



**TEXAS INDIGENT DEFENSE COMMISSION  
MEETING NOTEBOOK  
MARCH 12, 2020**

**FULL BOARD – 10:30 A.M.**

Tom C. Clark Building, 1<sup>st</sup> Floor Conf. Room  
205 W. 14<sup>th</sup> Street, Austin, TX 78701





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**TEXAS INDIGENT DEFENSE COMMISSION**  
**209 WEST 14TH STREET, ROOM 202 • PRICE DANIEL BUILDING • (512) 936-6994**  
**Austin, Texas 78701**

**DATE: Thursday, March 12, 2020—10:30 a.m.**  
**Tom C. Clark Building, 1<sup>st</sup> Floor Conference Room**  
**205 West 14<sup>th</sup> St, Austin, TX 78701**

**AGENDA**

**The Commission may discuss or act on any of the following items:**

1. Commencement – *Presiding Judge Sharon Keller*
2. Attendance
3. Approval of December 13, 2019 Minutes
4. Chair’s Report – *Presiding Judge Sharon Keller*
5. Director’s Report – *Mr. Geoffrey Burkhardt*
6. Improvement Team Report
7. Policies and Standards – *Mr. Alex Bunin*
  - a. Report on 2019 indigent defense plan submission status
  - b. Consider adoption of proposed amendments to policy monitoring rules in Texas Administrative Code Title 1, Part 8, Chapter 174, Subchapter C
  - c. Policy monitoring report
  - d. Complaints
8. Grants and Reporting – *Presiding Judge Missy Medary*
  - a. Report on Fair Defense Account (Fund 5073)
  - b. Report on FY20 budget
  - c. Formula Grants
    - i. Report on special conditions
    - ii. Report on non-qualifying counties
  - d. Update on current improvement grants
    - i. Consider grant modification requests
  - e. Consider technical support grant requests
  - f. Consider extraordinary disbursement grant requests
9. Fiscal Monitoring Report
10. Next meeting
11. New business
12. Public comment
13. Adjournment

**TEXAS INDIGENT DEFENSE COMMISSION**

Roll Call  
COMMISSION MEMBERS

	<b>MEMBER</b>	<b>PRESENT / ABSENT</b>
1	THE HONORABLE SHARON KELLER	
2	MR. ALEX BUNIN	
3	THE HONORABLE VALERIE COVEY	
4	THE HONORABLE BRANDON CREIGHTON	
5	THE HONORABLE RICHARD EVANS	
6	MR. GONZALO RIOS	
7	THE HONORABLE NATHAN HECHT	
8	THE HONORABLE MISSY MEDARY	
9	THE HONORABLE NICOLE COLLIER	
10	THE HONORABLE REGGIE SMITH	
11	THE HONORABLE SHERRY RADACK	
12	THE HONORABLE VIVIAN TORRES	
13	THE HONORABLE JOHN WHITMIRE	

Texas Indigent Defense Commission  
Minutes of meeting

Friday, December 13<sup>th</sup>, 2019 —1:30 p.m.  
Tom C. Clark Building, 1<sup>st</sup> Floor Conference Room  
205 West 14<sup>th</sup> St, Austin, TX 78701

Judge Keller called the meeting to order at 1:35 p.m. Roll was called. Members present: Judge Sharon Keller, Mr. Alex Bunin, Judge Richard Evans, Mr. Gonzalo Rios, Commissioner Valerie Covey, Judge Missy Medary, Representative Nicole Collier, Representative Andrew Murr and Judge Vivian Torres. Chief Justice Radack joined at 2:00 p.m. TIDC staff present: Mr. Geoff Burkhart, Ms. Megan Bradburry, Mr. Scott Ehlers, Ms. Debra Stewart, Ms. Claire Buetow, Ms. Kathleen Casey, Mr. Edwin Colfax, Mr. Joel Lieurance, Mr. Wesley Shackelford, Ms. Doriana Torres and Ms. Sharon Whitfield.

Judge Evans moved to approve the minutes as corrected from August 29<sup>th</sup>, 2019 commission meeting. Mr. Bunin seconded.

Judge Keller began her opening remarks with the recognition of Mr. Burkhart completing the Governor's Executive Development Program (GEDP).

Mr. Burkhart presented on TIDC staff activities. including cohosting the National Association for Public Defense's Executive Leadership Institute. He also talked about the interim charge related to indigent defense to the House Committee on Criminal Jurisprudence, the Sixth Amendment Center's report on Armstrong and Potter Counties, and the Byrne-JAG grant awarded to support public defense for the first time in Texas.

*Grants & Reporting*

Mr. Colfax reported on the FY19 Indigent Defense Expense Report Preliminary Results. As of December 6<sup>th</sup>, 2019, 253 Counties submitted a report, and 180 Counties have been certified complete after a desk review by staff. Preliminary reports show that, in FY19 total indigent defense spending was \$300.1 million, compared to an FY18 total of \$273.3 million, this indicates an increase in costs of \$26.8 million.

Mr. Lieurance reported on expenditure distribution and the breakdown of direct court-related expenses. Eighteen counties reported public defender office expenses, 3 counties reported Managed Assigned Counsel Service Expenses, and 28 Counties claimed increased administrative costs. Judge Keller asked TIDC staff to investigate the reasons for the increase, as Mr. Lieurance discussed the increase in statewide indigent defense spending and in the six counties experiencing the largest increases in spending.

*Budget*

Ms. Whitfield reported on Fair Defense Account's Fund 5073 and the FY19 and FY20 budgets. Judge Keller, Representative Collier, Judge Radack, and Judge Medary discussed the comparison of revenue flow from FY18-FY20.

Mr. Colfax reported on the FY20 Formula Grant Awards. Judge Radack moved to award \$25 million in FY20 Formula Grants with standard and special conditions according to the policy published in the FY20 Formula Grant RFA. Representative Murr seconded; motion passed unanimously.

Mr. Colfax reported on the FY20 Supplemental Capital Defense Formula Grant Policy. Commissioner Covey moved to award \$1 million in FY20 Supplemental Capital Defense Formula Grants according to the policy. Mr. Rios seconded; motion passed unanimously.

Mr. Colfax reported on the FY21 Improvement Grant Request for Applications. Judge Torres moved to adopt and publish the revised FY21 Improvement Grant Request for Applications (RFA). Judge Radack seconded; motion passed unanimously.

Mr. Colfax reported on Mental Health Public Defender Improvement Grant Requests. In order to deploy these restricted funds before they lapse, staff recommends full funding of the program costs for FY20-21. Judge Radack moved to award Dallas County an FY20-21 Mental Health Public Defender Improvement Grant of \$587,784 to expand the Dallas County Public Defender's Office Mental Health Division. Judge Medary seconded. Judge Evans opposed. Representative Murr abstained; motion passed.

Mr. Colfax reported on the 2020 Harris County Improvement Grant Application. Mr. Rios moved to award Harris County an FY20-21 Mental Health Public Defender Improvement Grant of \$1,166,863 to expand the Harris County Public Defender's Office Mental Health Division. Judge Medary seconded. Judge Evans opposed. Judge Radack, Representative Murr, and Mr. Bunin abstained; motion passed.

Mr. Colfax reported on the 2020 Bexar County Improvement Grant Application Narrative. Judge Radack moved to award Bexar County a FY20-21 Mental Health Public Defender Improvement Grant of \$699,821 to expand the Bexar County Public Defender's Office Mental Health Division. Mr. Bunin seconded. Judge Evans opposed. Representative Murr abstained; motion passed.

Mr. Colfax reported on the 2020 Culberson County Improvement Grant Application. Mr. Rios moved to award Culberson County an FY20-21 Mental Health Public Defender Improvement Grant of \$139,623 for a mental health social worker for the Far West Texas Regional Public Defender's Office. Judge Torres seconded. Judge Evans opposed. Representative Murr abstained; motion passed.

Mr. Colfax reported on the 2020 Lavaca County Improvement Grant Application. Mr. Bunin moved to award Lavaca County an FY20-21 Mental Health Public Defender Improvement Grant of \$135,767 for a mental health social worker for the Lavaca County Regional Public Defender's Office. Judge Torres seconded. Judge Evans opposed. Representative Murr abstained; motion passed.

Mr. Colfax reported on Grant Budget Adjustment Request from El Paso County. Judge Radack moved to increase the FY20 Improvement Grant award to El Paso County by \$32,501 to \$459,229. Representative Murr seconded; motion passed unanimously.

Mr. Colfax reported on Grant Budget Adjustment Request from Hays County. Judge Radack moved to increase the FY20 Improvement Grant award to Hays County by \$6,105 to \$67,446. Mr. Bunin seconded; motion passed unanimously.

Mr. Colfax reported on a Budget Adjustment Request from Culberson County. Mr. James McDermott testified on behalf of County request. Judge Evans and Commissioner Covey discussed caseloads and time limit of grant. Commissioner Covey moved to increase the FY20 Improvement Grant award to Culberson County by \$92,827 to \$501,627 contingent on the commissioner's courts

from the participating counties approving the increased budget. Judge Evans seconded; motion passed unanimously.

Mr. Colfax reported on Technical Support Grant Request for Hays County. Judge Radack moved to award a FY20 Technical Support grant of \$136,500 to Hays County for defense counsel at Article 15.17 hearings. Mr. Rios seconded; motion passed unanimously.

Mr. Colfax reported on Technical Support Grant Request for Bee County. Judge Radack moved to award a FY20 Technical Support grant of \$30,820 to Bee County for a rural regional public defender program evaluation. Mr. Bunin seconded; motion passed unanimously.

#### *Fiscal Monitoring*

Ms. Stewart reported on the Fiscal Monitoring Program. Since the August 2019 meeting, the fiscal monitor has conducted one on-site fiscal review and began two limited scope desk reviews. Three final reports, a follow-up report, and four initial reports have been issued. Comprehensive Annual Financial Reports (CAFR)'s and single audit reports for one county were reviewed.

Ms. Stewart reported on the summary of fiscal monitoring. Judge Radack moved to reduce future formula grant payment to Fort Bend County by \$3,042. Mr. Bunin seconded; motion passed unanimously.

Judge Radack moved to reduce future formula grant payment to Goliad County by \$878. Mr. Bunin seconded; motion passed unanimously.

#### *Policies and Standards*

Mr. Shackelford discussed the TIDC Indigent Defense Plan Submission Process. As of December 6<sup>th</sup>, 198 Counties had fully completed the approval process, and 56 Counties had not fully completed the approval process.

Mr. Lieurance reported on attorney caseload and practice time reports. As of November 22, 2019, a total of 5,635 attorneys were reported to have received payment for indigent defense services during FY2019. Seven attorneys had caseloads greater than 5 times recommended by Weighted Caseload Guidelines (WCG). Forty-five attorneys had caseloads greater than 3 times recommended by WCG. Representative Collier discussed the purpose of the attorney reporting requirements and enforcement of it. Judge Torres, Judge Evans, and Judge Keller discussed setting a goal for the requirement.

