

Kaufman County Public Defender's Office

Texas Tech University
Center for Public Service
Report prepared for the Texas Indigent Defense
Commission
July 18, 2012

Acknowledgment

This report was prepared by Sudeshna Bhattacharyya, Samuel Heinz, Aquila Jordan, Hillary Lockett, Zachary Noblitt, Christina Woods and David Hamilton, Director of the Center for Public Service. We wish to thank all those who contributed to this report by supplying data and taking time to be interviewed. We especially thank personnel at the Texas Indigent Defense Commission for their comments on drafts of the report. We, of course, take full responsibility for the report, analysis, conclusions, and recommendations.

Texas Tech University
Center for Public Service

Table of Contents

1. Acknowledgement	1
2. Executive summary	3
3. Background	6
4. Literature Review	11
5. Methodology	15
6. Quantitative Methods	16
7. Testing Hypotheses	24
8. Qualitative Methods	30
9. Finances	37
10. Results Analysis	44
11. Deficiencies in the Data	50
12. Recommendations	51
13. Conclusion	54
14. Appendix A: Kaufman County Public Defender's Office Job Requirements	56
15. Appendix B: Original Proposed Kaufman County Public Defender's Office Budget	59
16. Appendix C: Combined County Expenditure Report 2005-2006	61
17. Appendix D: Kaufman County Court-Appointed Expenditures	62
18. Appendix E: Public Defender Office Expenditures	63
19. Appendix F: Qualitative Research Question	67
20. Appendix G: Interviews	71
21. Appendix H: Cost Comparison Graphs	72
22. References	75

Executive Summary

The Kaufman County Public Defender's Office was instituted in 2007 after county judges and commissioners recognized a need to find solutions to curb the rising cost of indigent defense services. The county was awarded a grant from the Texas Indigent Defense Commission to help create a public defender's office. This office is administered by Andrew Jordan, Chief Public Defender, along with two other assistant public defenders, and they handle about 30% of the indigent defense cases of the county.

The Texas Indigent Defense Commission (formerly the Task Force on Indigent Defense) contracted with the Center for Public Service at Texas Tech University to evaluate the effect of the grant on indigent defense in the county. The evaluation consisted of the background and evolution of the Kaufman County Public Defender's Office followed by a review of relevant literature. This review informed the evaluation. Data were gathered via a random sample of approximately 50 indigent misdemeanor and felony court cases from the Kaufman County Courts and the Kaufman District Courts for the fiscal years 2006, 2009, and 2010. We also took a random sample of at least 50 magistration forms from fiscal years 2009 and 2010. The data from fiscal year 2006 was used as a baseline of county processes for the year prior to the establishment of the Kaufman Public Defender's Office. The data from fiscal years 2009 and 2010 were used as an indication of county processes after the office had been well established. Interviews were also conducted with a number of stakeholders. Finally, financial data were also obtained from the county.

The evaluation team used both quantitative and qualitative methodologies to evaluate the effectiveness of the office and the overall indigent defense in the county. The team used the data in statistical analyses to test hypotheses on whether the public defender had improved indigent defense services in the county.

Qualitative analysis was based on interviews conducted with several stakeholders including Kaufman County judges, the District Attorney, the Kaufman Justices-of-the-Peace,

among others. The evaluation analyzed the Kaufman County Public Defender's Office and the overall indigent defense system on each of the objectives stated in the grant submission.

The team's conclusions from the analysis are that the Kaufman County Public Defender's Office has made a difference in indigent defense. Indigent defendants have been given immediate access to legal services. Second, the Public Defender's Office has also met the objective of improving the speedy disposition of felony cases or cases in which the defendant is not able to post bond. However, it has not made a difference in the processing speed of misdemeanor cases from arrest to disposition.

Although the Kaufman Public Defender's Office is able to track its own clients, the current system used by the county for tracking defendants through the court system is inadequate and inconsistent. There is often a haphazard collection of court information and files are often inconsistent and incomplete.

The analysis showed that since the establishment of the Kaufman Public Defender's Office, the amount of jail time for those arrested on felony charges has been dramatically reduced. However time spent in jail for those facing misdemeanor charges has remained relatively static.

Although total indigent costs have increased, the number of new cases filed has increased by a similar percentage. Indeed, the average cost per case has decreased from the base year before the establishment of the Kaufman Public Defender's Office in all except one year studied. Public defender costs per case were also lower than assigned counsel in two of the three years studied. In addition, the reduction of jail time and jail population has saved the county money. We attribute the reduced jail time and savings, at least partially, to the reduced amount of time to process defendants through the system. Indeed, the jail has been able to realize increased revenue by accepting prisoners from other jurisdictions. As the team attempted to gather information from the records kept in the Kaufman County and District Clerks Offices, many files were found to be incomplete, and some records were lacking in data that were essential to the analysis. Due to deficiencies in the data collected from the files, the original sample size of 300 cases was reduced to 224 cases. The team recommends that the collection of data and recordkeeping be improved so that there is more accuracy and consistency in District and County

Court records The team recommends that the county should consider moving to an automated and integrated electronic system to manage and track defendants through the system. The system should link the justice-of-the-peace precincts, the jail system, the district attorneys, public defenders, indigent defense coordinator, investigator, district and county clerks and attorney. An integrated system should improve case information, increase uniformity, and improve access by users. Moreover, the county could realize improved efficiencies through data sharing. The team recommends that the Public Defender be assigned more felony cases as the analysis indicated that the office handled felony cases more efficiently than assigned counsel. As stated above, felony defendants receive less jail time and faster processing through the court system with the Public Defender than through assigned counsel. We suspect that the Public Defender's Office also provides more consistent investigative research and support to indigent clients through its on-staff investigator. We noticed from auditor reports that the payments for investigative work varied during the years studied and seemed to be inadequate, given the number of cases handled by assigned counsel.

Finally, the team feels that there are efficiencies that can be achieved in the Public Defender's Office to bring costs more in line with those of the assigned counsel. One objective of the grant was to reduce indigent defense costs. We feel that investigative services are an extremely important function and this position should continue. There are two office support staff to service an investigator and three attorneys. We question the need for two office staff and feel that the office could reduce the office staff by one to affect some savings. If needed, the office could hire temporary staff as necessary to assist in the office function.

Background

With the passage of the Fair Defense Act of 2001 (FDA), Texas communities have realized the need to pay greater attention to improving the quality of indigent defense services while simultaneously managing costs. The public defender system has increasingly been considered a strategy that satisfies these dual objectives. Prior to the FDA, only five Texas counties operated public defender offices serving adult defendants: Colorado, Dallas, El Paso, Webb, and Wichita counties. Since the Act's passage and through state fiscal assistance, the number of public defender offices in the state has doubled.

Background: The Need to Improve Indigent Defense Services and Manage Costs

Kaufman County, situated outside of the Dallas area, began to feel the financial pains associated with indigent defense. Kaufman County is a county on a serious growth spurt. The population of Kaufman County had a 44.9% increase from 2000-2010. Such population growth appeared to be correlated to rising indigent defense costs for the county and was only going to increase with time unless something was done. During the same period, Kaufman County's jail population skyrocketed from approximately 250 inmates to around 450.

Sensing the need for change, the county commissioners decided to face head on the mounting indigent defense costs. Sheriff Byrnes, County Judge Wayne Gent, and State District Judge Howard Tygrett spearheaded the application to the Task Force on Indigent Defense for a grant to create a public defender office. Commissioner Jim Deller first proposed the idea after doing some research on other counties' public defender offices. Judge Howard Tygrett, 86th District Court, told commissioners about the availability of grant funds discovered through his attendance at several workshops.

The county's application emphasized its population growth and a general population shift from rural to suburban as contributing factors to breakdown of the overburdened system. The number of defendants considered too poor to hire a lawyer rose from 630 in 2002 to 1,533 in 2005. The application noted that some defendants, especially non-English speakers, had been "simply lost in the system" for up to two years. Although stressing better representation for poor

suspects, another motivating factor was to cut county costs for court-appointed lawyers, as well as housing and feeding inmates. Kaufman County's indigent defense related expenditures had risen from \$179,000 in 2001 to \$643,000 in 2006.

The grant was structured such that in the program's initial year, the state funded 80% of the program costs (\$190,256), and the county funded the remaining balance (\$47,564). After the initial grant, the county continued to receive decreasing state grant funding for the next four years. After that, the funding became the sole responsibility of the county. Kaufman County, with about 100,000 residents, was the first mid-size county to establish a comprehensive office. Other counties have received grants to open offices with more limited missions.

Grant Information: Funds for a Public Defender Program

In their grant application and proposal to the Task Force on Indigent Defense, Kaufman County officials outlined objectives to establish a public defender system that would ensure indigent defendants are properly represented and afforded constitutional rights. They designed the program to start out handling juvenile offenses as well as state jail and third degree felonies and class A and class B misdemeanors offenses.

Description of the Public Defender Program

The Public Defender Board, established by the county and courts, operates and oversees the public defender system. The county reserved the right to monitor the department's success and supply additional funds beyond the grant match if necessary to expand the office's capacity to represent individuals charged with higher level offenses (first and second degree felonies).

Defining the problem as the lack of an institutional indigent defense presence in the county, county officials sought a public defender system to augment the current system in a cost-effective manner to protect the rights of indigent. Focus areas included addressing the causes of some defendants languishing in jail for unreasonable periods of time and uneven representation of lower level defendants (third degree felony offenses and below) under the present rotation system.

Goals of the Grant for the Texas Task Force on Indigent Defense

With these problems and concerns in mind, the Public Defender's Office was mandated with certain objectives. The program goals are to:

1. provide indigent defendants immediate access to legal services;
2. streamline moving cases through the system to disposition;
3. track defendants through the system;
4. provide consistently high quality legal services to indigent defendants;
5. lower the number of indigent defendants in county jail; and
6. Lower costs to county.

Proposed Costs and Expenses under the Grant

The county expected and planned for certain expenditures in its grant application and request for funds. The following tables are the cost breakdown. The expenses and proposed costs in a more detailed written form can be located in Appendix B: Proposed Kaufman County Public Defender's Office Budget.

Table 1: (Texas Task Force on Indigent Defense, 2006).

Direct Costs	
1) Personnel (Total Number of FTEs: 4)	\$164,000
2) Fringe Benefits	\$450
3) Travel and Training	\$3,000
4) Equipment	\$9,100
5) Supplies	\$7,000
6) Contract Services and Office Rental	\$8,800
Total Direct Costs	\$237,820
Indirect Cost	
7) Indirect Costs	\$0
Total Indirect Costs	\$0

Table 2: Direct Costs (Texas Task Force on Indigent Defense, 2006).

Total Proposed Costs	
Total Direct Costs	\$237,820
Total Indirect Costs	\$0
Total Proposed Costs	\$237,820
Less Cash from Other Sources – County Match	\$47,564
Total Amount Funded by Task Force	\$190,256

Creation and Operation of the Kaufman County Public Defender’s Office

In 2007 Kaufman County, in accordance with Article 26.044 of the Texas Code of Criminal Procedure, created a public defender’s office. Once grant funding was established, the Public Defender Board was formed to oversee the Public Defender’s Office. The board consisted of the Constitutional County Judge, a district judge, a statutory county judge, a county commissioner, and one defense attorney selected by the executive committee of Kaufman County Bar Association.

The Public Defender Board established the original Public Defender’s Office caseload standards consistent with national standards of representation. It also set guidelines for legal practice consistent with the local indigent defense plan and the ethical duties of attorneys representing criminal defendants. The guidelines provided the office with direction for client representation in other levels of criminal offenses. The office was tasked with developing reporting tools to document the number of indigent cases, the length of time required to reach a disposition, and track defendants through the system. The county reserved the ability to change the type and ratio of cases through the use of the assigned counsel wheel—with proper action of the judges and the Public Defender Board.

The commissioners' court also gave the Public Defender Board authority to review proposals for the creation of an office. The Public Defender Board was also to recommend whether the office was to be operated as a county department or as an outside entity managed by a non-profit corporation. The board recommended and the commissioners' court selected a county department model. Next, the Public Defender Board recommended a chief public defender following county human resources selection guidelines and procedures. Attorneys hired as public defenders must be admitted to practice law before the Supreme Court of Texas, remain in good standing with the State Bar of Texas, and be experienced in providing quality representation to criminal defendants. A listing of each public defender office position and duties is included in Appendix A: Kaufman County Public Defender's Office Job Requirements.

In October 2006, Andrew Jordan was hired to lead the office as chief public defender. Mr. Jordan then hired one attorney and the remaining support staff to operate the office. Joann Wray joined the Public Defender's Office in 2007 as an assistant public defender. Ms. Wray previously worked as an assistant district attorney for Kaufman County. The next attorney position was filled by LaShonda Taylor, who was hired in November 2011 directly out of law school. The attorneys divide up the job responsibility by type of offenses. Ms. Wray handles primarily the misdemeanor docket; while Ms. Taylor handles both misdemeanor and felony cases; Mr. Jordan primarily handles the felony docket.

The office and support staff consists of a clerical and a paralegal and have been with the Public Defender's Office since its creation. The office staff handles numerous duties and tasks including: keeping the attorneys' calendar; maintaining client contact or correspondence that do not involve a legal issue; file upkeep; staying on top of court and docket deadlines; office management; and they have an understanding of the general process and can direct a client. The paralegal prepares some simple, general legal documents for the attorneys.

The investigator investigates cases for the Public Defender's Office to help the attorneys maximize their client's cases. He identifies witnesses and secures evidence. The investigator has worked with the Public Defender's Office since its creation.

Literature Review

America's criminal justice system is perhaps the busiest justice system in the industrialized world. Overrepresented within the system are the indigent or low income and African-American and Latino communities. Funding is often scarce for local indigent defense systems because legislators face little to no political pressure to support these unpopular constituencies, namely low income, allegedly criminal elements.

Background

Research reveals that public disinvestment in many social programs has left rising segments of at-risk populations unprepared to deal with the economic, emotional, physical and mental health problems that can generate contact with the criminal justice system. As a result of these and other deficiencies, many indigent Americans find themselves in a continuous cycle within the criminal justice systems.

In 1963, the U.S. Supreme Court declared that indigent defendants must receive access to counsel in felony prosecutions, the task of providing representation for the indigent has taken on ever-increasing significance and complexity. Worden quotes the Supreme Court in *Gideon v. Wainwright*, 372 U.S. 335 (1963) saying that the "widespread belief that lawyers in criminal courts are necessities, not luxuries." As criminal courts have morphed from reasonably simple tribunals into today's complicated procedural mazes, the assumption that prosecutors and judges adequately protect defendants' interests is no longer valid.

