



Texas Task Force on Indigent Defense

September 2008

Volume 7, Number 1

Inside:

- Message from Chair
- Message from Director
- Policies and Standards Update
 - Legislative Proposals
 - Review of Dallas County Public Defender
- Grants and Reporting Update
 - Formula Grants
 - Cameron, Polk and Willacy Receive Extraordinary Funds
 - Direct Disbursements
- Register for the 6th Annual Workshop October 23-24
- County Spotlight – Kaufman County



From left to right: Judge Jon Burrows, Judge Sharon Keller, Judge Olen Underwood, Judge Orlanda Naranjo, Justice Sherry Radack, James Bethke, Tony Odiorne, Judge Glen Whitley

Message from the Chair

In its sixth year, the Task Force loses a member and gains a member. The Task Force has [13 members](#). Of the original 13 assigned in 2002, there are several members who have served for over six years. One of those members is Judge Orlanda Naranjo, judge of the 419th Judicial Civil District Court in Travis County. Judge Naranjo participated in almost every meeting (25 Policies and Standards Committee meetings, 22 full Task Force meetings, 2 strategic planning meetings, and numerous workgroup meetings). She has been a valuable resource, mind, and voice and she has helped the Task Force in its mission. As we bid our friend farewell, we welcome our newest member, Judge Alfonso Charles, judge of County Court at Law No. 2 in Gregg County. We are very fortunate to have Judge Charles on board with us, and we look forward to working with him in our efforts to improve indigent defense in Texas.

Sincerely,
Sharon Keller, Presiding Judge, Court of Criminal Appeals

Message from the Director

Task Force Members:

Chair:

Sharon Keller
Presiding Judge, Court of
Criminal Appeals

Vice Chair:

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

Jon Burrows
Bell County Judge

Alfonso Charles
Gregg County CCL#2 Judge

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

Wallace Jefferson
Chief Justice, Supreme
Court

Tony Odiorne
Public Defender, West Texas
Regional Capital Public
Defender

Aaron Peña
State Representative

Sherry Radack
Chief Justice, First Court of
Appeals

Todd Smith
State Representative

Jeff Wentworth
State Senator

Glen Whitley
Tarrant County Judge

John Whitmire
State Senator

The Indigent Defense Workshop is right around the corner, October 23-24, 2008 in Austin. We anticipate the participation of up to 25 counties and already have many registrations. There are few more seats, so please contact us if you are interested in attending this year. Here is a link to the [agenda](#) and [registration](#). Staff will be presenting information on *Rothgery v. Gillespie County* and other hot topics in indigent defense. As you can see from the agenda there are many featured presenters who are experts in criminal justice and we are excited about all the useful information, perspectives and advice they will share.

Mentally ill offenders are one of the hot topics we will be addressing. At the workshop we will publish for the first time the results of a recent judicial survey on dealing with the mentally ill. Thank you to those of you who took the time to respond to the survey. The response rate was high and the insights will be invaluable. I also want to thank Ana Yáñez-Correa, Executive Director of Texas Criminal Justice Coalition, and her staff, for assisting us with this survey. This is great information for all of us here in Texas.

I recently gave a presentation to attendees of the Texas Association of Counties Annual Conference here in Austin. Jim Allison, General Counsel, County Judges and Commissioners Association of Texas, and Andrea Marsh, Executive Director, Texas Fair Defense Project, joined me. Here is a link to that [slide presentation](#). If you have any questions or need more information, please call me.

I also wanted to say welcome to our newest Task Force member Judge Alfonso Charles!

Warmest regards,
James Bethke, Director

Photo on right: The newest member of the Task Force, Judge Alfonso Charles, Gregg County CCL#2



The mission of the Task Force on Indigent Defense is to improve the delivery of indigent defense services through fiscal assistance, accountability and professional support to State, local judicial, county, and municipal officials. The purpose of the Task Force is to promote justice and fairness to all indigent persons accused of criminal conduct, including juvenile respondents, as provided by the laws and constitutions of the United States and Texas.

See the [Task Force's Strategic Plan](#).

Policies and Standards Update

Legislative Proposals

The Task Force made several recommendations for the improvement of the state's indigent defense system. It is directed to do so by Section 71.061, Government Code and has established a [Legislative Policy](#) to guide its development of such recommendations. Many of the recommendations involve proposals from last session that did not pass the legislature, while others address new areas meriting improvement. They were developed with the aid of a broad group of indigent defense stakeholders who met three times this summer. The full list of proposals is available [here](#).

