



# **Joint Hearing of The Governor's Office of Budget, Planning And Policy & the Legislative Budget Board**

**August 27, 2014**

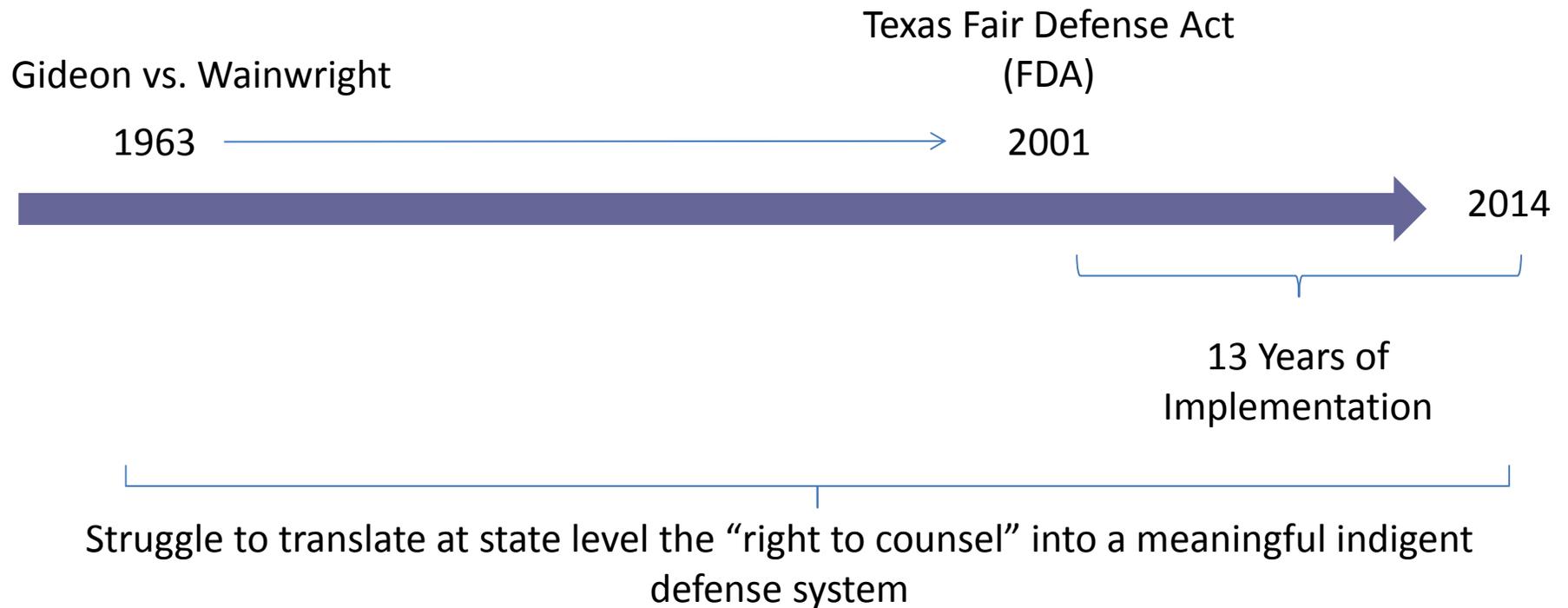
**Legislative Appropriations Request FY 2016 & 2017**

