



Indigent Defense Newsletter 2015 Fall Edition

Important Upcoming Deadlines *(see details in the newsletter)*

Attorney Practice Time Reports - due October 15th
Indigent Defense Expenditure Reports - due November 2nd
Countywide Indigent Defense Plans - due November 2nd
FY 2016 Formula Grant Applications - due November 16th

Upcoming Meetings

Ad Hoc Technology Committee Meeting
Tuesday, November 3, 2015, 10:00 a.m. to 12:00 noon
301 Fannin, 4th floor shared conference room, Houston, TX

Policies and Standards Committee Meeting
Tuesday, November 3, 2015, 1:00 p.m. to 3:00 p.m.
301 Fannin, 4th floor shared conference room, Houston, TX

Thursday, December 3, 2015
(time and location to be determined)

In This Issue

Message from Chair
Message from Director
Attorney Practice Time Reports Due October 15, 2015
2015 Biennial Submission of Indigent Defense Plans Due November 2nd;
New SB 1517 Requirements
Grants and Reporting
Policies and Standards
Staff News
Recent Commission Publications and Trainings
Across the State

Around the Nation Commission Members

Message from Chair

With the beginning of fiscal year 2016, new appointments are being made across state agencies. On behalf of the Commission members and staff, I thank our outgoing Commission member, the **Honorable Roberto Alonzo**, for his friendship, service, and participation over the last six years. Rep. Alonzo was appointed to the Judicial Council by Speaker Joe Straus in November 2009 and thus became the Speaker's appointment to TIDC. Since his first meeting at our March 2010 strategic planning session, Rep. Alonzo has been a steadfast advocate for indigent defense in the House. I am especially thankful for his sponsorship of [SB 662](#), passed by the 84th legislature, which will expedite the post-conviction habeas process for certain classes of defendants. The bill requires the trial court to appoint counsel for applicants for habeas corpus relief when the State agrees to relief on the ground that the applicant is not guilty, guilty of only a lesser offense, or the law under which the person was convicted has been declared unconstitutional.



I welcome the **Honorable Andrew Murr** as our newest member of the Commission. Rep. Murr was appointed to the Judicial Council by Speaker Straus, and in that role he joins TIDC. He is an eighth generation Texan who grew up on a ranch in Kimble County and attended school in Junction. Rep. Murr earned his bachelor's degree in Agricultural Development with an emphasis in economics and policy at Texas A&M University, and he graduated with highest honors from Texas Tech University School of Law. I look forward to our work together to keep improving indigent defense in Texas.

I am also pleased to announce that I have been appointed by **Chief Justice Nathan L. Hecht** to serve on the newly formed Criminal Justice Committee that will study Pretrial Justice Initiatives. The Committee is charged with assessing the impact of pretrial criminal justice statutes and policies in Texas to determine if there are ways in which Texas courts can enhance public safety and social outcomes when making pretrial confinement decisions. Another new commission is being formed to study criminal offenses that are outside the Penal Code and Health and Safety Code and that do not involve operating a motor vehicle. This new commission is tasked with making recommendations regarding laws that are unnecessary, unclear, duplicative, or overly broad.

And finally, electronic filing in criminal cases is coming soon. The Court of Criminal Appeals will adopt rules, effective November 1, that allow counties to implement permissive e-filing in the trial court. I hope that practitioners with criminal cases find the new system easier to use and more convenient than the current paper-based system. In April of next year, the Court will meet with members of the criminal-law community to review the system and decide how to go forward.

These are exciting times in the world of criminal law, and I look forward to our work in 2016.

Sharon Keller

Message from Director

At our August 21st Commission meeting, **Judge Jon Burrows** was named the new chair of our Grants and Reporting Committee. **Commission Chair Judge Sharon Keller** also made new committee appointments and issued charges for fiscal year 2016 to each committee. A new Ad Hoc Committee on Technology Funding was established, with **Judge Keller** as Chair and **Chief Justice Sherry Radack** and **Mr. Don Hase** as members. A list of all committees, members, and charges is available at [here](#).