Mr. Shackelford reported on Policy Monitoring Rules Review and Proposed Amendments. There was a Policies and Standards Committee motion to publish the proposed policy monitoring rule amendments in the Texas Register; motion passed unanimously.

Mr. Burkhart and Ms. Buetow report on the review of the policy monitoring process.

#### *Improvement Team*

Mr. Ehlers reported on the new TIDC Improvement Team plan, goals, and activities for the upcoming year.

No new business was discussed.

The next meeting will take place on March 12<sup>th</sup>, 2020.

Meeting adjourned at 3:45 p.m.



## Chair's Report

### People

#### Commission Members

TIDC bids farewell to **Representative Andrew Murr**. Representative Murr has been one of TIDC's biggest champions. We will miss him dearly and are glad that he will always be a phone call away.



We are fortunate to have **Representative Reggie Smith** filling Representative Murr's shoes. Mr. Smith was elected as the state representative for House District 62 in 2018. He represents Delta, Fannin, and Grayson Counties. He serves on the House Committee on Judiciary & Civil Jurisprudence and the House Appropriations Committee.

In 1991, Smith received his B.S. in Political Science from Austin College in Sherman, Texas and was a member of the Pi Gamma Mu Honor Society. In 1994 he earned his

law degree from South Texas College of Law in Houston and was admitted to the State Bar of Texas. Upon graduation, he returned home to practice law. Smith is licensed to practice in Texas, and admitted to practice in federal court including the United States District Court of the Eastern District of Texas and the United States Court of Appeals for the Fifth Circuit.

Smith is the founder and owner of Reginald B. Smith, Jr. PLLC, a general practice law firm. Prior to his election, he served as a two-term chairman of the Grayson County Republican Party and the Northern Regional Director of the Texas Republican County Chairman's Association.

Smith has been active in various local charitable and service organizations. He has previously served on the board of directors of Big Brother Big Sisters, Friends of Scouting with the Texoma Valley Boy Scouts and The Rehab Center. He has coached little league teams and devoted much of his off time with his wife Stephany to raising their three children.

Smith and his family reside in Van Alstyne, Texas and are active members of the First Baptist Church of Van Alstyne.





## Director's Report

This is a summary of TIDC's activities from December 2019 through February 2020. For additional information, please contact Executive Director Geoff Burkhart: [gburkhart@tidc.texas.gov](mailto:gburkhart@tidc.texas.gov) or (512) 936-6994.

### People

#### Staff

TIDC's newest Policy Analyst, **Lindsay Bellinger**, started in February. Prior to joining TIDC, Lindsay served as an attorney at the Harris County Public Defender's Office, the Federal Public Defender for the Southern District of Texas, the Capital Area Private Defender Service, and the Colorado State Public Defender. Lindsay earned her bachelor's degree from the University of Texas and her law degree from the University of Houston Law Center.



#### Spring Extern

TIDC's newest extern, **Hailey Hanners**, began in January. Hailey is a 3L at Texas Tech Law. She earned her bachelor's degree from the University of Texas at Austin.

## Interim Charges

The Speaker of the House announced interim charges for the 86th Legislature, including a joint charge for House Criminal Jurisprudence and House County Affairs regarding indigent defense. The indigent defense charge reads as follows:

Review the overall state of indigent defense and delivery of services to indigent defendants in Texas under the Fair Defense Act and other applicable laws. Examine the procedures for the appointment of counsel, including public defender options for rural communities, the monitoring of workloads and performance of attorneys, and the funding of those services. Examine counsel options for indigent defendants during magistrate proceedings and the administration and funding of county indigent defense systems. (Joint charge with the House Committee on County Affairs and House Criminal Jurisprudence)

Similarly, the Lieutenant Governor has announced interim charges for the 86<sup>th</sup> Legislature, including a charge for the Senate Criminal Justice Committee regarding indigent defense:

Fair Defense: Study the state of public defense as Texas approaches the 20th Anniversary of the Fair Defense Act. Examine public defense funding, systems, and standards. Determine where Texas is meeting its duty to provide counsel under the Texas and United States Constitutions, and where new strategies and innovations are needed to safeguard liberty for all Texans.

TIDC staff are speaking with legislators and their staff regarding these interim charges and will provide updates to the Board.

## Staff Activities

TIDC staff participated in dozens of activities in December, January, and February. Here are a few activities of note:

TIDC staff held the [Texas Indigent Defense Workshop](#) on January 16 and 17 in Austin. Every two years, TIDC brings together county stakeholders to hear from top minds in Texas indigent defense. With 105 attendees, this year's Workshop was sold out. Speakers addressed:

- What happened last legislative session

- What's happening with bail litigation
- How Texas counties are improving indigent defense
- How counties can apply for TIDC grant funding
- How TIDC can work with counties to improve indigent defense

Small group sessions allowed attendees to workshop ideas for improving indigent defense in their counties. The event was a great success.



Thank you to the Texas Association of Counties (TAC) for donating the space, and thank you to Defender Data for sponsoring meals and refreshments.

**Claire Buetow** and **Kathleen Casey-Gamez** traveled to Lubbock in early January to attend the [Prairie Dog Advanced Criminal Law CLE](#) and to conduct drop-in reviews.

**Megan Bradburry** attended the [IAAP Austin Area Branch Information Security](#) session at the Carver Branch Library on January 9.

That afternoon, **Doriana Torres** attended the [Governor's Commission for Womens State Agency Council](#) orientation meeting.



**Geoff Burkhart** traveled to Lubbock in January to visit with county judges, professors, and county officials.



**Claire** and **Hailey Hanners** attended the [Texas Public Policy Foundations 2020 Policy Orientation](#), which previewed criminal justice issues for the next legislative session.

In January, **Geoff** and **Kathleen** attended a meet-and-greet with top candidates for the Chief Public Defender for Travis County.

**Kathleen** met with Harris County district court judges and court administrators multiple times to discuss building a managed assigned counsel (MAC) system.

**Joel Lieurance** and **Scott Ehlers** hosted the [Rio Grande City Workshop on Effective Magistration and Indigent Defense Practices](#) in Starr County.



**Edwin Colfax** traveled to Georgetown to meet with TIDC Board Member Commissioner **Valerie Covey**, attend an IRB Compliance training, and tour the Wilco office for a TIDC-funded project.

**Wesley Shackelford** attended a meeting of the Legal Representation Committee of the Supreme Court's Children's Commission.

**Kathleen** attended the Judicial Commission on Mental Health meeting.

**Joel, Claire, and Kathleen** traveled to Tarrant County for policy monitoring in early February.

On February 6, **Geoff** hosted a webinar with the National Association of Public Defense (NAPD) that discussed what Texas has learned about improving systems, standards, and culture in indigent defense.

On February 10, **Geoff** met with Galveston County Court at Law Judges to talk about TIDC funding opportunities.



The following afternoon, **Geoff** testified at the Travis County Commissioners Court meeting. **Lindsay Bellinger** and **Hailey** attended as well.



**Geoff** spoke at the LBJ School of Public Affairs Criminal Justice Policy Class, where he discussed public defense improvement efforts in Texas.  
**Scott Ehlers** presented at TAC in College Station.

**Geoff** attended the [American Bar Association's Mid-Year meeting](#) in Austin.



L-R: Texas Supreme Court Chief Justice (ret.) Wallace Jefferson, ABA President Judy Perry-Martinez, Geoff Burkhart.

On February 14, **Wesley Shackelford** attended the Texas Childrens Commissions Task Force meeting on Court-Appointed Legal Representation.

**Joel and Claire** traveled to Gaines, Dawson, Terry, and Yoakum Counties for policy monitoring reviews.



**Debra Stewart** traveled to Dallas County for a fiscal review.



**Wesley** presented at the 2020 Texas Center for the Judiciary's Criminal Justice Conference in Austin.

**Scott** and **Kathleen** traveled to Hondo, Texas to present at the Medina County Commissioners Court meeting regarding the Hill Country's Public Defender's Office.

**Edwin** and **Doriana** held an Improvement Grant application training webinar in preparation for the upcoming FY21 grant cycle.

Early this month, **Geoff** spoke to federal defenders from across the country, with (L-R) Federal Defender Heidi Freese, Lori James-Townes, and General John Baker.



# **TIDC Improvement Team Report**

## **March 12, 2020 Board Meeting**

TIDC's Improvement Team includes Scott Ehlers, Director of Public Defense Improvement, and Kathleen Casey-Gamez, Senior Policy Analyst.

Over the past three months, the Improvement Team has accomplished the following:

### **Planning Studies and Related Presentations**

- 1) **Hill Country Regional Public Defender Office** (Bandera, Gillespie, Kendall, Kerr, and Medina Counties)
  - Completed planning study
  - Made presentations to Kendall, Kerr, and Medina Commissioners Courts
  - Medina Co. Commissioners Court passed motion (5-0) to support establishing office
- 2) **Victoria-Area Regional Public Defender Office** (Calhoun, DeWitt, Jackson, and Victoria Counties)
  - Modeled a stand-alone office and TRLA expansion
  - Completed planning study
- 3) **Aransas—TRLA Expansion**—Completed planning study
- 4) **Hays County Public Defender Office**—In process
- 5) **Burnet Co. Public Defender Office Expansion** (Blanco, Burnet, Llano, and San Saba Counties)—In process
- 6) **McLennan County Public Defender Office**—In process
- 7) **Galveston County Misdemeanor Mental Health Public Defender**—In process

### **Trainings, Presentations, and Technical Assistance**

#### **Harris County**

- Arranged multiple presentations to judges and defense bar from managed assigned counsel experts from Massachusetts; Colorado; New York City; and San Mateo, California.
- Assisting district judges in drafting grant proposal for managed assigned counsel program.

#### **TIDC Indigent Defense Workshop—January 16-17, 2020**

- Held at the Texas Association of Counties Building
- 105 attendees including judges, indigent defense coordinators, public defenders, and other stakeholders

#### **Rio Grande City Workshop on Effective Magistrations and Indigent Defense—January 30, 2020**

- Collaboration between TIDC and the Texas Justice Courts Training Center
- 28 attendees

#### **V.G. Young Institute for County Commissioners Courts—February 20, 2020**

- Presentation on “Magistrations and Indigent Defense”
- Approximately 50 county judges attended

## Juvenile Training Immersion Program



The Texas Indigent Defense Commission (TIDC) and the Texas Criminal Defense Lawyers Association (TCDLA) are proud to announce their partnership on this cutting-edge program.

The Juvenile Training Immersion Program (JTIP) is a highly specialized, comprehensive, 42-lesson trial advocacy program designed to enhance the capacity of juvenile defense attorneys across the country. JTIP is the gold standard in training for juvenile defenders and reflects a core commitment to the unique role and critical importance of specialized defense counsel in juvenile courts.

