Indigent Defense Expenditure Report Manual
Fiscal Year 2020

Issued September 2020[1]

Report Due Date November 1, 2020 **Key Steps to Complete this Report:**
1. Collect case and expense information for each court from the county's general ledger or invoices for payments made to represent indigent defendants or juvenile respondents.
2. Review the information to ensure that payments related to civil cases or general government costs are excluded.
3. Log into the Commission data collection webpage https://tidc.tamu.edu/ and enter case counts and expenditure data for each court.
4. Submit attorney detail for each court by clicking the Attorney Detail Report link on each court page or e-mail Excel worksheet (see pg. 9).
5. Confirm the court page information and the countywide totals against the general ledger totals from county records.
6. Click the "submit" button and print the resulting confirmation page.

[1] Manual revisions new in this edition are reflected with underlines and ~~strikethroughs~~.

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I. Introduction

The Indigent Defense Expenditure Report

All Texas counties are required to submit the Indigent Defense Expenditure Report (**IDER**) annually to the Texas Indigent Defense Commission by Government Code § 79.036(e). This report includes all eligible indigent defense expenditures, case counts and attorney information for each court, sorted by level of case, type of expenditure and attorney.

Counties reports capture expenditures for attorney fees, licensed investigators, expert witnesses, and other direct litigation costs. The passage of House Bill 1318 by the 83rd Legislature amended Government Code § 79.036 to require counties to provide the number of cases by attorney. The Commission also allows counties to capture and report the administrative costs directly associated with providing indigent defense in the county. Additional information on allowable and unallowable costs is provided later in this manual. The report is organized by court. **Counties must track and report expenditures, case counts and attorney information separately for each court.**

Due Date and Reporting Period -- The report must be submitted by **November 1, 2020** and covers the period **October 1, 2019 through September 30, 2020.**

Officials Responsible for Filing -- The county auditor is responsible for preparing and filing the IDER. If a county does not have an auditor, the commissioner's court designates the person responsible for the report, generally the county treasurer.

Changes for FY2020 – Language clarifying the types of mental health expert costs that are eligible has been added on pages 5 & 6. Several counties now provide defense representation at the Article 15.17 hearing (often referred to as "magistration") shortly after a defendant's arrest. Some counties now provide defense representation at automatic bail review hearings within a few days of arrest. When this type of representation is provided by a county separately and for the limited scope of these hearings, expenditures and number of defendants provided with these types of limited scope representation should be reported in the new **Limited Scope Representation Addendum**. See page 9 for new instructions on where to report these costs.

Indigent Defense Defined -- Indigent defense refers to the legal requirement under the U.S. and Texas Constitutions and Texas statute for the government to provide an attorney and other defense costs on behalf of adult defendants and juvenile respondents whose life or liberty are at stake and who are financially unable to employ an attorney or pay other defense costs.

About the Texas Indigent Defense Commission -- The mission of the Texas Indigent Defense Commission is to provide 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.

The Importance of the IDER -- Each year the Commission distributes formula grants to Texas counties to be used to support indigent defense programs. The direct court expenses (attorney fees or public defender costs, investigation expenses, expert witness costs and other direct litigation costs) reported in the IDER are used in the calculation of the Formula Grant in each subsequent year.

The data is also used as the basis for policy evaluation and decisions of the Commission. Accurate data collection and timely submission of the report are essential to ensure that limited indigent defense resources are used effectively. Errors in the IDER could result in counties being awarded more funds in the Formula Grant and may result in a reduction in award or return of grant funds. The data is made available to the public online at: http://tidc.tamu.edu/public.

How to Use this Manual – In addition to providing guidance on the preparation of the IDER, this manual may be used by county financial officers to establish a framework by which to develop and monitor accounts payable and fiscal recording of indigent defense expenses. Counties implementing a solid data collection framework consistent with these instructions will simplify data collection needed to complete the report. While this manual is written primarily for county fiscal officers and employees responsible for completing the IDER, other involved stakeholders, including commissioner's court members and judges, would also benefit by understanding the report requirements and the data that must be collected.

Below are explanations of the three basic components of the IDER: eligible expenditures, case counts and attorney information.

II. Identifying Eligible Expenditures

Counties must report the amounts expended in each court for legal services provided in the county to indigent defendants during each fiscal year in four categories: 1) attorney fees; 2) investigation expenses; 3) expert witness expenses; and 4) other litigation expenses. The report is organized by court and must be submitted for every court in the county that hears criminal or juvenile cases. Additionally, the Commission requires that expenses be sorted by case type: capital, non-capital felony, misdemeanor, juvenile, felony appeals, misdemeanor appeals, and juvenile appeals. Finally, after staff review the Commission may permit certain cases to be reported under magistrate courts or as case filed but no court identified.

Allowable Costs

Allowable costs include:

- Direct costs paid by the county or managed assigned counsel program on behalf of a defendant or juvenile respondent to provide a defense to the charges brought by the State, to provide mitigating evidence related to the commission of a crime, or to assist in an appeal after a conviction. This includes attorney fees, licensed investigator fees, expert witness fees, lab fees, transcript fees (only when prepared for the defense in connection with an appeal), mental health evaluations, sociological evaluations, immigration status impact consultation, and other costs paid by the county to assist the defendant in mounting his or her defense against the charges brought by the State;

- Indigent defense expenses required to be reported by statute and funded wholly or partially by discretionary grants; and

- Administrative costs (with proper supporting documentation) related to implementation of the Fair Defense Act that are distinguishable costs and not general government costs (see table below).