HB 48 passed by the 84th legislature created the Timothy Cole Exoneration Review Commission (TCERC), effective on June 1, 2015, under the auspices of the Texas Judicial Council and administratively attached to the Office of Court Administration (OCA). The new organization is charged with reviewing proven wrongful convictions where the exoneration occurred since January 1, 2010. It will also identify the main causes of those convictions and make recommendations to prevent such tragedies from reoccurring in the future. A report on statewide exonerations is due in December 2016.

In addition to the publications detailed below, since our last newsletter Commission staff published [Effective Indigence Screening](#), the second edition of a 2007 report issued by the Commission. The report is intended to serve as a resource for courts and counties to utilize in developing and improving the processes used to determine whether defendants are eligible for appointed counsel. The publication examines the current state of indigency screening law in Texas, explaining how the requirements of the Fair Defense Act affect each stage of the screening process and documenting a variety of approaches across the state.

Congratulations to **Judge Lesa Arnold** of Dickens County on receiving the Texas Tech University School of Law Outstanding Service Award at the TTU Alumni Reception at the State Bar Meeting in San Antonio in June. The award is presented to non-alumni individuals and organizations who have a history of hiring Texas Tech Law alumni, serving or mentoring Texas Tech Law students, participating in externship programs for Texas Tech Law students, or contributing monetarily or otherwise to the success of Texas Tech School of Law. Judge Arnold was instrumental in the partnership between Dickens County and TTU School of Law that created the Caprock Regional Public Defender Office (CRPDO) and Regional Externship Program. The CRPDO was established with a grant from the Commission and operates in conjunction with Texas Tech Law's Clinical Program in Lubbock in eleven Northwest Texas counties. A special thanks is owed to **Dean Darby Dickerson** for her ongoing support and leadership of this innovative approach of involving law students and faculty in support of the right to counsel in Texas.



L to R: Donnie Yandell, CRPDO Chief Public Defender, with Judge Lesa Arnold, and me

In other news of interest, the U.S. Dept. of Justice recently filed an amicus brief in a Pennsylvania Right to Counsel Case. The full announcement and brief can be found [here](#). The brief cites, among other cases, *Wilbur* and *Hurrell-Harring*.

In closing, I want to thank **Rep. Roberto Alonzo** for his service to the Commission since 2009 and for his sponsorship and role in the successful passage of [SB 662](#) by the 84th legislature. I also want to welcome **Rep. Andrew Murr** as our newest Commission member and congratulate him on his appointment to the Texas Judicial Council.

Jim Bethke

Attorney Practice Time Reports Due October 15, 2015

(From Attorneys Who Represent Indigent Persons in Adult Criminal and Juvenile Delinquency Cases)

The Commission has launched this year's [attorney reporting portal](#), as shown in the image below. The portal will facilitate compliance with Article 26.04(j)(4), Code of Criminal Procedure, which requires that all attorneys handling indigent criminal and juvenile delinquency cases report the percentage of their practice time devoted to such cases for the previous 12 month period (October 1, 2014 through September 30, 2015) in each county. If your county is one in which the judges, through their indigent defense plans, have directed attorneys to report through this portal, we encourage you to let them know that the system is now open and available to complete the report. You can easily click on the "Forward this email" link that is found at the very bottom of this newsletter, or you may want to simply copy this entire section and paste it into an email to the attorneys on your appointment list. The portal website also includes detailed information about how to complete the report, an optional worksheet to assist the attorneys in calculating their practice time percentages, and a link to a brief YouTube presentation that outlines the attorney reporting process, the county reporting of case figures by attorney, and the weighted caseload study the Commission was directed by the legislature to complete. County and court officials can see the reports provided by attorneys in their jurisdictions by logging into the Commission's data and plan [website](#).

**Texas Indigent Defense Commission
Attorney Reporting Form
Fiscal Year 2015**

Under Article 26.04(j)(4), Code of Criminal Procedure, attorneys are required to report the percentage of their practice time devoted to appointed criminal and juvenile offender cases under Article 26.04, Code of Criminal Procedure, and Title 3, Family Code, in each county.

