



# Texas Task Force on Indigent Defense

March 12, 2004

Volume 2, Number 1

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The next Task Force meeting is on April 29, 2004; for a complete listing of all currently scheduled meetings please go to the website [calendar](#).



Presentation of FY04 Discretionary Grant of \$72,700 to Limestone County Commissioners Court on February 23, 2004. Pictured above front row, left to right, G.Z. (Peaches) Stone, Judge Sharon Keller, Peggy Franklin, Lauri Anderson, Laura Beth Holmes, Judge Elenor Holmes, Billy Waldrop and Keith Eaves; and back row, left to right, Bryan Wilson, Dennis Wilson, K.C. Odom, Don Ford, Ray Forrester, Ray Jones and Roy DeFriend (The Groesbeck Journal Photo)

## Task Force Honors Discretionary Grant Recipients

### Terri Tuttle, Executive Assistant

The first ceremonial check event took place on February 23, 2004 in Groesbeck, the seat of Limestone County, at the Commissioners Court hearing. The oversized check was presented by Judge Sharon Keller, Chair of the Task Force and Presiding Judge of the Court of Criminal Appeals and Bryan Wilson, the Grants Administrator for the Task Force. The Groesbeck event honored Limestone county officials for securing a \$72,700 discretionary grant. To be awarded a discretionary grant, applicants compete and must demonstrate an innovative indigent defense program in their county. The grant award to the county will help pay for an indigent defense coordinator (an employee who will coordinate all indigent defense (continued on page 5)

Task Force  
Members:

Chair:  
Sharon Keller  
Presiding Judge, Court  
of Criminal Appeals

Vice Chair:  
Olen Underwood,  
Presiding Judge, 2<sup>nd</sup>  
Administrative  
Judicial Region of  
Texas

Eduardo Arredondo  
Attorney, Law Office  
of Eduardo Arredondo

Jon Burrows  
Bell County Judge

Chris Harris,  
State Senator

Knox Fitzpatrick  
Dallas Attorney,  
Fitzpatrick, Hagood,  
Fisher & Holmes

Terry Keel  
State Representative

Ann McClure  
Justice, 8<sup>th</sup> Court of  
Appeals

Orlinda Naranjo  
Travis County Court at  
Law #2

Thomas Phillips  
Chief Justice,  
Supreme Court

Todd Smith  
State Representative

Glen Whitley  
Tarrant County  
Commissioner

John Whitmire  
State Senator

## Message from the Chair

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

We've been doing this work for two years now. As we move forward in 2004, we acknowledge the professionalism of the judiciary, counties, defense attorneys, and many others, who have demonstrated their dedication to this program. It is only through all of our efforts that the right to counsel is preserved and the interests of justice are assured. I also want to take the opportunity to thank those who assisted with discretionary grants this year; we had a team consisting of Margaret Bennett of the Office of Court Administration, Glen Brooks from the Office of the Governor and Ann Brockett from Community Justice Assistance Division of the Texas Department of Criminal Justice who worked very hard and donated their time and efforts. They did a great job. We also welcome new members Senator Chris Harris, Senator John Whitmire, Representative Todd Smith and Representative Terry Keel. We look forward to working with them and their staff. Senator Robert Duncan is no longer on the Task Force. He and Lisa Kaufman have worked unceasingly on this project--we wanted to acknowledge the work that they have done and hope they know how much we appreciate their work.

Sincerely,



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## Director's Report

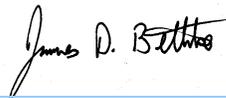
**James D. Bethke, Director**

I congratulate the Grants and Reporting Committee and the full Task Force for its work in timely getting this year's grants awarded. Included in this newsletter are summaries of the work that has been done regarding the Task Force's grant program and an update of the work being done through the Policies and Standards Committee.

Next, the *Review of Wichita County's Indigent Defense System—Findings and Recommendations: Final Report (February 2004)* is complete. Mr. Spangenberg and I presented the report at the Wichita County Commissioner's Court meeting on February 9, 2004. I commend Wichita County and its leaders for being proactive and willing to work with the Task Force to improve its public defender's office. The reports on the *Dallas County Indigent Defense System* and *A Model Blue Print to Establish a County Public Defender's Office* are in progress. I anticipate having these reports completed prior to the next Task Force meeting.

And last, I wish all a safe and enjoyable Spring Break holiday next week and I look forward to seeing everyone at the April meeting.