For additional information please call Wesley Shackelford, Special Counsel at (512) 936-6997.

Review of Dallas County Public Defender

Dallas County requested technical assistance on the appellate division of the public defender's office and on appropriate caseloads for attorneys in the trial division of the public defender's office. Staff conducted site visits in late June and early July and released the [report](#) on July 15th, 2008. This was followed by my presentation of its key findings to the Dallas County Commissioners Court on July 28th, 2008. Those findings include the following:

- High quality and timely briefs filed by appellate division;
- Appellate division provides additional services such as spot legal research to assist trial defenders with legal issues arising at trial and writes monthly written case summaries of new opinions from the Court of Criminal Appeals;
- Cost per hour of appellate division is about \$72 versus \$100 for private assigned counsel; and
- Caseloads for trial attorneys in Dallas County Public Defender are substantially higher than national standards, other states, as well as being the highest among Texas public defender offices surveyed

For additional information please call Wesley Shackelford, Special Counsel at (512) 936-6997.

Grants and Reporting Update

Formula Grants

At its August 27th meeting, the Task Force set the FY2009 budget and authorized staff to publish and distribute the Request for Application (RFA) for the FY2009 Formula Grant. The Formula Grant budget was set at \$12 million dollars. Constitutional County Judges will receive the FY2009 Formula Grant Packets within the next week. 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 [RFA](#) and [allocation schedule](#) are now available on the Task Force website.

Online grant applications will be due on October 21, 2008. Instructions for the online application process are contained in the RFA. 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 December to award the FY2009 Formula grants.

If you would like help or have questions, please contact Whitney Stark, the Task Force Grants Administrator at (512) 936-6996. If you have any financial questions about funds received, please contact Sharon Whitfield, the Task Force Budget & Accounting Analyst at (512) 936-6998.

Cameron, Polk and Willacy Counties Receive Extraordinary Funds

The Task Force reimbursed three counties, Cameron, Polk and Willacy for extraordinary expenses at the August 27, 2008 meeting. Counties experiencing an indigent defense event “constituting a financial emergency” should review the policy to determine whether they should submit an application. Typically the Task Force limits the amount awarded to \$100,000 per case. However, due to the availability of additional funds at the end of FY2008, the Task Force voted to award the full amount expended per case to these three counties. Contingent on funding, these awards are issued on an annual basis in August. The Task Force has budgeted \$450,000 for FY2009. The policy is online [here](#).

FY08 Extraordinary Budget:		\$456,006	
County	Disbursement Amount		Type of Request
Cameron	\$142,004		Capital murder case
Polk	\$208,500		Capital murder case
Willacy	\$105,502		Capital murder case
Total	\$456,006		

If you would like help or have questions, please contact Whitney Stark, the

In our adversary system of criminal justice, any person haled into court, who is too poor to hire a lawyer; cannot be assured a fair trial unless counsel is provided for him.

Hugo L. Black

Task Force on Indigent

Task Force Grants Administrator at (512) 936-6996. If you have any financial questions about funds received, please contact Sharon Whitfield, the Task Force Budget & Accounting Analyst at (512) 936-6998.

Direct Disbursement Awards

The Direct Disbursement program is to reduce application procedures for counties that have both a low incidence of crime and low indigent defense costs. A county that has not spent any formula grant funds in the preceding year and does not apply for a formula grant in the current fiscal year may submit receipts for direct disbursements. If it experiences indigent defense costs above its baseline year amount, a county is eligible to receive up to twice the amount of the initial allocation of funds for the county under the formula grant program. See the full Direct Disbursement Policy [here](#).

Out of the 33 counties that elected to go into the Direct Disbursement Pool this fiscal year, the Task Force on August 27, 2008 awarded \$146,945.99 in disbursements to 20 counties who requested reimbursements for their FY 2008 indigent defense expenses.

County	Disbursed Amount
Briscoe	\$3,117.97
Concho	\$6,861.78
Culberson	\$5,988.09
Dickens	\$705.09
Edwards	\$6,802.00
Fisher	\$5,840.75
Foard	\$2,664.00
Frio	\$12,677.00
Hudspeth	\$6,656.00
Jeff Davis	\$4,438.42
Karnes	\$12,119.00
Kenedy	\$5,591.68
Kinney	\$6,553.00
Lavaca	\$6,311.86
McCulloch	\$7,524.78
Nolan	\$12,056.00
Oldham	\$6,027.00
Rains	\$10,000.00
Schleicher	\$6,302.57
Uvalde	\$18,709.00

A Few Seats are Remaining...