Since the last Board meeting, TIDC Staff have convened a panel of experts, including:

- **Elizabeth Henneke** of the Lone Star Justice Alliance
- **Professor Ellen Marrus** of the University of Houston
- **Kameron Johnson** of the Travis County Juvenile Public Defender's Office
- **Tim Curry** from the National Juvenile Defender Center, and
- **Wesley Shackelford** from TIDC.

This panel selected 18 trainers who will attend a training in Austin, Texas on April 1-3. This training will enable these attorneys to develop a set of Texas-specific motions and other materials to improve the level of juvenile practice across the State. In addition to the development of these materials, our trainers will also conduct 6 regional in-person trainings and several webinars.

## Future Indigent Defense Leaders Program

TIDC, in collaboration with the Texas Criminal Defense Lawyers Association (TCDLA), Gideon's Promise, and the Harris County Public Defender's Office (HCPDO), has established the Future Indigent Defense Leaders Program (FIDL).

FIDL is a selective program that aims to create the next generation of highly skilled, client-centered Texas attorneys to represent persons who cannot afford counsel. This partnership between the Texas Indigent Defense Commission, the Texas Criminal Defense Lawyers Association, and the Harris County Public Defender's Office offers unparalleled indigent defense training, mentoring, and leadership opportunities. Selected through a competitive process, FIDL mentees become part of an exclusive statewide team dedicated to zealous representation.



As part of FIDL, young lawyers are not only paired with a Texas-based mentor, they are also sent to Gideon's Promise Core 101 Training in Atlanta, Georgia. This world-class training provides instruction on how to become a client-centered defense attorney. This training is reinforced through the mentorship with their Texas-based mentor.

FIDL had a successful first class of young lawyers and aims to have a second class of young lawyers begin the program in June of 2021. Twenty-five young lawyers have been tentatively selected for the second class, and include a diverse set of bright young Texans who will lead the way for indigent defense in the future. This class consists of both public defenders and private counsel. Their first meeting will be at the Rusty Duncan Conference in June 2020, and they will then attend the Core 101 Training in Atlanta, Georgia.



## Juvenile Training Immersion Program (JTIP)

### Texas JTIP Trainers

**Lynette Boggs-Perez**  
Boggs-Perez Law PC

**Todd Greenwood**  
Attorney at Law

**Donna Broom**  
The Broom Law Firm

**Steven Halpert**  
Harris County Public Defender's Office

**Kristin R. Brown**  
The Law Office of Kristin R. Brown, PLLC

**Steve Keathley**  
Keathley & Keathley

**Ruben Castaneda**  
Office of the Travis County Juvenile Public  
Defender

**Michelle Latray**  
Attorney at Law

**William Cox**  
El Paso County Public Defender's Office

**Patrick Metze**  
Texas Tech University School of Law

**Dolores Esparza**  
Dallas County Public Defender's Office

**Michael S. Parson**  
Parson Law Office

**Avram Frey**  
Lone Star Justice Alliance

**Laura Peterson**  
Humphreys & Peterson PLLC

**Rebecca Garcia**  
Dallas County Public Defender's Office

**Nydia D. Thomas, J.D.**  
Lone Star Justice Alliance  
Transformative Justice Program –  
Williamson County

**Patrick Gendron**  
Attorney at Law

**Terrance Windham**  
Law Office of Terrance Windham

## **2019 Indigent Defense Plan Submission & Review Process**

- On November 1, 2019, all indigent defense plans were required to be submitted to the Commission. As of March 3, 2020:
  - 212 counties had fully completed the approval process
  - 42 counties had not fully completed the approval process
  
- Counties not having completed the submission process recently received additional notice via a special condition on the FY20 Formula Grant, Statement of Grant Awards.
  
- Staff has begun to review indigent defense plans.
  
- Reviews will continue with the rest of the counties to assure that they follow the Fair Defense Laws and requirements established by the TIDC Board. Key areas for review:
  - New statute requiring indigent defense plans specifically provide for the priority appointment of an available public defender's office.
    - Many district court plans in the ~185 counties that participate in the Regional Public Defender Office for Capital Cases (RPDO) do not currently mention the RPDO and will need to be amended.
  - Contracts for defense services are current and meet the requirements of TIDC's contract defender program rules.

# Policy Monitoring Rules Review and Proposed Amendments

## Publication Time-Line and Comment Review Process

- At its December 13, 2019 meeting the Texas Indigent Defense Commission (TIDC) board voted to publish its review of policy monitoring rules §§174.26, 174.27, 174.28, and 174.51 pursuant to Texas Government Code §2001.039, which requires each state agency to periodically review and consider for re-adoption each of its rules.
  - The rule review was published in the February 7, 2020 issue of the *Texas Register* for public comment (45 TexReg 921).
- Also, at the December meeting, the TIDC board proposed amendments to §§174.26, 174.27, and 174.28, concerning policy monitoring processes and benchmarks.
  - Proposed amendments to the rules were published in the January 31, 2020 issue of the *Texas Register* for public comment (45 TexReg 669).
- The Commission received no comments on either the rule review or proposed amendment to the rules.
- The amendments became eligible for adoption on or after March 1, 2020, while the rule review became eligible for adoption on or after March 8, 2020- both 30 days after publication.
- If adopted by the Commission at its March 12, 2020 meeting, the amended rules will be filed with the Secretary of State and will become effective 20 days after filing.

## Proposed amendments to rules by Section

Section 174.26:

- Change the period of review from the prior 12 months to the prior fiscal year, other agreed time period, or other reasonable time period as determined by the Commission. Since reporting to TIDC is done on a fiscal year basis, this time period makes the most sense. Alternative time periods may be used when significant changes to local practice occur during the last fiscal year.
- Add definitions of full reviews, limited scope reviews and drop-in visits. These types of visits have been conducted by staff but have not been clearly defined in the rules.

Section 174.27:

- Non-substantive revisions to the factors considered as part of the risk assessment to streamline the definitions. The risk assessment process helps determine where to conduct policy monitoring visits each year.
- Expands list of factors that may lead to a policy monitoring visit to include findings from a previous visit, a complaint, and media reports. These factors are in addition to the risk assessment and requests from a state or local official currently provided for in the rules.

Section 174.28:

- Clarifies the rule related to determining whether a jurisdiction meets the prompt appointment of counsel requirements to measure the time to when an appointment is made or when a denial of indigence determination is made, rather than when an indigence determination is made.
- Clarifies the rule related to assessing the distribution of appointments to provide that only attorneys who were on the appointment list for the entire time period under review will be included in the distribution analysis.
- Changes the section heading from “Payment Process” to “Data Reporting” to more accurately describe the processes under review.
- Clarifies that TIDC will, for full and limited scope reviews, issue a report and require a response to noncompliance findings from local officials and, for drop-in visits, may write a letter with recommendations and without requiring a response.
- Non-substantive revisions to reflect that a report may or may be not issued, and that a county must respond only to noncompliance findings in a report.

**SUBCHAPTER C. POLICY MONITORING REQUIREMENTS**

**DIVISION 1. DEFINITIONS.**

**Sec. 174.26. SUBCHAPTER DEFINITIONS.**

The following words and terms when used in this subchapter shall have the following meanings, unless the context clearly indicates otherwise.

- (1) Executive Director – The executive director of the Commission.
- (2) Authorized Official – The county judge or other designee authorized to apply for, accept, decline, modify, or cancel a grant designated under §173.301 of this title (relating to Grant Officials).

(3) Period of review – The fiscal year [~~12 months~~] preceding the date of the monitoring visit, other agreed time period, or other reasonable time period as determined by the Commission.

(4) Policies and Standards Committee – A committee of the Commission charged with developing policies and standards related to improving indigent defense services.

(5) Policy Monitor – The employee of the Commission who monitors the effectiveness of a county's indigent defense policies, standards, and procedures.

(6) Risk Assessment – A tool to rank each county's potential risk of not being in compliance with indigent defense laws.

(7) Commission – Commission means the Texas Indigent Defense Commission.

(8) Full review – An on-site policy monitoring review covering all the core requirements in Section 174.28(c) of this chapter (relating to relating to On-Site Monitoring Process).

(9) Limited scope review – An on-site policy monitoring review covering fewer than all of the core requirements in Section 174.28(c) of this chapter.

(10) Drop-in visit – An informal, on-site visit to assess indigent defense processes of a county.

## **DIVISION 2. POLICY MONITORING PROCESS AND BENCHMARKS.**

### **Sec. 174.27. RISK ASSESSMENT.**

(a) A risk assessment of each county shall be conducted by the policy monitoring ~~[monitor]~~ team each fiscal year as the primary means of determining which counties will be selected for on-site policy monitoring. On-site monitoring visits to counties shall then be apportioned by administrative judicial region, county size, risk assessment scores, past visits, and other documented factors. The risk assessment shall use a variety of factors related to the provision of indigent defense services, including but not limited to the following:

(1) ~~[Whether a county reported investigation]~~ Investigation and expert witness expenses;

(2) ~~[Whether a county reported reimbursements]~~ Reimbursements for attorney fees;

(3) ~~[Amount of per]~~ Per capita indigent defense expenses;

(4) Felony, misdemeanor, and juvenile attorney appointment rates;

(5) County population ~~[Population of a county]~~;

(6) ~~[Whether complaints]~~ Complaints about a county ~~[have been]~~ received by the Commission;

(7) ~~[Whether a county]~~ Receipt of ~~[received a multi-year discretionary]~~ a TIDC improvement grant;

(8) ~~[Whether the justices of the peace or municipal judges reported requests]~~ Requests for counsel during ~~[at]~~ magistrate warnings under ~~[; and]~~ Article 15.17, Code of Criminal Procedure ~~[in their Texas Judicial Council Monthly Court Activity Reports]; and~~

(9) ~~[the ratio of misdemeanor requests for counsel from Article 15.17 hearings as reported in Texas Judicial Council Monthly Activity Reports to the number of misdemeanor cases paid reported by the county; and~~

(10) ~~Whether a county reported appeals]~~ Appellate cases.

(b) Counties may receive monitoring visits as a result of factors outside of the risk assessment, including findings from a previous visit, a complaint, media reports, or a request from an ~~[An]~~ elected state or local official ~~[may request a monitoring visit]~~. If Commission staff make a drop-in visit, fiscal monitoring review, or grant program review, and determines that violations of the Fair Defense Act or Commission rules may be present in a county, the monitor may conduct a ~~[limited scope review]~~ monitoring visit of the county's procedures.

**Sec. 174.28. ON-SITE MONITORING PROCESS.**

(a) Purpose. The process promotes local compliance with the requirements of the Fair Defense Act and Commission rules and provides technical assistance to improve processes where needed.