Examples of Increased Administrative Costs		
Expense/ Position	**Description**	**Documentation Needed**
Personnel (Indigent Defense Coordinator, indigence screeners, managing attorney, etc.)	Full time or part-time position dedicated to coordinating the application of the Fair Defense Act requirements.	Job description indicating the position is dedicated to processes related to indigent defense and not general court administration. Personnel and payroll records of funded positions. If part-time positions are claimed, [apply] the estimated percentage of time devoted to indigent defense.
Travel and Training	The travel or training for positions directly implementing the Fair Defense Act. If there are no allowable salaries then there can be no allowable travel and training.	Travel and training receipts for persons funded as indigent defense coordinators.
Equipment	New equipment purchased and used exclusively for implementing Fair Defense Act requirements.	Location of equipment is consistent with use for indigent defense. Documentation indicating the purchase is mandatory to implement or complete reporting requirements of the Fair Defense Act.
Supplies	Materials purchased and used exclusively for implementing Fair Defense Act requirements. This may include cost of printing Affidavits of Indigency and Request for Court Appointed Counsel forms.	Receipts or invoices and normal records related to allocation of the expense.

Unallowable Costs

The Commission has adopted the Uniform Grant Management Standards (UGMS) to determine unallowable costs for all Commission grants. The same principles are used to report counties' indigent defense costs (See UGMS for a more detail of unallowable costs and principles: http://tidc.texas.gov/media/11944/UGMS062004.pdf).

Specifically, in accordance with statute, UGMS, and/or Commission policy, the following costs are not allowable:

- **General government costs**;

- **Costs of law enforcement, prosecution, and incarceration**;

- **Replacing existing county funding with grant funds** (supplanting);

- **Prosecution costs** such as attorney fees, licensed investigator fees, expert witness fees, lab fees, transcript fees, mental health evaluations, sociological evaluations, copying fees, or any other costs paid by the county to prosecute a defendant;

- **Cost of operating court systems** including docketing, general case management systems, or court and administrative personnel unrelated to the provision of indigent defense;

- **Court reporters** – The routine fees and costs associated with court reporting are not allowable. Counties that expend additional funds for transcription fees (statement of facts) on behalf of an indigent defendant's appeal may claim the additional direct costs as "Other Litigation Expenses";

- **Court Interpreters** – Interpreters are required to be provided by courts regardless of a person's indigent status; therefore, it is considered a general government cost;

- **Civil case attorney fees**, other than payments to attorneys appointed to represent juveniles on cases arising from Title 3 of the Texas Family Code (Juvenile Justice Code). Unallowable attorney fees include those for child protection cases brought by the Department of Family and Protective Services child support enforcement and associated contempt cases, battered women's intervention and protection, various civil county-appointed *ad litem* (probate or other civil matter), or in *forma pauperis* civil cases;

- **Civil case expenses** for investigators, expert witnesses, or other litigation expenses paid for by the county, other than payments on cases arising from Title 3 of the Texas Family Code (Juvenile Justice Code);

- **Evaluations of competency to stand trial**;

- **Expenses, including equipment used for county offices, not directly involved in the provision of indigent defense services** (e.g., computer for prosecutor's office or tax office; expert witness or mental health evaluation provided for the prosecution, etc.);

- **Indirect costs** such as cost allocation plans, general county administration, human resources, or other administrative fees.

Eligibility of Mental Health Evaluation Expert Fees

Generally speaking, experts requested and hired by the defense to conduct a psychological evaluation are considered eligible indigent defense expenditures and should be included in the Expert Witness sections of the IDER. Not all psychological evaluations of a defendant who is indigent are eligible, however. For example, competency evaluations ordered by the court are not eligible defense costs.

To determine whether fees for mental health experts are eligible indigent defense expenditure to include on the IDER, auditors should determine whether the expert was working for the defense under derivative attorney-client privilege to assist in the criminal defense of indigent defendants. If the expert fees in question were initiated through an *ex parte* motion by the defense, the resulting reports would be privileged information provided to the defense attorney and these costs should be included on the IDER. By contrast, psychological evaluations ordered by the court and which yield expert reports made available directly to the court or to all parties would not be counted as eligible indigent defense expenditures. While an order granting an *ex parte* defense motion requesting funds for a mental health defense expert is generally sufficient to establish eligibility as an indigent defense expenditure, evaluations of competency to stand trial are not eligible indigent defense expenditures regardless of the origin of the referral for the competency evaluation.

Allocation of Costs

Counties must follow allocation guidelines established in UGMS for grant fund use when completing the report. If indigent defense grant or county funds are used to pay for goods or services that benefit other programs in addition to indigent defense, the cost of those goods and services must be allocated among the programs so that grant funds are not used for or credited to purposes unrelated to the indigent defense program. As with any grant fund, allocation documentation must be maintained locally and available for review.

III. Case Counts

All cases where an attorney is appointed to represent a defendant are appointed cases. Appointed cases must be counted and reported on the IDER at the time they are paid in the assigned counsel, managed assigned counsel and contract counsel systems. Cases are counted when disposed in the public defender system.

The law requires that attorneys be appointed within one to three working days (depending on the size of county) of a defendant's request being transferred by the magistrate to the local appointing authority (typically a judge). This is prior to the information or indictment being filed in most jurisdictions. When an attorney is appointed on a case that the prosecutor does not file or dismisses and the county pays for the legal services, then the money paid and the

case(s) should be included in the IDER under the court of the judge that authorized the payment. Public defenders should count these not filed and dismissed cases as disposed.

One defendant often has multiple cases and multiple levels of representation on an invoice submitted by an attorney or counted disposed by a public defender. **Counting cases should not be confused with counting attorney fee vouchers or payments.** Each **case** reflected on the invoice or disposed by final order by the public defender must be counted in its proper category.

To meet the statutory requirement, counties must use processes where invoices are itemized to reflect each of the cases and expenses that correspond to the fee schedule adopted by the judges in the local indigent defense plan.

Fiscal officers should prepare the IDER based on the financial records in their offices. A cause number or group of cause numbers attributed to one defendant may have several distinct appointments and representation events. For example, a defendant with three original cases on an invoice may have probation revoked on one case and have an appeal all in the same year using the same cause number.

Definition of "Case" for Purposes of IDER

"For the purpose of these reports, the number of criminal cases reported on this monthly reporting form should be based on the number of defendants named in an indictment or information *(documents filed to bring charges against a person)*. That is:

1. If a single indictment or information names more than one defendant, there is more than one case: as an example, if three defendants are named in one indictment, count this as three cases.
2. If the same defendant is charged in more than one indictment or information, there is more than one case: as an example, if the same person is named in four separate indictments, count this as four cases.
3. Finally, if an indictment or information contains more than one count (Article 21.24, Texas Code of Criminal Procedure), report this as one case and report the case under the category for the most serious offense alleged."

