an informational brochure](#). On September 1 representatives from the regional program and Task Force staff will be on hand to discuss expansion with counties who are interested at the Texas Association of Counties Annual Conference in Austin. Here is a [link to that information](#). Should you wish to talk to a staff member at the Task Force about this program, please contact Dominic Gonzales (email: dominic.gonzales@courts.state.tx.us or call: (512)463-2573)

Fiscal Monitor Report

Comprehensive Annual Financial Report (CAFR) and Single Audit Report (SAR)

Counties that received grant funds or state financial assistance expending more than \$500,000 in a given fiscal year are required to obtain an audit of state and non-state funds in accordance with the Uniform Grant Management Standards and State of Texas Single Audit Circular.

RULE §173.402 Audits Not Performed by the Task Force on Indigent Defense

(a) Grantees must submit to the Task Force copies of the results of any single audit conducted in accordance with the State Single Audit Circular issued under the Uniform Grant Management Standards. Grantees must ensure that single audit results, including the grantee's response and corrective action plan, if applicable, are submitted to the Task Force within 30 days after grantee receipt of the audit results or nine months after the end of the audit period, whichever is earlier.

(b) All other audits performed by auditors independent of the Task Force must be maintained at the grantee's administrative offices pursuant to RULE §173.303 of this chapter (relating to "Retention of Records") and be made available upon request by the Task Force or its representatives. Grantees must notify the Task Force of any audit results that may adversely impact the Task Force grant funds.

Link to the Texas Administrative Code

Please provide a copy of the comprehensive annual financial report (CAFR) and Single Audit Report (SAR) to: Carol Conner, Fiscal Monitor, Task Force on Indigent Defense, P.O. Box 12066, Austin, Texas 78711-2066, or email carol.conner@courts.state.tx.us.

[Link to Fiscal Monitor complete report](#)

POLICIES AND STANDARDS UPDATE

**Legislative
information
on the
website**

Legislative Recommendations

Each summer before a legislative session a legislative workgroup convenes to assist the Task Force in developing legislative recommendations to improve the quality of indigent defense services in the state in accordance with Section 71.061, Government Code and the Legislative Policy adopted by the Task Force.

John R. Justice Student Loan Grant Repayment Program

On May 26, 2010, the U.S. Department of Justice (DOJ), Office of Justice Programs (OJP), Bureau of Justice Assistance (BJA) announced that it is seeking applications from state governments for funding under the John R. Justice (JRJ) Grant Program. The JRJ Grant Program provides funding for loan repayment for local, state, and federal public defenders and local and state prosecutors.

Overview: One pressing challenge facing our criminal justice system today is the retention of qualified prosecutors and public defenders, who serve everyday to ensure that our communities are protected, the rule of law is upheld, and the rights of the citizenry are safeguarded. Both prosecutor and public defender offices consistently find it difficult to attract and retain talented attorneys. Driven by educational debt, attorneys interested in public interest law often forego opportunities to work in these offices in order to seek more lucrative private sector positions. Attorney shortages in these offices can result in overworked attorneys handling unmanageable caseloads, potentially affecting public safety, the administration of justice, and ultimately the public's confidence in our justice system.

Student loan debt is consistently cited as the overwhelming reason why attorneys decline or leave positions as prosecutors and public defenders. The vast majority of law students borrow to finance their legal education and the rising costs have imposed staggering debt. Furthermore, public defender and prosecutor salaries have failed to keep pace with the escalating cost of education. As a result, talented lawyers are often unwilling to accept or remain in attorney positions as prosecutors or public defenders, creating real challenges for those offices in their quest to hire and retain capable attorneys.

Acknowledging this challenge, Congress enacted the John R. Justice Prosecutors and Defenders Incentive Act (hereinafter referred to as the "Act"), codified at 42 U.S.C. §3797cc-21, and named for the late John Reid Justice of South Carolina, to encourage qualified attorneys to choose careers as prosecutors and public defenders and to continue in that service. The John R. Justice (JRJ) Grant Program provides loan repayment assistance for local, state, and federal public defenders and local and state prosecutors who commit to continued employment as public defenders and prosecutors for at least three years. To administer this program, the Bureau of Justice Assistance (BJA) will award funds to each of the 50 states and the District of Columbia to serve eligible recipients working within the state's or District's jurisdiction.