(b) Monitoring Process. The policy monitor examines the local indigent defense plans and local procedures and processes to determine if the jurisdiction meets the statutory requirements and rules adopted by the Commission. The policy monitor also attempts to randomly select samples of actual cases from the period of review by using a 15% confidence interval for a population at a 95% confidence level.

(c) Core Requirements. On-site policy monitoring focuses on the six core requirements of the Fair Defense Act and related rules. Policy monitoring may also include a review of statutorily required reports to the Office of Court Administration and Commission. This rule establishes the process for evaluating policy compliance with a requirement and sets benchmarks for determining whether a county is in substantial policy compliance with the requirement. For each of these elements, the policy monitor shall review the local indigent defense plans and determine if the plans are in compliance with each element.

(1) Prompt and Accurate Magistration.

(A) The policy monitor shall check for documentation indicating that the magistrate or county has:

(i) Informed and explained to an arrestee the rights listed in Article 15.17(a), Code of Criminal Procedure, including the right to counsel;

(ii) Maintained a process to magistrate arrestees within 48 hours of arrest;

(iii) Maintained a process for magistrates not authorized to appoint counsel to transmit requests for counsel to the appointing authority within 24 hours of the request; and

(iv) Maintained magistrate processing records required by Article 15.17(a), (e), and (f), Code of Criminal Procedure, and records documenting the time of arrest, time of magistration, whether the person requested counsel, and time for transferring requests for counsel to the appointing authority.

(B) A county is presumed to be in substantial compliance with the prompt magistration requirement if magistration in at least 98% of the policy monitor's sample is conducted within 48 hours of arrest.

(2) Indigence Determination. The policy monitor checks to see if procedures are in place that comply with the indigent defense plan and the Fair Defense Act.

(3) Minimum Attorney Qualifications. The policy monitor shall check that attorney appointment lists are maintained according to the requirements set in the indigent defense plans. Only attorneys approved for an appointment list are eligible to receive appointments.

(4) Prompt Appointment of Counsel.

(A) The policy monitor shall check for documentation of timely appointment of counsel in criminal and juvenile cases.

(i) Criminal Cases. The policy monitor shall determine if counsel was appointed or denied for arrestees within one working day of receipt of the request for counsel in

counties with a population of 250,000 or more, or three working days in other counties. If the policy monitor cannot determine the date the appointing authority received a request for counsel, then the timeliness of appointment will be based upon the date the request for counsel was made plus 24 hours for the transmittal of the request to the appointing authority plus the time allowed to make the appointment of counsel.

(ii) Juvenile Cases. The policy monitor shall determine if counsel was appointed prior to the initial detention hearing for eligible in-custody juveniles. If counsel was not appointed, the policy monitor shall determine if the court made a finding that appointment of counsel was not feasible due to exigent circumstances. If exigent circumstances were found by the court and the court made a determination to detain the child, then the policy monitor shall determine if counsel was appointed for eligible juveniles immediately upon making this determination. For out-of-custody juveniles, the policy monitor shall determine if counsel was appointed within five working days of service of the petition on the juvenile.

(B) A county is presumed to be in substantial compliance with the prompt appointment of counsel requirement if, in each level of proceedings (felony, misdemeanor, and juvenile cases), at least 90% of appointments of counsel and denials of indigence determinations in the policy monitor's sample are timely.

(5) Attorney Selection Process. The policy monitor shall check for documentation indicating:

(A) In the case of a contract defender program, that all requirements of §§174.10 – 174.25 of this title are met;

(B) In the case of a managed assigned counsel program, that counsel is appointed according to the entity's plan of operation;

(C) That attorney selection process actually used matches what is stated in the indigent defense plans; and

(D) For assigned counsel and managed assigned counsel systems, the number of appointments in the policy monitor's sample per attorney at each level (felony, misdemeanor, juvenile, and appeals) during the period of review and the percentage share of appointments represented by the top 10% of attorneys accepting appointments. A county is presumed to be in substantial compliance with the fair, neutral, and non-discriminatory attorney appointment system requirement if, in each level of proceedings (felony, misdemeanor, and juvenile cases), the percentage of appointments received by the top 10% of recipient attorneys does not exceed three times their respective share. The top 10% of recipient attorneys is the whole attorney portion of the appointment list that is closest to 10% of the total list. For this analysis, the monitor will include only attorneys [~~who may have been temporarily unavailable for part of the year but will exclude attorneys~~] who were [~~not~~] on an appointment list for [~~any part of~~] the entire time period under review.

(6) Data Reporting [~~Payment Process~~]. The policy monitor shall check for documentation indicating that the county has established a process for collecting and reporting itemized indigent defense expense and case information.

(d) Report.

(1) Report Issuance. For full and limited-scope reviews, the [The] policy monitor shall issue a report to the authorized official within 60 days of the on-site monitoring visit to a county, unless a documented exception is provided by the director, with an alternative deadline provided, not later than 120 days from the on-site monitoring visit. The report shall contain recommendations to address findings [areas] of noncompliance. For drop-in visits, the policy monitor may issue a letter with recommendations.

(2) County Response. Within 60 days of the date a [the] report is issued by the policy monitor, the authorized official shall respond in writing to each finding of noncompliance, and shall describe the proposed corrective action to be taken by the county. The county may request the director to grant an extension of up to 60 days.

(3) Follow-up Reviews. The policy monitor shall conduct follow-up reviews of counties where a [the] report included noncompliance findings. The follow-up review shall occur within a reasonable time but not more than two years following receipt of a county's response to a [the] report. The policy monitor shall review a county's implementation of corrective actions and shall report to the county and to the Commission any remaining issues not corrected. Within 30 days of the date the follow-up report is issued by the policy monitor, the authorized official shall respond in writing to each recommendation, and shall describe the proposed corrective action to be taken by the county. The county may request the director to grant an extension of up to 30 days.

(4) Failure to Respond to Report. If a county fails to respond to a monitoring

report or follow-up report within the required time, then a certified letter will be sent to the authorized official, financial officer, county judge, local administrative district court judge, local administrative statutory county court judge, and chair of the juvenile board notifying them that all further payments will be withheld if no response to a [the] report is received by the Commission within 10 days of receipt of the letter. If funds are withheld under this section, then the funds will not be reinstated until the Commission or the Policies and Standards Committee approves the release of the funds.

(5) Noncompliance. If a county fails to correct any noncompliance findings, the Commission may impose a remedy under §173.307 of this title (relating to Remedies for Noncompliance).

**SUBCHAPTER D. INDIGENT DEFENSE  
PROCEDURE REQUIREMENTS**

**Sec. 174.51. INDIGENT DEFENSE PLAN  
REQUIREMENTS.**

The countywide procedures adopted under Art. 26.04(a), Code of Criminal Procedure, must provide a method to allow defendants to obtain the necessary forms for requesting appointment of counsel and to submit completed forms for requesting appointment of counsel at any time after the initiation of adversary judicial proceedings.

## Summary of Recent Policy Monitoring Activity

County	Dates Visited	Status	Issues / Recent Activity
<b>Reports not yet drafted</b>			
Dawson	2 <sup>nd</sup> Follow-up Review: 2/19/20	Draft Pending	Claire Buetow and Joel Lieurance conducted a second follow-up review to address issues raised in the 2017 report.
Deaf Smith	2 <sup>nd</sup> Follow-up Review: 8/21/19	Draft Pending	Kathleen Casey-Gamez and Scott Ehlers conducted a second follow-up review to address issues raised in the 2017 report.
Gaines	2 <sup>nd</sup> Follow-up Review: 2/18 - 2/20/20	Draft Pending	Claire Buetow and Joel Lieurance conducted a second follow-up review to address issues raised in the 2017 report.
Jefferson	Follow-up Review: 4/1 – 4/3/19	Draft Pending	Scott Ehlers, Kathleen Casey-Gamez, and Joel Lieurance conducted a follow-up review to address issues raised in the 2014 report.
Tarrant	Initial Review: 11/18 – 11/20/19; 2/5 – 2/6/2020	Draft Pending	TIDC began a review of Tarrant County. All policy team staff are involved. Geoff Burkhart and Joel Lieurance conducted a kick-off session for stakeholders on November 14.
<b>We issued a report, but have not yet received a county response.</b>			
Childress	2 <sup>nd</sup> Follow-up Review: 8/20/19	Report issued: 1/6/20 Response due: 3/13/20	Kathleen Casey-Gamez and Scott Ehlers conducted a second follow-up review to address issues raised in the 2017 report. The report found the County was now taking counsel requests and ruling on them. However, some requests were not ruled upon, and the County did not meet TIDC's threshold for making timely appointments.
Collin	2 <sup>nd</sup> Follow-up Review: 7/30 – 7/31/19	Report issued: 2/4/20 Response due: 4/10/20	Kathleen Casey-Gamez and Scott Ehlers conducted a second follow-up review to address issues raised in the 2016 report. The report found that in-person Article 15.17 hearings were not always conducted for persons who do not speak English.
Jim Wells	Initial Review: 5/13 – 5/16/19	Report issued: 11/8/19 Response due: 3/10/20	Kathleen Casey-Gamez and Joel Lieurance conducted an initial policy monitoring review. The report made findings regarding the transmittal of counsel requests from the magistrate to the court of dispositive jurisdiction and regarding the timeliness of counsel appointments.

County	Dates Visited	Status	Issues / Recent Activity
Kleberg	Follow-up Review: 7/22 – 7/23/19	Report issued: 1/6/20 Response due: 3/13/20	Claire Buetow and Joel Lieurance conducted a follow-up review to address issues raised in the 2016 report. The report found issues with the timeliness of appointments for persons posting bail immediately after arrest.
<b>We issued a report, and the county has responded to our report. We will conduct a follow-up visit within two years.</b>			
Fisher	Limited Scope Review: 7/16/19	Report issued: 11/8/19 Response rec'd: 2/7/20	Claire Buetow and Joel Lieurance conducted a limited scope review. The report found issues with the ability of arrestees to request counsel at the Article 15.17 hearing and with rulings on later counsel requests.
Rusk	Initial Review: 6/24 – 6/27/19; 7/19/19	Report issued: 9/16/19 Response rec'd: 1/21/20	Claire Buetow and Joel Lieurance conducted an initial policy monitoring review. The report found issues with the ability of arrestees to request counsel at the Article 15.17.
Scurry	Limited Scope Review: 7/15/19	Report issued: 11/8/19 Response rec'd: 3/6/20	Claire Buetow and Joel Lieurance conducted a limited scope review to examine procedures for appointing counsel in misdemeanor cases. The report made findings regarding the transmittal of counsel requests from the magistrate to the court of dispositive jurisdiction, the timeliness of counsel appointments, and with rulings on counsel requests.
Waller	Follow-up Review: 2/28 – 3/1/2019; 5/6 – 5/7/19	Report issued: 9/9/19 Response rec'd: 11/6/19	Claire Buetow and Joel Lieurance conducted a follow-up review to address issues raised in the 2016 report. The current report found issues regarding the transmittal of counsel requests from the magistrate to the court of dispositive jurisdiction and regarding the timeliness of counsel appointments.
<b>Report closed.</b>			
Liberty	Follow-up Review: 10/31/2018; 11/3/2018	Report closed: 1/10/2020	The follow-up review had one pending issue, the reporting of Article 15.17 hearing activity to OCA by justices of the peace and municipal judges. Local officials have now been reporting Article 15.17 data to OCA, and so we closed the report.