**[www.tidc.texas.gov](http://www.tidc.texas.gov)**

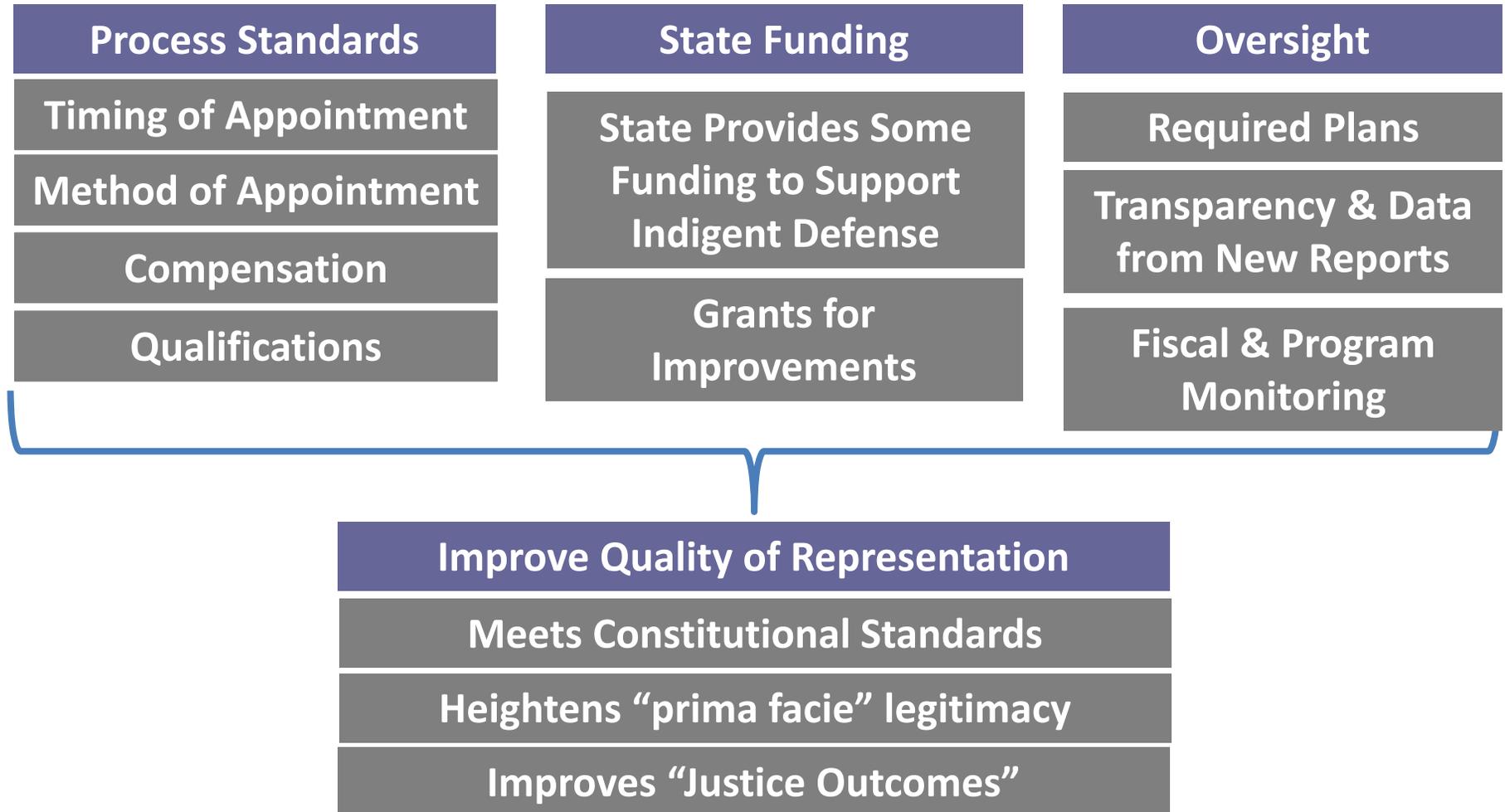
**512-936-6994**

# Long Road to Make Indigent Defense Meaningful

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# Fair Defense Act Put Structure in Place for Improving Indigent Defense in Texas



# Highlights of Accomplishments

## Key Process Standards Implemented

Prompt appointments

“Fair, neutral and non-discriminatory” appointment processes

Prompt payment process and standardized fee schedules

Qualification process

Ten exonerated through TIDC funded Innocence Projects

## New Programs Established

Regional Capital Public Defender Office

Harris County Public Defender Office

12 New Programs Serving the Mentally Ill

New Vet Defender Program and Publication

Office of Capital Writs

First Client-Selection Program to be tested in the Country (Comal Cty.)

Expansion of Public Defender programs

## Oversight in Place

Local plans with agreed method of appointment, fee schedules and qualifications in place

Plan and Expense Reporting to State Routine

Compliance audits routinely conducted

Legislative initiatives developed with Commission direction

# Exceptional Item 1

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**Statewide Regional Public Defender  
Program for Capital Cases (RPDO)**

# Regional Public Defender Office (RPDO)

## Regional Public Defender Office for Capital Cases (RPDO)

*Lubbock County started the RPDO in 2007 with a Discretionary Grant from the Commission. As of 2013 two hundred forty counties have had the opportunity to join this program.*



**RPDO Staff**

### **Mission Statement**

The RPDO shall represent those indigents charged with commission of capital offenses by providing high quality cost-effective legal services in an ethical, professional, and competent manner.

*The RPDO has assembled a highly qualified team of over eleven capital defense attorneys, along with mitigation specialists, investigators and other defense-oriented professionals to secure the legal protection of the clients it is appointed to represent.*



### **Now Serving All Nine Administrative Judicial Regions**

The RPDO was pioneered by the counties and Regional Presiding Judges in the seventh and ninth Administrative Judicial Regions (AJRs). County and court leaders from the other seven AJRs expressed a need for similar services and the Commission provided Lubbock with additional funding to expand. As of FY2012, 142 counties entered into agreements with Lubbock to participate.

# Effective Capital Death Penalty “Insurance” for Counties

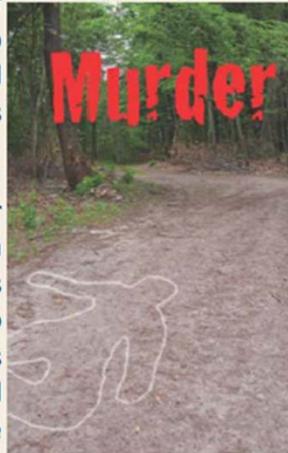
## Recognition

### Lubbock Recognized Nationally

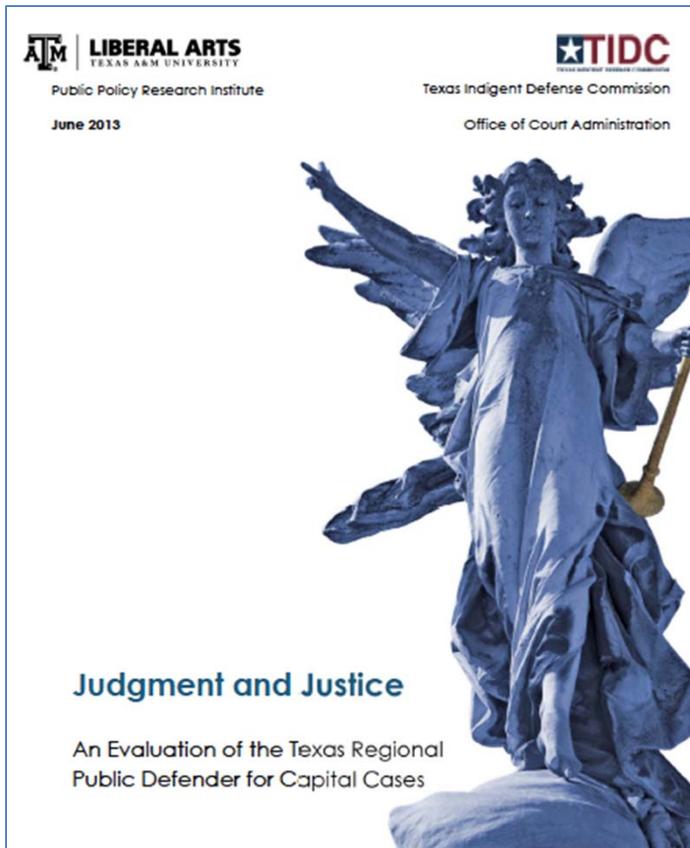
The National Association of Counties (NACO) presented Lubbock County with an Achievement Award for pioneering the Regional Public Defender Office. NACO presents Achievement Awards to recognize unique, innovative county programs. Applications for the awards are judged—in part—by whether they modernize county government and increase services to county residents.

