



Task Force on Indigent Defense

August 2003

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"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*

The next Task Force meeting is scheduled for November 20, 2003; for a complete listing of Task Force events, please go to: [Task Force Calendar](#).

Legislative Update

Wesley Shackelford, Special Counsel

The 78th Texas Legislature adjourned its Regular Session having made no significant changes to the Fair Defense Act passed by the previous legislature, while increasing state funding to support county efforts to provide high quality indigent defense services. While there were a number of bills considered that would have significantly changed the act, none passed, indicating a solidifying of support for its provisions. A minor clarifying change to the act did pass in HB 2795 by Rep. Riddle that tolls the time-frames for mandatory release from custody when a person arrested without a warrant is taken to a medical facility prior to being brought before a magistrate. (*Continued on page 3*)

Governor's Grant Workshop a Success

James Bethke, Director

The State Grants Team of the Office of the Governor prepared and presented a first-rate grant writing workshop to 76 county officials representing 73 Texas counties. The two-day program, offered July 31st and August 1st, was designed to meet the needs of county officials on "how to" secure state and federal funding to improve the delivery of county services to communities, including indigent defense services. Participants had many favorable comments regarding the written materials ("Writing to Win") and the verbal presentations. The Task Force also thanks the many county participants, traveling from across the state, for their efforts in attending this workshop in Austin.

FY04 Formula Grants Available

Bryan Wilson, Grants Administrator

The Task Force on Indigent Defense budgeted \$9.6 million for formula grants in FY04. The formula remains unchanged from last year. The Task Force sought to maintain consistency to assist counties in budgeting. Reductions were seen in other Task Force budget line items as a result of statewide drops in revenues. Constitutional county judges received a notice by mail in mid-August. Other county and court officials will receive e-mail notification later this month. Applications need to be submitted on-line. The automated application process has been simplified. Counties will have until October 1, 2003 to complete the application process.

Apply On-Line:

- ✓ Go to: <http://tfid.tamu.edu>
- ✓ Verify eligibility requirements
- ✓ Confirm or update grant officials
- ✓ Submit short on-line application
- ✓ Print the confirmation
- ✓ Mail adopted commissioner's court resolution to the Task Force

Task Force Members:

Chair:

Sharon Keller
Presiding Judge, Court
of Criminal Appeals

Vice Chair:

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

Eduardo Arredondo
Attorney, Law Office
of Eduardo Arredondo

Jon Burrows
Bell County Judge

Robert Duncan
State Senator

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

Terry Keel
State Representative

Ann McClure
Justice, 8th 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

Staff to Conduct Regional Trainings

Bryan Wilson, Grants Administrator

Regional grant and reporting trainings were increased for Fiscal Year 2004 to eight sessions. These trainings are being offered in most areas of the State and are hosted by volunteering counties. The training is conducted by the Task Force Grants Administrator. Each session provides details about formula and discretionary grant application processes, other Task Force programs, the statutory reporting

requirements, and the monitoring processes. Trainings are provided free of charge but registration is required. The sessions are open to the public. Many, many thanks to the counties that hosted the FY04 regional grant trainings.

To register for any of the remaining trainings, registration forms may be downloaded from the Task Force website (www.courts.state.tx.us/tfid) and faxed to (512) 475-3450. Call toll-free (866) 499-0656 and speak to Terri Tuttle if you have any questions.

Upcoming trainings to register for:

- August 27, 2003 – Central Travis County, Austin, TX
- September 3, 2003 – North Young County, Graham, TX
- September 9, 2003 – Panhandle Potter County, Amarillo, TX
- September 17, 2003 – East Harrison County, Marshall, TX
- September 18, 2003 – East Walker County, Huntsville, TX

Go to: www.courts.state.tx.us/tfid for a registration form and fax to (512) 475-3450

Completed trainings:

- ✓ August 5, 2003 – South – hosted by Hidalgo County, Edinberg
- ✓ August 14, 2003 – North – hosted by Tarrant County, Fort Worth
- ✓ August 19, 2003 – West – hosted by Midland County, Midland

Future Grant Trainings

To participate in hosting a FY05 regional grant training next summer, please call toll-free (866) 499-0656 and speak to Terri Tuttle or e-mail her at terri.tuttle@courts.state.tx.us.

Money Matters

Sharon Whitfield, Budget and Accounting Analyst

The Good and Gloom of 2003

The state like many counties grappled with decreasing revenue streams without corresponding reductions in costs. The good news came early last year when the Task Force carried forward a surplus from Fiscal Year 2002 of \$1.3 million representing administrative savings and additional court cost collections. Approximately 242 counties applied for formula grants totaling about \$10.6 million dollars. An additional \$1.5 million dollars was dedicated to competitive grants and of the 26 counties that applied 22 counties received awards for indigent defense coordinators, contract defender programs, case management systems, attorney youth advocates, and the like.

