



Indigent Defense Newsletter

July 2014

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****NEW TIDC
WEBSITE EFFECTIVE
AUGUST 3, 2014****

**TIDC plans to launch its
new website
on August 3, 2014.**

**After August 3rd, be sure
you are using the
new address
<http://www.tidc.texas.gov>.**

**The last updates to the
current website will be on
July 31, 2014, and the site
will no longer be updated.
After August 31, 2014 the
current website will no
longer be available.**

Message from Chair

Congratulations to **Judge Olen Underwood**, **Judge B. Glen Whitley** and **Judge Jon Burrows** on their reappointments to the Commission by **Governor Rick Perry** earlier this year. I am honored to serve with such distinguished judges who are committed to the mission of our organization, and I look forward to our continuing work together throughout their new terms that will expire on February 1, 2016.

I am pleased to announce that at our June 13th meeting the Commission awarded new and continuing discretionary **grants totaling \$5.3 million** to support innovations in Texas counties to improve legal defense for the poor. The Grant Awards section below provides details about these awards to fourteen counties across the state.

Also at the June meeting, the Commission issued proclamations recognizing **Christopher Burnett**, Executive Director, Criminal Justice Division, Office of the Governor and **Mary Anne Wiley**, General Counsel, Office of the Governor for their on-going support and leadership. Christopher and Mary Anne have worked extensively with the Commission to develop the annual Indigent Defense Workshops for county and court officials, public defenders and others involved in implementing indigent defense plans. Since 2005 Mary Anne has participated in workshops as a presenter and facilitator, covering a variety of indigent defense topics. Christopher has been instrumental in working with the Commission to provide grants to fund workshops in 2010 and 2013. The partnership the Commission has had with the Governor's Criminal Justice Division has been monumental in continuing to enhance the quality and effectiveness of our annual workshops.



County Indigent Defense Plan Reviews in Progress

The Commission is currently reviewing all countywide adult and juvenile indigent defense plans to ensure they are in compliance with legal requirements. Commission staff is contacting county officials whose plans need to be amended, either by phone or by e-mail, to assist them in completing the needed changes. Many are only minor changes or additions that are needed for the plans to be fully compliant. We appreciate everyone's quick responses to our inquiries and look forward to assisting counties as needed.

Publications

Indigent Defense in the Texas Juvenile Justice System



The Commission recently completed an extensive revision to a 2007 publication on Texas' juvenile justice indigent defense system. The new publication, [Indigent Defense in the Texas Juvenile Justice System](#), is once again a joint publication with the Texas Juvenile Justice Department. The revisions include updates based on law changes and improved document flow.

The Honorable Sharon Keller presents proclamation to Christopher Burnett

In addition, it was my pleasure to thank this year's **volunteer grant reviewers** on behalf of the Commission. The comments and suggestions from grant reviewers provide valuable insight for the Commission's award considerations. The Commission is grateful to this panel of volunteers who dedicate their time and energy to help ensure that counties have an opportunity to improve their indigent defense systems with support and funding from the Commission.



Grant Review Team

(pictured left to right) Kimberly M. Hild, Andrea Marsh and Sarah D. Pahl, with Commission Chair the Honorable Sharon Keller. Not pictured are team members Catherine Green Burnett and Bob Wessels.)

Sharon Keller

Message from Director

The Commission has been working diligently to develop its **Legislative Appropriations Request** for fiscal year 2016-2017 and is pleased to pursue new appropriations to offset the increasing costs of indigent defense. In preparation for the upcoming 84th legislative session, the Commission convened a legislative workgroup composed of a broad range of stakeholders to assist in developing recommendations per our statutory directive in Government Code Section 79.035(b). The workgroup plays a vital role in the discussion of the Commission's legislative policy and various proposals to improve indigent defense, and I am grateful for those who serve and provide their expertise.