Counting Cases for the IDER

The cases reported must be associated with the expenses reported.

- **Juvenile Cases** - Cases where the attorney fee vouchers reveal that the cases paid are reported as juvenile cases, regardless of offense level or classification.
- **Capital Murder Cases** – Cases where the defendant is charged with capital murder. Capital murder cases and expenses must be counted and included for each year from the time of filing to the year of final disposition.
- **Adult Felony Cases** – Cases where the attorney fee vouchers reveal that the cases paid are reported as felonies. This includes motions to revoke community supervision

(probation) cases classified as felonies. This figure should exclude capital murder cases since they are reported separately.

- **Adult Misdemeanor Cases** - Cases where the attorney fee vouchers reveal that the cases paid are reported as misdemeanors. This includes motions to revoke community supervision (probation) cases classified as misdemeanors.

- **Juvenile Appeals** – Cases where the attorney fee vouchers reveal that the cases paid result from the filing of an appeal or post-conviction action (i.e. direct appeals and writ of habeas corpus). Motions to modify disposition are counted above as juvenile cases.

- **Felony Appeals** – Cases where the attorney fee vouchers reveal that the cases paid result from the filing of an appeal or post-conviction action (i.e. direct appeals and writ of habeas corpus). Motions to revoke probation are counted above as felony cases.

- **Misdemeanor Appeals** - Cases where the attorney fee vouchers reveal that the cases being paid result from the filing of an appeal or post-conviction action (i.e. direct appeals and writ of habeas corpus). Motions to revoke probation are counted above as misdemeanor cases.

- **Total Cases-** The sum of all cases reported for that court.

Cases with multiple attorneys appointed will be reported as one case for the court portion of the report and one case for each attorney on the court attorney detail portion of the report. In cases where attorneys within a law firm perform incidental tasks associated with case representation (such as stand in for a single hearing or provide direction to parents, etc.), report the case under the originally assigned contract attorney.

Cases with multiple successive attorneys will be counted as one case for the court portion of the report and one case for each attorney on the court attorney detail portion of the report.

Indigent defense activities (cases) required to be reported by statute and funded wholly or partially by discretionary grants must be included in the IDER.

Special Cases

- **Out-of-state extradition cases** should be categorized in the court where the payment was issued. Whenever possible, classify the expense in the best known corresponding case level. Usually extradition cases are capital or non-capital felony cases. A footnote on the report indicating the prevalence of these cases can be included, but is not required. There may be other cases in jurisdictions that are similar in nature to out-of-state extraditions that could also be captured in this box.
- **Appointments for motion to revoke** community supervision (probation) are considered separate cases for the purposes of the IDER. There is usually a lapse in time from the original case to the subsequent revocation hearing. These cases usually have the same cause number and can occur in the same fiscal year. Appeals to a revocation of community supervision would be counted as a separate appeal.
- **Unfiled drug court, pre-trial release, or pre-trial diversion cases** that have a court appointed attorney are counted in the court where the payment was issued. Whenever possible, classify the expense in the best known corresponding case level. If the activity is part of existing district or statutory county court processes, report the case and attorney payment information in that court.

- **Appeals** must be counted as a separate case from the original trial level case. Appeals from an order revoking community supervision (probation) are counted as an appeal.
- **Appointments for Limited Scope Representation at Article 15.17 Magistration Hearings or Automatic Bail Review Hearings** – Counties that appoint private defense counsel for the limited purpose of representation at the Article 15.17 magistration hearing or automatic bail review hearing and separately from any appointments for the underlying case should track the number of defendants represented and associated attorney fees for each attorney. This data should be reported in the new Limited Scope Addendum to the IDER linked on the main page of the report. Counties that do not have expenditures for these types of limited scope representation should not complete this addendum. Please contact TIDC with questions regarding the applicability of this addendum to a county's particular circumstances. If the same attorney or a different attorney is appointed to represent a defendant beyond the Article 15.17 magistration hearing, the case should also be counted and attorney fees for the subsequent representation should be recorded under the court in which the case is disposed. (Counties that provide this type of representation with public defenders should consult the FY2020 Public Defender Addendum to the IDER Manual.)

IV. Attorney Level Detail of Court Expenditure Report

Each county is required to submit an attorney-level detail report for each court showing the number of cases paid for each attorney for criminal and juvenile delinquency cases (sorted by case level) and total attorney fees paid to each attorney**.** (The attorney level detail portion of the court expenditure report should not be confused with the Attorney Practice Time Report discussed in Section IX below.)

These reports added for FY2014 build on the Commission's original reporting structure. Counties have historically been required to report the aggregate number of cases paid by case level (Juvenile, Capital Murder, Adult Felony, Adult Misdemeanor, Juvenile Appeals, Felony Appeals, and Misdemeanor Appeals). Using the same case levels, the attorney detail of the court expenditure report must include the number of cases paid to each attorney by court and the total amount paid to each attorney for the time period of October 1 – September 30 for the preceding fiscal year. Coordination with the Chief Public Defender and Managed Assigned Counsel program director is needed to complete the report in counties with such programs.

The attorney level detail portion of the court expenditure report may be entered directly on the online reporting form. Alternatively, to simplify attorney level reporting for counties with many appointed attorneys, the Commission has published the Court Attorney Detail Report Template at http://www.tidc.texas.gov/media/22360/CourtAttorneyReportingTemplate.xlsx. This Excel spreadsheet with standard data fields may be downloaded by the auditor, completed, and then submitted via email to JVanBeek@ppri.tamu.edu when the IDER is submitted online. The case numbers for each attorney and total attorney fees paid to each attorney must be **submitted separately for each court**.