The Texas Association of Counties (TAC) Leadership Foundation also awarded Lubbock its Best Practices award for the RPDO.

The cost of a capital murder case can easily bankrupt a rural county. The RPDO was recognized as a way to mitigate the potential costs associated with capital cases, which led to the following headline in [County](#), TAC’s monthly magazine.



# Office Evaluation Sponsored by Commission



Meet State Bar Capital Defense Guidelines

Independence from Judicial Influence

More Prompt and More Frequent Capital Team Appointment

Better Non-Attorney Defense Team Services

Greater Investment in Mitigation to Increase Plea Rates

Fewer Cases Ending in a Death Sentence

Lower Average Cost-per-Case

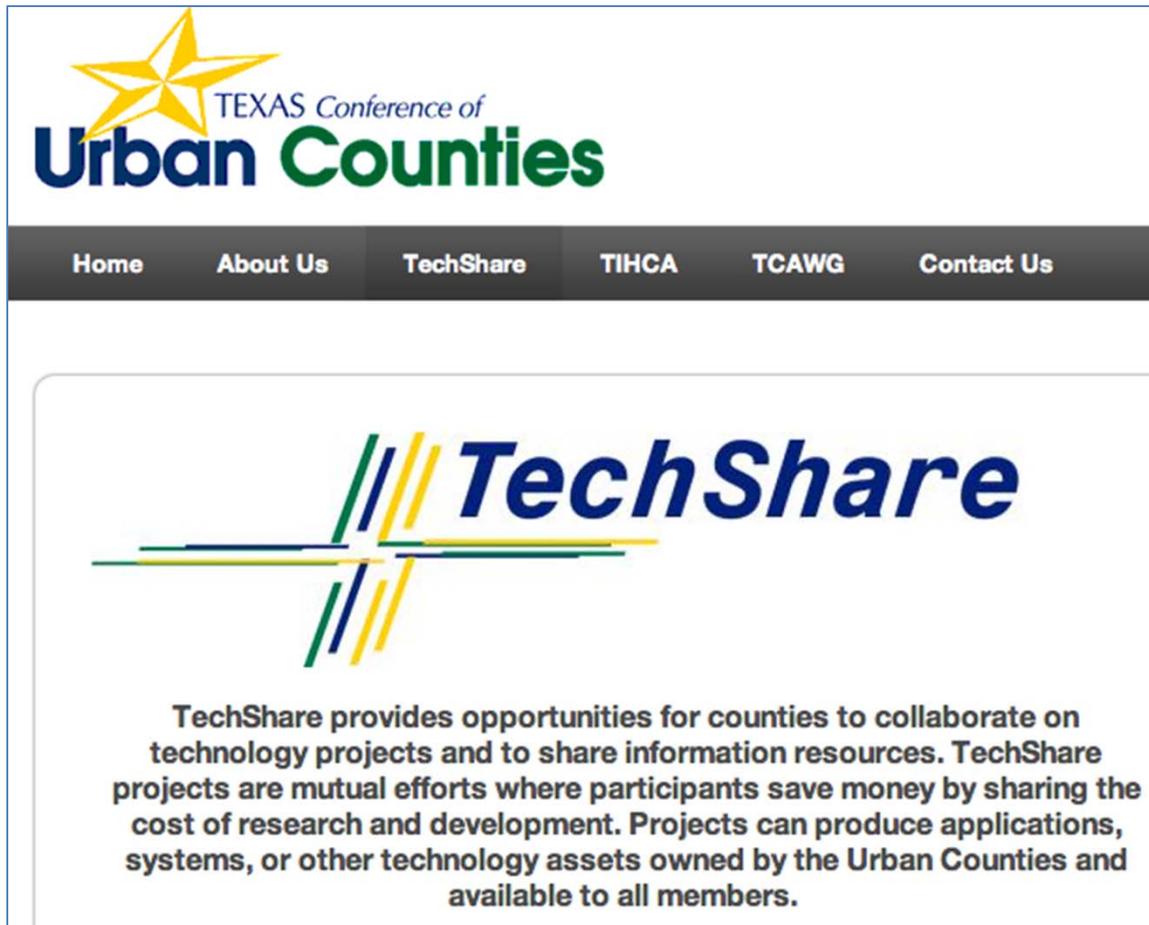
Value for Member Counties

## Exceptional Item 2

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**Support a Multi-County Indigent  
Defense Technology Grant Program**

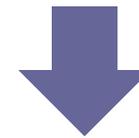
# TechShare in Simple Terms



The screenshot shows the website for the Texas Conference of Urban Counties. At the top left is a yellow star logo with the text "TEXAS Conference of Urban Counties". Below the logo is a navigation menu with links for "Home", "About Us", "TechShare", "TIHCA", "TCAWG", and "Contact Us". The main content area features the "TechShare" logo, which consists of several parallel lines in green, yellow, and blue. Below the logo is a paragraph of text:

TechShare provides opportunities for counties to collaborate on technology projects and to share information resources. TechShare projects are mutual efforts where participants save money by sharing the cost of research and development. Projects can produce applications, systems, or other technology assets owned by the Urban Counties and available to all members.