Congratulations to **Travis County** on its new discretionary grant awarded by the Commission on June 13th to implement a managed assigned counsel (or MAC) program. The **Travis County Courts Tech Team** has been developing a data

Quick Links

[TIDC Website](#)

[Commission Members](#)

[TIDC Staff](#)

[Indigent Defense Expenditure Report Manual for FY 14 Reports Due on November 3, 2014 from County Auditors \(or Treasurers in Counties with No Auditor\)](#)

[Attorney Reporting Instructions and the Attorney Reporting Form Due by October 15, 2014 from Attorneys Who Accept Appointments in Adult Criminal and Juvenile Delinquency Cases](#)

Helpful Forms:

[Optional Attorney Practice-time Worksheet for Period October 1, 2013 to September 30, 2014](#)

Across the State

State Commission on Judicial Conduct Reprimand for Removal of Counsel from Defendant Who Made Bond

In August 2013 the State Commission on Judicial Conduct issued a private reprimand to a retired district judge related to the removal of a court-appointed attorney representing a client who made bond. The Commission stated that "The judge failed to

system for managing the appointment of private attorneys assigned to protect the rights of indigent defendants, and their central management system will help MAC managers effectively monitor and analyze data in more detail than ever before. In fact, Travis County will be the first urban jurisdiction in Texas to have 100% of its indigent defense appointments handled through an independent management authority. Through their effective collaboration and commitment to a high-quality justice system, Travis County judges, court administrators and attorneys have forged a plan with great potential for elevating the delivery of indigent defense services. Their program will provide greater independence, support and accountability that will benefit the county's entire criminal justice system.

I would also like to congratulate the **Harris County Public Defender's Office** upon its receipt of the 2014 State Bar of Texas Warren Burnett Award. State Senator Rodney Ellis nominated the office for the award, which recognizes extraordinary contributions to improving the quality of criminal legal representation to indigent defendants in Texas. The award was presented to Chief Defender Alex Bunin at the State Bar of Texas Advanced Criminal Law Course in Houston on July 21, 2014.

Jim Bethke

Upcoming Commission Meetings

Technology Strategic Planning Session - August 8th, 9:00 a.m. to noon at The University of North Texas Dallas College of Law, 1901 Main Street, Room 560, Dallas, Texas.

Policies and Standards Committee - August 13th, 1:00 p.m. to 4:00 p.m. at the Texas Conference of Urban Counties, 500 West 13th Street, 2nd floor conference room, Austin, Texas.

Grants and Reporting Committee - August 15th, 10:30 a.m. to noon at the Court of Criminal Appeals Courtroom, 201 West 14th Street, Supreme Court Building, Austin, Texas.

Commission Meeting - August 21st, 1:30 p.m. to 4:00 p.m. at the Court of Criminal Appeals Courtroom, 201 West 14th Street, Supreme Court Building, Austin, Texas.

Grant Awards

On June 13, 2014 the Commission awarded new and continuing discretionary grants totaling \$5.3 million to support innovations in Texas counties to improve legal defense for the poor. The Commission's most significant new grant of \$717,516 was awarded to **Travis County** to implement a new managed assigned counsel (or MAC) program for managing the appointment of private attorneys assigned to protect the rights of indigent defendants. **Edwards County** was awarded

follow the law and demonstrated a lack of professional competence in the law when he removed a criminal defendant's court-appointed attorney based solely on the fact that a family member had posted a pretrial bond to obtain the defendant's release from jail. The judge took this action without conducting an indigency hearing and without making any finding on the record that there had been a material change in the defendant's financial circumstances that warranted removal of his court-appointed counsel. [Violation of Canons 2A, 3B(2), 3B(8) of the Texas Code of Judicial Conduct.]"

Around the Nation

The American Bar Association released the final report on the Missouri workload study project, which is available at:

[The Missouri Project: A Study of the Missouri Public Defender System and Attorney Workload Standards with a National Blueprint](#)

and at:

[American Bar Association, Indigent Defense Systems Improvement](#)

The National Association for Public Defense published an article by [Jonathan Rapping](#), President and Founder of [Gideon's Promise](#), on [reviving the image of the public defender as a hero](#).

a new grant of \$22,809 to provide videoconferencing technology to support indigent defense services. The Commission also approved \$4.6 million in continued funding for thirteen multi-year grant programs, including the Regional Public Defender for Capital Cases (RPDO), which serves **155 counties** throughout the state. The RPDO, headquartered in and administered by **Lubbock County**, began in west Texas in 2008 and provides representation to defendants in death penalty cases. Since its inception the program has incrementally expanded to offer services statewide to counties with a population under 300,000 through inter-local agreements with Lubbock County.