This guarantee has not been without controversy, however, yet that has not stopped the Court from expanding the right to counsel from felonies to cover various misdemeanor and juvenile proceedings. Consequently, these expansions have increased the financial burden on state and local governments to supply representation for low-income defendants.

State and local governments must find innovative ways to implement the US Supreme Court's decisions. Achieving "justice" in the American adversarial court system depends in large measure on balancing skill and experience between the opposing counsels. The quality of representation afforded indigents, therefore, not only affects defendants' experiences in the criminal justice system, but also cumulatively determines the character of justice itself.

As a society, the courtroom remains the last vestige of societal justice, where we presume that the guilty will be punished and the truth shall set you free. Yet, despite this lofty expectation, few expend any critical analysis of one of the criminal justice system's central institutions: the public defender office. The goal of effective assistance of counsel and representation of the poor are at the core of the public defender program.

The Public Defender: As a Unit and an Individual

The research related to public defender's offices has focused on many aspects of the institution including what drives their daily operational choices. The strategic case judgments are consequently driven by largely inchoate visions of a public defender, both in the aggregate of individual actors and an institutional force in defending indigent clients. These fundamentally different visions often coexist within a single office and, often without notice, collide.

Throughout the literature, public defender offices are classified into different models: a loose consortium of individuals designed to share funds and space and as institutional force working as a unit within the justice system. As a loose consortium, public defenders relate to their roles as involved collaborators developing and pursuing consistent approaches to chronic client issues related solely to discrete issues. The individual is paramount; larger goals take a back seat. In the less common second form, the public defender office openly tackles the question of their institutional role. Each office sees itself as promoting a broader political vision, governing decisions both about how to represent clients and about the office's tactics within the environment in which it operates. As these offices develop a unifying ideology of practice, they choose strategies, even in individual cases, that reflect and flow from that vision.

According to evaluative studies comparing publicly paid counsel with privately retained attorneys, little evidence has been found to support the theory that the quality of representation differs significantly across program types. Literature reveals some comparison of program types and contract systems. The key appears to be deciding how to best measure program effectiveness and efficiency.

Measuring “Effectiveness”

The effectiveness of public defender systems has been the object of great debate. Empirical studies have compared in varying fashion the “effectiveness” of public defenders to private criminal defense lawyers, with wildly mixed results. The majority of the early studies reported that despite the disadvantages of under-funding and economic disincentive, public defenders were just as effective as their private counterparts. However, the tide began to turn after 1980; when many studies began indicating just the opposite—private counsel was significantly more effective than public defenders.

Interestingly, none of the studies mentioned measured actual sentence outcomes in determining effectiveness. Instead, those studies compare factors like how soon the defense lawyer first met with the client, the time from filing to disposition, the number of defense motions filed, plea bargaining rates, and conviction rates. A few studies examined dismissal rates and/or the number of negotiated reduced sentences, but without quantifying the reduction. Although all of these factors are important in measuring effectiveness, they all fall short when considering the entire process. In real-life situations, what criminal defendants care most about is the actual outcome of the case—for how long, if at all, will the defendant be sentenced to incarceration.

Furthermore, it is important to recognize that all measures of effectiveness—even sentence outcomes—may contain built-in biases that strongly disfavor public defenders. Public defender clients may have a higher tendency to be in custody versus on bond, which places substantially more pressure on the client to agree to a plea bargain. Also, the public defender

client may tend to have more prior felony convictions, thereby subjecting the client to higher penalties if convicted.

Types of Counsel and Case Outcomes

Aside from the factors related to an effectiveness evaluation, there is a lack of further analysis comparing public defenders to assigned counsel or contract attorneys. A brief overview of the literature examining whether public defenders do better at criminal defense than private attorneys or assigned/contract counsel is provided below.

As mentioned previously, many studies reveal that defendants with public defenders do not receive appreciably different outcomes in adjudication, incarceration, and sentencing as compared to those with private attorneys. Notable studies on the topic of comparing public defenders to private attorneys generally include regional discussions. For instance, Hartley, Miller & Spohn examined the effects of counsel type in Cook County criminal cases; Williams considered the efficacy of public defenders versus private for a jurisdiction in Florida; Hanson, Ostrom, Hewitt & Lomvardias evaluated the effectiveness of defense counsels in nine jurisdictions; and Nardulli, Eisenstein & Flemming studied defense counsel based on an overall general examination of criminal cases from nine counties located mid-western states. Overall, these studies reveal that clients represented by public defenders do not receive less advantageous outcomes when compared to their counterparts with private attorneys.

Some studies have found that attorney type can influence pretrial release decisions, charge reductions, and sentencing outcomes in certain contexts. Lastly, several studies show private attorneys obtaining favorable results for some outcomes such as incarceration decisions but not for the remainder of outcomes including likelihood of conviction and length of imposed sentence.

Empirical studies comparing public defenders with contract counsel or assigned counsel are less common. An evaluation of several indigent defense types by the National Center for State Courts that included public defenders, assigned counsel, and contract attorneys uncovered

little discernible differences between them (Cohen, 2011; Hanson, Ostrom, Hewitt, and Lomvardias, 1992).

Several recent studies comparing public defenders to assigned counsel, however, have found assigned counsel producing less favorable outcomes for their clients. Comparing federal district courts representation by public defenders to court-appointed representation, Iyengar found that defendants with court-appointed counsel were more likely to be convicted and receive longer sentences than public defendants' clients. Roach, examined a sub-sample of felony cases available through the State Court Processing Statistics (SCPS) project and determined that assigned counsel resulted in markedly less favorable outcomes when contrasted with public defenders outcomes. Taking another step, further research points to appointed counsel performing ineffectually when compared to privately retained attorneys.

Thus, these studies reveal a foundation to begin an evaluation of the effectiveness between different types of defense counsel including private attorneys, public defenders, and assigned counsel.

Methodology

The goal of this evaluation is to determine if the objectives under which the Kaufman County Grant was awarded have been obtained. The research question the evaluation team examined is "How effective is the Public Defender office at meeting the grant objectives?"

There were six objectives listed as goals of the Grant: (1) provide indigent defendants immediate access to legal services; (2) streamline moving cases through the system to disposition; (3) track defendants through the system; (4) provide consistently high quality legal services to indigent defendants; (5) lower the number of indigent defendants in county jail; and (6) lower costs to the county. These six grant objectives form the basis for the evaluation methodology. The evaluation made use of both quantitative and qualitative methods.

To examine the successful achievement of Objectives 2, 5, and 6, the evaluation team gathered data from 300 case files representing a variety of cases from misdemeanors to felonies in County and District Court and conducted a statistical analysis of the data. Objectives 1, 3, and 4 were evaluated through interviews the evaluation team conducted with stakeholders in the program.

Quantitative Methods

Sampling

The extracted data represent a random sample of felony and misdemeanor cases filed in Kaufman County, Texas, in fiscal years (October – September) 2006, 2009, and 2010. To define a relevant sample for this analysis, the evaluation team obtained a random sample of 300 case files representing a wide variety of cases and defendants in the Kaufman County justice system. Cases from the FY2006 represent the court system before the implementation of the Kaufman County Public Defender’s Office while cases from fiscal years 2009 and 2010 represent the court system after the grant established the Public Defender’s Office in 2007. For each fiscal year, the evaluation team examined 50 randomly selected cases from the County Courts, representing misdemeanor cases, and 50 randomly selected cases from the District Courts, representing felony cases. In addition, 126 magistrations files were randomly selected for analysis from the three-year period.

Descriptive Statistics

Due to the complex nature of the data, some of the observations were omitted from the analysis. Observations which were omitted include cases in which the defendant was already incarcerated at another facility, cases which were still pending, and cases in which necessary data points were missing. Overall, this decreased the total amount of cases in our sample and also affected the distribution of our caseload by year. The distribution of cases by year and court type, after omitting these observations, is displayed in **Table 3** below.

Table 3: Distribution of Cases by Year and Court Type

<u>Court Type</u>	<u>FY 05-06</u>	<u>FY 08-09</u>	<u>FY 09-10</u>	<u>Total</u>
County	39	23	54	116
District	42	26	45	113
Total	81	49	99	224

Although the evaluation team originally collected 300 samples, only a total of 224 were suitable for statistical analysis. In addition to describing the distribution by court and year within the sample, the evaluation team can also provide basic summary statistics regarding average time in jail by year, attorney type, and degree of offense. These statistics are displayed in **Table 4**:

Table 4: Average Time in Jail Based on Year, Attorney Type and Offense

Average Time in Jail by
Year

<u>Year</u>	<u>Length of Time in Jail (Days)</u>	<u>N</u>
2005-2006	37.80	81
2008-2009	23.96	49
2009-2010	30.15	99

Average Time in Jail by
Attorney Type

<u>Attorney Type</u>	<u>Length of Time in Jail (Days)</u>	<u>N</u>
Public Defense	22.75	28
Court Appointed	42.59	66
Retained	29.06	82
Self-Representation	25.46	53

Average Time in Jail by
Degree of Offense

<u>Degree of Offense</u>	<u>Length of Time in Jail (Days)</u>	<u>N</u>
Misdemeanor B	12.73	81
Misdemeanor A	22.92	40
State Felony	48.75	45
Felony 3	37.77	36
Felony 2	52.61	19
Felony 1	84.5	8

These statistics give us a cursory glance at the characteristics of the data in regards to objectives 2, 5, and 6 of the grant, which are concerned with reducing cost and the time that it takes to move defendants in and out of jail. In a general way, we can also look at the nature of our data in regards to objective 4, which is concerned with the quality of representation. **Table 5** provides a description of case outcome by attorney type:

Table 5: Case Outcome by Attorney Type

Attorney Type	Dismissal	Guilty Plea/ Nolo Contendere	Deferred Adjudication	Total
Public Defense	14	11	3	28
Court Appointed	17	29	20	66
Retained	31	23	28	82
Self Representation	29	30	4	53
Total	91	83	55	229

In addition to providing summary statistics, the evaluation team also performed a variety of statistical analyses in order to determine if the Kaufman County Public Defender’s Office has met the objectives of the grant. These statistical analyses were conducted in relation to two hypotheses which were formulated after a careful review of academic literature regarding the performance of other public defense systems across the United States.

Theory and Hypotheses

In Kaufman County, defendants are represented by privately retained attorneys, assigned counsel, or public defense attorneys. According to existing research, we can predict how these different types of legal representation will perform in relation to each other. In theory, privately retained attorneys should perform best at reducing the time that defendants spend in jail while also generating the best case disposition for their client. There are several advantages to having a privately retained attorney. Privately retained attorneys, on the whole, tend to have a higher

amount of financial resources at their disposal to mount a stronger defense. Additionally, they are not perceived as having a close working relationship with local judges and prosecutors, meaning that they can divorce themselves from the conflicting goals of the courtroom workgroup and focus on achieving the best outcome for their client.

Extending from this same point of reference, we can expect public defense attorneys to perform marginally better than assigned counsel, although their performance measures will likely be similar. While assigned counsel and public defense attorneys both share a close working relationship with courtroom officials— meaning that they can coordinate goals, such as expeditious case disposition—public defense attorneys often have the advantage of being more experienced and specialized in providing indigent defense. Furthermore, public defense attorneys, despite being constrained by funding uncertainties, also tend to have a larger array of investigative and support services at their disposal than assigned counsel. Lastly, assigned counsel tend to perform marginally worse than public defenders because assigned counsel systems often appoint attorneys who lack the requisite experience and skills to adequately represent indigent clients, often relying on the service of attorneys who take these clients as a means of gaining trial experience or supplementing personal income. Given these observations about the performance of different types of attorneys, the evaluation team generated the following hypothesis:

H₁: Defendants with privately retained attorneys will spend less time in jail in relation to defendants with public defense attorneys or court-appointed attorneys.

In addition to these expectations, the evaluation team also wanted to investigate the notion that, over time, the Public Defender's Office has contributed to a decrease in the total amount of time that a defendant's case spends in the court system before it receives a disposition. One of the main priorities of many public defense systems is the reduction of the time it takes to process a case. Moreover, with the implementation of the public defense office as a third source of legal representation, a new paradigm of increased competition among the three attorney types

may have been created, leading to a faster processing of all cases. This leads us to our second hypothesis:

H₂: With the implementation of the Public Defender's Office, the time it takes to process a case from date of arrest to date of disposition has been reduced.

The evaluation team sought to accept or reject these two hypotheses through the creation of statistical models. Statistical modeling allows us to empirically test for the validity of these hypotheses. To construct these models, the evaluation team utilized a variety of variables.

Variables

The variables which we used in our study come from information found in each case file. The list of variables which we used in our analyses can be found below in Table 6.

Table 6: Variables

List of Variables Used for Statistical Analysis

Year: The year in which the case was filed

I. 0= FY 2005-2006, 1 = FY 2008-2009, 2= FY 2009-2010

Court Type: The type of court which processed the case

0 = county, 1 = district

Degree: The degree of the offense.

0 = Misdemeanor B, 1 = Misdemeanor A, 2= State Level Felony, 3 = Felony Level 3, 4 = Felony Level 2, 5 = Felony Level 1

Bond: If the defendant was bonded out of jail or not

0 = no, 1 = yes

Bond Amount: Measured in USD

Attorney Type: The type of attorney which processed the case

0=Public Defender, 1=Appointed, 2=Retained, 3=Pro Se, Not otherwise specified

Resets/Motions Filed: The number of motions filed on the case

Disposition: The outcome of the case

0 = dismissal, 1 = guilty/nolo contendere, 2 = deferred adjudication

Bonded Cases: Time of Arrest to Bond Date: Measured in Days

Non-Bonded Cases: Time of Arrest to Case Disposition: Measured in Days

Total Time in the Court System: Measured from the date of arrest to the date of case disposition for bonded and non-bonded cases

The variable “year” will be helpful in elucidating characteristics about the Kaufman County court system before the implementation of the Public Defender’s Office and after the implementation of the Public Defender’s Office. Court type, degree of offense, and two bond variables were also included in our analyses. These variables are largely synonymous with each other, since the degree of the offense dictates the court in which the case will be processed, and since defendants are more likely to post bond for misdemeanor cases, which tend to be lower

than bonds for felony cases. The first bond variable “bond” measures if the defendant received a bond; the second bond variable “bond amount” measures the cost of that bond.

To evaluate the differences among the different types of legal representation, we created the variable “attorney” which allows us to distinguish between public defenders, privately retained counsel, and court-appointed attorneys. In addition to these three attorney types, we also included self-representation as a form of legal representation, used most frequently in county court where misdemeanor charges are processed. In this study, we assume that there are no unobserved differences between the groups of lawyers, meaning that we will not be taking into consideration any heterogeneity among the different groups of lawyers based on factors for which we could not account, such as age, educational training, etc. It is assumed that these factors affect each group equally.