### Upcoming Reviews

Harris County follow-up site visit to occur March 23 – 26.

## **Drop-in Reviews**

Drop-in reviews are informal. They typically involve a review of a few case files, followed by a meeting with the county judge and other relevant persons. The goal of the review is to ensure that a county has methods to consistently take counsel requests from the magistrate, transmit them to the courts of dispositive jurisdiction, and then to timely rule on the requests.

### **2020 Schedule for Drop-in Reviews:**

- Crosby\*
- Hockley\*
- Lynn\*
- Yoakum\*
- Terry\*
- Kinney
- Uvalde
- Edwards

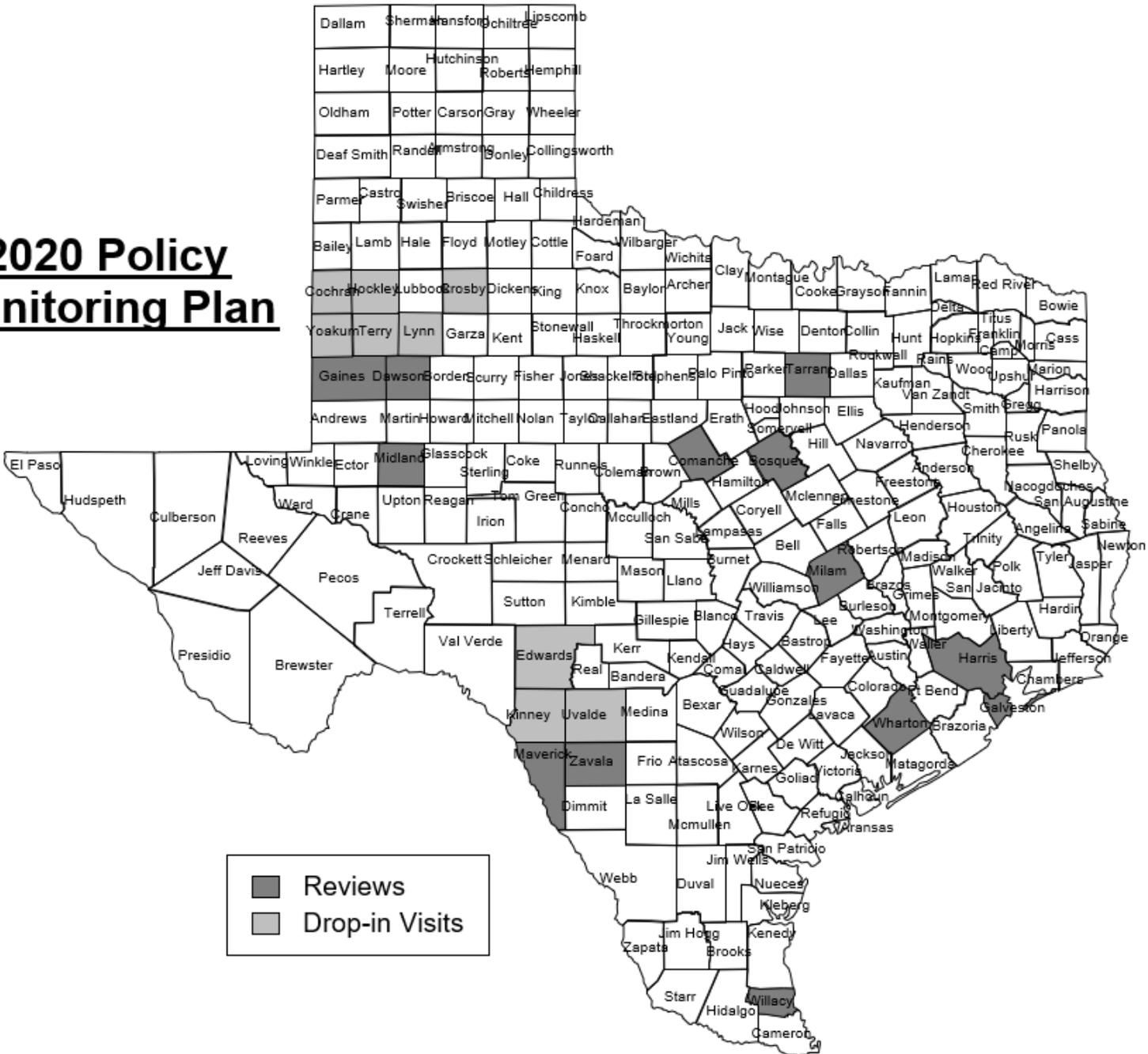
\* TIDC has completed these Lubbock-area drop-in reviews. All counties had issues with ruling on requests for counsel taken at magistration.

### **2020 Schedule for Policy Monitoring Reviews:**

- Tarrant
- Gaines
- Dawson
- Harris
- Maverick
- Zavala
- Comanche
- Bosque
- Willacy
- Galveston
- Wharton
- Midland
- Milam

All reviews are follow-ups except Tarrant County.

# 2020 Policy Monitoring Plan



## Summary of Recent Complaints

### Complaint Statistics

Since the December Board Meeting:

- TIDC has received **29** new complaints from **26** individuals.
- **3** complaints remain open, pending further investigation.
- **26** complaints require no further action and will be sent a letter, phone call, e-mail, or no further response for resolution.\*
  - **0** were forwarded to local officials.
  - **6** were provided information on Innocence Projects.
  - **0** were forwarded to the Texas Fair Defense Project.
  - **0** were forwarded to the Texas Jail Project.
  - **0** were provided information on self-serve legal resources.
  - **11** were provided information on the State Bar-Grievance System and Client Attorney Assistance Program.
  - **0** was referred to the State Commission on Judicial Conduct.

*\*Note: One response may have contained referrals to more than one entity, or no referrals at all.*

### Relevant Complaints

#### **Complaint #1: Inmates unaware/unable to contact appointed counsel**

**Date: March 3, 2020**

**Contact Title: Nathan Fennell**

**County: Comal**

**TIDC Contact: Kathleen Casey-Gamez**

According to complainant's statement in online complaint form, "Comal County is transferring defendants on low-level felonies to be housed in the Atascosa County Jail. At least 2 defendants have recently complained to our office that they were unable to communicate with their attorneys - one who was told who his lawyer was but not given his name in writing [n]or told how to contact him, and another who has been in jail for over a month and did not even know that he had been assigned a court-appointed lawyer."

#### **RESOLUTION:**

This complaint was received recently and is not yet resolved.

**Complaint #2: Alleged unlawful removal from appointment list**

**Date: May, 28, 2019; June 3, 2019; November 18, 2019**

**Contact Title: Richard De Los Santos**

**County: Johnson**

**TIDC Contact: Kathleen Casey-Gamez**

Mr. De Los Santos alleges that he and attorney Reynaldo De Los Santos were:

- (1) Skipped on the juvenile appointment list without good cause, which was required by the indigent defense plan;
- (2) Removed from the juvenile appointment list without good cause, which was required by the indigent defense plan.

The attorneys have also filed several Rule 12 requests to obtain documentation related to their removal, but they have not received any documents.

Currently, the Office of Court Administration has appointed a special committee to review alleged rule 12 Request violations regarding Judge McClure and Judge Mayfield of Johnson County. On February 24, 2020 the De Los Santos brothers filed a lawsuit in the U.S. District Court for the Northern District of Texas against the judges and commissioners of Johnson and Somervell Counties alleging violations related to indigent defense procedures and their local indigent defense plans.

**RESOLUTION:**

This complaint is not yet resolved.

**Texas Indigent Defense Commission  
Fund and Revenue Balance for FY18 - 19**

**FUND 5073:**

**FY18:**

<b>Fund Balance by Year</b>	<b>FY18 Actuals as of December 13, 2019</b>	<b>FY18 Actuals as of March 12, 2020</b>	<b>Total funds available as of March 12, 2020</b>
Revenue in Fund	\$476,786	\$415,831	\$415,831
Obligations/ Obligations Paid	(\$431,058)	(\$393,398)	(\$393,398)
<b>Move Revenue/Remaining Revenue</b>	<b>\$45,728</b>	<b>\$22,433</b>	<b>\$22,433</b>

**FY18:**

**Revenue Remaining in FY18 Ledger - FD5073** **\$476,786** **\$415,831**

**Obligations:**

Technical Support Grants \$431,058 \$393,398  
**Total Obligations for FY18** **\$431,058** **\$393,398**

**Remaining Revenue in FY18** **45,728** **22,433**

**FY19:**

<b>Fund Balance by Year</b>	<b>FY19 Actuals as of December 13, 2019</b>	<b>FY19 Actuals as of March 12, 2020</b>	<b>Total funds available as of March 12, 2020</b>
Revenue in Fund	\$3,602,660	\$3,499,184	\$3,499,184
Obligations/ Obligations Paid	(\$3,486,340)	(\$3,477,123)	(\$3,477,123)
<b>Move Revenue/Remaining Revenue</b>	<b>\$116,320</b>	<b>\$22,061</b>	<b>\$22,061</b>

**FY19:**

**Revenue Remaining in FY19 Ledger - FD5073** **\$3,602,660** **\$3,499,184**

**Obligations:**

Competitive Improv Grant - New (Smith) \$47,850 \$0  
Competitive Improv Grant - New (Travis) \$0 \$115,656  
Competitive Improv Grant - New (Dallas) \$324,170 \$324,170  
Competitive Improv Grant - New (Williamson) \$308,728 \$308,728  
Competitive Improv Grant - Single (Ellis) \$0 \$10,851  
Competitive Improv Grant - Single (Harris) \$1,374,571 \$1,501,971  
Competitive Improv Grant - Single (Grimes) \$50,000 \$50,000  
Competitive Improv Grant - Single (Navarro) \$0 \$9,591  
Sustainability Grant - (Culberson) \$59,465 \$0  
Technical Support Grant - 6 counties \$1,121,556 \$1,030,156  
Innocence Project \$200,000 \$126,000  
**Total Obligations for FY19** **\$3,486,340** **\$3,477,123**

**Remaining Revenue in FY19** **\$116,320** **\$22,061**

Texas Indigent Defense Commission  
Comparison of Revenue Flow (FY18 - FY20)