State governments had until July 27, 2010 to apply. In Texas, the Governor has designated the Texas Higher Education Coordinating Board as the designated state agency to administer this program and the application has been submitted. Task Force and representatives from OCA worked with the Texas District and County Attorneys Association to submit the application. For complete information about this program, please visit the BJA website. Once the state receives approval, contact information for individual application process will be provided.

Please update your county contact information online

In order to reduce paperwork for counties regarding The Fair Defense Act the Task Force must rely on the contact information (especially email) provided by counties on their county home pages maintained on the PPRI database.

Please take the time to confirm that all contact information is current on your county home page. Please [sign in here](#). It is fast and easy to do.

Register for 8th Annual Indigent Defense Workshop

The workshop will be October 28-29 at Texas Association of Counties in Austin. Seating is limited for this event so please register early if you wish to come.

The focus of this year's workshop will be on Quality of Representation: Developing and Measuring Assigned Attorney Performance Standards. Those most interested in learning about measuring attorney performance such as defenders, elected officials and court coordinators are encouraged to attend this. There's a great lineup of speakers and topics.

Registration priority will be given to those attendees who also bring a county judge or commissioner. The reason we ask for this is because over the years we have seen that when elected officials see and hear the information in person they are better equipped to assist and support implementing change for increased efficiencies in indigent defense systems when they return to their counties and back to work.

Here is the [link to the registration brochure](#). Hoping to see you in Austin in October!

BEXAR COUNTY INDIGENT DEFENSE ASSESSMENT

Task Force thanks Bexar County officials

In December 2009, Senator Jeff Wentworth asked the Task Force on Indigent Defense to conduct a full assessment of Bexar County's indigent defense processes. The work has been completed and was submitted to Bexar County officials on August 16th. The purpose of this request and assessment was to determine the effectiveness of Bexar County's indigent defense processes and to determine whether local processes are in compliance with the Fair Defense Act.

The Task Force, in collaboration with the Office of Court Administration, interviewed representatives from various departments in the criminal justice system, observed a variety of court proceedings, and examined indigent defense records to determine whether local processes and practices comported with the requirements of the Fair Defense Act and Task Force rules.

The County response is due October 22, 2010.

Program Authorized for Task Force Funding Featured on PBS

The defender component of Harris County's Veteran's Court received authorization for funding by the Task Force board in December 2009. Harris County's program was modeled after long-standing problem solving courts to divert veterans from jail into recovery. Among other factors, eligibility for the program is intended for veterans who demonstrate service-related mental health or substance abuse disorders. Treatment is provided by the Department of Veterans Affairs, helping offset some costs for the county. Uniform Justice aired on PBS's Need to Know program in July 2009.

The Task Force staff worked with a number of counties and other stakeholders throughout FY2010 on issues related to the implementation and operation of Veterans Courts as a part of a broader effort to increase understanding about the defense attorney's vital role in problem solving courts and to improve the delivery of indigent defense. The Governor's office, for example, authorized funding for Travis County to establish its Veteran's Court and the Task Force is exploring how it may support the defender component of the program. Other counties interested in establishing new programs are encouraged to contact TFID's Grants Team and should look for the upcoming release of the FY 2012 Request for Application for Discretionary Grants.



TFID

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Please contact any of the following staff members for assistance

James D. Bethke	Director
Carol Conner	Fiscal Monitor
Dominic Gonzales	Grant Program Specialist
Marissa Leighton	Administrative Assistant
Joel Lieurance	Program Monitor
Wesley Shackelford	Deputy Director/Special Counsel
Terri Tuttle	Executive Assistant/Information Specialist
Sharon Whitfield	Budget and Accounting Analyst
Jennifer Willyard	Grant Program Specialist
Bryan Wilson	Grants Administrator

Archived e-newsletters are available
online.