In addition to these variables, we also collected information regarding the number of resets or motions filed. Resets or motions filed will contribute to a longer duration of time in jail. For defendants who post bond, filing motions may be a way to avoid case disposition. We do not expect one type of attorney to utilize resets more than another type of attorney. We also collected information regarding case disposition. Dismissal is regarded as the most favorable outcome, with deferred adjudication as the next most favorable outcome and a guilty/nolo contendere plea seen as the least favorable outcome.

Lastly, we collected several time variables so that we could evaluate the amount of time that defendants are spending in jail. For defendants who were bonded, we measured time in jail as the amount of time between the arrest date and the bond date. For defendants who were not bonded, time in jail was measured as the amount of time between the arrest date and the date of disposition. For all cases, the variable “total time in the court system,” was calculated as the amount of time between the arrest date and the date of disposition, regardless of whether the defendant was bonded or not. These figures will be particularly relevant in evaluating if the Kaufman County Public Defender’s Office has met the second and fifth objectives of the grant,

which are to streamline moving cases to disposition and reducing the number of indigent defendants in jail.

Testing Hypotheses

Model type:

To test both hypotheses, the evaluation team constructed two separate models designed to measure the effect of attorney type (our main independent variable) on time spent in jail (our main dependent variable). Because of the difference in the nature of cases which were bonded and those which were not bonded, a different functional format for bonded cases versus non-bonded cases was required. The two functional formats which were utilized by the evaluation team are displayed below in Figure 1:

Figure 1: Evaluation Models

Model 1: Ordinary Least Squares Regression Function for Cases which Posted Bond:

$$Y_{\text{Log of Time from Arrest Date to Bond Date}} = \beta_0 + \beta_{\text{Year}} + \beta_{\text{Attorney Type}} + \beta_{\text{Log of Bond Amount}} + \mu \\ \text{if } \beta_{\text{Bond}}=1$$

Model 2: Weighted Least Squares Regression Function for Cases which did Not Post Bond:

$$Y_{\text{Time from Arrest Date to Date of Disposition}} = \beta_0 + \beta_{\text{Year}} + \beta_{\text{Attorney Type}} + \beta_{\text{Resets}} + \beta_{\text{Degree}} + \\ \beta_{\text{Court}} + \mu \text{ if } \beta_{\text{Bond}}=0$$

Results for Model 1:

For cases which posted bond, the evaluation team used an Ordinary Least Squares regression model. Our dependent variable was the log of the variable time of arrest to bond date. This model included the variables year, attorney type, and bond amount. The variable resets was excluded from this model since we would not expect resets to occur in between the date of arrest and the date of bonding, although resets may occur after the defendant has posted bond,

contributing to the total time that it takes for a case to be processed. Additionally, a pairwise correlation test revealed a significant relationship between the variables bond, degree, and court type. Because the variable bond implicitly represents these other variables, they were not included in the model. It is important to note that our bond amount variable was also log-transformed so as to meet the assumptions of OLS regression, particularly in regards to normality and homoscedasticity of the error terms.

The results of the first model are displayed below in Table 7:

Table 7: Bonded Cases: Factors of Time Spent in Jail

Bonded Cases: Factors of Time Spent in Jail
 Dependent Variable: Log of Time From Arrest Date to Bond Date

	<u>Coefficient</u>	<u>Standard Error</u>	<u>e^{β}</u>	<u>$e^{\beta * "A"}$</u>
<u>Attorney</u>				
Public Defender	.9029851**	.4385734	2.4669562	---
Court Appointed	.8610647**	.3283671	2.3656781	---
Self Representation	.7599513**	.3838485	2.1381721	---
Year	-.0504929	.1548112	.95076068	---
Log of Bond Amount	.2914856**	.1207352	---	172.6656
Constant	-1.370002	1.05091	.25410696	---

N=141 R2= .0634

e^{β} = the exponentiated value of the beta coefficient

$e^{\beta * A}$ = the proportional change of x on y

The reference category for the attorney variable is privately retained attorneys

** Denotes high statistical significance (<.05 percent chance of random error)

Analysis Model 1:

The results of the first model, which looks at defendants who were able to post bond and, in general, represents misdemeanor cases, would lead us to accept the hypothesis that privately retained attorneys perform better than public defense attorneys or assigned counsel. Performance was measured as the amount of time that a defendant spends in jail from the date of arrest to the date of bonding. We would reject the hypothesis that the Public Defender's Office has reduced the time that it takes to process a case from date of arrest to case disposition. In this model, privately retained attorneys were used as the reference category from which the other attorney types were evaluated. Because our dependent variable was log-transformed, it was necessary to exponentiate the beta coefficients for our non-log transformed independent variables, represented by the " e^{β} " column. By exponentiating these beta coefficients, we are able to describe the effects of a unit change in our independent variable on our dependent variable.

The results of this analysis show that, in relation to privately retained attorneys, defendants who post bond and are represented by public defense attorneys tend to spend an average of ~2.46 days longer in jail. For those represented by assigned counsel, that number drops to ~ 2.36 days, and for those who elect self-representation, ~2.13 days. One would suspect that defendants who can afford privately retained attorneys and can post bond would be able to post bond and get out of jail quickly. On the other hand, self-representation by law is typically only allowed for misdemeanor pleas and not felony pleas. The difference in the amount of time spent in jail for those represented by the Public Defender and by assigned counsel is minor.

All of the attorney statistics come back as highly significant, indicating a less than five percent chance of random error. Not surprisingly, our bond amount variable also came back statistically significant. We would expect larger bond amounts to correlate with longer times in jail before bond posting. After performing mathematical transformations for ease of interpretation, represented by the " $e^{\beta * 'A'}$ " column, we can say that for approximately every \$170.00 increase in bond amount, the defendant will spend another day in jail. A defendant who

receives a bond amount of \$2,000, for example, will spend approximately 11.75 days in jail before posting bond. Lastly, the variable year was not returned at a significant level, indicating that time spent in jail for defendants who post bond has not been reduced since the implementation of the Public Defender's Office. This result, of course, could also be reflective of other variables which we did not have the capacity to measure. In addition, the small sample size could have a bearing on this number. It is clear that there is a positive relationship between the bond amount and time spent in jail for indigent defendants. However, additional research is necessary to verify these numbers. Another random sample could result in a different bond dollar amount relative to additional time in jail.

Results for Model 2:

For cases which did not post bond, the evaluation team used a Weighted Least Squares regression model. The weighted least squares regression model accounts for heteroscedasticity among the error terms, which was present among the sub-sample for cases which were not bonded. Our dependent variable, time of arrest to date of disposition, was normally distributed and so it did not need to be log-transformed as in the prior model. We incorporated the variables year, attorney type, resets, degree, and court. In the last model, we did not include degree and court because they were significantly related to the variable bond. They are included here in this model because the value for bond is zero. We also incorporated the variable resets because, unlike cases in which the defendant posts bond, we can expect resets to occur as the case is processed from the date of arrest to the date of disposition.

The results of the second model are displayed below in Table 8:

Table 8: Non-Bonded Cases: Factors of Time Spent in Jail

Dependent Variable: Time from Arrest Date to Date of Case Disposition

	<u>Coefficient</u>	<u>Standard Error</u>
<u>Year</u>		
2008-2009	-113.3447**	12.62722
2009-2010	-87.77167**	13.53722
<u>Attorney</u>		
Self Representation	64.51365**	7.232055
Court Appointed	-3.967637*	2.191339
Privately Retained	15.69339**	5.434574
Resets	15.76785**	1.132459
Degree	2.777834**	.6150512
Court	29.58252**	5.989071
Constant	106.2087**	13.54819

N = 63

Probability > Chi2 = 0.000

The reference category for the year variable is FY 2005-2006

The reference category for the attorney variable is public defense attorney

** Denotes statistical significance (<.10 percent chance of random error)*

*** Denotes high statistical significance (<.05 percent chance of random error)*

Analysis for Model 2:

The results of the second model, which looks at defendants who were unable to post bond and, in general, represents felony cases, would lead us to reject the hypothesis that privately retained attorneys perform better than public defense attorneys or assigned counsel, with performance being measured as the amount of time that a defendant spends in jail from the date of arrest to the date of case disposition. We would accept the hypothesis that the Public Defender’s Office has reduced the time that defendants spend in jail from date of arrest to case disposition. Because our dependent variable was not log-transformed, interpretation of the

model is relatively straightforward. Our beta coefficients illustrate the estimated effect of a one unit increase in our independent variables on our dependent variable, time from arrest date to date of case disposition.

The reference category for the variable year is FY2006, which represents the court system before the implementation of the Public Defender's Office. From our results, we can see that defendants who were unable to post bond in FY2009 spent, on average, approximately 113 less days in jail than defendants who were unable to post bond in FY2006; for defendants in FY2010, they spent, on average, 87 less days in jail than their counterparts in FY2006. This may be reflective of reduced case processing times brought on with the introduction of the Public Defender's Office, which may have increased competition among attorneys in the area to provide high-quality legal services. There may be other variables involved in the reduction of jail time from the base year FY2006, for which we were not able to control. The data do show that there has been a significant reduction in jail time for indigent defendants since the implementation of the public defender system.

Public defense attorneys were chosen as the reference category for the variable attorney type. The results of this analysis illustrate that for cases in which the defendant did not post bond, public defense attorneys perform better than those who choose self-representation or retain private counsel. Defendants who retain private counsel spend, on average, sixteen days longer incarcerated than those represented by public defense attorneys; those who choose self-representation spend nearly sixty five days longer in jail than those represented by public defense attorneys. Assigned counsel performs the best, reducing time from the date of arrest to case disposition by nearly four days when compared to public defense attorneys, although the value for assigned counsel is only significant at the .07 level.

Lastly, we can see that, as predicted, an increase in the number of resets is related to an increase in the amount of time that a defendant will spend in jail from the date of arrest to the date of case disposition, with each reset contributing to an additional fifteen days in jail. Higher

degree offenses and cases which are processed in the district court also tend to have defendants who spend higher periods of time in jail from arrest to date to the date of disposition.

Qualitative Methods

Quantitative research helps to measure the hypotheses while qualitative research advances understandings, thinking and theories. While reviewing quantitative data establishes the statistical significance of certain information, qualitative research based on interviews goes beyond the numbers and penetrates beyond the appearance represented in the data. Interviews can be very useful when a subject is too complex to be answered by a simple hypothesis looking for a “yes” or “no” answer. Well-crafted interviews scrutinize the specific situations in the social dynamics related to the Kaufman County Public Defender’s Office and the community it serves.

Interviews

Qualitative research collects data using a wide range of collection methods. Qualitative research interviews allow the researcher to ask questions of the individuals who deal with Kaufman County Public Defender’s Office and have knowledge about the topic.

To collect qualitative data on the processes and outcomes of the Kaufman County Public Defender program, semi-formal interviews were conducted with stakeholders, including the auditor’s office, district and county clerks, prosecutors, justices of the peace, magistrate judges, court administrators, defense attorneys, public defenders, district and county court judges, jail administrators, juvenile probation officers, and other stakeholders. Phone and email interview offers were extended to many stakeholders, but many invitations went unreturned. The interviews were conducted in person, on the phone, and via email. Judges, attorneys, former clients, and law enforcement shed light on how indigent defense works in Kaufman County and gave their opinion on how effective the Kaufman County Public Defender’s Office works. As one judge acknowledged, there are a variety of factors that come into play in indigent defense in Kaufman County. The judicial system has not remained static since the establishment of the Public Defender’s Office. Changes in the system have impacted the indigent defense system. For example, the current district attorney started his position in February 2011. In addition, a

coordinator position was created after the public defense system was started to keep records and make attorney assignments. The following interviews clarify how the Kaufman County judges, attorneys, clients and public defenders view the impact of the Public Defender's Office in the area.

The Appointment Process

According to one of the justices-of-the-peace, defendants receive magistrate warnings within twenty-four hours, regardless of the time of year. Our review of the magistrate files led us to believe that this is indeed the case. There are four justices-of-the-peace throughout Kaufman County who are responsible for providing magistrate warnings to the hundreds of defendants who end up in the county jail. All persons arrested for offenses more serious than class C misdemeanors are entitled to fill out a request for indigent counsel if they so desire. The clerks never receive the magistrations forms as they are maintained by the each individual justice of the peace. One justice-of-the-peace estimated that approximately 25% of defendant's request counsel. Our estimate from the sample of the magistrations forms was more in the 10% range. These individuals are typically also ones that will not be able to post bond.

Judges infrequently appoint counsel from the bench. Instead counsel is appointed by the Indigent Defense Coordinator. Defendants have the opportunity to fill out forms related to indigency during the magistrations process. The Indigent Defense Coordinator picks up the completed forms and verifies if an arrestee qualifies as indigent and if the form has been filled out correctly before assigning the public defender or a court-appointed attorney from the wheel. The coordinator has three business days, according to state law, from the time of receipt of the formal request to the appointment of counsel. The Coordinator first checks to see if an indigent defender is still in jail before appointing an attorney. If they have bonded out (which happens less often according to at least one justice-of-the-peace), then attorneys are assigned when they appear for court. This procedure appears to be incompatible with the requirement of appointment of defense attorney within the three day timeline. The records kept in the County and District Clerks' offices are incomplete and in most instances do not show the date an attorney is requested. However, the date the attorney is appointed is recorded. The magistrations

forms generally do not show whether an attorney was requested at the time of magistration. This box is normally blank. The records show generally a significant time between arrest date and appointment of attorney date. In only a few recorded cases are attorneys appointed within the three day window. In the vast majority of the records consulted from the District and County Clerk, it was not possible to ascertain whether the three day requirement from attorney request to actual appointment was achieved. However, records that were kept and supplied by the Public Defender's Office which shows date of arrest and appointment date for all court-appointed attorneys, not just the Public Defender, indicate that the time between arrest date and attorney appointment date is generally within the three business day time frame.

Assigning a case to the Public Defender's Office should expedite the process because the public defenders visit the jail daily. If the Indigent Defense Coordinator assigns a case to a court-appointed attorney, she may take several factors into consideration to determine if the next person on the list is available. If someone declines to serve as the court-appointed attorney, she must move to the next person on the list.

For appointments, the Indigent Defense Coordinator uses a "wheel" alternating between public defenders and appointed attorneys. In theory, the Public Defender is to receive half of the cases. The coordinator keeps track of appointments and uses the wheel to determine who is next on the list. Although the attorneys must apply to get on the wheel, the judges review the application and check their qualifications including how long they have been practicing and how many continuing legal education courses they have taken. The system is designed to provide competent and effective legal counsel to indigent individuals in Kaufman County.