Computerized Case Management Platforms



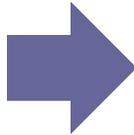
Developed by CUC sharing costs



Available to counties at reduced cost, with maintenance and ability to adapt to local needs

# TechShare and Indigent Defense

TIDC



Funds for Bell County to develop indigent defense tracking system

System's purpose is to generate information to measure accountability with standards and state law

**Bell County Indigent Defense System Evaluation:**  
A Component of the Bell County  
Attorney Training, Mentoring, and Evaluation Program

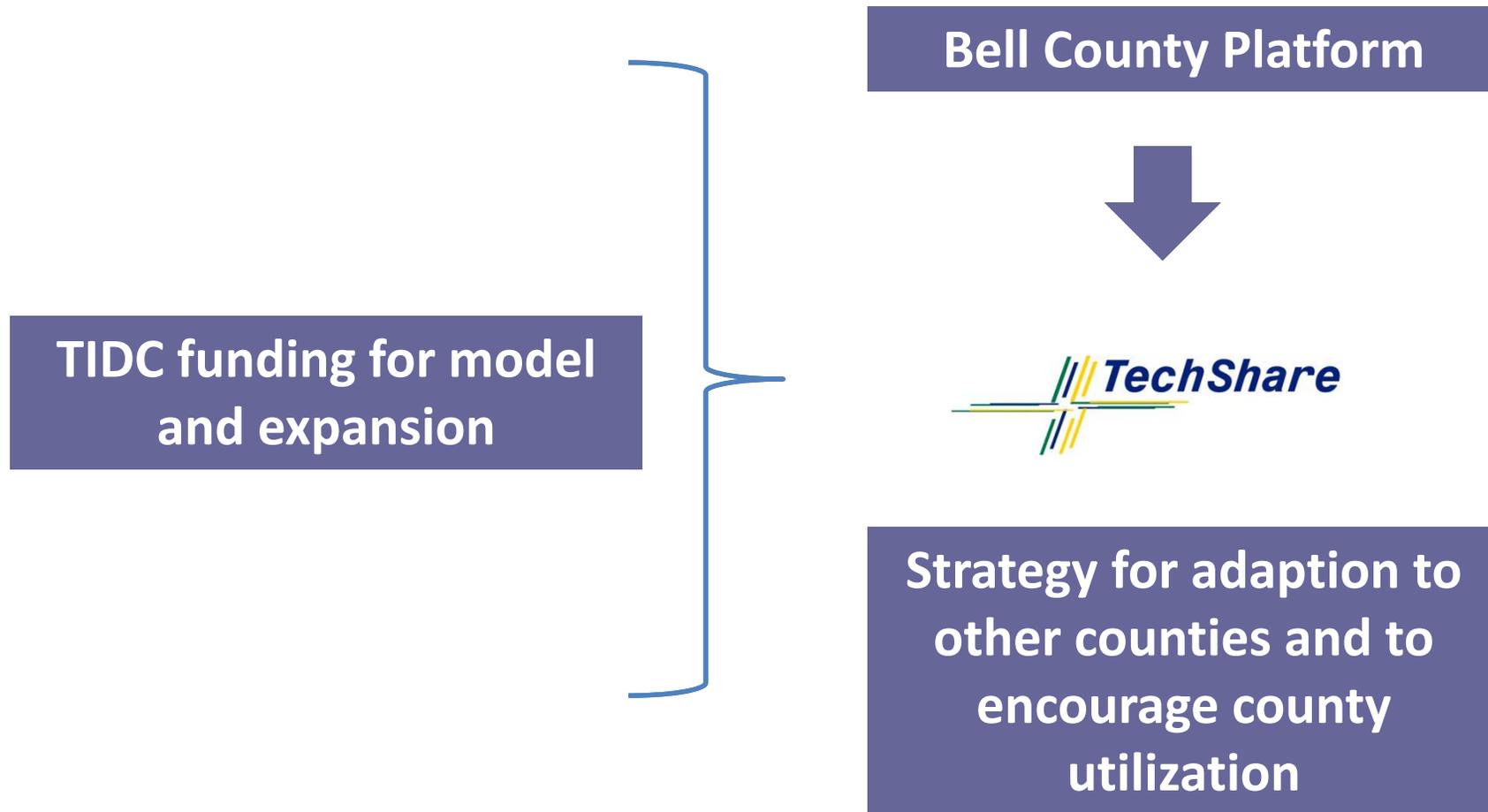
Prepared for Bell County by the  
Managing to Excellence Corporation

November 2013

- Time to Magistration.....
- Time to Appoint.....
- Appointment Rates across Wheels.....
- Quantitative Motion Review.....
- Quantitative Reset Review.....
- Case Outcomes.....
- Time to Disposition.....
- Time to and Types of Bond; Bond Amounts....
- Payment Analysis.....