My Best,



## *Policies and Standards Update*

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# TDCLA Offers Free CLE for all Public Defenders

**Jeanette Drescher Green, Chief Public Defender, Dallas County**

The Task Force's 2003 Discretionary Grants stimulated the Dallas County Public Defenders Office to sit down and think about ways they could improve their office if they had additional resources and economic assistance. Although our request for discretionary grant money for CLE and training was not awarded last year, we re-directed our efforts toward other resources. Assistant Public Defender and TCDLA member, Susan Anderson initiated discussions with TCDLA recently and requested assistance with CLE and training for *all* of the Public Defender Offices in Texas. We received an immediate and proactive response.

TCDLA has agreed to coordinate and offer 12 to 13 hours of free CLE during a two-day period for all public defenders. In return, the Public Defender's Offices will make the CLE mandatory for all of its criminal attorneys. Philip Wischkaemper is over-seeing this project which will be offered at two different seminar sites; one in the Dallas area for the Dallas and Wichita County Public Defenders Offices and one in the El Paso area for the El Paso and Webb County Public Defender's Offices. Bob Hinton and Jeanette Drescher Green have agreed to be co-directors for the Dallas area course which is scheduled for March 18-19, 2004.

## Regional Trainings and Meetings for FY04

**Wesley Shackelford, Special Counsel**

Based on direction from the Task Force on Indigent Defense, Director Jim Bethke and Wesley Shackelford will conduct trainings and meetings across the state during FY 04. The trainings will be at Texas Criminal Defense Lawyer Association regional training events and will provide attendees with a basic overview of the Texas Fair Defense Act and the Task Force, as well as a resource packet of information.

In conjunction with these trainings and in other select communities, we will conduct a meeting with all the local criminal justice stakeholders to gather information on issues and problems related to indigent defense and determine what strategies and solutions have been implemented to deal with problems encountered. These strategies will then be presented to the Task Force for consideration as recommended "Best Practices." If your community is interested in meeting with Task Force staff, then please let us know.

(schedule on following page)

Tentative Schedule:

<b>Month in 2004</b>	<b>Counties to Visit</b>	<b>Administrative Judicial Regions</b>
January	Dallas and Nueces	1 and 5
February	Bexar, Brazos and El Paso	4, 2 and 6
March	Dallas, Grayson, Travis, Walker and Collin	3, 2 and 1
April	Gregg, Harrison, Smith, Bowie, Williamson, Fort Bend and Brazoria	1, 2 and 3
May	Hays, El Paso, Harris, Midland, and Ector	1, 2, 3, and 7
June	Bexar, Comal, Lubbock and Hale	4 and 9
July	Cameron, Hidalgo, Starr, Harris, Tarrant and Denton	5, 2 and 8
August	Angelina and San Jacinto	2

 Grants and Reporting:  
**Chair: Glen Whitley**  
**Jon Burrows**  
**Sharon Keller**  
**Knox Fitzpatrick**

## *Grants and Reporting Update*

# Task Force Awards FY04 Grants

### **Sharon Whitfield, Budget and Accounting Analyst**

The Task Force conducted its first meeting of the new year on Thursday, January 22, 2004. One important aspect of this meeting was the vote by the Task Force to award and distribute \$10,714,220 in Formula and Discretionary Grants for Fiscal Year 2004. The amounts awarded were \$9,587,920 for Formula Grants and \$1,121,303 for Discretionary Grants.

Each county is eligible to apply for a Formula Grant. Of the counties that do apply, the Task Force staff uses a population-based formula for this grant with a minimum funding level of \$5,000 for each county. This year 239 counties applied for a Formula Grant. Counties that did not apply are still eligible to receive funding under the [Direct Disbursement Policy](#).

Discretionary Grants are our competitive based grants. Applications are reviewed and scored by a select committee. A final decision is made based on scoring and the grant award amount approved by the Task Force. This year 15 counties submitted applications and 6 counties were selected to receive a grant.

*"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."*

Gideon v. Wainwright, U.S. Supreme Court, March 1963

*(continued from page 1)*

## Task Force Honors Discretionary Grant Recipients

**Terri Tuttle, Executive Assistant**

(continued from page 1)...activities within two counties to make the process more efficient) and will also pay to extend the video arraignment system to the rural Justice Courts. "By using funds to encourage counties to develop new and innovative indigent defense programs, the Task Force has the ability to promote improvement and sound court practices for indigent defense systems statewide," notes Judge Keller. "I wish to congratulate Limestone County on the efforts it has undertaken towards taking the lead in developing a new indigent defense program and reaching for the goal of improving indigent defense processes."