Task Force Staff:

James D. Bethke,
Director

Terri Tuttle, Executive
Assistant

Wesley Shackelford,
Special Counsel

Bryan Wilson, Grants
Administrator

Sharon Whitfield,
Budget and
Accounting Analyst

Early January 2003, the gloom was announced--the Comptroller announced a 9.9 billion dollar deficit. As a result of this projection, the Governor, Lt. Governor and Speaker of the House requested that all agencies reduce current spending (dedicated and non-dedicated funding) this fiscal year by seven percent to assist in keeping the Texas budget balanced. This amounted to returning \$835,800 of revenues collected and dedicated for the improvement of indigent defense to the general revenue fund. The announcement of the FY03 formula grant awards earlier this year by the Task Force was tempered with the caveat that counties may not receive their full grant award this year.

This unfortunate news is compounded with lower than anticipated court cost collections coming in this year. As a result, the Task Force may be faced with a shortfall in 2003. The extent of any shortfall, will not be known until the court cost revenue is calculated (mid to late August) and the November 1st county expenditure reports are received and totaled.

To minimize any adverse affects to counties, the 4th quarter disbursement payment (the final disbursement for 2003) will be mailed as scheduled in October. *The Task Force voted at its July meeting to distribute this payment, reduced proportionately to accommodate the possible shortfall.* After the November 1st reports are filed, Task Force staff will distribute proportionally any remaining funds to the counties.

Thank you for your support of the Task Force activities and your patience in these processes as we attempt to minimize the impact of any possible reduced funding on the counties.

Task Force on Indigent
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

Legislative Update continued...

(continued from page 1)

In this situation, the 24 or 48 hour after arrest time limit for a probable cause determination by a magistrate does not begin to run until the person is released from the medical facility.

Additionally, HB 2319 by Rep. Dutton modifies Section 51.101, Family Code, relating to the requirements juvenile boards must meet in developing appointment of counsel plans for indigent juveniles charged with offenses. Prior to this bill, the statute required a plan to recognize the different qualifications and experience required of attorneys to represent youth for five levels of offense. This amendment collapses these five categories down to three: cases where TYC commitment is not possible, cases where an indeterminate commitment to TYC is possible, and cases where determinate sentence proceedings or discretionary transfer to criminal court have been initiated.

While leaving the substantive provisions of the act intact, the legislature appropriated more funds for indigent defense than in the prior biennium. This success was due in large measure to the efforts of county leaders and indigent defense advocacy groups. For fiscal years 2004-2005, the Task Force on Indigent Defense (Task Force) was appropriated \$12,226,545 and \$11,956,912, respectively, for a total of \$24,183,457 for the biennium. This compares to \$19,829,000 for fiscal years 2002-2003, which included a reduced 2002

Committees of the
Task Force:

 *Grants and
Reporting:*

Chair: Glen Whitley
Jon Burrows
Robert Duncan
Knox Fitzpatrick

 *Policies and
Standards:*

Chair: Knox Fitzpatrick
Eduardo Arredondo
Terry Keel
Orlinda Naranjo
Olen Underwood

appropriation because of the mid-year implementation of the act. The \$12,226,545 appropriated for fiscal year 2004 includes an estimated unexpended balance of \$268,632 from the previous biennium. Of the amount appropriated each year, \$685,500 is earmarked for the administration of the Task Force. Any court costs deposited in excess of \$24,183,457 for the biennium is appropriated to the Task Force for the same purpose.

In addition to the regular appropriations discussed above, two other bills were passed and signed by the governor that will increase funding to counties in support of this important function. The first is contained in the State Bar of Texas sunset bill. It includes a provision creating a mandatory \$65 annual attorney bar association fee. One-half of the fees collected, an estimated \$1.74 million per year, is designated for “demonstration or pilot projects that develop and promote best practices for the efficient delivery of quality representation to indigent defendants in criminal cases at trial, on appeal, and in post-conviction proceedings.” Funds raised under this provision will not be available to the Task Force until late summer 2004.

The second new revenue source was contained in a bill dealing with longevity pay for prosecutors that also added a new \$5 fee on all surety bonds taken for an offense other than for an offense punishable by fine only. This surety bond fee is designated for the Fair Defense Account and is estimated to raise \$503,000 in fiscal year 2004 and \$1.08 million in fiscal year 2005.

The Task Force was also approved to increase its staff from five to six. The Task Force plans to use this additional position in a grant monitoring capacity. Additional funding was not requested for this position; therefore this position will be absorbed within existing administrative cost. The Task Force plans to have this position filled in September.

These increases in funding and staffing are all the more striking in light of the approximately \$10 billion revenue shortfall the state faced for the upcoming biennium and the major cuts in funding and staff sustained by many state agencies and programs. Though not sufficient to meet all of the increased costs experienced by counties since implementation of the Fair Defense Act, it does indicate the importance the state attaches to assisting the counties in providing adequate funding for indigent defense services.