Revenue Received

	FY18					FY19					FY20			
	Court Costs (3704)	Surety Bond (3858)	State Bar (3195)	General Revenue	Total	Court Costs (3704)	Surety Bond (3858)	State Bar (3195)	General Revenue	Total	Court Costs (3704)	Surety Bond (3858)	State Bar (3195)	Total
September	29,665	2,732	93,763	3,750,000	3,876,160	32,689	185	104,195	3,750,000	3,887,068	25,093	423	118,885	144,401
October	383,637	803	17,290		401,730	214,471	853	24,408		239,731	380,266	1,373	22,198	403,837
November	7,803,772	458,210	66,340		8,328,322	8,476,423	471,217	55,218		9,002,857	7,663,791	449,101	57,168	8,170,059
December	154,862	11,679	23,985		190,526	60,035	0	9,685		69,720	245,792	3,399	2,600	251,791
January	312,300	1,090	5,810		319,199	335,259	9,166	7,313		351,738	186,836	7,664	7,215	201,714
February	7,469,984	475,264	5,460		7,950,707	7,142,934	468,889	4,290		7,616,113	7,180,918	421,951	6,500	7,609,369
March	74,721	1,005	2,568		78,294	289,518	3,835	2,340		295,693				0
April	43,132	49	45,403		88,584	658,666	2,174	115,180		776,020				0
May	8,847,126	455,229	652,567		9,954,923	8,614,274	498,638	1,065,090		10,178,002				0
June	492,189	53,233	829,270		1,374,692	17,633	181	591,630		609,443				0
July	326,653	180	458,333		785,166	309,246	0	353,113		662,358				0
August	8,925,976	482,994	194,138		9,603,108	8,203,509	474,421	62,108		8,740,037				0
Total Revenue Collected	34,864,019	1,942,468	2,394,925	3,750,000	42,951,411	34,354,656	1,929,558	2,394,568	3,750,000	42,428,782	15,682,694	883,911	214,565	16,781,170
Revenue Appropriated	25,743,124	2,000,000	2,300,000	3,750,000	33,793,124	24,692,588	1,900,000	2,300,000	3,750,000	32,642,588	38,142,000	1,835,000	2,403,000	42,380,000
Collected vs Appropriated	9,120,895	(57,532)	94,925	0	9,158,287	9,662,068	29,558	94,568	0	9,786,194	(22,459,306)	(951,089)	(2,188,435)	(25,598,830)

Juror Pay

FY15	\$6,697,267
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FY16	\$6,474,113
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FY17	\$6,127,585
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\* A reduction of \$474,113 from FY17 estimate of \$6,600,000

FY18	\$6,634,193
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\*\* An increase of \$434,193 from FY18 estimate of \$6,200,000

FY19	\$5,947,699
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\*\*\* A reduction of \$252,301 from FY19 estimate of \$6.2 mil; reduction of \$686,494 from amount received in FY18

Sept - Feb	FY18	FY19	FY20
Court Costs	\$16,154,220	\$16,261,810	\$15,682,694
Surety Bond	\$949,777	\$950,310	\$883,911
State Bar	\$212,648	\$205,108	\$214,565
<b>Tot FD 5073</b>	<b>\$17,316,645</b>	<b>\$17,417,228</b>	<b>\$16,781,170</b>
General Rev.	\$3,750,000	\$3,750,000	\$0
<b>Total w/GR</b>	<b>\$21,066,645</b>	<b>\$21,167,228</b>	<b>\$16,781,170</b>

Sept - Aug	FY18	FY19
Court Costs	\$34,864,019	\$34,354,656
Surety Bond	\$1,942,468	\$1,929,558
State Bar	\$2,394,925	\$2,394,568
<b>Tot FD 5073</b>	<b>\$39,201,411</b>	<b>\$38,678,782</b>
General Rev.	\$3,750,000	\$3,750,000
<b>Total w/GR</b>	<b>\$42,951,411</b>	<b>\$42,428,782</b>

Texas Indigent Defense Commission  
Fiscal Year 2020 Revenue / Budget

	FY20 Budget Adopted as of August 29, 2019	FY20 Adjusted Budget as of December 13, 2019	FY20 Actuals as of March 12, 2020
Cash Carryforward	\$730,000	\$730,000	\$730,000
<b>Revenue:</b>			
Court Cost Collection (SB7 - 77th Leg)	\$39,000,000	\$39,000,000	\$15,682,694
State Bar (HB 599 - 78th Leg)	\$2,300,000	\$2,300,000	\$214,565
Surety Bond (HB 1940 - 78th Leg)	\$1,900,000	\$1,900,000	\$883,911
Juror Pay (SB 1704 - 82nd Leg)	\$6,100,000	\$6,100,000	\$0
Other Funds: Fed./State - CJD/SJI Grant		\$144,035	\$0
<b>Projected Revenue/Received Revenue</b>	<b>\$50,030,000</b>	<b>\$50,174,035</b>	<b>\$17,511,170</b>

Capped Spending Authority - FD 5073	\$49,717,856	\$49,717,856	\$49,717,856
Projected Revenue over Spending Auth.	\$312,144	\$456,179	<b>(\$32,206,686)</b>

Budget/Expended:	Budget	Budget	Expended
<b>Formula - Based Grants:</b>			
Standard Formula Grants	\$25,000,000	\$25,000,000	\$1,054,969
Supplemental Urban Capital Formula	\$1,000,000	\$1,000,000	\$0
<b>Competitive Improvement Grants:</b>			
Single Year	\$97,855	\$97,855	\$0
Multi-Year - New	\$3,045,533	\$3,045,533	\$0
Multi-Year - Continued	\$1,038,462	\$1,038,462	\$0
<b>Sustainability Grants:</b>			
Lubbock Capital RPDO	\$4,221,036	\$4,221,036	\$0
Other Regional PDs (non-capital)	\$2,197,235	\$2,197,235	\$0
Mental Health Public Defender Grants	\$2,500,000	\$5,000,000	\$0
Extraordinary Disbursement Grants	\$500,000	\$500,000	\$0
Compliance Assistance Grants	\$100,000	\$100,000	\$0
Technical Support Grants	\$500,000	\$500,000	\$0
New Improvement Grants (unawarded)	\$6,954,119	\$4,454,119	\$0
<b>Administrative:</b>			
TIDC Administration	\$1,640,534	\$1,640,534	\$569,378
PPRI Contract (Database)	\$100,754	\$100,754	\$0
UT Contract (Interns)	\$15,000	\$15,000	\$0
<b>Other:</b>			
PPRI Contract (Research)	\$93,328	\$93,328	\$0
Innocence Project - Rider	\$600,000	\$600,000	\$0
Administrative Support from OCA	\$114,000	\$114,000	\$114,000
			\$0
<b>Total Budgeted/Expended</b>	<b>\$49,717,856</b>	<b>\$49,717,856</b>	<b>\$1,738,347</b>

<b>Total Revenue vs Expended</b>			<b>\$15,772,823</b>
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<b>Spending Authority vs Budget/Expended</b>	<b>\$0</b>	<b>\$0</b>	<b>\$47,979,509</b>
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\* Not Counted Against Appropriation Cap

State CJD Grant - Juvenile Defense Training		\$144,035	\$0
TIDC Employee Benefits	\$270,000	\$270,000	\$102,182
OCFW & Employee Benefits	\$2,146,790	\$2,146,790	\$929,324
<b>Total - Adtl Expenses Against the Fund</b>	<b>\$2,416,790</b>	<b>\$2,560,825</b>	<b>\$1,031,506</b>

**Texas Indigent Defense Commission  
FY2020 Discretionary Grant Budget Breakout**

<b>Grant Type</b>	<b>Budgeted</b>	<b>Obligated</b>	<b>Expended</b>	<b>Available Balance</b>
Improvement - Multi-Cont/Multi-New/Single	\$4,181,850	\$3,997,547	\$0	\$184,303
Sustainability	\$6,639,067	\$6,639,067	\$0	\$0
Mental Health Public Defender	\$5,000,000	\$3,156,586	\$0	\$1,843,414
Technical Support	\$500,000	\$167,320	\$0	\$332,680
Extraordinary	\$500,000	\$0	\$0	\$500,000
Compliance Assistance	\$100,000	\$0	\$0	\$100,000
Unawarded Improvement Grants	\$4,233,323	\$0	\$0	\$4,233,323
<b>FY2020 Total</b>	<b>\$21,154,240</b>	<b>\$13,960,520</b>	<b>\$0</b>	<b>\$7,193,720</b>

## **Update on Counties with Special Grant Conditions for FY2020 Formula Grants**

When Formula Grants are awarded, special conditions are placed on awards to counties that are not in compliance with plan, reporting, and grant requirements.

As of March 6, a number of counties have special conditions that have not been met for FY20 Formula Grants. Payments are on temporary hold while we address the issues.

### **Indigent Defense Plan Requirement**

42 Counties had not fully completed the approval process. Staff is continuing to follow up.

### **Staff Recommendation for Limited Waiver of Juvenile Plan Requirement**

- Baylor, Cottle, King, and Knox Counties currently have a special condition because the juvenile board indigent defense plan covering the four counties was not submitted.
- We recently learned that the juvenile board chairman for the counties, District Judge Bobby Burnett, passed away on November 14, 2019 prior to submitting the juvenile plan.
- While his bench and the juvenile board chairmanship are vacant there is no one to complete the submission process.
- Staff recommends the TIDC board waive the plan submission requirement for the juvenile board plan for the four counties he served.

**Formula Grant Application Commissioners Court Resolution:** 7 counties have yet to submit the Formula Grant Resolutions. Staff is continuing to follow up.

**OCA/TJC Reporting Compliance:** One county, Castro, is not in compliance with court activity reporting requirements to OCA and does not have an approved action plan in place.

**IDER Reporting Compliance:** All counties are in compliance.

**FY2020 Formula Grant  
Report on Non-Qualifying Counties**

- Only one county, Jones, did not qualify for a formula grant this year.
- The County (population 20,785) had total unreimbursed indigent defense expenses of \$31,326, which is below their 2001 \$37,602 baseline.
- The County received very large reimbursement from the Texas Comptroller (\$278,931) for costs in a prison homicide case.

## **Technical Support Grant Modification Request**

**County:** Lubbock

**Project:** Automatic Text Reminders, Texting System for Clients and Attorneys

**Award:** \$36,578

### **Background**

TIDC approved a Technical Support Grant to Lubbock County in August 2019 to develop and implement a system to provide automatic text reminders for defendants to remind them of court settings, as well as a system that will allow texting between attorneys and clients. The goal of the program is to reduce failures to appear and the additional criminal charges that result, improve case processing and court efficiency, and improve communication between attorneys and clients.