PLEASE NOTE: The amounts reported on the attorney level detail portion of the court expenditure reports should only include <u>attorney fees</u> paid, not payments that may have been made to attorneys that are reimbursements for other expenses the attorney may have incurred, such as for investigators, experts or other litigation expenses. The amounts reported should only reflect the underlying detail of attorney fees paid that is reported for each court.

The following fields are included in the online reporting system and on the Court Attorney Reporting Template:

FiscalYear	CourtID
BarCard	AttorneyName
JuvenileCasesPaid	CapitalMurderCasesPaid
AdultFelonyCasesPaid	AdultMisdemeanorCasesPaid
JuvenileAppealsCasesPaid	FelonyAppealsCasesPaid
MisdemeanorAppealsCasesPaid	TotalPaid

The template will be used to import the data into the database and, if this submission method is used, the file must meet stringent requirements. First, the column names must match the template so that the data can be mapped properly to the fields in the database. The data in the columns must be in the proper format. A numeric field cannot contain extraneous dollar signs or comments. The file should not contain any header rows other than the first row with the column titles and there should not be any extra rows for totals, subtotals, or notes. For numeric fields that have no value, such as juvenile case counts for an attorney that only has adult cases, leave them empty or enter a zero. Do not use other representations for null values. The key fields for the fiscal year, court ID, and Bar Card Number must be populated for every row in the data and not just included for the first row in a group as in visual reports. Please see the template description for details on the data types and data dictionary of the fields.

V. Reporting Under Different Types of Indigent Defense Systems

Statute requires that counties report indigent defense expenditures and case information associated with those expenditures regardless of appointment system – assigned counsel, managed assigned counsel, contract, or public defender. This is not a duplication of data collected by the Office of Court Administration through the district and county monthly court activity reports. **A county that reports the attorney appointment data by utilizing information obtained from the district or county clerks rather than the attorney fee voucher from auditor's/treasurer's office has not correctly completed this report.**

Under Article 26.05(c) of the Code of Criminal Procedure, "…*No payment shall be made under this article until the form for itemizing the services performed is submitted to the judge presiding over the proceedings or, if the county operates a managed assigned counsel program under Article 26.047, to the director of the program, and until the judge or director, as applicable approves the payment*. The information reported must be consistent with the fee schedule adopted by the courts for each level of case. Invoices approved by a judge or director must include at a minimum: 1) the payee; 2) the service(s) provided which must include the case(s) level by type; 3) the date(s); and 4) the amount. Public defenders do not use invoices. The only way that a fiscal officer will be able to reconcile courts, attorneys, and amounts or to establish veracity of the IDER is to list the cause numbers of the cases disposed for a specific defendant for any of the following systems:

The **assigned counsel** system requires a payment to be made to a defendant's appointed counsel after the attorney submits an invoice to the court and the court approves the invoice. In this way, the number of cases disposed and related payments can both be included in the IDER. Cases disposed under discretionary grant-funded programs must be included in this portion of the report. (Capital murder cases and expenses may be claimed prior to case disposal.) Report interim payments in the year they are made.

The **contract system** requires periodic payment of the amount specified in the contract regardless of the number of cases handled or the workload involved in the time period. Article 26.05 (c) Texas Code of Criminal Procedure applies to contract systems since *"no payment"* can be made without an itemized invoice. Automatic contract payment distributions without attorneys' invoices would not meet the standard set by this statute. Counties must adopt an invoice that meets the statutory requirement and provides the data to complete the IDER and should clearly indicate which cases were disposed. If invoices also include information on non-capital cases that were worked on but not disposed, counties must implement procedures to ensure that IDER case counts are based on disposed cases only. Contract expenditures and the number of cases disposed must both be reported in the IDER. Contract systems must have a written policy instructing contract attorneys when cases will be counted on the invoice submitted each month (examples: disposition by court; when judgment is filed; at time of brief or at appeals court disposition, etc.). Cases disposed under discretionary grant funded programs must be included in this portion of the report. (Capital murder cases and expenses may be claimed prior to case disposal.)

The **public defender system** (as described in Article 26.44, Texas Code of Criminal Procedure) handles cases as a county department or non-profit corporation. Both expenditures and cases disposed must be reported in the IDER. This requires a case management or tracking system to report the cases disposed for the corresponding expenditure period. Counties that have attorneys representing clients with multiple case levels must track time to properly assign costs in the IDER. Counties must develop policies to ensure that the number of cases reported by the public defender are accurate and consistent with the same period as the expenses. Cases disposed under discretionary grant funded programs must be included in this portion of the report. (Capital murder cases and expenses may be reported prior to case disposal.) Expenditures will be reported in a separate public defender addendum.

The **managed assigned counsel** (as described in Article 26.47, Texas Code of Criminal Procedure; may be referred to as a "private defender") program provides that an entity

created by the county and courts manage the indigent defense process. Amounts paid are reported for all court pages on the "managed assigned counsel" line for the four report categories (attorney expenses, investigation expenses, expert witness expenses, or other litigation expenses). Cases will be reported under the "managed assigned counsel" column by case level. The administrative costs associated with the managing attorney, investigators, social workers, and other non-attorney support staff, need to be reported in the county's managed assigned counsel administrative expense page. The county auditor must meet the requirements of reporting even if the county's contract requires payments to attorneys and other legal services providers to be made by an outside party. Cases disposed under discretionary grant-funded programs must be included in this portion of the report.

Types of Indigent Defense Systems		
System	**Accounts Payable Instrument**	**Method to Count Cases**
Assigned Counsel System	Invoice submitted by attorney on each case or defendant and approved by judge	Use cases paid as reported on attorney fee voucher
Contract System	Invoice submitted by attorney for each time period and approved by judge	Use cases disposed as reported for attorney fee voucher period
Public Defender System	No invoice submitted. PD salaries paid sorted by case level (Capital, felony, misdemeanor, juvenile, and appeals). **See Public Defender Supplemental**	Cases disposed tracked on PD database and reported to auditor.
Managed Assigned Counsel System	Invoice submitted by attorney on each case or defendant and approved by the director of the program. County fiscal officers may need to depend upon contractors or intergovernmental agreements, but still have the legal obligation to perform duties under Texas Government Code 79.036 and must develop procedures to ensure that data is correct. Invoice or salaries paid for managing attorney and non-attorney support staff is reported on Managed Assigned Counsel supplemental.	Use cases paid as reported on attorney fee voucher

VI. Reporting for Counties with Public Defender Offices

A supplemental reporting procedure manual has been developed to address indigent defense issues that are unique to counties with public defender offices. ***Counties with public defender offices must use the forms and methods described in the Public Defender Office Supplemental Manual.*** For assistance with reporting for public defender offices, contact the Commission Grant Program Manager.