According to interviews, the task of assigning counsel originally belonged to a court's staff member, and this task was an additional duty, not the prime function of the position.. This system proved ineffective at meeting the requirements of the law. The Public Defender in 2008 agreed to take on the function on a short-term basis, and he hired a full-time person to be the indigent defense coordinator. This function was operated out of the Public Defender's Office until October 2011, at which time it was transferred back to the county to a full-time person

under the judges. The records kept by the Public Defender's Office were consistent in showing arrest date and date of counsel appointment. The counsel appointments with very few exceptions were made within the three working day timeframe.

Not all of the court-appointed attorneys believe the system is fair. Some attorneys think there are too many attorneys on the appointment list; others are concerned that non-county attorneys are allowed on the Kaufman County court-appointed list. The inconsistencies may be because the system is predominantly paper-based and nearly impossible to perfectly execute. Several factors can influence appointments: 1) Spanish-speaking defendants; 2) types of cases (i.e. capital murder); 3) average length of case; 4) reappointment of an offender with the same attorney; 5) general availability and desire of the attorney; or 6) an attorney voluntarily decides to be temporarily or permanently taken off the rotation or changes the type of cases that they are assigned. Although some attorneys are assigned more frequently than others, it is impossible to determine whether any favoritism is involved in attorney assignment. As indicated above, many factors go into the attorney assignments. Based on the auditor's payment records, no particular attorney seems to dominate the payment lists. The review team feels that favoritism in attorney appointments is not a concern. In any event, the Indigent Defense Coordinator is an improvement from the old system, which was much more subjective and less consistent.

Public Defender versus Court-Appointed Attorney

There are mixed opinions about the effectiveness of the Public Defender's Office. The judges believe that the public defenders do a better job than court-appointed attorneys because the public defender's case outcomes directly reflect on the office's reputation. One judge stated that the public defender has to be cost effective because the public defender has no incentive to drag a case out to incur more fees. (However, our analysis indicated that on a cost per case basis, the public defender is more costly than an assigned counsel. This is not an assessment of the quality of the defense.) Also, the public defenders are county employees, so effectiveness and job performance directly affect their job security. They have an interest in getting the best possible disposition for each client because their job is subject to review by county commissioners on a regular basis.

Defense attorneys who were interviewed feel that they do as good a job as public defenders. One attorney acknowledged that the court-appointed attorneys who try to make a living from court appointments tend to be of lower quality than those that take the occasional appointment. Judges are wary of attorneys who try to make a living from court appointments. They have seen some payment requests in the thousands of dollars for misdemeanor cases or charges of \$95 for simply going to court and getting the defendant a plea bargain. To curb abuse, however, some judges will decrease payment requests. Decisions to reduce payment requests are based on a number of factors including the average length of a case, how long the attorney has practiced law, the number of resets, the reason for the resets, whether a bill appears padded, and the attorney's history of consistently submitting reliable bills.

Whether judges decrease the request in order to save money is unclear. However, court-appointed attorneys believe the process is too subjective. They feel that the payment process is inconsistent and somewhat unpredictable because their fees are subject to being reduced at the judge's discretion.

All of the attorneys interviewed agree that both appointed counsel and public defenders are competent attorneys; defendants, however, do not necessarily believe that court-appointed attorneys are as effective as the public defender. One defense attorney explained that the negative perception of court-appointed attorneys is not warranted. Defendants may complain that it takes a long time for a court-appointed attorney to visit them in jail. While the indigent defense plan makes provisions for ensuring that counsel visits their clients (counsel must notify the court within 72 hours of receipt of appointment, make every reasonable effort to contact the defendant by the end of the first working day after appointment, and must interview the defendant as soon as possible), one attorney noted that it might be a week before the indigent Defense Coordinator assigns the case. (As indicated above, the records are not clear on the time that elapses from the date of incarceration to the date of request for counsel to the date that counsel is assigned. However, if counsel is requested on a Thursday, the courts should be in receipt of the request by Friday, and the appointment should occur by the next Wednesday.)

Overall, the judges believe the Kaufman County's Public Defender office is an improvement from the old system. Defendants rarely waive counsel. Even if defendants complain about the public defender or court-appointed attorneys, the judges often tell the defendants that they cannot be picky. According to one defense attorney, the judge will explain that the attorney is competent enough to handle the case and usually denies a request for new counsel. The prosecutors are unable to definitively state whether the public defenders are more effective than court-appointed attorneys, but the District Attorney is convinced that indigent defense counsel provides quality counsel equivalent to retained counsel.

Several interviewees stated that many people cannot afford to retain private counsel for criminal cases that range from first degree felony trials to misdemeanor theft by check. Yet the poverty level rate for all offense levels are the same, even though retaining an attorney for a higher offense is understandably more expensive and time consuming. All appointments are treated the same. An appointment for higher level offense, such as murder, is treated the same as an appointment for a bench warrant. One attorney may be appointed to a very time consuming and therefore high paying appointment; however, the attorney remains on the appointment wheel for the next rotation. Attorneys are generally appointed in order as the case comes up. The Indigent Defense Coordinator suggested a possible solution to this fairly rigid appointment system could be to establish appointment criteria so that more experienced attorneys would receive the more demanding cases. If a court-appointed attorney is truly incompetent, fails to meet with a client, or consistently exaggerates payment requests, the judges can remove the attorney (permanently or temporarily) with a vote of the district judges.

Analysis

Quantitative data provides numerical values to the information found in court files and individual cases. Qualitative information, however, can help explain discrepancies in the data and results. For example, in Kauffman County, a new district attorney was elected during the grant period. In February 2011, a new prosecutor started working on the cases and may have had some influence on the speed that cases moved through the courts. This information would not be found in the data collected from cases files, but it could reveal some information about the data.

Additionally, conversations with the clerks explained why some data fields were empty or unavailable, and they described the different approaches to technology, which may have had an impact on locating and understanding the data available.

Ultimately, the interviews reveal a mixed response to the Kauffman County Public Defender's Office. The establishment of the Public Defender's Office has been a major change in the indigent defense system for Kaufman County. This has required a major adjustment for individuals involved in the indigent defense system. There are those who praise the new system and those who are less than happy with the system. Most of those interviewed feel that the new system has improved the quality of indigent defense and has reduced county expenses. (See the next section for the analysis of finances)

However there were some lingering concerns expressed on the negative impact on the court appointment system and why there was a need for both a public defender and assigned counsel system. Conversely, there was some concern expressed that the public defender system was taking away opportunity for private attorneys to benefit from indigent defense opportunities. However, given the workload, most of those interviewed recognized the need for, and were supportive of, both systems. They generally felt that both systems provide timely and quality representation to indigent defendants.

The interviews also confirmed that the time from arrest to case disposition is dependent upon criminal justice actors other than defense counsel. Interviewees generally felt that the new prosecutor has helped to improve the processing of indigent defendants. In terms of cost effectiveness, there was some concern expressed that the public defender system might not be as cost effective for those defendants who plead because of the fixed overhead costs. These interviewees felt that the public defender's resources would be better utilized in trials. Although there appears to be some rationale to this, the duties of counsel do not go away if a defendant pleads. Pleas must be knowingly made and counsel has an obligation to inform defendant of the alternatives and explaining the collateral effects of a plea, which can be a time consuming and involved process.

Finances

Initial Grant Proposal Budget

Information for this section of the report was obtained from a variety of sources. Data were obtained from the Kaufman County Auditor, from the Indigent Defense Commission website and from numerous conversations with the Kaufman County Assistant Auditor. There is some discrepancy in the data received. We rely generally on the Auditor's reports in cases where there were observed inconsistencies. Over the years analyzed, the costs of providing indigent defense increased, but the number of cases also increased. To obtain any reasonable comparison of the differences in the costs between the Public Defender's Office and assigned counsel, we have calculated an average cost per case. We realize that each case is different, particularly between felony and misdemeanor cases. However, data were not available to compare the costs separately for felony and misdemeanor cases. Given the number of cases each year, we feel that cost per case is a better method to compare costs than overall costs. This cost analysis does not purport to assess the quality of the indigent defense for the two systems. This section focuses on the cost-effectiveness of the program in comparison to court-appointed attorneys on both an aggregate and case-by-case basis. This analysis will determine whether the program is achieving one of its primary goals—to reduce overall indigent defense costs to the county. A primary objective of the Kaufman County Public Defender's Office was to reduce the escalating costs for indigent defense in the county.

Table 9: Comparison of Cost-Effectiveness from 2006 to 2011

Indigent Defense Costs	FY 2006	FY 2009	FY 2010	FY 2011
Total Court-Appointed Attorney Costs	\$592,379	\$476,464	\$544,132	\$618,281
Total Public Defender Costs	N/A	\$318,154	\$293,623	\$360,172
Total Indigent Costs*	\$592,379	\$794,618	\$837,755	\$978,453
Total Cases	1,154	1,632	1,854	1,888
Cost per case	\$513.33	\$486.90	\$451.86	\$518.24
Public Defender Office				
Cost Per Case**	N/A	\$566.11	\$414.72	\$515.27
Cost Per Felony	N/A	N/A	\$1,052.70	\$577.82
Cost Per Misdemeanor	N/A	N/A	\$84.65	\$579.94
Court – Appointed Attorneys				
Cost Per Case**	\$513.33	\$445.29	\$474.81	\$520.00
Cost Per Felony	\$767.99	\$503.62	\$598.26	\$642.50
Cost Per Misdemeanor	\$209.18	\$271.62	\$305.28	\$280.83

* Excludes juvenile expenditures and cases **Includes dismissed cases. These are not allocated over the felony and misdemeanor costs.

Fiscal Year 2006

In the year prior to the implementation of the public defender program (FY 2006) indigent costs for court-appointed attorneys and other related expenses amounted to \$592,379 for a total of 1,154 cases and a cost per case of \$513. This excludes juvenile cases but includes felony appeals and expenses as well as cases and costs where no charges were filed. Cost per

felony case, not including appeals, averaged \$767.99 for 599 cases paid to assigned counsel. Cost per misdemeanor averaged \$209.13 for 526 cases handled by assigned counsel. (see Table 9).

Fiscal Year 2009

From FY2006 to FY2009, total indigent expenses increased over \$200,000 to \$794,618. However the average cost per case for assigned counsel dropped more than \$60 to \$445.29. Of the 340 misdemeanor cases paid to assigned counsel in FY2009, the cost per case averaged \$271.62, approximately 23% more expensive than FY 2006. Cost per felony case, however, declined approximately 34% to \$503.62 for 621 cases.

The Public Defender's Office accounted for 41.7% of all indigent costs in FY2009 at \$318,153.82 and were approximately 35% of the total felony and misdemeanor caseload. The Office handled its cases at an average cost of \$566.11, a significantly higher cost average than its assigned counsel counterparts. The Office did not start reporting cost expenditures itemized by misdemeanors and felonies until FY 2010, so comparative data in those categories is unavailable. The Office handled 362 out of 692 indigent misdemeanor cases, which accounted for 63.2% of its total caseload for the year. It handled 210 of the 831 reported indigent felonies in the county. It is interesting to note that although there was a large increase in court cases and costs, the overall cost per case was approximately \$26 per case less than before the public defender was established.

Fiscal Year 2010

Total indigent costs for the year increased again in FY 2010 to \$837,755 of which \$544,132 were court-appointed attorneys' fees. The total average cost per case by assigned counsel was approximately \$474 for 1,146 cases. Of 497 misdemeanor cases handled by assigned counsel, the average cost per case was \$305.28. The average cost for assigned counsel felony cases was \$598.26 for 600 cases.

Public Defender costs in FY 2010 were \$293,623.02. Salaries accounted for 93.5% of the Office's costs. The Office's indigent caseload included 708 of 1,805 total indigent felonies and misdemeanors in the county. This consisted of 250 felony cases, 403 misdemeanor cases, and 55

cases in which charges were eventually dropped by the prosecutor. The average cost per case handled by the Public Defender was approximately \$414.72. Misdemeanor cases were 59.6% of the total Office caseload. Average total cost per misdemeanor case handled by the Office was \$50.87. Felonies comprised of 35.3% of the Office's caseload. Average total cost per felony was \$1,052.70. The allocation of the Public Defender cases were heavily assigned to felony cases. The team questions this allocation based on the fact that many more misdemeanor cases were handled by the Office. Allocation of costs can be fairly subjective. Overall average cost per case was less than the assigned counsel average cost for the first time in the periods considered. Although the number of cases increased significantly as well as costs, the cost per case was still less than before the advent of the Public Defender. Cost per case fell by more than \$30 per case from the previous year and by over \$60 per case from the pre-public defender. The team noticed that there were an increasing number of cases that the prosecutor decided not to file charges for which some payment was made. This might be one reason why the cost per case has continued to drop.

Fiscal Year 2011

In FY2011, total indigent costs rose to a five-year high reaching \$978,453 over \$140,000 more than the previous year. The number of cases rose only slightly resulting in a substantial increase in per case costs. For the first time since the advent of the public defender, the cost per case in FY2011 exceeded the cost per case in FY2006. Both public defender and assigned counsel costs increased about the same amount contributing to the cost increase. It is interesting to note that the cost per case for the Public Defender's office was less for FY2011 as well as FY2010 than the assigned counsel per case cost. Assigned counsel attorneys' fees accounted for \$618,281 for 1,189 cases. FY2011 Public Defender expenditures were \$360,172.01. Salaries accounted for \$343,006.27, or 95% of the expenditures for the year. The Public Defender handled 699 cases. There were 260 felony cases, 362 misdemeanor cases, and 77 cases in which the prosecutor eventually dropped the charges. Average cost per case handled by the Public Defender was approximately \$515.27. The average total cost per felony cases handled by the public defender was approximately \$577.82. Misdemeanors comprised of 51.8%

of the Office's caseload and averaged a total cost per of approximately \$579.94. This allocation of the costs over the two types of cases seems to be more appropriate than the previous FY allocation. However, this allocation can also be questioned as it would seem that average per case misdemeanor costs would generally be less than felony cases and more reflective of the spread between felony and misdemeanor costs indicated for assigned counsel.

Appendix H contains graphs of the cost comparisons for the fiscal years discussed above.