### **Request for Scope Change**

The original proposal was based on contracting with the program's current case management system provider to augment the functionality to achieve the goals described. During their planning, the program identified an alternative case management system provider (Legal Server) that already includes the desired functionality as well as a number of other benefits the program seeks. The implementation cost to shift to LegalServer is essentially the same as the original estimates to build the functionality into their existing system.

### **Staff Recommendation**

Approve a change of scope for Lubbock County's technical support grant to allow funds to be used toward transition/implementation costs to a new case management system provider that includes the functionality described in the original application.

## Technical Support Grant Requests

### Counsel at First Appearance (CAFA) Randomized Control Trial

#### Background

Persons arrested in Texas are generally not provided counsel at Article 15.17 magistration hearings. Yet many significant decisions—including pretrial release—are decided at magistration. While courts continue to split regarding whether counsel at magistration is required under the Sixth Amendment, researchers with Texas A&M and Harvard seek to measure the positive effect of counsel at magistration on case outcomes, public safety, and cost. The four Texas counties that currently have counsel at magistration have provided anecdotal evidence that all three of these are improved by counsel’s presence. However, the issue has not been studied with any rigor.

Researchers with the Public Policy Research Institute (PPRI) at Texas A&M and the Harvard Access to Justice Lab have worked with TIDC to recruit two to three counties for a randomized control trial (RCT) to provide defense counsel for some arrestees at magistration in order to evaluate the impact of such representation. The study will be the first of its kind in the nation, and an RCT study is considered the “gold standard” for evaluating the impact of new programs or interventions. Arnold Ventures (formerly Arnold Foundation) has provided a grant to PPRI to conduct the research component of this project. The results of the study will help inform jurisdictions across the state and nation about the impact of counsel at first appearance.

#### Grant History

TIDC awarded Hays County a Technical Support Grant of \$136,500 in December, 2019 to fund the cost of providing representation at magistration during the one-year study.

TIDC awarded Lubbock County a Technical Support Grant of \$127,400 in August 2019 to fund the cost of providing representation at magistration, **however the county has subsequently decided to decline the grant, because of other pretrial process change commitments.**

#### Anticipated and Pending Grant Requests

We anticipate receiving a request for a Technical Support Grant from Travis County to cover the cost of representation at magistration during the one-year study. Potter County has submitted an application for the same on the following pages. Travis County is working on the request, which will be presented for consideration at a future meeting.



## Technical Support Application Form

<b>County Requesting Support: Potter</b>		<b>Date of Request:</b>
<b>Address:</b>		<b>Contact Information</b>
Potter County Courthouse	Name:	Hon. Nancy Tanner
500 S. Fillmore, Room 103	Title:	Potter County Judge
Amarillo, Texas 79101	E-mail:	nancytanner@mypottercounty.com
	Phone:	806-379-2250
	Fax:	806-379-2446

<b>Project Name:</b>	<b>Time Period:</b>
Counsel at First Appearance – Randomized Controlled Trial	
<b>Brief Description:</b>	
<p>The bail hearing – the “first appearance” of a defendant in front of a judge or magistrate – constitutes an important moment where a defendant’s ability to secure their freedom is in jeopardy. Currently, counsel is not present at this juncture, which presents several problems for defendants, who are ill-suited to navigate this stage alone. Although preliminary studies have been conducted elsewhere, it is unclear how these defense services might benefit defendants and county stakeholders in Potter.</p>	
<b>Issue to Be Addressed:</b>	
<p>The provision of counsel may improve case outcomes by 1) right-sizing pretrial release conditions, and 2) reducing failure to appear because defendants understand their pretrial release conditions. The study will seek to answer the following questions:</p> <ol style="list-style-type: none"> <li>1. Does counsel at first appearance have an impact on bail and pretrial release conditions decisions?</li> <li>2. For those who are released pre-trial, do defendants with counsel at first appearance exhibit lower FTA rates than those without such representation?</li> <li>3. Does counsel at first appearance impact case disposition, sentencing, or pre- or post-trial recidivism?</li> <li>4. Does counsel at first appearance have an effect on arrestees’ attitudes toward the legal system?</li> <li>5. What is the cost-benefit ratio for jurisdictions interested in piloting this program?</li> </ol>	

**Proposed Project to Address Problem:**

In partnership with the Public Policy Research Institute's (PPRI) randomized controlled trial (RCT) to study counsel at first appearance (CAFA), we seek grant funding to temporarily fund this counsel. It is our belief that the provision of CAFA should primarily reduce FTAs and unnecessary jail days. We also believe that this grant support is helpful in determining the benefits of longer-term provision of these defense services.

Specifically, attorneys will gather very basic information from defendants using a protocol developed by the National Association of Criminal Defense Lawyers. This protocol involves collecting basic demographic information, including employment, residence, family dependencies, health issues, and access to financial resources for bail prior to magistration. The attorneys will use this information to provide a narrative background for the client at magistration and should be able to provide a measure of advocacy for the defendant that they could not, alone, produce.

**Specific Assistance Needed from the Commission, Including Amount Requested:**

The introduction of counsel at first appearance requires additional hours of attorney time. At present, we service approximately 20 new cases each day. Given that the randomization feature of the RCT involves assigning roughly 50% of new cases to attorneys at first appearance, there will be 184 days where counsel is present over the course of a full year. Between defendant interviews (1 hour per attorney) and magistration (budgeted 4 hours), this is about 5 hours of attorney time per day.

Counsel will involve 2-person teams x 5 hours of attorney time per day x 184 days. That results in 1,840 hours of attorney time. At \$75/hour, the total cost of attorney services is estimated at \$138,000 to run the pilot program for a full year.

Thus, we request \$138,000 in funding for this program.

**Report**

- Deliverable 1: After the first study year, researchers from PPRI will submit a technical report to the participating counties describing the ongoing project, as well as conveying the descriptive statistics associated with service utilization. After the conclusion of the study, they will submit a follow-up report to the counties describing the empirical results. A cost-benefit analysis will be included to provide information to the Commissioner's Courts about the long-term sustainability of the project. These documents will *also* be sent to TIDC.
  
- Deliverable 2: Given the investment in project protocol, the systematic study of counsel at first appearance will allow researchers to validate the materials used by counsel. The checklist that guides attorney interactions will be available for other jurisdictions in Texas – and, we hope, nationally – to adopt.

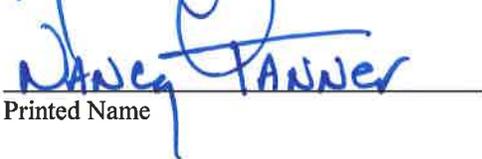
**Additional Documentation if Applicable (describe here and attach to this Application)**

Cost estimate calculator (attached)

Potter County requests the above Technical Support from the Texas Indigent Defense Commission (Commission). We understand that:

1. The above requested technical support is subject to approval by the Commission.
2. This application does not constitute an agreement until approved and accepted by all parties.
3. Commission reimbursement will only be made for expenses incurred during the period indicated in this request but in no case may it be for expenses prior to the beginning of this agreement or after the end date agreed in writing with the Commission.
4. The county may not obligate Commission funds or staff without a specific written agreement.
5. Disbursement of funds is always subject to the availability of funds.

  
\_\_\_\_\_  
Signature

  
\_\_\_\_\_  
Printed Name

  
\_\_\_\_\_  
Date

  
\_\_\_\_\_  
Title

Costs for attorney services assuming **two**-attorney teams

		Potter County
[1]	Defendants	20 / day
[2]	Estimated interview time	5 min.
[3]	Total interview time (Row 1 × Row 2)	~2 hours
[4]	Total interview time per attorney (Row 3 ÷ 2)	1 hour / attorney
[5]	Magistration per day	4 hours
[6]	Total time per attorney per day (Row 4 + Row 5)	5 hours
[7]	Number of treatment days	184 days
[8]	Total billable hours (2 attorneys × Row 6 × Row 7)	1,840 hours
[9]	Total cost at billing rate of \$75/hour (Row 8 × \$75)	\$138,000

**Assumptions for attorney costs:**

1. Magistration time is 4 hours which would take into consideration one magistration a day.
2. Two attorneys will cover one magistration a day.

# Extraordinary Disbursement Grant Request

## Wharton County

### Request Summary

- Requests assistance with expert fees in death penalty case of defendant Robert Allen Satterfield.
- Represented by Regional Public Defender Office for Capital Cases (RPDO).
- The county provided copies of sealed court orders for defense expert witness expenses in the case totaling \$193,624.
- These expenses were accrued during FY 2019 & FY 2020.

### Wharton County Information

- A member of the RPDO since 2013.
- Population of approximately 41,141.
- In 2019, the total direct indigent defense courts reported in Wharton County were \$387,449.
- The capital case defense expenses submitted for this case represent approximately 50% of total annual indigent defense expenses of Wharton County courts.
- Wharton County previously received extraordinary grant in FY2010 of \$96,088 for expenses in three capital murder cases.

### Staff Recommendation

- Award an Extraordinary Disbursement Grant to Wharton County.
- Existing policy suggests \$50,000 per case, however the Commission routinely goes above this amount depending on case circumstances and availability of funds.
- Consider 2/3 of the incurred expense: \$129,083.

Wharton County Extraordinary Request Summary				
Page #	Amount	Date	Description	Ineligible extraordinary cost categories
1	\$ 7,951.40	10/16/2019	Expert R	
4	\$ 16,276.80	10/16/2019	Expert S	
7	\$ 17,799.00	1/10/2019	Expert I	
8	\$ 2,500.00	1/10/2019	Expert J	
10	\$ 16,604.00	1/10/2019	Expert K	
12	\$ 4,893.00	1/10/2019	Expert M	
15	\$ 15,341.00	1/10/2019	Expert N	
18	\$ 13,252.50	1/10/2019	Expert L	
21		8/29/2019	interlocal allocation for FY to RPDO	\$ 32,699.00
22	\$ 14,000.00	4/23/2019	Expert P	
25		5/3/2018	document and discovery	\$ 500.00
26	\$ 7,875.00	2/28/2019	Expert O	
28	\$ 12,000.00	12/20/2018	Expert D	
34	\$ 12,680.00	12/20/2018	Expert E	
36	\$ 8,551.14	12/20/2018	Expert F	
39	\$ 27,726.00	12/20/2018	Expert G	
42	\$ 16,174.32	12/20/2018	Expert H	
47		10/12/2018	document and discovery	\$ 1,000.00
52		10/12/2018	document and discovery	\$ 1,000.00
58			document and discovery	\$ 1,000.00
60		10/12/2018	document and discovery	\$ 1,000.00
	\$ 193,624.16		total expenses from eligible expense categories	

**Texas Indigent Defense Commission**  
**March 12, 2020**  
**Summary of Fiscal Monitoring**

Since the December 13, 2019 TIDC Board meeting, the fiscal analyst has conducted one on-site fiscal review and began two desk review. These reviews are currently on-going. Three final reports and two initial reports were also issued. In addition to the reviews the fiscal analyst performed the annual risk assessment.