Additional continued funding was also awarded for:

- Six specialized programs for indigent defendants with mental illness in **Bell, Coryell, Collin, Montgomery, Kaufman and Wichita Counties**;
- Defense resource for immigration-related issues in **Dallas County**;
- **Lubbock County's** Private Defender (managed assigned counsel) program;
- Three public defender offices in **Burnet County, Hidalgo County** (juvenile) and **Dickens County** (for the **Caprock Region**); and
- The **El Paso** Public Defender Unit for Specialty Court Programs.

Grants and Reporting Update

The [Indigent Defense Expenditure Report Manual](#) published on July 23, 2014 provides instructions for auditors (or for treasurers in counties with no auditor) to submit the **Indigent Defense Expenditure Report (IDER)** required for all Texas counties by Texas Government Code Section 79.036(e). The IDER is based on attorney, case and expenditure data collected by counties for each court and by level of case throughout each year. There are significant changes this year because of the passage of House Bill 1318 of the 83rd Legislature, which amends Texas Government Code Section 79.036 to require all counties to provide the number of cases by attorney.

The IDER captures the amount of money spent by counties for indigent defense, as well as the number of cases that are associated with those dollars, for the period October 1, 2013 through September 30, 2014. Statute requires that all Texas counties report amounts spent on attorney fees, licensed investigators, expert witnesses, and other direct litigation costs. The Commission allows counties to capture and report the administrative costs directly associated with providing indigent defense in the county. Additional information on allowable and unallowable costs is provided in the manual. The manual is written for county fiscal officers and employees responsible for completing the IDER. Other involved stakeholders such as commissioners court members and judges would also benefit by understanding the report requirements and the data that must be collected.

Commission Members

Chair:

The Honorable Sharon Keller
Presiding Judge,
Court of Criminal Appeals

Vice Chair:

The Honorable Olen Underwood

Ex Officio Members:

Honorable Sharon Keller
Honorable Nathan Hecht
Honorable John Whitmire
Honorable Royce West
Honorable Roberto Alonzo
Honorable Abel Herrero

Members Appointed by Governor:

Honorable Olen Underwood
Honorable Sherry Radack
Honorable Jon Burrows
Honorable B. Glen Whitley
Honorable Linda Rodriguez
Mr. Anthony Odiorne
Mr. Don Hase

Mission Statement

The Texas Indigent Defense Commission provides financial and technical support to counties to develop and maintain quality, cost-effective indigent defense systems that meet the needs of local communities and the requirements of the Constitution and state law.

Contact Us:
(512) 936-6994

Follow us on 

This year a new page was added to each court report called a Court Attorney Report Page. Counties may use a template to record attorney cases by court and then submit the template to PPRI instead of manually entering the data. The template will be used to import the data into the database. If the template is used, the file must meet stringent requirements to effectively upload the data.

Data contained in the IDER is used as the basis for policy evaluation and decisions of the Commission. The direct court expenses (attorney fees or public defender costs, investigation expenses, expert witness costs and other direct litigation costs) reported in the IDER are used in the calculation of the Formula Grant in each subsequent year. Accurate data collection and timely submission of the report are essential. Errors in the IDER could result in counties being awarded more funds in the Formula Grant and may result in a reduction in award or return of grant funds. Data submitted by counties is made available to the public in summary and in reported form online at <http://tidc.tamu.edu/public>.

Optional Attorney Practice-time Worksheet

At its June 13th meeting the Commission adopted an optional, non-mandatory worksheet that attorneys *may* use to help them calculate their practice time percentages. This new worksheet is available on the Commission's website [here](#). This worksheet is not required to be completed and is not to be submitted, but it may be useful to assist attorneys in calculating the percentage of total practice time devoted to appointed adult criminal cases and juvenile delinquency/CINS cases in each county. This information is required to be submitted no later than October 15th, 2014 and annually thereafter either through the attorney portal we will be launching at the end of September or, in jurisdictions that permit it, via a paper [Attorney Reporting Form](#) with the same information. Keep in mind the latter option will require each county to report this information on to the Commission. You can see information on implementation of these new county and attorney requirements on this [Summary of HB 1318 Implementation](#) document. Use of the optional attorney worksheet will help attorneys consider the full variety of cases that make up their overall practice and allocate 100% of their time among these activities. It will also be made available with a link from the attorney portal website to provide attorneys immediate assistance when preparing to submit the report. If you have not done so, please consider sharing information on the new reporting requirements with the attorneys on your appointment lists, public defender offices, and managed assigned counsel programs.