Other expenses in addition to attorney expenses in the Public Defender's office are for administrative support, investigator expenses, travel and training, and the normal office expenses. By far, as indicated above, the largest expenses are for personnel. The office has two full-time administrative support staff and one investigator. The investigator's salary and fringe benefits vary somewhat from year to year, but for FY 2011 were reported as \$58,614. The salary was \$69,476 in FY 2010 and \$67,090 in FY 2009. The administrative support staff personnel costs for FY 2011 were listed at \$71,483. In FY2010 they were \$38,829, and in FY2009 they were \$36,734. The FY2011 costs reflect the hiring of an additional support staff. Investigative costs for assigned counsel are much lower than the salary for a full-time investigator. These costs, of course, vary from year to year, but in every year studied were much lower than the public defender investigator costs. For FY 2011 the county paid \$15,201 to investigators. This is compared to \$27, 161 in FY 2010 and \$5,867 in FY 2009. Investigative services are an important part of preparation for and providing adequate defense services. One wonders if the assigned counsel is making adequate use of investigative services for defense of the indigent. One also wonders if the Public Defender's office needs two administrative support staff for three attorneys and one investigator.

Financial Analysis

The Public Defender's Office expenditures from FY 2007-2011 fluctuated from as low as \$204,582 to as high as \$478,020 (We did not evaluate FY2008, which appeared be an aberration and should be discounted). Despite these fluctuations, the Office's caseload remained steady at handling an average of approximately 35-40% of indigent cases in Kaufman County. In each of the years analyzed, the County collectively spent less on the Public Defender program than on

assigned counsel. The Public Defender's Office average cost per case compared to assigned counsel was also less for two of the three years analyzed. Nevertheless, the assigned counsel attorney cost per case declined each year analyzed from the base year until 2011 when it increased to \$7.00 more per case than in the base year.

Although overall cases and costs increased substantially over the years studied, the average cost per case decreased from the base year FY 2006 until FY 2011. This is an indication that the establishment of the public defender system has contributed to the per case cost reduction. Because there are only two years with reported cost distributions by felony and misdemeanor cases for the Public Defender's Office, it is difficult to make comparisons to court-appointed cost per cases. This is particularly challenging because of the tremendous shift in expenses from felonies in FY2010 to FY2011 which significantly affected the average cost per misdemeanor and felony for both years. The average cost per misdemeanor handled from the office between the two fiscal years was \$319. It provides a competitive rate to assigned counsel which averaged the county \$301 per misdemeanor in those same two years. If the Office can maintain an average cost per misdemeanor around \$315 per case, it would be cost-effective to continue handling those cases. However, the number is probably skewed because of the amount attributed to felonies in 2010 and the questionable allocation in FY 2011. The Public Defender's allocation of felony costs over the same two year period showing an average cost of \$810 is also suspect. The average cost for assigned counsel during the same two years was \$588.

Assigned counsel felony cost per case decreased with the implementation of the program. While average costs from FY 2009 through FY 2011 were still lower than the FY 2006 costs, the average has steadily increased. Average cost per misdemeanor assigned counsel case was higher in all the years studied than in FY 2006.

Total indigent costs have increased, even with the implementation of the Public Defender's Office. Costs have increased 65.2% from FY 2006 to FY 2011. Instead of reducing overall costs, it appears that there is a cost shifting from assigned counsel attorneys' fees to the Public Defender's Office, and vice versa depending on the year. The indigent caseload has also increased for the county by 63.6%, almost equal with the costs. If one primary goal is to achieve

lower indigent costs, the creation of the Public Defender's Office has been effective on a per case cost basis. The inmate population has been reduced since the creation of the Public Defender's Office, creating a financial windfall for the county. It costs the county \$40 a day to house each inmate. As of January 1, 2008, the Kaufman County jail population dropped from an average of 450 inmates per day down to 250 inmates, a cost savings of nearly \$2.8 million per year. Additionally, Sheriff David Byrnes began renting approximately 70 beds per day to other counties (at a cost of \$40 per day per bed) producing approximately \$1 million in revenue. This rental revenue, according to county officials, is being used to pay off the debt associated with building the law enforcement center. The Public Defender's Office is believed to be a positive factor in moving indigent criminal defendants promptly through the justice system.

The absence of itemized expenditures (by felony and misdemeanor cases for the Public Defender's Office prior to FY 2010) makes comparisons with assigned counsel cases difficult. Speculating on expenditures based on caseload alone is insufficient because resources are not used equally on felonies and misdemeanors. Moreover, the manner in which personnel costs were allocated by felony and misdemeanor cases in FY 2010 and FY 2011 by the Public Defender is inconsistent given the reported caseload. These cost distributions contributed to the skewed average cost per felony and cost per misdemeanor by the Public Defender in these two years.

Additionally, the data gathered on the total indigent case numbers conflicted depending on the source. The Indigent Defense Commission and Office of Court Administration (OCA) listed cases on differing bases. The Indigent Defense Commission numbers, reported directly by a Kaufman County official, provided numbers of cases already paid whereas the OCA listed both closed and ongoing cases for a given fiscal year. This discrepancy made it difficult to determine exactly how many assigned counsel cases were paid in a given fiscal year. As such cost per case calculations may have been affected.

Results Analysis

Goals of the Program

Assessing the quantitative and qualitative data, coupled with the financial findings, we can analyze those findings related to the Public Defender's Office mandated program goals. We look at each goal in turn.

Provide indigent defendants immediate access to legal services

The Public Defender's Office has fulfilled this objective. Over the past five years, the Kaufman County Public Defender's Office has provided immediate access to legal services for indigent criminal defendants. According to the qualitative data, one of the three public defenders is at the jail every day and meeting with the indigent clients. This indicates that a public defender is able to see defendant's shortly after magistration and provide immediate access. This is an important component of providing high quality legal services to indigent defendants, which is also the fourth objective of the grant. By meeting with their clients in a timely manner, the ability of the court system to process the client's case is substantially improved.

Initially, district judges were appointing the Public Defender's Office initially to all indigent defendants to reduce bonds and improve the chances of getting them out of jail. From the judicial perspective, this system increased the number of indigent criminal defendants who were able to quickly bond out of jail, thus reducing the jail population significantly. This system is no longer in place because of concerns that the public defender was only being used to get defendants out of jail. Once out of jail, half of the indigent defendants were supposedly assigned counsel because the public defender was not able to handle all clients.

Assigned counsel attorneys are at a disadvantage with respect to meeting with jailed clients. They rely on the Indigent Defense Coordinator to assign them cases and notify them of the appointment. Even though the requirement is that counsel must be assigned within three working days of request for an attorney, it might be some time before the indigent defendant makes the request and the three workday requirement is not always met. Once appointed, the attorney has one working day to notify the client. This system appears to be less effective at

providing immediate access to legal services than through the public defender, but overall it seems adequate in most cases. Assigned counsel attorneys may not make as intense of an effort to begin case processing, which is tied mainly to the process in which assigned counsel attorneys receive appointments.

There is inconsistency between records kept in the clerks' offices and records kept by the Public Defender's Office for the study years when the function was operated out of the Public Defender's Office. According to the Public Defender's records, the Kaufman indigent defense system is meeting the legal requirement of assigning counsel within three working days of the request for counsel. The Public Defender is also diligent in meeting with the client within one working day after the assignment. The records are not clear on whether assigned counsel are contacting the client within one working day after being assigned. On balance, this objective has been met for those clients assigned to the public defender, and therefore the Public Defender's Office has positively impacted indigent defendants' immediate access to legal services.

Streamline Moving Cases Through the System to Disposition

The Public Defender's Office has met this objective for felony cases but not for misdemeanor cases. According to our statistical results, attorney type does not seem to be an important factor in the processing of misdemeanor cases; however, in felony cases or cases in which the defendant is not able to post bond, attorney type seems to be relevant.

For misdemeanor cases, the quantitative analysis shows that all attorneys perform at a similar level in the processing of misdemeanor cases in which the defendants have posted bond. Additionally, the time that it takes to process misdemeanor cases over the years in our study has not changed. This may be reflective of the relative ease in which misdemeanor cases are processed. Thus the introduction of the Public Defender's Office has neither improved nor worsened the capacity of the county to streamline misdemeanor cases through the system.

For felony cases, however, the Public Defender's Office has contributed to a dramatic reduction in case processing times. Defendants in the post-implementation era spent much less time in jail than their counterparts in the pre-implementation era. Furthermore, public defense

attorneys are performing better than privately retained attorneys in regards to total time spent in jail for felony cases, which is an important indicator of their will to process these types of cases quickly. In regards to this objective, we are able to say that the Public Defender's Office does not appear to have had significant success in streamlining the misdemeanor docket, but that it has been successful in streamlining the felony docket.

While the data reflect that the Kaufman County Public Defender's Office has been a factor in expediting felony processing but not misdemeanor processing, the qualitative research indicates that several factors go into the process and affect the speed at which a case moves through the system. These factors include the defendant's case type, level of offense (misdemeanor or felony), criminal history, amount of bond, or client reluctance to accept a plea or a lawyer's recommended course of action. Additionally, a new prosecutor started in February of 2011. The prosecutor can have a large impact on the speed of disposition. Interviews revealed that cases may lag on a docket because attorneys can provide the judge with a "pass" notice on hearing dates and have a case reset. Observations of case shucks in the county clerk's office indicate that the public defender has fewer resets than assigned counsel. Whatever the reason, the Public Defender has had a positive impact on expediting the processing of felony cases, but there is no significant difference between assigned counsel and the Public Defender's Office in the processing of misdemeanor cases.

One area of concern is the lack of definition related to this particular goal. One of the questions that arises in measuring this goal is what timeframe should be included to define "in the system" and the process for moving a case to disposition. Some defendants may be arrested for a charge and sit in jail awaiting formal complaints for misdemeanors and indictments charges for felonies. Others may be arrested, bond out, and a complaint or indictment may not be filed until closer to the statute of limitations date (two-years for misdemeanors and longer depending on the felony).

Track Defendants Through the System

While the Public Defender's Office is able to track its own clients, the Kaufman County judicial system has not met this objective for all indigent defendants. The current system for tracking defendants through the court system is inadequate and inconsistent. The records in the County and District Clerks' offices are only as accurate as the records that are submitted to them. Many forms are not fully and accurately filled out. There is some use of the Odyssey system to track and update data; however, it is unevenly applied. Case files for each defendant and the collection methods employed by the district and county clerk indicate that there is often a haphazard collection of information.

Once a client has been assigned to the Public Defender's Office, records are maintained by the office and the client is tracked and followed through the system. Public defenders take a proactive role in maintaining contact with their clients. However, records kept in the County and District Clerks' offices are not reflective of the public defender tracking system and records for assigned counsel were spotty, and in many cases missing important documents. The objective of tracking defendants through the system is not incumbent on the public defender's office to achieve, although they can certainly use their unique position to advocate for better information regarding the status of indigent clients.

Provide Consistently High Quality Legal Services to Indigent Defendants

The Public Defender's Office has met this objective. In addition to meeting with indigent defendants on a daily basis, they also have reduced case processing times for clients facing felony charges. For defendants facing felony charges, public defenders are among the best options that they have for representation. Consistency of quality representation in felony cases is indicated by the fact that defendants have, on average, spent less time in jail after the implementation of the office than before the implementation of the office.

The amount of time that defendants spend in jail when facing misdemeanor charges has not changed dramatically since the introduction of the Public Defender's Office as it has for defendants facing felony charges. However, public defenders perform similarly to their other

legal counterparts and provide indigent defendants with relatively equal outcomes in regards to total time spent in jail before posting bond. The fact that they can perform near the level of privately retained attorneys, who are often endowed with greater financial resources and who tend to have other advantages, is a testament of the office's quality legal services to indigent defendants.

Lower the Number of Indigent Defendants in County Jail

Since the establishment of the Public Defender's Office, the total number of defendants in jail has been reduced. For those who are arrested on felony charges, time spent in jail has been dramatically reduced, while the time spent in jail for those who are facing misdemeanor charges has remained relatively static.

For Kaufman County, it appears that the introduction of the Public Defender's Office has been a positive factor in indigent defendants' ability to post bond, thus spending less overall time in jail. In January 2008, the jail population had dropped from an average of 450 inmates down to just 250 inmates, the benefits of which are three-fold. The county not only saves costs associated with housing that inmate, which are about \$40 per day, but it also reduces its liability. Because the county is responsible for the care of these inmates, higher jail populations are related to higher potential costs in the provision of healthcare, security, and other burdens that may be incurred while caring for the inmate. The third benefit is that the county is able to rent out excess beds at the price of \$40 per day, the profits of which have been directed toward the construction of a new law enforcement center, which will aid the county as it continues to respond to the needs of a burgeoning county population.

Based on our findings, felony defendants are in the pre-disposition incarceration aspect of the system an average of 87-117 days less than before the introduction of the Public Defender's Office. It appears to be a substantial amount of time saved for the defendant, as well as taking less pressure off the burdened jail facility. One possible explanation for the decrease in case processing times could be the addition of the public defender system has increased competition among attorneys in the area to provide high-quality legal services. As there has been an across

the board reduction in jail time, the Public Defender's Office cannot take sole credit for the reduction. Other factors certainly impacted the reduction of the jail population.

Looking at both of these types of charges, we are still able to say that defendants, on average, are spending less time in jail after the implementation of the Public Defender's Office than in the sample year before the implementation of the office. For FY2006, defendants spent, on average, 38 days in jail. This number decreased in FY2009 to 24 days, and for FY2010 was at 30 days. This decrease cannot be traced solely to the expertise of the public defender's office, but is certainly a contributing factor. Other factors to consider include the role of the new district attorney and the possibility that the introduction of the public defender's office has created a new paradigm of competition among the different types of legal representation.

Lower Costs to County

Although total indigent defense costs increased during the sample period, so did the number of cases handled. The overall assessment is that the public Defender's Office has met this objective. The reduction of jail time and jail population has saved the county money. In addition, the cost per case has been reduced in all but one year studied. The data indicate that the County spends more on indigent defense because the number of indigent criminal defendants has increased during the time that the Kaufman County Public Defender Office has existed. Prior to the establishment of the Public Defender's Office, 1,154 individuals qualified as indigent defendants. In 2009, the indigent population increased more than 40%. Between 2006 and 2011, the total indigent cases increased by almost 64%. With the establishment of the Public Defender's Office, cost per case was reduced in all years studied until FY 2011 when there was a slight increase. It is not possible to determine what the cost per case would have been without the Public Defender's Office because assigned counsel cost per case over the years analyzed also decreased from the base year. However, the team feels that the Public Defender's Office has had a significant impact in reducing and holding costs in check.

Deficiencies in the Data

Due to deficiencies in the data collected from the files, the original sample size of 300 cases was reduced to 224 cases for statistical analysis. The files were inconsistently recorded which did not allow for thorough analysis of the indigent defense system. Lack of available data was a major factor in our inability to make a definitive analysis in many areas. We attempted to collect data referencing case disposition. However, we encountered discrepancies between misdemeanor and felony disposition data, which led to an inability to collect a large enough sample size related to case disposition. Therefore, further data collection and study would be necessary to research and analyze counsel type and disposition as a measure of effectiveness.