## How to Calculate Formula Grant Expenses

**Bryan Wilson, Grants Administrator**

The Task Force on Indigent Defense Formula Grant Program is a simple formula grant. The grant qualification formula simply uses the baseline expenses (or expenses equivalent to Fiscal Year 2001) in comparison to current year expenses to determine grant qualification. If a county expensed more than the amount they spent in their baseline year by at least the grant award amount then they spent the grant. If they did not spend at least the amount of their baseline then this could result in not receiving any funds or returning all or a portion of their funds.

In FY02 over seventy counties originally owed the Task Force refunds of \$416,885.82. The Task Force voted to allow counties another year to spend the funds. At the end of the second year only 25 counties owed refunds from the FY02 grants totaling \$116,998 using the two year time frame. Based on the expenses for FY03 39 counties would have owed the Task Force refunds of \$377,349. The Task Force used its authority to treat all counties fairly by allowing the calculation to be viewed for the same two year cycle used for the counties owing refunds from the FY02 grants. As a result, only 19 counties owe refunds totaling \$139,439. The refunded money from both FY02 and FY03 will be returned to the Task Force budget for use by counties in formula grants or other programs.

The basis of this calculation is found in statute. When the Legislature passed the Fair Defense Act with its corresponding grant funds, they inserted a very common grant clause: "counties shall not reduce their expenditures as a result of receiving grant funds." This is commonly referred to as a no supplanting clause. The Task Force adopted the baseline comparison method to ensure funds were used to pay for increased costs.

# Task Force Applies for SJI Grant

**Bryan Wilson, Grants Administrator**

The Task Force, through the Office of Court Administration (OCA) is pleased to respond to the State Justice Institute's request for proposals for project grants. The Task Force is charged by the Texas Legislature to help state courts improve their indigent defense systems and to promote compliance with the Fair Defense Act. As part of these charges, OCA and the Task Force are interested in conducting research to evaluate the effectiveness of direct electronic filing systems with enhanced electronic document management for expediting pre-disposition processing of misdemeanor defendants. This research will be conducted in collaboration with partners including the Public Policy Research Institute (PPRI) at Texas A&M University and national consultant and former director of the Texas Criminal Justice Policy Council, Tony Fabelo, Ph.D. The Task Force anticipates a response notification from SJI by late spring.

## Task Force Staff:

James D. Bethke,  
Director

Lisa Price, Program  
Monitor

Wesley Shackelford,  
Special Counsel

Terri Tuttle, Executive  
Assistant

Sharon Whitfield,  
Budget and  
Accounting Analyst

Bryan Wilson, Grants  
Administrator

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## Introduction to Program Monitor

**Lisa Price, Program Monitor**

My name is Lisa Price and I am the Program Monitor for the Task Force on Indigent Defense. Before joining the Task Force staff, I was the Program Manager for the Public Power Pool and Association Power, LLC, the largest electric aggregation program in the State of Texas. Prior to moving to Texas in June 2000, I was a certified Private Fiduciary in Arizona and acted as a court-appointed guardian for elder adults. I have Bachelor of Science degree in Criminal Justice from Northern Arizona University and have spent many years working in all aspects of the legal field. I would like to take this opportunity to explain my role with the Task Force.

The Task Force on Indigent Defense is required in Texas Government Code §71.062(a)(3) to monitor each county that receives a grant and enforce compliance by the county with the conditions of the grant, as well as all state and local rules and regulations. Grant rules and the Uniform Grant Management Standards (UGMS) set priorities and processes to be considered when determining what counties to monitor. The Task Force staff applies a consistent procedure to the review of all county files and considers both programmatic and fiscal concerns when determining a county's risk level.

Fiscal concerns are those related to the type and adequacy of the financial management system, the overall percentage of administrative expenses as they relate to total expenditures, value of grants awarded, value of equipment purchased and adjustment or tardiness in document submission.

Programmatic concerns are those related to compliance with plan submission instructions, type of appointment system maintained by the county, the lack of an administrative person responsible for the oversight of indigent defense services, and compliance with the policies outlined in the county indigent defense plan.

*"There can be no equal justice where the kind of appeal a man enjoys depends on the amount of money he has."*

*Justice William O. Douglas  
Supreme Court of the United States*

When conducting a site visit in a county, I will review records maintained by the jail (including magistration records), the auditor, the clerks (both county and district), and the indigent defense coordinator. I would like you to see me as a resource. If you are unsure how to maintain records or categorize an expense, please contact me. I am available to answer any questions you may have and welcome comments and feedback on how I may better serve your organization. I am extremely excited to be a part of the Task Force on Indigent Defense and look forward to working with each and every one of you.