# Expansion of Model to Other Counties

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# Commission Funded Tarrant County to Be a TechShare “Hub” for Counties in the Region

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**Tarrant County  
“Hub”**



**Counties Participating**

**Tarrant**

**Victoria**

**Uvalde, Medina, Real**

**Brown and Mills**

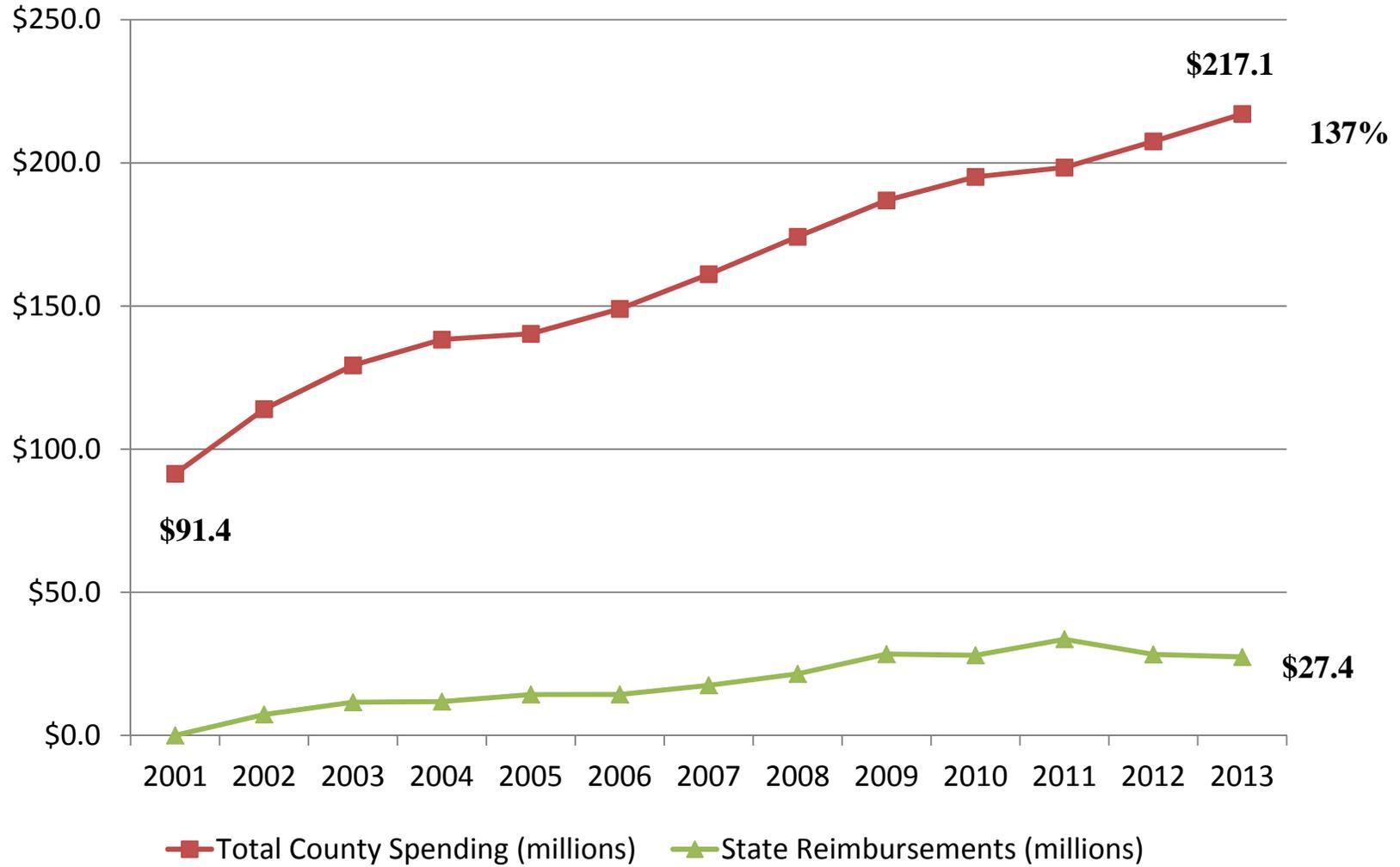
**Bell and Coryell**

## Exceptional Item 3

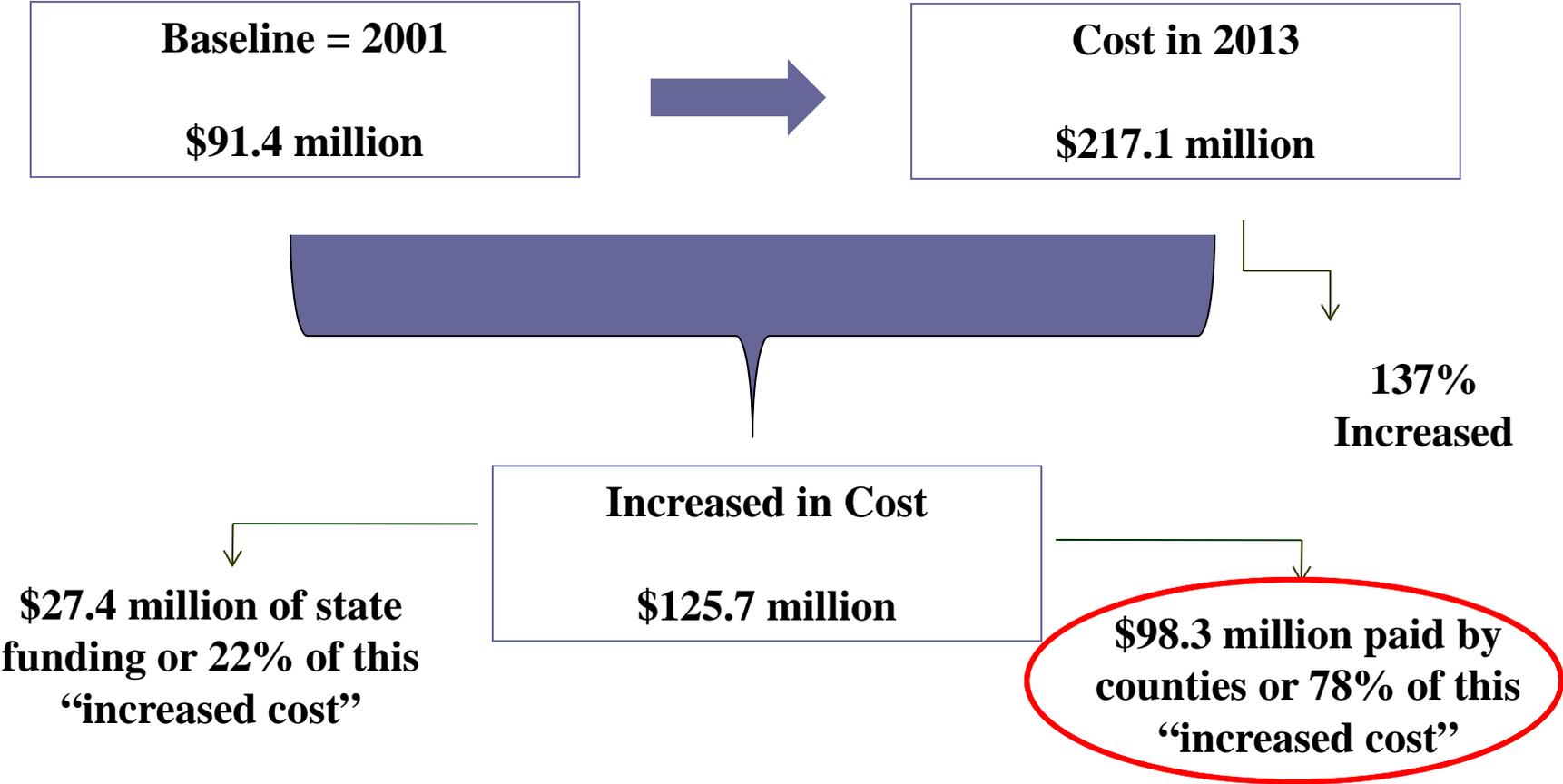
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**Close the Fair Defense Act Funding Gap**