Kaufman County is actively working to put all its records in an electronic format. Another area of deficiency related problems can be traced back to the availability of “hard data.” We found serious inconsistencies between individual case files and the amount of data filed related to their case. Some cases, both felony and misdemeanor, contained considerable detail and many court filings and documents related to the case; however, there were many cases that were skeletal and provided little to no data.

The automation of court files will greatly improve data collection in the future. The county clerks use Odyssey (the web-based case management software for the courts) to enter and update data. The district clerks, however, have not completely transferred its files to the new system. Also, data collection at every stage is limited. Some attorneys submit letters of representation, others do not. However, generally, every case with a public defender contains a letter of representation for the client. The Public Defender Office is more consistent in not only submitting records to the District and County Clerk but in submitting well documented records.

Related to the qualitative research gathered, it is important to note that we were unable to contact all relevant stakeholders, despite multiple attempts to do so. Our analysis may have been improved by interviews with recipients of public defender services. We were unable to entice clients of the indigent defense system to talk to members of the team. It is also important to

acknowledge that each interviewee has a particular bias or opinion toward the system, and that some have more of a vested stake than others, which undoubtedly influenced their responses.

In the financial analysis, the evaluation team did not have access to information regarding average costs for felony cases and average costs for misdemeanor cases for the Public Defender's Office prior to 2010. Detailed information about the cost per case for assigned counsel attorneys was available; however, recent cost allocation by case type from the Public Defender's Office is not consistent from year to year. This made it difficult to analyze the average cost per case type. Having these figures available would have allowed us to make better observations about the trends in costs for felony cases and misdemeanor cases over the years.

Recommendations

Kauffman County is arguably neither a large county nor is it a rich one. The cost of indigent defense is constantly testing the county's financial reserves. Generally, the system is working, but there are some areas of concern that should be addressed. The following recommendations are based on the observations and analysis of both quantitative and qualitative research. Considering the limitations the evaluation team encountered from the data and the interviews, these recommendations are possible solutions.

Appointments

Generally, the court appointment system works; however, there are still areas of concern. For instance, the data suggest that the Public Defender's Office is only handling a third of the cases versus the half contemplated by the system and estimated by the bench and bar. This area needs to be addressed and the percentage distribution between felony and misdemeanor cases needs to be addressed as well. The Public Defender's Office handles many more misdemeanor cases than felony cases. With its investigative services, it should be in a much better position to handle felony case than assigned counsel. Indeed, our analysis suggests that public defenders have had more of an impact on felony cases than on misdemeanor cases. We recommend that the system move to a more equal distribution of cases between the public defender and assigned

counsel and that more felony cases be assigned to the public defender. Overall technology is an issue in the county. For example, if an attorney is appointed, the clerks may not know who the attorney is unless there is a payment request for an appointed attorney. However, the public defender turns in the Letter of Appearance, so the clerk knows a public defender is on the case. This may account for the inconsistent information about appointed versus public defenders in the clerk's files or in Odyssey. Therefore, all attorneys should submit a Letter of Representation or Letter of Appearance when they become attorneys on the case.

Reducing Costs

Reducing costs is always a very high area of concern for all stakeholders. After examining all collected data, we have formulated a few recommendations related specifically to reducing overall indigent costs.

Uniform fees for assigned counsel attorneys, case type versus hour-based, could provide a more stable financial accounting. Although case types may be similar, they are never exactly the same. Therefore, exceptions should be made for court approved overages. This will help make the costs more predictable and budgeting more practical for the county as it determines the most effective use of the funds available for indigent defense.

The administrative support staff of two people seems excessive for three attorneys and one investigator. There should be consideration to reduce the support staff to one person and hire part-time or temporary staff as needed to augment the permanent support staff.

As indicated above, the Public Defender's Office could take on more felony cases. The costs of assigned counsel for misdemeanor cases are significantly lower than for felony cases. This undoubtedly is also true for the Public Defender's Office; however, the Public Defender's Office already has fixed costs and it should be more cost effective for it to handle felony cases than assigned counsel. Indeed, the costs per felony case in FY2011, when the allocation of public defender costs were more reasonably allocated across the cases, indicated that the Public Defender's Office was able to handle felony cases at a much lower cost per case than assigned counsel. Moreover, public defender costs for misdemeanor costs were

significantly higher than those of assigned counsel on a cost per case basis. Therefore, it makes sense on a cost basis to have the Public Defender's Office take on more felony and less misdemeanor cases. It also makes sense from a result basis, as the Public Defender's Office has had its largest positive impact on felony cases. Streamlining the Process

Generally, the county should consider moving to an automated and integrated technology system to track defendants through the justice system. It should be an integrated system that should link the justice-of-the-peace precincts, the jail system, the prosecutors, public defenders, indigent defense coordinator, investigator, district and county clerks and attorneys. Ideally, the district and county clerks should both use Odyssey consistently and image every document that is filed for each case, making sure that the documents are filled out correctly. Such a system would help to provide the stakeholders with the relevant data that is up-to-date. In one example, Travis County jail records are public records and a search is available online to see if the defendant is still in jail. An enhanced version may include a system that allows the attorneys who are granted access to determine if the defendant is out of jail, how much bond is posted for and the address they left when they bonded out. A cloud-based software that allows specific access for different stakeholders may improve process and streamline the time from filing to disposition.

Effectively Using the Public Defender's Office

The Public Defender's Office has contributed positively to the indigent defense system in Kaufman County. As a result, indigent defendants have more timely and better access to legal representation and legal services. The public defenders' daily visits to the jail to meet with new indigent clients is an area where they are having a positive impact. While the Public Defender's Office is an important component of the judicial system, a review of the public defender system should take a more holistic approach at improving the court system. It necessarily operates within an environment that involves the cooperation of other actors. Improvements in the indigent defense system will necessarily involve these other actors. Making changes in the operation of the Public Defender's Office is changing only one component of the system. Any changes will probably have minimal effect without the cooperation and involvement of the other

components of the system. The recommendations above have considered not just the Public Defender's Office, but other parts of the system that impact the indigent defense system and affect the effectiveness of attorneys to provide quality indigent defense in the most cost effective manner.

Conclusion

The Kaufman County Public Defender's Office has been touted as a role model for the rest of the state's public defender offices. In 2008, the Public Defender's Office was awarded a Best Practices Award for Achievement in the Public Safety and Corrections category from the Texas Association of Counties.

The Public Defender's Office has met most of the objectives set out by the grant proposal. While it has not met all of the objectives of the grant successfully, it cannot be said that the failure to do so is the direct fault of the program itself. Some of the grant objectives are conditional upon other aspects of the larger court system, and influence the capacity of the office to achieve these objectives. Looking at the program without considering other aspects of the court system would be to assume that the program exists in a vacuum, which it surely does not.

Overall, the Public Defender's Office seems to be a positive addition to the Kaufman County court system, and to the greater notion of justice. The importance of providing quality legal services to indigent clients is often overlooked or disregarded, partly because of their lack of access to political voice and the perception that they constitute a criminal element that is undeserving of such services. The Public Defender's Office validates the worth of these individuals and creates equality of access to legal representation. Additionally, the office has produced a variety of positive, tangible benefits to the Kaufman County justice system. It has worked to increase coordination between the courts and attorneys, which has allowed them to form closer relationships and work in tandem toward the accomplishment of common goals, such as expeditious case disposition. It has also increased information sharing, which has contributed to increased rationality in decision-making for each of these actors. This relationship seems to

be an important part of the Public Defender's Office, and is unique from the relationship that the courts share with court-appointed and retained attorneys.

Although total indigent costs have risen, so have number of cases at approximately the same percentage increase. Moreover, the cost per case has been reduced for all but one of the years studied. The office has also been a factor in the reduced number of indigent defendants in county jail. This has allowed the county jail to generate revenue by renting out beds made available by a decreased jail population. Lastly, the introduction of the Public Defender's Office seems to be contributing to a better understanding of indigent defendants in Kaufman County, especially for repeat offenders. Because the chief investigator often forges relationships with family members and other associates of indigent defendants, the Public Defender's Office is better able to understand the circumstances and events which have led and contribute to the defendant's behavior. This relationship may be helpful in identifying solutions to resolve recidivism.

The implementation of the office also seems to have sparked a new paradigm of competition among the different types of legal representation, which has resulted in better case processing times for all defendants in the Kaufman County court system, regardless of their form of representation. According to the Rules of Professional Responsibility, an appointed lawyer has the same obligations to the client as retained counsel, including the obligations of loyalty and confidentiality, and is subject to the same limitations on the client-lawyer relationship. The goal should be in all cases, regardless of whether the attorney is a public defender or an assigned attorney to provide the highest quality legal services, and to adhere to the Model Rules of Professional Responsibility.

Appendix A: Kaufman County Public Defender's Office Job Requirements

The Chief Public Defender shall:

1. Supervise and direct the work activities of staff attorneys and other professional and support staff; recruit, screen, select and train new hires and monitor/evaluate staff performance; develop organizational practices and procedures and standard operating procedures.
2. Monitor receipt of, and make all case assignments to staff attorneys; oversee the staff procurement of records and transcripts for appellate preparations; and screen all cases for conflicts of interest.
3. Provide analysis and advice to staff attorneys on complex and problematic cases; work directly as the principal attorney with new hires in training by reviewing, monitoring, and guiding them in their work on cases.
4. Maintain a reduced regular caseload and provide backup on caseloads of attorneys who are on leave or are unable to complete specific assignments.
5. Serve as departmental head in all communications with other county entities.
6. Prepare the departmental budget and periodic operational reports and analyses as necessary or required.
7. Communicate with the Public Defender Board.
8. Develop and establish new approaches to case management, budgetary restrictions or other unique problems confronting the office.
9. Interact with state and local bar associations, various organizations and committees involved in the improvement of justice and indigent representation systems and services.
10. Correspond and cooperate with consultants hired by the Task Force on Indigent Defense to assist and evaluate the public defender's office.
11. Review and select case management system to be used by the public defender's office in consultation with information services.
12. Perform related duties as required.

The Assistant Public Defender shall:

1. Manage an active caseload assigned through to the public defender's office.
2. Adequately investigate, analyze, and prepare cases.
3. Write and submit documents needed to adequately represent clients, which may include appellate briefs and pleadings for filing in the Texas court system.

4. Attend court dockets and conducts hearings as required.
5. Obtain and review evidence, files, exhibits, trial court transcripts and other related materials.
6. Maintain client relationships through continued visits and phone and written correspondence, and respond to questions and concerns from clients, family and friends.
7. Maintain awareness of new court decisions, new laws, and revised rules and regulations through conferences, workshops and relevant periodicals.
8. Answer questions and assist the legal community regarding defense issues.
9. Perform related duties as required.

The Secretary will maintain the administrative operation and coordination of the office, and shall:

1. Type moderately complex letters and memos utilizing a personal computer, typewriter and/or word processor.
2. Maintain statistics and develop reports.
3. Enter and updates data in a personal computer or CRT utilizing spreadsheet or database applications.
4. Answer telephone, route calls and take messages utilizing some discretion.
5. Develop and maintain files.
6. Access and file information.
7. Open and distribute mail.
8. Copy information and distribute to appropriate location.
9. Respond to general questions and complaints regarding department or work.
10. Order and maintain supplies
11. Perform related duties as required.

Investigators will work under the direction of the Chief Public Defender to assist in the following:

1. Interviewing witnesses and writing comprehensive investigation reports;
2. Obtaining and analyzing documents, reports, photographs, recordings and other forensic materials, and recording such information in the case management system;
3. Surveying crime scenes and recording information, including detailed drawings and photographs;
4. Locating witnesses and other case-relevant information using the internet and other forensic investigative methods.

Appendix B: Original Proposed Kaufman County Public Defender's Office Budget

Salaries \$164,000

Chief Public Defender \$65,000

The Chief Public Defender will be responsible for developing and monitoring the Indigent Defense Public Defender Program. This individual will ensure that the everyday operations of the program are being met. The Chief Public Defender will provide qualified legal representation for indigent defendants he/she will represent. The base salary is intended to have parity with the first assistant prosecutor with some consideration to size of department and caseload.

Public Defender \$45,000

The Public Defender will work under the Chief Public Defender and will assist the Chief Public Defender in developing the Indigent Defense Public Defender Program. The Public Defender will provide qualified legal representation for indigent defendants he/she will represent.

1 Administrative Assistants/ 1 Investigators \$60,000

The Administrative Assistants/Investigators will work in coordination with the Defenders and will prepare motions, orders and any other documents required during the representation of the indigent defendants, and will document all investigations relating to the Defenders and prepare any other documents that are required to be submitted to the courts by the Public Defenders' Office.

Benefits \$45,920

Benefits were calculated at 28% of salaries.

Travel and Training \$3,000

Travel and training costs are budgeted in order to provide the Public Defender's Office employees travel to various workshop sites in order to receive CLE. Additionally, it will be necessary to travel to other sites for training as deemed necessary or beneficial to maintain required continuing education levels. Also, travel will be required to meet with clients and attend arraignments.

Equipment \$9,100

Computers (4): Computers will be used by the public defender staff to maintain access and perform essential job functions in all representation.

Other equipment that may be purchased consistent with office operation requirements: Printers, Phone and Fax, Copier. Note: All equipment will be purchased using Kaufman County procurement procedures.

Supplies \$7,000

Office supplies and remodeling costs will be used in administering the program.