The statement submitted to each county must describe (1) the percentage of an attorney's total practice time (time spent in legal practice in all jurisdictions) that was dedicated to work on trial and appeal appointments in adult criminal cases in that county's district and county courts during the fiscal year beginning on the preceding October 1; and (2) the percentage of an attorney's total practice time that was dedicated to work on trial and appeal appointments in juvenile delinquency cases (cases alleging delinquent conduct or conduct indicating a need for supervision) in that county's district and county courts during the fiscal year beginning on the preceding October 1.

The percentages reported in the practice-time statement submitted to each county should not include time dedicated to work on appointments to cases (such as CPS cases and guardianship cases) that are not adult criminal or juvenile delinquency cases, and should not include time dedicated to federal criminal appointments.

There is also an optional Attorney Practice Time [Worksheet](#) available to assist you in calculating these percentage figures. It provides a tool to help you consider all of the types of cases you handle when calculating the percentage of time spent on criminal and juvenile appointed work.

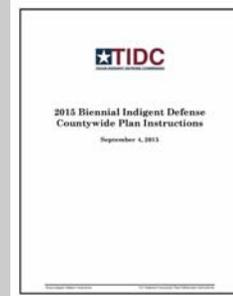
[Additional Information](#), including a 15 minute training video, on the reporting requirements is also available.

Please begin by entering your Texas State Bar Card Number:

If your county requires attorneys to report to the county directly (using a paper form instead of the online reporting portal), then now would be a great time to share the reporting form with your attorneys, as well as information about to whom they should submit the report. The form can be found on the Commission's website [here](#). Although you may still use the paper form, we strongly encourage you to require the attorneys use the portal since it will prevent your staff from having to compile the paper forms and then report the information to the Commission.

**2015 Biennial Submission of Indigent Defense Plans Due November 2nd;
New SB 1517 Requirements**

In November of each odd-numbered year, every Texas county is mandated by the Legislature to submit to the Commission (1) a copy of its countywide indigent defense plan(s) and procedures and any revisions to the plans or forms previously submitted; or (2) a verification that the plans and forms previously submitted still remain in effect. The Commission has issued the [2015 Biennial Indigent Defense Countywide Plan Instructions](#) for plans that are due from counties on or before November 2, 2015.



[SB 1517](#) passed by the 84th Legislature clarifies the procedures for appointment of counsel for a person arrested on an out-of-county warrant. Every county's adult indigent defense plan(s) will need to be amended to include provisions for transferring requests for counsel to the originating county and for ruling on such requests. A [description of the process and flowchart](#) are now available online and will be included in the mailed packets. In addition, plans must also now provide a method for a defendant who does not initially request counsel to do so later on. A new [administrative rule](#) requires each plan to include the process for such a defendant to request counsel and obtain a ruling on the request. The Commission has issued sample language in the plan submission instructions to help counties update their plans.

Grants and Reporting

Indigent Defense Expenditure Report Due November 2nd

This year's Indigent Defense Expenditure Report (IDER) is due on November 2nd, 2015 and covers the period **October 1, 2014 through September 30, 2015**. An updated [manual](#) provides detailed instructions on identifying and reporting eligible expenditures, case counts, and attorney information. The county auditor (or treasurer for counties that do not have an auditor) is responsible for preparing and filing the IDER. This report includes all eligible indigent defense expenditures including attorney fees, licensed investigators, expert witnesses, and other direct litigation costs, as well as case counts and attorney information for each court. The information is reported for each court presiding over criminal or juvenile matters and is sorted by level of case, type of expenditure, and attorney. While last year's report added new requirements based on legislation passed in 2013, **no new reporting requirements have been added this year**.

The expenses reported in the IDER are used in the calculation of the Formula Grant in each subsequent year. The data is also used as the basis for policy evaluation and decisions of the Commission and is [made available to the public](#). Accurate data collection and timely submission of the report are essential to ensure that limited indigent defense resources are used effectively.