Register Now for Indigent Defense Workshop October 23-24

There are a few more seats left for this year's workshop in Austin being held at the Texas Association of Counties Event Center on October 23 and 24. This is an increasingly popular event and seating is limited. The Task Force recommends that counties assemble a 2-3 member team consisting of a cross-section of county court officials and administrators. All are welcome provided there's room. Presenters will provide up-to-date information, examples and highlights of current indigent defense practices. One goal of the workshop is for counties to take away a 90-day action plan that will assist the county in increasing proficiencies in their delivery services. Counties will be provided with evidence-based practices from latest studies to help in determining what works best for their local jurisdictions, examples being whether or not a public defender office is a viable option or which methods of indigence determination and verification are most appropriate.

The Task Force is grateful to the Texas Association of Counties for allowing the use of its Events Center. The Task Force is also grateful to presenters such as Bob Spangenberg, Jim Allison and Jeff Blackburn,

Defense
P.O. Box 12066
Austin, TX 78701

Phone:
(512) 936-6994
toll free:
(866) 499-0656

Fax:
(512) 475-3450

E-mail:
fairdefense@courts.state.tx.us

We're on the Web!
www.courts.state.tx.us/tfid

among many others.

There is no fee for registration but counties are responsible for travel expenses. If you have any questions about this workshop please call (512)936-6994 or email terri.tuttle@courts.state.tx.us. In addition, the Task Force welcomes any and all feedback and suggestions for what counties would find most helpful or solutions to issues expecting to be met from attending this workshop. Here is a link to the [registration form](#).

Please call Terri Tuttle, at the Task Force office, toll free in Texas at (866) 499-0656, if you have any questions about this program.

County Spotlight

Kaufman County

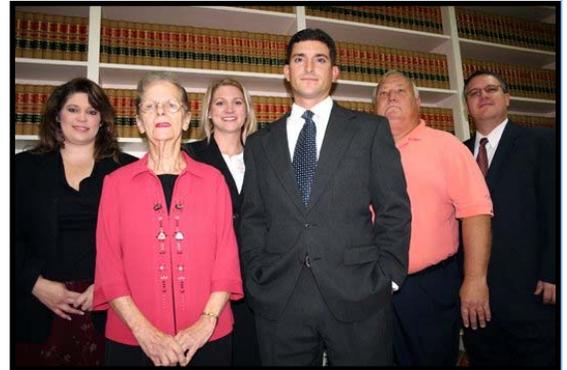


Photo and story reprinted with permission
© Copyright 2005-2008
KaufmanCountyOnline.com

County commissioners had reached their wits end in 2006. The cost of providing attorneys for the poor had risen from about \$600,000 to \$1.2 million, pushing the county to borrow money to end the year. The county jail was crowded, increasing costs and keeping the sheriff from leasing beds to inmates from other counties.

Pct. 4 Commissioner Jim Deller began looking into setting up a public defender office – hiring lawyers to represent the poor rather than hiring outside attorneys on a case by case basis. Dist. Judge Howard Tygrett found a grant, and, working with other county justice officials, the public defender office was born.

It has been so successful that the Texas Association of Counties has selected it for a Best Practices award. The honored programs are ones that the association believes could benefit other counties.

An investigator from the office interviews those arrested overnight each morning to see if they qualify for a public defender. Attorneys in the office then move the cases through the court as quickly as possible.

The number of inmates in the jail has been reduced from an average of about 450 to about 250. In addition the county has been able to rent out 70 beds to other counties bringing in \$40 a day for each bed.

And the program has benefited inmates who previously had to sit in jail when they couldn't make bail. Now the cases are handled much more quickly.



“My staff and I take a great deal of pride in the fact that the poorest person in our county has the same access to the justice system, and will have his/her rights just as vigorously protected as the richest,” Andrew Jordan, chief public defender, wrote in the application.

For more information about county spotlights or submit a story, contact Terri Tuttle, Executive Assistant at terri.tuttle@courts.state.tx.us or 866-499-0656 (936-6994 in Austin).