VII. Regional Indigent Defense Program Requirements

Counties that participate in regional public defender offices or other regional indigent defense programs have special reporting requirements. The administrative county will report all costs and their own cases on the discretionary grant report and the IDER. The administrative counties will report all expense information in the manner and format required. The administrative county will provide to participating counties the number of cases by court represented in each county. The participating counties will report their contribution to the administrative county on the main IDER page under the Regional Indigent Defense Programs expense section "payments to other counties" and report the cases in the appropriate courts. Regional administrative counties must report any fund balance from counties that paid them or carry over funds from third party providers.

VIII. How to Submit the IDER

Questions about the report, time periods, or content may be directed to Edwin Colfax, Grant Program Manager for the Commission at ecolfax@tidc.texas.gov or 512-463-2508. If you experience any technical difficulties with the website or instructions provided below, contact Heather Caspers at hcaspers24@ppri.tamu.edu or (979) 845-6754.

1. Go to the PPRI Commission website at https://tidc.tamu.edu.
2. Enter your username and password:

   Contact Heather Caspers at hcaspers24@ppri.tamu.edu or (979) 845-6754 to retrieve username and log in information. Lost passwords may also be automatically reset by clicking on the link on the login page.

3. Ensure that the "SELECT YEAR:" field is set to **FY2020**.
4. After reaching the PPRI Commission Home Page, locate the menu of options on the left. Under the heading labeled "ID Expenditure Report," select the subheading "Edit **<County>** FY20 Report." This will bring up the forms you need.
5. The main page reflects general report and county contact information to be completed by the person reporting. The specific court report pages are below the general information.

   a. **Fiscal Year Used by County** – Use the drop down menu to select the correct time period that the county uses for its fiscal year.

   b. **Reporting Period** – is set by the Commission as October 1, 2019 - September 30, 2020.

c. **County's Accounting Method** – Use the pull down menu to select the accounting method used by the county.

d. **Financial Officer** – This information is pre-loaded from the county's homepage. If a change needs to be made, please back up to that screen.

e. **Contact Person –** If someone other than the county auditor/treasurer needs to be contacted about the report, please type their name and information here.

f. **Reimbursements** – Report any funds deposited into the county's accounts from reimbursement of court appointed fees collected by clerks or probation departments.

6. After completing or verifying the main report page, click on an individual court link or the administrative report link and the page will appear. (You may want to print the blank form for reference while gathering the requested information.) Complete the financial and case data. Complete all pages associated with the county. See Appendix C for sample report pages.

Individual Court Report Page

The statute requires that the information be reported by court. The county's accounts payable system must capture case and expenditure data by each court over which each judge presides. Financial officers must utilize the attorney fee voucher required in the statute to attribute both expense and case data to the court of the judge who approved payment and/or disposed the case. Payments authorized by visiting judges and magistrates will be attributed to the judge for whom they were serving at the time of payment approval. This is a fiscal collection issue and does not affect issues of judicial administration related to case filings and blended dockets.

Click on each court that is listed for the county. If the court does not hear criminal or juvenile matters, enter "0" in any space and save the report. If a court hears criminal or juvenile matters and the financial officer is not able to submit the data in accordance with the statute, please provide an explanation in the notes box. Complete the data for each box. Insert zeros when there are no expenses in a specific category. Failure to report for each court that hears criminal or juvenile matters could result in suspension of grant payments and possibly loss of grant funds.

If a county believes it has authority to combine court reports rather than to separate expenses for specific courts, then the county must provide written justification why it believes it is exempt from the IDER statute. The county must provide statutory citation to the exemption and any supporting documents. Otherwise, each court in the county hearing criminal or juvenile matters must report case and expenditure data as described in these instructions based on the model of *no payment shall be made under this article until the form for itemizing the services performed is submitted to the judge presiding over the proceedings and the judge approves the payment.*

Category of Services

To complete the online court report page for both the adult and juvenile sections, determine from the attorney fee vouchers or general ledger summary what type of expenses (assigned counsel, contract, managed assigned counsel, or public defender) each

court pays and which of the reportable expenses (investigator expenses, expert witness, or other direct litigation cost) are associated with the attorney payments. Then complete the juvenile section and the adult section as follows:

If the court hears juvenile cases and pays attorneys as assigned counsel, then complete row 1 column 1 with the amount paid to the assigned attorneys. In the next columns, enter the expenses paid to investigators, expert witnesses, and other direct litigation expenses associated with the assigned counsel payments in row 1 column 1. Enter all contract attorney-related expenses in the second row, followed by the other expenses in the following columns. Do the same for the managed assigned counsel system. For the public defender only list investigator expenses, expert witness, or other direct litigation cost authorized by the court and paid by the county for a public defender. The attorney salaries and investigator expenses, expert witness, or other direct litigation cost paid by the public defender's office will have separate reports in the PD supplemental. If the court uses more than one type of representation system, then total expenses must be recorded into the appropriate rows and columns.

Note: In the court or administrative pages, **"Save"** allows the user to stop at any point and save the data entered. "Save" will store updated information and return the user to the Expenditure Cover Sheet page. Please use **"Save"** often to avoid data loss.

Complete the same information for adult cases below the juvenile section. Repeat this process for all courts in the county hearing juvenile or criminal cases.

Important: Some judges/courts allow attorneys to submit the attorney fee voucher with the investigator, expert witness, and other direct litigation costs included in the invoice. In accordance with the reporting statute, the financial officer must separate these expenses for reporting purposes.