FY 2016 Formula Grant Applications Now Open

The [Request for Applications for the FY 2016 Formula Grant Program](#) has been issued and all counties should [submit applications online](#) by November 16, 2015. Formula Grant award amounts are determined based upon a county's percentage of state population and percentage of state indigent defense expenditures, multiplied by the Commission's budgeted amount for formula grants. Counties must meet minimum spending requirements and maintain countywide indigent defense plans that comply with statutes and standards to qualify for Formula Grant funds.

The application requires a Commissioners Court resolution to be scanned and e-mailed or uploaded on the application page of the website. The resolution is generated by the on-line system and must be printed from the on-line application page. Details about eligibility requirements and application instructions are in the [Request for Applications](#) (RFA). Counties should submit applications even if updates to their indigent defense plans are pending. Formula Grant payments

will be made to eligible counties upon completing all indigent plan requirements and other grant requirements.

Willacy County Grant Award

On August 21, 2015 the Commission awarded a two-year grant for \$313,308 to provide funding for the Willacy County Public Defender Office (WPDO). Willacy County is currently facing a financial crisis due to the termination of a large Federal Bureau of Prisons contract with the Willacy County Correctional Facility. The funds awarded will permit the county to continue operating the program for the next two years and will cover half the cost of operating the program. The WPDO was created in 2007 with grant funds from TIDC and has been instrumental in maintaining Willacy County's compliance with the Fair Defense Act. The WPDO is operated by Texas RioGrande Legal Aid (TRLA) under a contract with Willacy County. The funds will be used to join the existing regional public defender program currently administered by Bee County, which also contracts with TRLA, to serve as public defender in three counties: Bee, Live Oak, and McMullen. The Commission's award was made possible by the Legislature's appropriation of new General Revenue funding for indigent defense, as well as new authority provided to TIDC by the passage of [SB 1057](#), which addresses sustainability grants to support regional public defender programs.

Policies and Standards

At its August 21st meeting the Commission approved the final adoption of [policy monitoring rules](#) as published in the *Texas Register*, as well as publication of commentary to the rule regarding distribution of attorney appointments.

Staff News

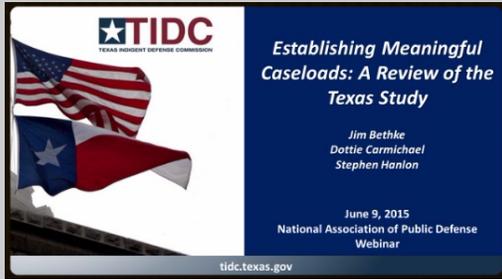
Brandon Bellows has joined TIDC as a Policy Analyst. He is responsible for assisting jurisdictions in meeting the requirements of the Fair Defense Act through review of county systems and procedures and collaboration with officials to promote local compliance. Brandon earned his J.D. from the SMU Dedman School of Law and holds a B.A. in Political Science from Baylor University. Brandon's academic career focused on public law, government, and history, and in 2011 he spent a summer abroad at Oxford University studying global legal systems. As a law student he interned with the Tarrant County District Attorney's Office and the United States Attorney's Office and, as a research assistant, helped in the drafting of war crimes summaries for an international publication. Prior to joining TIDC, Brandon practiced health care law and worked as a legal researcher for a student loan guarantor.



Recent Commission Publications and Trainings

[TIDC Awards Grant to Fund Public Defender Program in Willacy County](#)

[Willacy County Benefits from Innovative Partnerships](#)



National Association for Public Defense webinar



Texas Association of Counties Legislative Conference

Across the State

CAPDS Mentorship Program

Read more in the September issue of *CourTex*:

[For the Defense: A New Mentorship Program](#)

Fannin County reimbursed for Capital Murder Trial

Read more:

<http://www.kxii.com/home/headlines/Fannin-County-reimbursed-for-capital-murder-trial-327809221.html>

Galveston County Court-Appointed Attorney Costs in Line with State

[Click here to read more](#)

Hidalgo County first in Texas to e-file criminal cases

Read more:

<http://www.edinburgpolitics.com/2015/09/04/two-years-in-the-making-hidalgo-county-first-in-texas-to-allow-e-filing-of-criminal-cases-under-law-passed-by-rep-canales-and-sen-hinojosa/>

Around the Nation

By Geoff Burkhart, Guest Contributor

Geoff Burkhart is an Attorney and Project Director with the American Bar Association. He frequently writes on criminal law issues.