# Trend in Indigent Defense Spending

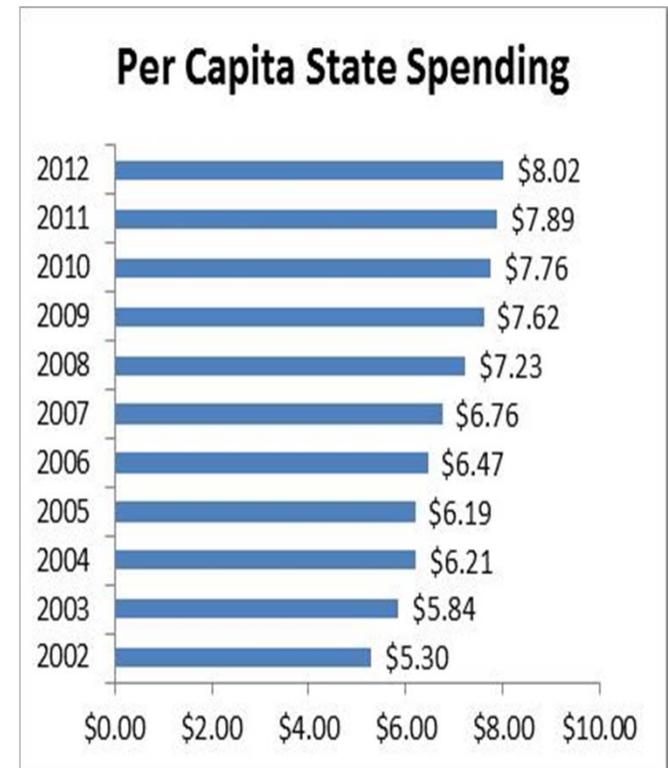


# Methodology to Calculate Gap Used for Last Legislative Session Still Talked about Increased in Costs from 2001



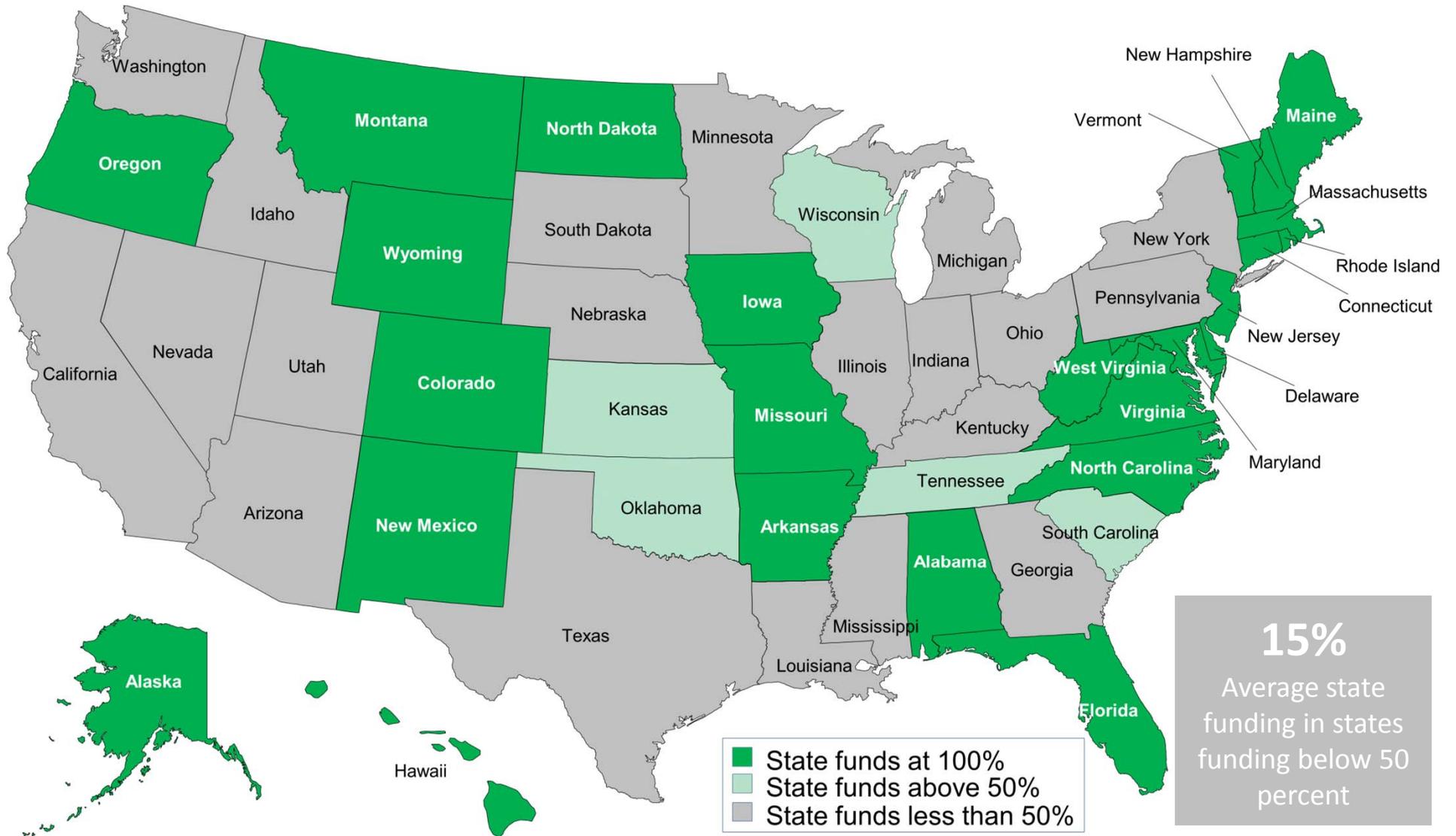
# Texas Indigent Defense

- 48<sup>th</sup> in per-capita spending
- Counties pay over 85%



# State Variation in Funding:

## Representation at High and Low End of Spectrum



# Funding for Indigent Legal Services in New York State, FY 2012-13

Funding stream	Description	2012-13
Local funding, calendar year 2012	New York's 57 upstate counties and New York City contribute most of the funding for indigent legal services in the state.	\$ 338,940,898
Indigent Legal Services Fund statutory distribution (paid end of 2012-13 fiscal year)	Distributed by the Office of State Comptroller as a lump sum payment to localities at the end of the fiscal year pursuant to a statutory formula for the purpose of improving the quality of indigent legal services. (Known as the 'statutory distribution'.)	\$ 54,722,681
Indigent Legal Services Fund (year 2, 2011-14 contracts)	Distributed by the Office of Indigent Legal Services through three-year contracts with counties for the improvement of the quality of indigent legal services. (Known as 'Distribution 2'.)	\$ 8,126,902
Indigent Legal Services Fund (year 1, 2012-15 contracts)	Distributed by the Office of Indigent Legal Services through three-year contracts with counties for the improvement of the quality of indigent legal services. (Known as 'Distribution 3'.)	\$ 7,361,340
Aid to Defense (total contract amounts)	Distributed by the Division of Criminal Justice Services for criminal defense in 25 counties and the New York City Legal Aid Society based on historical crime levels.	\$ 8,099,000
Case cap funding (total contract amounts)	Distributed by the Office of Court Administration to institutional providers of indigent criminal defense located in New York City.	\$ 29,000,000
Corrections law 606 (vouchers paid, 2012 calendar year)	Distributed by the Department of Corrections and Community Supervision for cases involving the defense of individuals accused of committing crimes while incarcerated in state correctional facility. Payments are made following submission of vouchers for representation by lawyers or defense organizations.	\$ 48,558