Attorney Level Detail Reporting

Below the case count section of each court report is a link to enter the Attorney Level Detail Report. The case counts and amounts may be entered directly on this page. Alternatively, the Excel spreadsheet template described above may be used and submitted via email to JVanBeek@ppri.tamu.edu. **Amounts on the Attorney Level Detail portion of the reports should only include attorney fees paid, not reimbursements to the attorney for other case expenses.**

Administrative Page – The administrative page is an *optional* page for counties that do not operate a managed assigned counsel program. Many Texas counties do not collect administrative expenditure data in a way that separates general court operations expenses from their indigent defense program costs. Personnel costs include indigent defense coordinators, but not court administrators, unless there is clear documentation of the costs attributable to indigent defense services. These costs are described in detail above in the Allowable Costs section (see Table 2).

Managed Assigned Counsel Administrative Expenditures –Counties that operated a managed assigned counsel program must include administrative expenditures and personnel costs (contract or wages) for managing attorneys, social

workers, investigators and/or other non-attorney staff in the administrative expenditure page. (**NOTE**: This screen will only appear in counties with managed assigned counsel systems)

7. When finished entering all court and administrative data, select one of the two buttons at the bottom of the cover sheet page:

   a. **"Save"** allows the user to stop at any point and save the data entered. "Save" will store updated information and return the user to the Commission homepage.

   b. **"Submit"'** posts all of the data recorded by the county into the system. A confirmation number will appear, along with a note indicating that the report has been submitted.

8. Print the confirmation page and retain for your records.

If corrections are required after the report has been submitted, you must coordinate necessary changes with the Commission Grant Administrator.

IX. Other Requirements

Monitoring and Auditing

The Commission operates a fiscal monitoring program to ensure accurate reporting and to assist counties in meeting requirements. Records must be made available to the Commission or its designees upon request. (See Texas Administrative Code, Title 1, Rule §173.401 for more details.)

Record Retention Requirements

Counties must maintain records related to the report activity for at least three years after the end of the submission of the report. Counties operating a Managed Assigned Counsel Program must require through Contract the records be maintained for at least three years after the end of the submission of the report. Records may be stored electronically.

Include All Eligible Expenditures

All indigent defense expenses made by the county including eligible costs reimbursed under **discretionary grants must be included in this report**. General government costs may not be allocated to indigent defense.

X. Related Report on Attorney Practice Time

The Attorney Practice Time Report required under Article 26.04(j) of the Code of Criminal Procedure is **not** part of the IDER, but it is related. **The Attorney Practice Time Report should not be confused with the Attorney Level Detail of the Court Expenditure Report** described in section IV above. The Attorney Practice Time Report captures the percentage of time each attorney handling indigent cases devotes to indigent defense. Judges were given the option to direct attorneys receiving court appointments to complete their report of percentage of practice time devoted to indigent defense directly on a website provided by the Commission (https://tidc.tamu.edu/attorneyreporting) or to send paper forms

to the county. If judges required paper forms to be used then the counties may enter the information submitted by attorneys into a template (http://www.tidc.texas.gov/media/22354/AttorneyPractice-TimeReportingTemplate.xlsx) and e-mail the completed template to JVanBeek@ppri.tamu.edu. Counties may instead type the local attorney responses into the on-line system.

If the appointed attorneys in your county use the online reporting system, then a link will show up in the IDER that lists the practice-time figures that they reported for your county. The system will show the attorney name, bar card number, and the percentage figures the attorney entered. If one or more of the attorneys did not submit their practice time report online then you will need to enter the attorneys information into the website to report the cases paid to that attorney. The system will have every licensed attorney in the state in the database so that when you enter either the attorney name or bar number it will populate the other fields to confirm the identity of the attorney. Once an attorney's case information is reported in one year, his/her name will automatically appear the following year so that you do not have to reenter it.

If an attorney does not report the practice time data prior to the time you need to submit this report (November 1st), you should submit the cases paid information and leave the percentage of time report field blank. The county may enter the missing information later.

Attorney Practice Time Reporting for Public Defender Offices, Managed Assigned Counsel Systems, and Contract Defender Programs

Attorneys who work in public defender offices will also need to complete the practice time report if they handle criminal or juvenile delinquency cases. It is anticipated that in most cases this percentage will total 100%; however, in some offices, attorneys may be permitted to maintain a small private practice. Attorneys working in regional public defender offices will also need to report their practice time in each county in which they have had cases in the prior year.

Each county will then also need to report the number of cases disposed by each attorney in the public defender's office. County auditors already report the aggregate number of cases disposed by case level and by type in the current IDER. Since the Chief Public Defender is typically appointed in individual cases and then assigns those cases to individual attorneys in the office, the county should coordinate with the Chief Public Defender to gather and report this information. In regional programs the Chief will need to coordinate with each county served by the public defender's office.

In jurisdictions with managed assigned counsel (MAC) systems, each attorney will need to report their practice-time statement to the county in the same manner as other attorneys. Likewise the county will need to report the number of cases paid to each attorney in the program. Since the MAC program director typically handles the actual assignment of cases to individual attorneys, rather than the courts, the county should coordinate with the MAC program director to gather and report this information.

In the case of contract defender programs, please have any contract attorneys report their practice time as any other attorney handling cases. Then report the number of cases paid by case level as you would for assigned counsel attorneys.

XI. Contact Information

Report Content, Accounting Issues, General & Policy Questions:

Edwin Colfax
Grant Program Manager
e-mail: ecolfax@tidc.texas.gov

Texas Indigent Defense Commission
209 W. 14th Street, Suite 200
Austin, Texas 78701

866-499-0656 TFID Toll Free Line
512-463-2508 Direct Line
website: www.tidc.texas.gov

Connecting to Website (username, password) or Technical Difficulties:

Heather Caspers
Public Policy Research Institute
e-mail: hcaspers24@ppri.tamu.edu

PPRI
Texas A&M University
4476 TAMU, College Station, Texas
77843-4476

(979) 845-6754 Direct Line
website: https://tidc.tamu.edu

Appendix A: Glossary of Terms

"**Attorney Fees**" means the amount of money paid by the county or managed assigned counsel program to a licensed attorney in accordance with the statute and local fee schedule for legal services rendered to an indigent defendant.