Contract Services \$8, 800

TOTAL BUDGET: \$237,820

Appendix C: Combined County Expenditure Report 2005-2006

Combined County Report

October 1, 2005 -
September 30, 2006

Number of Courts: 3

Category of Services	Attorney Fees	Investigation Expenditures	Expert Witness Expenditures	Other Litigation Expenditures
Adult Felony				
Assigned Counsel	\$432,891.00	\$11,524.00	\$5,263.00	\$10,347.08
Contract Counsel	\$0.00	\$0.00	\$0.00	\$0.00
Adult Misdemeanor				
Assigned Counsel	\$109,996.00	\$0.00	\$0.00	\$34.00
Contract Counsel	\$0.00	\$0.00	\$0.00	\$0.00
Total Trial	<i>\$563,711.00</i>	<i>\$11,524.00</i>	<i>\$5,263.00</i>	<i>\$10,381.08</i>
Payments Made and No Charges Filed by Prosecutor – Adult				
Assigned Counsel	\$3,888.00	\$0.00	\$0.00	\$0.00
Contract Counsel	\$0.00	\$0.00	\$0.00	\$0.00
Total NCF	<i>\$3,888.00</i>	<i>\$0.00</i>	<i>\$0.00</i>	<i>\$0.00</i>
Overall Total	\$592,607.00	\$12,319.00	\$5,263.00	\$10,473.08

Appendix D: Kaufman County Court-Appointed Expenditures

Kaufman County Court-Appointed Expenditures & Total Indigent Costs, FY 2007-FY2011

	2007	2008	2009	2010	2011
Adult Felony					
Total Charges	1,319	1,264	1,272	1,127	1,313
% Indigent Cases	88.7%	68.7%	65.6%	75.4%	71.8%
Trial Court Appt'd Attorney Fees	\$394,002.99	\$266,391.33	\$302,386.16	\$298,215.19	\$349,954.78
Court Appt'd Attorney Costs	\$421,032.99	\$293,217.47	\$318,002.71	\$358,956.29	\$436,900.21
Adult Misdemeanor					
Total Charges	2,382	3,929	3,233	2,292	810
% Indigent Cases	27.25%	19.3%	21.4%	39.3%	N/A
Court Appt'd Attorney Fees	\$74,713.11	\$86,581.97	\$91,592.65	\$145,199.51	\$123,927.05
Court Appt'd Attorney Costs	\$75,349.38	\$93,220.50	\$92,351.65	\$151,723.44	\$125,814.05
Total Assigned counsel Counsel Costs	\$496,382.37	\$386,437.97	\$410,354.36	\$510,579.73	\$562,714.26
Total Indigent Costs	\$862,750.95	\$940,907.20	\$809,975.98	\$880,221.88	\$994,341.03

Source: "Indigent Defense Data for Texas," Texas Indigent Defense Commission

Appendix E: Public Defender Office Expenditures

Public Defender Office Expenditures Expenditures, October 1, 2006 - September 30, 2007

Public Defender Personnel	
Attorney's Salaries and Fringe Benefits	\$114,853.05
Investigator's Salaries and Fringe Benefits	\$41,432.52
Administrative Support Salaries and Fringe Benefits	\$26,201.61
Total Public Defender Personnel Cost and Fringe Benefits	\$182,487.18
County's average fringe benefit rate	7.3000%
Public Defender Travel and Training Expenditures	\$7,030.76
Public Defender Equipment Expenditures	\$10,449.33
Other Public Defender Court Related Expenditures	
Public Defender Other Direct Operating Expenditures	\$4,615.08
Grand Total	\$294,582.35

Source "Indigent Defense Data for Texas," Texas Indigent Defense Commission

Public Defender Office Expenditures

Expenditures, October 1, 2007 - September 30, 2008

Public Defender Personnel	
Attorney's Salaries and Fringe Benefits	\$430,865.96
Investigator's Salaries and Fringe Benefits	\$0.00
Administrative Support Salaries and Fringe Benefits	\$0.00
Total Public Defender Personnel Cost and Fringe Benefits	\$430,865.96
County's average fringe benefit rate	7.4600%
Public Defender Travel and Training Expenditures	\$25,826.61
Public Defender Equipment Expenditures	\$0.00
Other Public Defender Court Related Expenditures	
Public Defender Other Direct Operating Expenditures	\$21,328.06
Grand Total	\$478,020.63

Source: "Indigent Defense Data for Texas," Texas Indigent Defense Commission

Public Defender Office Expenditures
Expenditures, October 1, 2008 - September
30, 2009

Public Defender Personnel	
Attorney's Salaries and Fringe Benefits	\$193,628.60
Investigator's Salaries and Fringe Benefits	\$67,089.58
Administrative Support Salaries and Fringe Benefits	\$36,734.32
Total Public Defender Personnel Cost and Fringe Benefits	\$297,452.50
County's average fringe benefit rate	7.6500%
Public Defender Travel and Training Expenditures	\$6,702.68
Public Defender Equipment Expenditures	\$1,512.20
Other Public Defender Court Related Expenditures	
Public Defender Other Direct Operating Expenditures	\$12,486.44
Grand Total	\$318,153.82

Public Defender Office Expenditures
Expenditures, October 1, 2009 - September 30,
2010

Public Defender Personnel						
	Attorney Salary and Fringe Benefits	Investigator Salaries and Fringe Benefits	Mitigation Specialist Salaries and Fringe Benefits	Mental Health Professionals Salaries and Fringe Benefits	Administrative Support Salaries and Fringe Benefits	
Adult Non-Capital Felony	\$153,876.17	\$64,294.52	\$0.00	\$0.00	\$35,930.86	
Adult Misdemeanor	\$12,416.20	\$5,184.80	\$0.00	\$0.00	\$2,897.65	
Total	\$166,292.37	\$69,479.32	\$0.00	\$0.00	\$38,828.51	
Total Public Defender Personnel Cost and Fringe Benefits						\$274,597.20
County's average fringe benefit rate						27.0000%
Public Defender Travel and Training Expenditures						\$6,373.97
Public Defender Equipment Expenditures						\$0.00
Public Defender Other Direct Operating Expenditures						\$8,987.85
Other Public Defender Court Related Expenditures						
Other Direct Litigation Expenditures						\$3,664.00
Total Court Related Expenditures						\$3,664.00
Grand Total						\$293,623.02

Source: "Indigent Defense Data for Texas," Texas Indigent Defense Commission

Public Defender Office Expenditures

Expenditures, October 1, 2010 - September 30, 2011

Public Defender Personnel						
	Attorney Salary and Fringe Benefits	Investigator Salaries and Fringe Benefits	Mitigation Specialist Salaries and Fringe Benefits	Mental Health Professionals Salaries and Fringe Benefits	Administrative Support Salaries and Fringe Benefits	
Adult Non-Capital Felony	\$88,991.28	\$24,499.34	\$0.00	\$0.00	\$29,878.29	
Adult Misdemeanor	\$123,917.97	\$34,114.67	\$0.00	\$0.00	\$41,604.72	
Total	\$212,909.25	\$58,614.01	\$0.00	\$0.00	\$71,483.01	
Total Public Defender Personnel Cost and Fringe Benefits						\$343,006.27
County's average fringe benefit rate						27.0000%
Public Defender Travel and Training Expenditures						\$6,257.82
Public Defender Equipment Expenditures						\$0.00
Public Defender Other Direct Operating Expenditures						\$10,907.92
Other Public Defender Court Related Expenditures						
Other Direct Litigation Expenditures						\$0.00
Total Court Related Expenditures						\$0.00
Grand Total						\$360,172.01

Source: "Indigent Defense Data for Texas," Texas Indigent Defense Commission

Appendix F: Qualitative Research Questions

Questions based on Grant Objectives

1. Do you think that the Public Defender's office is providing the indigent defendants immediate access to legal services?
2. Do you think that the Public Defender's office is able to streamline moving cases through the system to disposition?
3. Do you think that the Public Defender's office is able to track defendants through the system?
4. Do you think that the Public Defender's office is able to provide consistently high quality legal services to indigent defendants?
5. Do you think that the Public Defender's office is able to lower the number of indigent defendants in county jail?
6. Do you think that the Public Defender's office is able to lower costs to county?

Relevant Questions for District/County Clerk's Offices:

1. When you receive requests for counsel from magistration, do they always / generally / sometimes / never get into the case file? If not "always," then what happens to those requests? Where do they go? How do you match the request with the case that is later filed?
2. Does bonding information always/ generally / sometimes / never get into the case file? If not "always," then where does the information go?
3. Do waivers of counsel go into the case file? What if no case has been filed? When the waiver is made?
4. Do you receive data from municipalities? If so, what do you receive? How is this information transferred?
5. Do you obtain misdemeanor/felony/juvenile etc. case files?
6. Do you have any observations about the court-appointed attorneys and public defenders?

Relevant Questions for Prosecutor

1. Describe the steps required to file: a) felony case; b) misdemeanor case. How long does each step take?
2. Are there delays in receiving offense reports from arresting agencies? Do arresting agencies differ in how long it takes to get arrest reports to you? Do drug labs cause significant delays? In your opinion, what is the biggest cause of delay?
3. Do you offer any type of pre-trial diversion? Is it affected by the type of counsel?
4. Describe the steps you take if a defendant would like to speak to you. If a defendant wants to speak to you, what do you do? What if a defendant has signed a waiver and wants to speak with you?
5. What is your impression of the quality of appointed counsel? Public defender? Retained counsel?
6. How has having a public defender changed the way cases are handled? Are there more trials? More plea deals? More dismissals?

Relevant Questions for Defense Attorneys

1. What percent of your practice is devoted to criminal/juvenile appointments?

2. What is your total criminal workload? Do you take civil cases, too?
3. How are you notified of an appointment?
4. How soon after appointment do you contact the client? How soon after appointment do you visit the client? Are you required to show proof of a client visit?
5. Is it easy to visit jailed clients?
6. What is your opinion of the attorneys on the appointment lists? Do some lists have better attorneys than others? Do you think that the process for being added to an appointment list is fair?
7. Do you think the appointment system in individual cases is fair, neutral, and non-discriminatory? Does it appear different between felony and misdemeanor cases?
8. Based on your experiences, what is the appointment method in probation revocation cases? What is your opinion of this method?
9. What kind of investigation do you perform once you are appointed to a case?
10. Are you able to obtain access to information held by the prosecutor? How can you obtain access? Can you keep copies of these records?
11. Is it difficult to obtain reimbursement for investigation services if the case does not proceed to trial?
12. Have you had any problems obtaining a fair payment for your services?
13. Do you seek to divert your clients from adjudication after exploring whether it is in their best interests?
14. Does your office actively seek alternative sentences for clients if it is in their best interests?
15. Would you consider your representation to be zealous?
16. Do you keep a client file for all appointed cases?
17. Are case files maintained such that another attorney could take over or review cases with minimal difficulty?
18. Have you had clients who had signed an invalid waiver of counsel?

Relevant Questions for JP's / Magistrates

1. What percent of misdemeanor arrestees request counsel?
2. What percent of felony arrestees request counsel?
3. What sort of assistance in filling out necessary forms is provided to persons requesting counsel?
4. When someone requests appointed counsel, what method is used to transmit the request to the appointing authority? When is the request transmitted? To whom is the request transmitted?

Relevant Questions for Court Managers / Court Administrators / Pre-trial Services

1. If a defendant requests counsel at magistration, how are those appointments made? Is the same procedure for appointing counsel used with bonded and detained persons?
2. Are there any municipalities that are not part of the centralized magistration?
3. How are appointments made for requests made in-court?
4. Are managers / administrators / pre-trial services responsible for helping to obtain financial information from defendants when counsel is requested in court? What about when persons are requesting counsel after magistration but before the next court appearance?

5. How are requests for counsel received? What about nights / weekends? What about bonded persons who did not request at magistration?
6. Are defendants notified if they are determined not to be indigent?
7. How are attorneys notified of appointment?
8. How do attorneys get on the wheel?
9. How does the rotation system work? One big wheel or a wheel for each court?
10. When an attorney is skipped, what happens? Is there supporting documentation?

Relevant Questions for Public Defender

1. How do you meet with your client?
2. What is your average caseload?
3. What kind of support services do you offer your clients?
4. What is the role of your support staff?

Relevant Questions for District Court Judges

1. About what percent of defendants request counsel in court?
2. What is the process for appointing counsel in felony cases? Is it the same for in-court appointments as out-of-court appointments?
3. If you appoint an attorney from the bench, is there a method to document whether the top attorney on the list is skipped.
4. What is the process for appointing counsel in probation revocations?
5. What is your opinion of the quality of appointed counsel?
6. How are attorneys paid?
7. What is the process for assessing attorney fees to indigent defendants?
8. Do you have any specialty courts? What role do defense attorneys play?
9. Have you had many instances where the client's ability to pay for counsel has changed during the course of a case? Has this change been from indigence to non-indigence or non-indigence to indigence?
10. Has the jurisdiction removed many attorneys from the appointment list? Is this a difficult procedure?
11. Do you ever deal with waivers of counsel? If so, what is the process for handling waivers of counsel?

Relevant Questions for County Court Judges

1. What is the process for handling waivers of counsel?
2. About what percent of defendants request counsel in court?
3. What is the process for selecting appointing counsel in misdemeanor cases? Is it the same for in-court appointments as out-of-court appointments?
4. If you appoint an attorney from the bench, is there a method to document whether the top attorney on the list is skipped.
5. What is the process for appointing counsel in probation revocations?
6. What is your opinion of the quality of appointed counsel?
7. How are attorneys paid?
8. What is the process for assessing attorney fees to indigent defendants?
9. Do you have any specialty courts? What role do defense attorneys play?

10. Have you had many instances where the client's ability to pay for counsel has changed during the course of a case? Has this change been from indigence to non-indigence or non-indigence to indigence?
11. Has the jurisdiction removed many attorneys from the appointment list? Is this a difficult procedure?

Relevant Questions for Jail Administrators

1. Do attorneys visit clients timely? Are there many complaints?
2. What happens when detainees want to request counsel after magistration?
3. Do jail staff ever assist with affidavits of indigence?
4. Do jail staff ever transfer requests for counsel to the courts / pre-trial services?

Relevant Questions for Other questions for Stakeholders

1. How satisfied are you with the overall job the Public Defender's office has been doing with regards to the representation of their clients?
2. Do you think the clients of the Public Defender's office have been moved through the system in a timely way?
3. How satisfied were you with the quality of indigent defense services in Kaufman County prior to the establishment of the Public Defender's office?
4. Do you think that the quality of representation in Kaufman County has improved as a result of the Public Defender's office?
5. Please give any additional comments, concerns or suggestions you have regarding disposition of criminal cases by the Public Defender's office in Kaufman County?