Defender-based Advocacy (total 2012-13 contract amounts)	Distributed by the Office for Probation and Correctional Alternatives to improve diversion from incarceration for eligible defendants. This program operates under the broader auspices of OPCA's Alternatives to Incarceration program.	\$ 111,318
Indigent Parolee Program (2012-13 contract amounts and voucher payments in calendar year 2012)	Provides partial funding for the defense of indigent persons at parole revocation hearings and their appeals. The program uses contracts with certain counties, and a voucher program for others. The program was defunded in 2011, and the 2012 statistic includes only contract amounts, as no voucher payments were made that year.	\$ 216,000
Judiciary Law 35 (vouchers paid, 2012 calendar year)	Distributed by the Office of Court Administration for cases involving the representation of parents in family cases tried in county supreme courts, and individuals facing civil commitment for sex offenses where Mental Hygiene Legal Services cannot provide that representation (e.g. has a conflict of interest), and other special populations. Payments are made following submission of vouchers for representation by lawyers or defense organizations.	\$ 1,569,873
Federal funds, calendar year 2012	Amount spent in calendar year 2012 as reported by local governments to Office of State Comptroller	\$ 408,757
Private funds, calendar year 2012	Amount spent in calendar year 2012 as reported by local governments to Office of State Comptroller. (This is mostly payments requested from defendants themselves as reimbursement for all or some of the legal services they received, on the grounds the defendant was wealthy enough to make some contribution.)	\$ 123,381
<b>Total</b>		<b>\$ 448,728,708</b>

**Legend:**

Local funding
State funding
Federal funding
Private funding

**OMITTED PROGRAMS**

**Juvenile representation** : state funding for juvenile representation is not included in this chart. Juvenile representation is funded entirely at the state level in New York through the 'attorneys for children' program administered by the Office of Court Administration. The program provides representation through contracted, institutional providers in New York City and individual lawyers assigned and compensated hourly in all other parts of the state. Total spending on the program in FY2012-13 was \$113,858,396.