"**Attorney Fee Voucher**" means an itemized invoice submitted for payment by an attorney that has been approved by a judge for service rendered in a criminal or juvenile matter. Under Article 26.05(c) of the Code of Criminal Procedure, "…*No payment shall be made under this article until the form for itemizing the services performed is submitted to the judge presiding over the proceedings or, if the county operates a managed assigned counsel program under Article 26.047, to the director of the program, and until the judge or director, as applicable approves the payment.*" Attorney Fee Voucher and Invoice are often interchanged for purposes of this report.

"**Case**" means the same definition used by the Office of Court Administration/Judicial Council reporting instructions for monthly court activity reports which states:

> "For the purpose of these reports, the number of criminal cases reported on this monthly reporting form should be based on the number of defendants named in an indictment or information *(documents filed to bring charges against a person)*. That is:
>
> 1. If a single indictment or information names more than one defendant, there is more than one case: as an example, if three defendants are named in one indictment, count this as three cases.
> 2. If the same defendant is charged in more than one indictment or information, there is more than one case: as an example, if the same person is named in four separate indictments, count this as four cases.
> 3. Finally, if an indictment or information contains more than one count (Article 21.24, Texas Code of Criminal Procedure), report this as one case and report the case under the category for the most serious offense alleged."

"**Charge**" means a case where an attorney was appointed to provide representation prior to the information or indictment being filed for an alleged crime. Charges are included as cases for counting purposes in this report.

"**Crime**" means:
(A) a misdemeanor punishable by confinement; or
(B) a felony.

"**Defendant**" means a person accused of a crime.

"**Discretionary Grant**" means funding approved by the Commission for a specific program designed to improve the quality of indigent defense services.

"**Expert Witness Fees**" means money paid by the county or managed assigned counsel program to a person/entity qualified by the court or by special certifications in a field of study or expertise to provide assistance to a licensed attorney in preparing or presenting a defense for an indigent defendant.

"**Formula Grant**" means funding allocated to counties in a fair manner through a formula based upon population figures or other criteria approved by the Commission.

"**Fee Schedule**" means a list of the fees adopted by formal action of the judges of the county courts, statutory county courts, and district courts trying criminal cases in each county. The juvenile board in each county shall also adopt a fee schedule for payments in juvenile delinquency proceedings. Each fee schedule adopted will state reasonable fixed rates or minimum and maximum hourly rates, taking into consideration reasonable and necessary overhead costs and the availability of qualified attorneys willing to accept the stated rates, and will provide a form for the appointed counsel to itemize the level of services performed.

"**Indigent Defense**" means the legal requirement for government to provide an attorney and other defense costs on behalf of adult defendants and juvenile respondents whose life or liberty are at stake and who are financially unable to employ an attorney or pay other defense costs.

"Interim Payments" means multiple payments made by the county on the same case or cases before the disposition of a case. These may be multiple payments within a reporting year or payments on the same case made across more than one fiscal year.

"**Invoice**" means the accounts payable instrument that is submitted by an attorney, licensed investigator, expert witness, or other entity that itemizes the goods or services provided to the court or director of a managed assigned counsel program on behalf of an indigent defendant. Under Article 26.05(c) of the Code of Criminal Procedure, "…*No payment shall be made under this article until the form for itemizing the services performed is submitted to the judge presiding over the proceedings or, if the county operates a managed assigned counsel program under Article 26.047, to the director of the program, and until the judge or director, as applicable approves the payment."* Attorney Fee Voucher and Invoice are often interchanged for purposes of this report.

"**Licensed Investigator Fees**" means money paid by the county or managed assigned counsel program to a person licensed as an investigator or otherwise legally able to conduct investigations for a licensed attorney in preparing a defense for an indigent defendant.

“**Other Direct Litigation Costs**” means money paid by the county or managed assigned counsel program to a person or entity for materials, supplies, or services determined by the attorney or court necessary for the licensed attorney to prepare an adequate defense for an indigent defendant.

“**Respondent**” means a person accused of a juvenile offense.

"**Texas Indigent Defense Commission**" (Commission) is the governmental entity charged with developing policies and standards for providing legal representation and other defense services to indigent defendants at trial, on appeal, and in post-conviction proceedings. The Commission was formerly known as the Task Force on Indigent Defense.

"UGMS" means the Uniform Grant Management Standards promulgated by the Governor's Office of Budget and Planning at 1 TAC §§5.141 - 5.167.

Appendix B: Statutory References

Reporting Statute

Texas Government Code § 79.036. INDIGENT DEFENSE INFORMATION.

(a-1) Not later than November 1 of each year and in the form and manner prescribed by the commission, each county shall prepare and provide to the commission information that describes for the preceding fiscal year the number of appointments under Article 26.04, Code of Criminal Procedure, and Title 3, Family Code, made to each attorney accepting appointments in the county, and information provided to the county by those attorneys under Article 26.04(j) (4), Code of Criminal Procedure.

(e) In each county, the county auditor, or the person designated by the commissioners court if the county does not have a county auditor, shall prepare and send to the commission in the form and manner prescribed by the commission and on a monthly, quarterly, or annual basis, with respect to legal services provided in the county to indigent defendants during each fiscal year, information showing the total amount expended by the county to provide indigent defense services and an analysis of the amount expended by the county:

(1) in each district, county, statutory county, and appellate court;
(2) in cases for which a private attorney is appointed for an indigent defendant;
(3) in cases for which a public defender is appointed for an indigent defendant;
(4) in cases for which counsel is appointed for an indigent juvenile under Section 51.10(f), Family Code; and
(5) for investigation expenses, expert witness expenses, or other litigation expenses.

(f) As a duty of office, each district and county clerk shall cooperate with the county auditor or the person designated by the commissioners court and the commissioners court in retrieving information required to be sent to the commission under this section.