Appendix G: Interviews

Judges

13. Judge B. Michael Chitty, 422nd District Court
14. Judge Tygrett,
15. Judge Johnny Perry, Justice of the Peace, Precinct 1

Public Defenders

16. Andrew Jordan, Public Defender
17. Joanna Wray, Assistant Public Defender
18. LaShonda Taylor, Assistant Public Defender

Defense Attorneys

19. Carianne Abrahamson

Other Stakeholders

5. District Clerk
6. County Clerk
7. Indigent Defense Coordinator
8. Chief Investigator
9. Sheriff

People who the Evaluation Team Tried Unsuccessfully to Interview

Former Clients (4)

Judges

- J. Judge Erleigh Wiley

County Commissioner

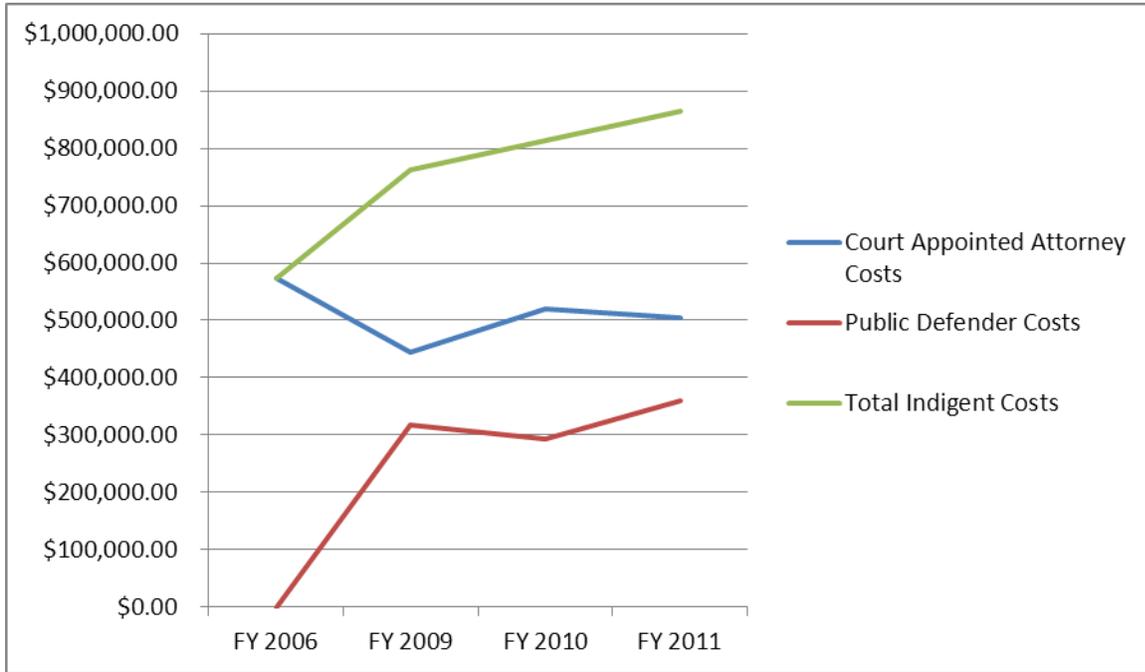
- K. Jerry Rowden

Defense Attorneys

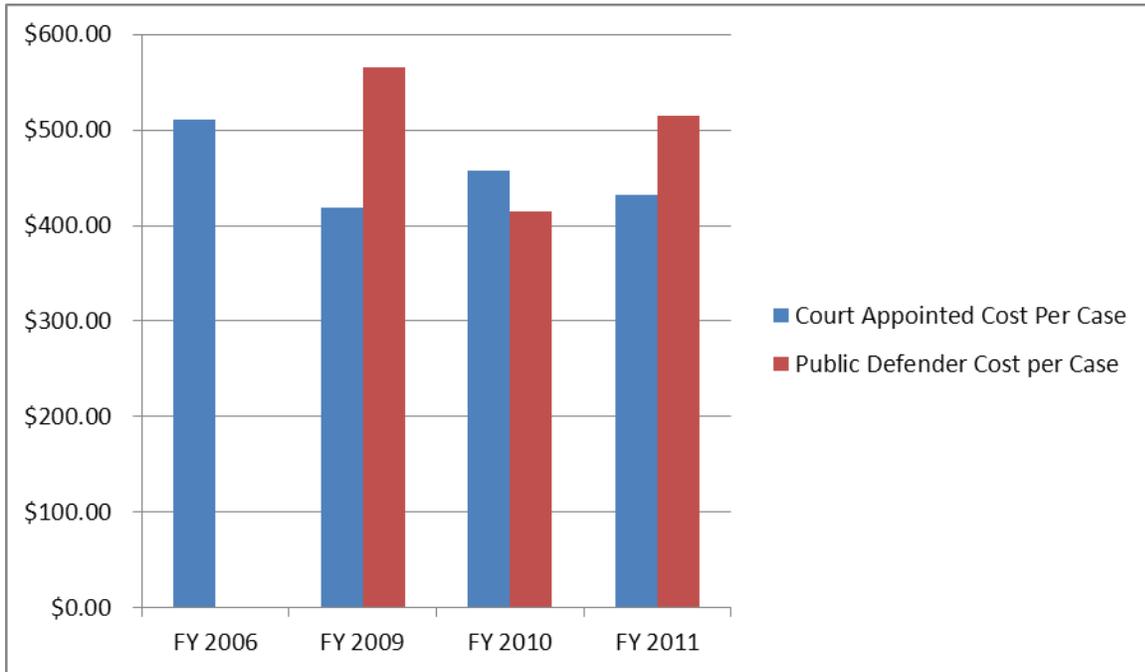
- L. Rick Harrison, also former DA
- M. Wade Gent
- N. Beck Calabria, former Kaufman County Bar Association Officer
- O. Taryn Davis
- P. Eric Smenner
- Q. Natalie Fletcher
- R. Joseph Russell

APPENDIX H: COST COMPARISON GRAPHS

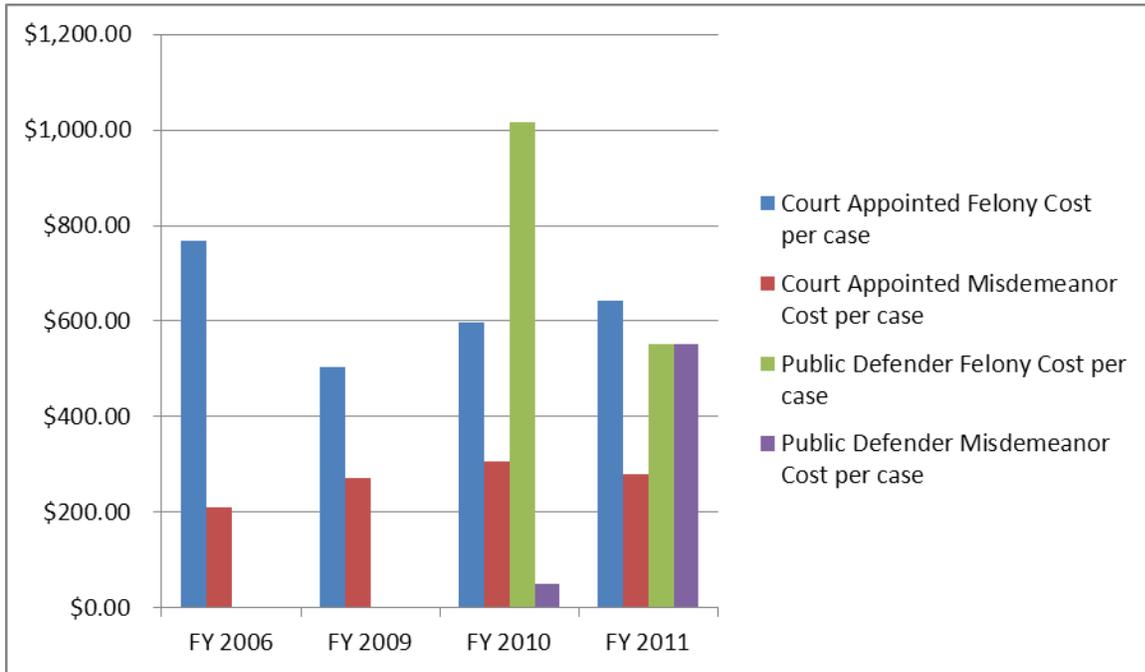
Graph 1: total Cost Comparisons for FY, 2006, 2009, 2010, 2011 for Indigent Services



Graph 2: Cost per Case Comparison by Attorney Type



Graph 3: Cost per Case Comparison by Case Type



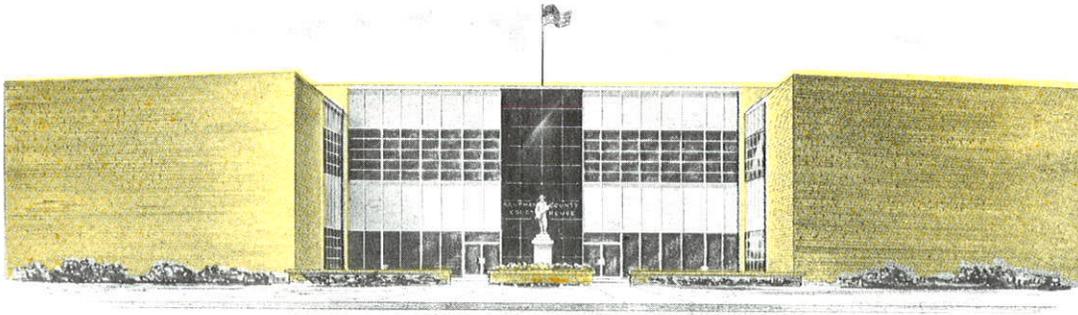
References

- Clark, M., & Savner, E. (2010). Community oriented defense: Stronger public defenders. Retrieved April 15, 2012, from Brennan Center For Justice: www.brennancenter.org
- Cohen, T. H. (2011). Who's better at defending criminals? Does type of defense attorney matter in terms of producing favorable case outcomes. Washington, D.C.: U.S. Bureau of Justice Statistics.
- Getz, J. (2007, January 21). New public defender works to prevent mix-ups. The Dallas Morning News , pp. <http://tfid.tamu.edu/DGReportDocuments/212-07D07%20New%20public%20defender%20works%20to%20prevent%20mix.pdf>.
- Gresham, M. (2008, July 17). Public defender's office wins state award. The Kaufman Herald , p. <http://www.kaufmanherald.com/articles/2008/07/17/community/doc487f4de369f78365268650.txt>.
- Hanson, R., Ostrom, B. H., & Lomvardias, C. (1992). Indigent defenders get the job done and done well. Williamsburg, VA: National Center for State Courts.
- Hartley, R., Miller, H., & Spohn, C. (2010). Do you get what you pay for?: Type of counsel and its effect on criminal court outcomes. *Journal of Criminal Justice* , 1063-1070.
- Hoffman, M. B., Rubin, P. H., & Shepherd, J. M. (2004). An empirical study of public defender effectiveness: Self-selection by the "marginally indigent". *Ohio State Journal of Criminal Law* , 223-255.
- Iyengar, R. (2007). An analysis of the performance of federal indigent defense counsel. Cambridge, MA: National Bureau of Economic Research-Harvard University.
- LinkedIn. (2010). Kaufman County Public Defender's Office. Retrieved April 10, 2012, from LinkedIn: <http://www.linkedin.com/company/kaufman-county-public-defender%27s-office>
- Nardulli, P., Eisenstein, J., & Flemming, R. (1988). The tenor of justice: Criminal courts and the guilty plea process. Chicago, IL: University of Illinois Press.
- Roach, M. (2010). Explaining the outcome gap between different types of indigent defense counsel: Research Network: <http://ssrn.com/abstract=1839651>
- Taylor-Thompson, K. (1995). Individual actor v. institutional player: Alternating visions of the public defender . *The Georgetown Law Journal* , 2419-2471.
- Texas Task Force on Indigent Defense. (2006). Statement of grant award: FY2007 discretionary grant-Kaufman county. Austin: Texas Task Force on Indigent Defense.

U.S. Census Bureau. (2012). Kaufman county demographics. Retrieved May 3, 2012, from North Texas Commission: <http://www.ntc-dfw.org/northtexas/demokaufman.html>

Williams, M. (2002). A comparison of sentencing outcomes for defendants with public defenders versus retained counsel in a Florida circuit court. *The Justice Systems Journal* , 249-257.

Worden, A. P. (1992). Privatizing due process: Issues in the comparison of assigned counsel, public defender, and contracted indigent defense systems. *The Justice System Journal* , 390-418.



Bruce Wood
COUNTY JUDGE

KAUFMAN COUNTY
KAUFMAN, TEXAS 75142

RECEIVED
NOV 20 2012

November 14, 2012

Bryan Wilson
Texas Indigent Defense Commission
209 W. 14th St., Room 202
Austin, Texas 78701

Dear Mr. Wilson:

After reading the study provided by Texas Tech University Center for Public Service, The Kaufman County Indigent Defense Board (Board) makes the following responses to their findings:

-PROVIDE INDIGENT DEFENDANTS IMMEDIATE ACCESS TO LEGAL SERVICE

The Board agrees with the study's finding that the Public Defender's Office has fulfilled the objective.

-STREAMLINE MOVING CASES THROUGH THE SYSTEM TO DISPOSITION

The Board agrees with the study's findings regarding the Public Defenders handling of felony offenses and concurs that the office has met the expectations, as set out in the study.

The Board disagrees with the study's finding that the Public Defenders Office's handling of misdemeanors did not streamline moving cases to disposition. Part of the evidence for this impact is found in our county's experience, which has seen an improvement in the jail population for misdemeanor cases. Therefore, we believe the sample size was too small.

-TRACK DEFENDANT THROUGH THE SYSTEM

The Board agrees that the Public Defenders fulfill their role in tracking its own clients and we agree with the findings of the report that the Public Defender has done that adequately.

-PROVIDE CONSISTENTLY HIGH QUALITY LEGAL SERVICES TO INDIGENT DEFENDANTS

The Board agrees with the findings of the study.

-LOWER THE NUMBER OF INDIGENT DEFENDANTS IN COUNTY JAIL

The Board agrees with the findings of the study.

-LOWER COST TO COUNTY

The Board agrees with the findings of the study.

Furthermore, we agree with the study's findings that an integrated computer system would increase the effectiveness of the Public Defender's Office, as well as the entire County. We are currently using two incompatible computer systems in the County and Municipal Courts. The Board intends to request from the county additional funds for this type of software program.

After looking at appendix D and sourcing it, the Board does not agree with the statistics reported to the State and the County's internal figures do not match the Kaufman County Court-Appointed Expenditures and Total Indigent Costs.

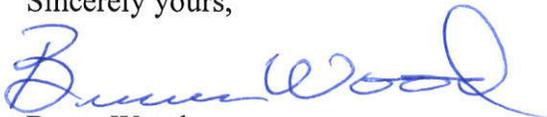
After looking at appendix E, the Board believes that the findings are inconsistent.

After looking at appendix H-Graph 2 & 3, the Board believes the findings are inconclusive.

In reviewing the last three appendices, it appears that some of the appendices are incorrect because our county inadvertently reported faulty information regarding indigent defense expenditures. After reviewing the information, the Board is requesting the county to review their reporting procedures. The Board has met with the new County Auditor and the Public Defender to develop a plan to address these reporting deficiencies.

If you have any questions, please do not hesitate to contact us.

Sincerely yours,



Bruce Wood

Kaufman County Judge

BW/at