## State Single Audit Reports

### **Lisa Price, Program Monitor**

When was the last time your organization received a State Single Audit? According to the State of Texas Single Audit Circular, "Non-state entities that expend \$300,000 or more a year in state awards shall have a single audit or program-specific audit conducted for that year in accordance with the provisions of this audit circular." This means that whether you receive \$300,000 or more from one state agency, or \$300,000 or more total from multiple state agencies, your organization should receive an audit each year. The single audit will encompass a review of financial statements and documentation for all state awards received during the audit period.

Texas Administrative Code §173.402(a) requires that all grantees submit copies of the results of any single audit conducted in accordance with the State Single Audit Circular to the Task Force on Indigent Defense. 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 the grantee receives the audit results or nine months after the end of the audit period, whichever is earlier. Copies of the single audit report, along with the response and corrective action plan, should be submitted to Lisa Price, Program Monitor, P.O. Box 12066, Austin, Texas 78711. If you have an electronic copy of the report, you may submit it via email to [lisa.price@courts.state.tx.us](mailto:lisa.price@courts.state.tx.us).

### *General Information Update*

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## State Justice Institute 2004 Grants Available

### **Terri Tuttle, Executive Assistant**

The State Justice Institute (SJI) has \$300,000 for the Technical Assistance (TA) Grant program. State and local courts may request TA grants of up to \$30,000 to secure the services of a consultant to help them diagnose a problem, develop a response, and initiate needed changes. TA projects generally fall into the categories of court management, strategic planning, evaluation and research.

SJI is also allocating \$150,000 for the Judicial Branch Education (JBE) TA Grant

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We're on the Web!  
[www.courts.state.tx.us/tfid](http://www.courts.state.tx.us/tfid)

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program. State and local courts can apply for up to \$20,000 to

- adapt and deliver an education program that was previously developed and evaluated under an SJI Project Grant; or
- obtain expert assistance in planning, developing and administering judicial branch education programs.

Both programs have streamlined application processes. State and local courts need only to submit a letter that describes the proposed project and a preliminary budget. Applicants submitting letters by June 4 will be notified of the decision by August 27. Both programs are described in detail on the Institute's website ([www.statejustice.org](http://www.statejustice.org)). For additional information about either of these programs, contact Kathy Schwartz, the Institute's Deputy Director, at (703)684-6100, ext. 215, or [kschwartz@state.justice.org](mailto:kschwartz@state.justice.org).

## Announcing the CCTAP Project

**Terri Tuttle, Executive Assistant**

**Who:** CCTAP stands for the Criminal Courts Technical Assistance Project out of American University, School of Public Affairs, Justice Programs Office and sponsored by the Bureau of Justice Assistance of the US Department of Justice.

**What:** CCTAP Project *provides a range of free and cost-share services, including:*

- On-site consulting by senior practitioners\*
- Workshops for judges and court personnel\*
- Office based assistance, including off-site review of documents/plans by consultants and staff
- Networking assistance
- Dissemination of publications related to judicial system operations
- Telephone consultation by staff and consultants

\*Note: sponsorship by BJA request that any on-site services or training support requested must have potential for significant impact on the requesting court's or agency's ability to effectively handle its criminal caseload

*Representative subject areas* for CCTAP assistance include:

- Justice System-Community Relations
- Special Focus/Problem-Solving Courts
- Court Facility Planning and Renovation
- Responses to Jail Overcrowding
- Case Management/Criminal DCM
- Pretrial Services
- Prosecution Office Management
- Indigent Defense Services Delivery
- Handling Juveniles in Adult Court
- Operational and Management Reviews of Courts and Justice System Agencies

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We're on the Web!  
[www.courts.state.tx.us/tfid](http://www.courts.state.tx.us/tfid)

**Why:** To assist judicial systems with improvement efforts; CCTAP project has been providing services to the state and local judicial system communities under DOJ and State Justice Institute sponsorship almost continuously since the 1970's.

**Where/when:** Judge or official of requesting court should simply call Caroline Cooper or Joseph Trotter at (202)885-2875 to discuss the services desired and objectives to be achieved. The call will be followed by a written request and approval (usually a five-day process).

Note: Past technical assistance services that have been provided may be reviewed at [www.american.edu/justice](http://www.american.edu/justice)