The Commission provided fiscal monitoring and technical assistance to counties as specified in Title 1, Chapter 173.401(b), Texas Administrative Code. The counties were monitored based on the risk assessment scores and geographical area. The Uniform Grant Management Standards (UGMS) and grant rules set monitoring priorities for the counties.

**New Reviews:**

<b>County</b>	<b>Engagement Letter Date</b>	<b>Type of Review</b>	<b>Summary of Review</b>	<b>Status</b>
Moore	February 3, 2020	Desk Review	Selected from Risk Assessment	Review in process
Irion	February 7, 2020	Desk Review	Selected from Risk Assessment	Review in process
Dallas	February 10, 2020	On site Review February 24-27, 2020	Selected from rotation of top twenty counties over 250,000 in population	Review in process

**Texas Indigent Defense Commission**  
**March 12, 2020**  
**Summary of Fiscal Monitoring**

**Status of on-going reviews:**

County	Site Visit Date	Visit	Summary of Review	Status
Jefferson	Engagement Letter dated March 7, 2019	On-site Review April 1-3, 2019	General court expenditures were included with the criminal indigent defense expenses in the FY 2018 Indigent Defense Expense Report (IDER) submitted under Texas Government Code Section §79.036 (e).	Initial Report pending issue with Policy report
Jim Wells	Engagement Letter dated April 18, 2019	On-site Review May 13-16, 2019	<p>Chosen for review per risk assessment. Joint review with policy team.</p> <p>The FY 2018 Indigent Defense Expenditure Report (IDER) submitted in accordance with Texas Government Code Section §79.036(e) was not supported by financial data provided nor prepared in the manner required.</p> <ul style="list-style-type: none"> <li>▪ Civil case expenditures were included with the criminal indigent defense expenses;</li> <li>▪ General court expenditures were included with the criminal indigent defense expenses; and</li> <li>▪ Some attorney fee payments on criminal cases were not included.</li> </ul>	<p>Initial Report issued with Policy report on November 8, 2019</p> <p>Response due March 10, 2020</p>
San Patricio	Engagement Letter dated April 25, 2019	On-site Review May 15-16, 2019	<p>Chosen for review due to proximity to Jim Wells County.</p> <ul style="list-style-type: none"> <li>▪ One attorney fee voucher of the 65 vouchers reviewed was not an attorney-submitted voucher as required by Code of Criminal Procedure (CCP) Article 26.05 (c).</li> </ul>	Final report issued February 11, 2020
Rusk	Engagement Letter dated June 4, 2019	On-site review June 24-25, 2019	<p>The FY 2018 Indigent Defense Expenditure Report (IDER) submitted in accordance with Texas Government Code Section §79.036(e) was not supported by financial data provided nor prepared in the manner required.</p> <ul style="list-style-type: none"> <li>▪ General court expenditures were included with the criminal indigent defense expenses; and</li> <li>▪ Attorney payments for drug court representation were not classified correctly.</li> </ul> <p>Rusk County uses a contract defender system for a drug courts; however, the program does not comply with the contract defender rules outlined in the Texas Administrative Code (TAC), Chapter 174, Subchapter B.</p> <p>Written explanations from judges for variance in amounts requested and amounts approved on attorney fee vouchers were not present on vouchers as required by Article 26.05(c) of the Texas Code of Criminal Procedure.</p>	Final report issued February 11, 2020

**Texas Indigent Defense Commission**  
**March 12, 2020**  
**Summary of Fiscal Monitoring**

County	Engagement Letter Date	Type of Review	Summary of Review	Status
Harrison	June 17, 2019	On-site review June 26-27, 2019	<p>Chosen for review due to proximity to Rusk County</p> <p>The FY 2018 Indigent Defense Expenditure Report (IDER) submitted in accordance with Texas Government Code Section §79.036(e) included unallowable general court expenses.</p> <p>Written explanations from judges for variance in amounts requested and amounts approved on attorney fee vouchers were not present on vouchers as required by Article 26.05(c) of the Texas Code of Criminal Procedure.</p>	Final Report pending
Collin	June 21, 2019	On-site review July 30-31, 2019	<p>Joint review with Policy team.</p> <p>No issues noted</p>	Initial/Final report issued February 11, 2020
Jasper	August 23, 2019	Limited Scope Desk Review	Data provided does not support the IDER submitted.	Initial limited scope report issued March 4, 2020
Camp	September 24, 2019	Limited Scope Desk Review	<p>Written explanations from judges for variance in amounts requested and amounts approved on attorney fee vouchers were not present on vouchers as required by Article 26.05(c) of the Texas Code of Criminal Procedure.</p>	Initial desk review report March 5, 2020
Tarrant	October 4, 2019	On site Review November 18-20, 2019	The FY 2018 and FY 2019 Indigent Defense Expenditure Report (IDER) submitted in accordance with Texas Government Code Section §79.036(e) included general court and civil case expenditures which are unallowable for this report.	Initial report pending

**Texas Indigent Defense Commission**  
**March 12, 2020**  
**Summary of Fiscal Monitoring**

**Completed reviews:**

County	Engagement Letter Date	Type of Review	Summary of Review	Status
Goliad	January 29, 2019	On- site review February 19-20, 2019	The FY 2018 Indigent Defense Expenditure Report (IDER) submitted in accordance with Texas Government Code Section §79.036(e) was not prepared in the manner required.  Civil case expenditures were included with the criminal indigent defense expenses;  Case counts were not reported properly; and  Investigation costs, expert witness costs, and reimbursement of other eligible expenditures were all reported under the attorney fee category.	Final report issued December 6, 2019  Financial Finding
Fort Bend	January 30, 2019	On-site review February 21-22, 2019	General court expenditures were included with the criminal indigent defense expenses in the FY 2018 Indigent Defense Expense Report (IDER) submitted under Texas Government Code Section §79.036 (e).  Some attorney payments do not appear to be made in accordance with the published fee schedule as required by Article 26.05(b) of Texas Code of Criminal Procedure (CCP).	Final report issued October 25, 2019  Financial Finding
Waller	Follow-up email dated January 30, 2019	On site February 28, 2019	Fiscal issue regarding competency to stand trial from first review is resolved.	Follow-up report issued September 2019
Hopkins	April 16, 2019	Limited Scope Desk Review	Hopkins County prepared and submitted the FY2018 IDER in accordance with Texas Government Code Section §79.036(e) however, the reported amounts were not fully supported by the financial data provided.	Final report issued October 30, 2019

**Texas Indigent Defense Commission**  
**March 12, 2020**  
**Summary of Fiscal Monitoring**

CAFR's/ Single Audit							
County	Date Submitted	Financial Statement Opinion	Single Audit Opinion	TIDC Funds - Major Program	TIDC Findings	Financial Statement Findings	Compliance Findings Noted
Harris	9/20/2019	Unmodified	Unmodified	No	NA	Yes	Yes

IDER Training Sessions				
1 <sup>st</sup> training session was hosted by Hidalgo County on Friday October 18, 2019. Auditors from five counties were in attendance.				
Cameron	Mariana Rodriguez	Yarim Enriquez		
Hidalgo	Leticia Chavez	Linda Fong	Celina Rios	Corina Martinez
Jim Wells	Leticia Garcia	Diana Flores		
Webb	Karina Neira	Mabel Gonzales		
Willacy	Rebeca Saenz			
2 <sup>nd</sup> training session was hosted by Colorado County on Tuesday October 22, 2019. Auditors from six counties were in attendance.				
Colorado	Raymie Kana	Tammy Woolls		
DeWitt	Neomi Williams			
Gonzales	Shawna Lehnert	Liz Longoria		
Lavaca	Shana R Opela			
Washington	Sherri Roese			
Wharton	Steve Chelotti			

# FY2020 Fiscal Monitoring Review Risk Assessment and Schedule

## INTRODUCTION

The Commission is required by Texas Government Code §79.037 to monitor counties that receive grant funds and to enforce compliance by the county with the conditions of the grant. The Uniform Grant Management Standards (UGMS) and grant rules set the monitoring criteria and priorities for counties. Counties are selected for a monitoring visit based on a combination of objective risk assessment scores, population, and geographical distribution.

## RISK ASSESSMENT MATRIX

Upon review of the UGMS and formula grant conditions/requirements, a risk assessment matrix was developed to determine the counties' relative risk.

### Risk Assessment Matrix Factors:

- Increased administrative costs
- Contract for indigent defense services
- Amount of the award
- Tardiness in document submission
- Counties with discretionary disbursements
- Counties with extraordinary disbursements
- Indigent defense expenditure reporting:
  - ✓ Non-reporting of expert witness expenses
  - ✓ Non-reporting of licensed investigative expenses
  - ✓ Non-reporting of other direct litigation expenses
  - ✓ Non-reporting of felony appeals
- County checked unable to follow IDER manual instructions box on their report
- Reported zero appointments:
  - ✓ Juvenile
  - ✓ Misdemeanor
  - ✓ Felony
- Time elapsed since previous visit
- Attorney report of fee amount paid each attorney totals attorney fee reported for each court
- Case count for attorney report is close to case count for each court
- TIDC staff indicated a risk upon IDER review
- Public Defender cost
- Managed Assigned Counsel cost

Each category received a point value based on its respective factors.

For the FY 2020 risk assessment, counties were separated into three groups:

- (1) counties over 250,000 in population,
- (2) counties under 250,000 in population, and
- (3) counties under 20,000 in population.

## **FY2020 Fiscal Monitoring Review Risk Assessment and Schedule**

There are twenty counties listed as having populations of over 250,000 as of the 2010 census. These twenty counties were put on a list for rotation in 2015. As of the end of calendar year 2019 sixteen of these counties have had a fiscal review leaving four available for review. Twenty counties with a population between 20,000 and 250,000 that had the highest risk points assigned were identified. These twenty counties were then sorted by counties with no previous review, counties with highest to lowest expenditures, highest to lowest population, and just simple highest to lowest risk points. Seven counties were identified as included in the top four from each category. These seven counties were selected for possible review this year. Twenty counties with the highest risk points for counties under 20,000 in population were selected. The four counties with the highest expenditures for FY2019 were selected for possible desk review.

After selecting the counties for possible fiscal review and coordinating with the policy team, the 2020 fiscal review list of counties was updated. In addition, three counties from the 2019 list that were not reviewed but were showing up on the top 20 list were added. However, as the formula grant is disbursed now as all awards under \$25K receive a onetime payment a further separation of counties by dollar amount of formula grant award was considered to determine the type of review to be conducted.

Please see attached list for counties for fiscal review in calendar year 2020. As Starr County and Jim Hogg County receive their IDER information from the Texas Rio Grande Legal Aide their county review may be in the form of a review of Texas Rio Grande Legal aide.

# Texas