**Representation of persons with mental disorders** : The State agency acting as the guardian of due process rights for the mentally disabled is known as Mental Hygiene Legal Services. Their remit includes, but is by no means limited to, representation of civilly committed sex offenders. Their FY2012-13 expenditures were \$29,712,933.



Bill McCay  
Lubbock County Commissioner  
Precinct 1  
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Ref: Joint Hearing of The Governor's Office Of Budget, Planning And Policy And The Legislative Budget Board Joint Hearing Regarding –*The Texas Indigent Defense Commission, Legislative Appropriations Request FY 2016 And 2017*

August 27, 2014

Dear Members and staff:

I wanted to take this opportunity to offer my support for the exceptional item proposal for the Regional Public Defender's Office (RPDO) that is included in the Texas Indigent Defense Commission's Legislative Appropriations Request (LAR) for the FY 16-17 biennium. The exceptional item requests \$3.1 million in General Revenue per fiscal year that is an essential investment to ensure the organization's ongoing mission of providing quality legal services for rural counties across the state and is also a critical fiscal component for the program's future sustainability.

The Regional Public Defender's Office (RPDO) will be entering its eighth year of service in FY 15. The organization's partnership with Lubbock County, the Texas Indigent Defense Commission (TIDC) and county officials across the state has successfully enhanced the office's mission of providing effective, efficient, and ethical representation to indigent capital defendants in rural and mid-sized counties. The program has a proven track record of providing numerous tangible benefits for counties, such as increasing budget predictability in counties vulnerable to the expense of a capital death trial and ensuring quality representation in cases that are extremely complex and costly. The quality legal services provided by RPDO combined with the cost-savings provided to counties has transformed the once regional, West Texas based program into a statewide organization that now serves 159 counties across the state.

This upcoming legislative session, the Legislature faces a very important decision regarding the long-term viability and future of the program. Currently, RPDO is funded by a grant from TIDC that is set to expire in 2017. As a result, the \$ 3.1 annual investment from the State will ensure the long-term success of the program and its commitment to excellence for our rural counties. The state's investment would also require a continued, financial commitment from counties that would elect to opt into the program. The exceptional item proposal ensures a fiscal partnership between both state and county governments providing cost-savings for both entities. Based on data form the 7<sup>th</sup> and 9<sup>th</sup> Administrative Judicial Regions, which included Lubbock County, the average annual cost of membership in counties with a

population below 50,000 is \$5,124 per year. A single capital case in our region (at \$73,571 on average) will offset fourteen years of RPDO membership payments, while a capital death trial (at \$280,734 on average) will offset fifty years of payments.

The RPDOs commitment to excellence and cost-savings to counties provides the Legislature an opportunity this session to invest in current, existing resources that would continue ongoing, mission essential legal services to counties across the state. With grant funding soon to expire, the fiscal benefits to counties provided by the program could be jeopardized, placing the fiscal burden of capital cases on rural counties that may not be able to sustain such an expense. I greatly appreciate your consideration of the Regional Public Defender Office's exceptional item request and ask that you please include this statement as part of the hearing record. I look forward to working with you during this legislative session; please do not hesitate to contact me if I could be of further assistance.

Sincerely yours,

A handwritten signature in black ink that reads "Bill McCay". The signature is written in a cursive, flowing style.

Bill McCay  
Lubbock County Commissioner, Precinct 1



Patti Jones  
Lubbock County Commissioner  
Precinct 4  
PO Box 10536  
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REF: JOINT HEARING OF THE GOVERNOR'S OFFICE OF BUDGET, PLANNING AND POLICY AND THE LEGISLATIVE BUDGET BOARD JOINT HEARING REGARDING *—THE TEXAS INDIGENT DEFENSE COMMISSION, LEGISLATIVE APPROPRIATIONS REQUEST FY 2016 AND 2017*

AUGUST 28, 2014

Dear Members and staff:

I am writing to express my strong support for the Texas Indigent Defense Commission's (TIDC) appropriations request to support the Regional public Defender for Capital Cases (RPDO). The program is operated by Lubbock County. It currently serves 159 counties throughout Texas to provide constitutionally required legal defense services that meet standards set by the State Bar of Texas. The program was established through a grant from TIDC. The expansion of the program has been facilitated through subsequent grants from TIDC. These grants are set to expire in 2017.

As you may know, in many parts of the state, particularly in smaller and rural counties, it is a major challenge to find well-qualified capital defense teams when the need arises. This area of the law is very complex and requires knowledge and expertise beyond that of a normal criminal practice. Lubbock County through the RPDO has met this need in the counties it serves.

Another challenge posed by capital cases is the significant impact they can have on a county's budget. While death penalty-eligible crimes are relatively rare, when they do occur—especially in smaller counties—costs associated with providing constitutionally required defense services can be overwhelming. The RPDO provides a mechanism for mitigating the budget impact of these cases. Counties pay dues based on population and historical capital case frequency, and in return are provided with high quality capital defense team services at no additional cost.

This kind of budget protection and predictability is very important to us in Lubbock County, and I know the other participating counties across the state appreciate it as well.

I am proud of Lubbock's role in developing this very successful and award-winning program, and I want to ensure its long-term stability and continued success. The state funding requested will ensure that the program remains stable and accessible for the counties that depend on it, and will ensure that high standards of justice are met in the state's most serious criminal proceedings. I look forward to working with our partners in state government to continue and build on that success. For these reasons, I commend this program to you for your support.

Sincerely yours,

A handwritten signature in cursive script that reads "Patti Jones". The signature is written in black ink and is positioned above the printed name and title.

Patti Jones  
Lubbock County Commissioner, Precinct 4