American Bar Association Summit on Public Defense

I can't say whether we'd agree on music, sports, or politics. But I'd venture a guess that we agree on one thing: our criminal justice system is failing. Too little attention is paid procedural safeguards, too many innocent Americans are found guilty, and too many citizens are housed in our jails and prisons.

But in failure lies a chance to begin again, to thoughtfully create a criminal justice system that's humanizing, effective, and efficient. We're witnessing a rare moment - [the Koch Brothers and ACLU](#)

are jointly fighting overcriminalization, while [Republicans and Democrats are pressing for better misdemeanor representation](#). Still, we don't know this movement's stamina or its effect upon public defense.



The ABA hopes to address these questions at its [11th Annual Summit on Public Defense](#). The Summit is the premier daylong conference on public defense provision, structure, and innovation and is hosted by the Standing Committee on Legal Aid and Indigent Defendants (SCLAID) -the ABA's oldest standing committee. This year's Summit will be held on Saturday February 6, 2016 at Thomas Jefferson School of Law in San Diego, California.

Over 100 public defense leaders attend the Summit each year. The audience comprises scholars, researchers, and chief defenders from across the nation. Past speakers include Attorney General Eric Holder, Innocence Project Cofounder Barry Scheck, and Detroit Mayor Dennis Archer.

This year, the Summit promises to explore an important, yet off-neglected subject: *Misdemeanors*. While misdemeanors result in shorter sentences than felonies, the stakes are nevertheless quite high. More Americans are affected by misdemeanors, as they account for 70 to 80% of criminal cases. Additionally, the consequences of misdemeanor conviction - jail time, probation, fines and fees, denial of employment, denial of professional licenses, student loan ineligibility, loss of housing or food stamps, and deportation - are substantial.

This year's panels will include the following:

- *Why Misdemeanors Matter*
- *Seizing the Bipartisan Moment*
- *The Economics of Public Defense*
- *Ethical Blindness*
- *Participatory Defense & A Client Bill of Rights*
- *Bail Reform*

Past Summits have led to new projects, programs, and partnerships in the public defense community. Fueled by this rare moment in criminal justice reform, the 11th Annual Summit promises even greater advances.

Speakers will be announced shortly. Visit www.indigentdefense.org for more information. The ABA is also pleased to offer opportunities to support the 11th Annual Summit on Public Defense. Please contact Tori Wible or Geoff Burkhart:

Tori Wible	Tori.Wible@americanbar.org	(312) 988-5753
Geoff Burkhart	Geoffrey.Burkhart@americanbar.org	(312) 988-5102

Commission Members

Ex Officio Members:

Honorable Sharon Keller, Chair
Honorable Nathan Hecht

Members Appointed by Governor:

Honorable Olen Underwood, Vice-Chair
Honorable Sherry Radack

Honorable John Whitmire
Honorable Royce West
Honorable Roberto Alonzo
Honorable Abel Herrero

Honorable Jon Burrows
Honorable Linda Rodriguez
Anthony Odiorne
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.

STAY CONNECTED

Follow us on 

[Forward this email](#)



This email was sent to mkubinski@tidc.texas.gov by mkubinski@tidc.texas.gov | [Update Profile/Email Address](#) | Rapid removal with [SafeUnsubscribe™](#) | [About our service provider.](#)



Try it FREE today.

Texas Indigent Defense Commission | 209 W. 14th Street, Suite 202 | Austin | TX | 78701