Appendix C – Sample Report Screenshots

Sample IDER Main Page……page 23
Sample IDER Court Page…….…..pages 24-25
Sample Attorney Detail Page……..page 25 (bottom)
Sample Limited Scope Representation Addendum…….page 26
Sample Managed Assigned Counsel Addendum……page 26

Sample Main IDER Page

Texas Indigent Defense Commission
Indigent Defense Expenditure Report
[BLANK] County, FY20

IDER Instructions

Fiscal Year Used by County	October 1 - September 30
Reporting Period:	October 1, 2019 - September 30, 2020
County's Accounting Method:	Select Method
Financial Officer	[AUDITOR NAME], Auditor [ADDRESS] [PHONE] [EMAIL]
Contact Person, email address, and phone (if other than above) for report issues	[CONTACT PERSON] [EMAIL, PHONE]

Reimbursements

Do not subtract the following reimbursement amounts from other sections on this report.

Reimbursements: Total Amount Collected From Defendants Pre or Post Disposition.	
Reimbursements: Total Amount Received From the State Comptroller for 11.071 Writs of Habeas Corpus Costs.	
Reimbursements: Total Amount Received For Indigent Defense Costs From Other Private or Government Grants.	

Regional Indigent Defense Programs

Total funds received from participating counties	
Total funds paid to host counties for regional indigent defense programs	
Unobligated Fund Balance or Carryover from all money received from participating counties as of September 30, 2020	

Court Report

Complete one chart of expenditures for each court (i.e., constitutional county court, statutory court, district court and/or appellate court) in the county that hears criminal cases and criminal juvenile matters. The County Magistrate Court and Juvenile Court have been included for the cases where the costs and numbers cannot be assigned to a specific court otherwise listed.

To add or remove a court from the list below contact Jim VanBeek at jvanbeek@ppri.tamu.edu.

Click on a court name to submit expenses for the selected court.

		Court Report			Attorney Detail Report		Differences	
Court	Court ID	Total Expenditures	Attorney Fees	Total Cases	Attorney Fees	Total Cases	Attorney Fees	Case Count
XXth District Court	xxxxxxxxx							
XXth District Court	xxxxxxxxx							
County Court at Law No. 1	xxxxxxxx							
County Court at Law No. 2	xxxxxxxxx							

Optionally, the Attorney Detail Report for a county can be uploaded and imported at this link. The file must meet stringent requirements to upload successfully. Manual entry is probably easier for most smaller counties.

Limited Scope 15.17 / Automatic Bail Review Hearing Addendum

NEW Counties should complete this addendum ONLY if they provide limited scope defense representation specifically for Article 15.17 Magistration hearings and/or Automatic Bail Review Hearings. Representation is considered "limited scope" when it is provided separately from any appointment to represent a defendant against alleged offenses. If unsure, contact TIDC for assistance.

Complete Limited Scope Representation: Article 15.17 Magistration and Automatic Bail Review Hearings

Indigent Defense Increased Administrative Expenditure Report Addendum (not required)

If a county has increased administrative costs due to indigent defense, complete this chart.

Complete Increased Indigent Defense Administrative Expenditure Report Addendum

Attorney Practice Time Report

Open Attorney Practice Time Report for County to review percent of indigent defense practice time reported for attorneys.

Summary

Total of Court Expenditures:	$0.00
Total of Administrative Expenditures:	$0.00
Total of Court and Administrative Expenditures:	$0.00

Sample Court Report Page

Indigent Defense Expenditure Report, Court Report, xxxxxxx County
xxx District Court

Expenditures
October 1, 2019 - September 30, 2020

Category of Services	Attorney Fees	Investigation Expenditures	Expert Witness Expenditures	Other Litigation Expenditures
Juvenile				
Assigned Counsel				
Contract Counsel				
Managed Assigned Counsel				
Capital Murder				
Assigned Counsel				
Contract Counsel				
Managed Assigned Counsel				
Adult Non-Capital Felony				
Assigned Counsel				
Contract Counsel				
Managed Assigned Counsel				
Adult Misdemeanor				
Assigned Counsel				
Contract Counsel				
Managed Assigned Counsel				
Total				
Juvenile Appeals				
Assigned Counsel				
Contract Counsel				
Managed Assigned Counsel				
Adult Felony Appeals				
Assigned Counsel				
Contract Counsel				
Managed Assigned Counsel				
Adult Misdemeanor Appeals				
Assigned Counsel				
Contract Counsel				
Managed Assigned Counsel				
Total				

Court Report Page, continued

Provide the total number of cases paid to indigent defense counsel in this court for each of the following categories.

	Assigned Counsel Cases	Contract Counsel Cases	Managed Assigned Counsel Cases	Public Defender Cases
Juvenile Cases				
Capital Murder Cases				
Adult Non-Capital Felony Cases				
Adult Misdemeanor Cases				
Juvenile Appeal Cases				
Felony Appeal Cases				
Misdemeanor Appeal Cases				
Total Cases				

Click to add attorney case counts and total paid on the Attorney Detail of the Court Expenditure Report.

If you are unable to follow the instructions in the IDER manual please check one or more of the boxes:

☐ Cases reported above are based on information from a clerk's office and not associated with the payment information in the attorney fee voucher.

☐ The financial figures are estimates or are for some other reason unreliable.

☐ The case counts are estimates or are for some other reason unreliable.

Notes (Please include any information needed by the Commission related to this report.)

Save | Reset | Cancel

Sample Attorney Detail Page (complete one for each court)

Attorney Detail for the Court Expenditure Report for FY20 for XXXXXXXX County rd District Court
Court ID: xxxxxxx

Instructions: Enter a bar card number, the number of cases for each category, and the total amount paid to the attorney. If you enter a valid Bar Card number, the attorney name should appear. If the Attorney Name field says that the name was "not found", the Bar Card is most likely invalid. Then click on the "Save" button. The screen will refreshed and a new line will be provided to enter an additional attorney. You may select the sort order in the drop down. Click on "Save" to update your changes and then click on "Close" when you are done. Click on Load Previous to add attorneys reporting for this court in the previous year.

Sort by Bar Card Number

#	Bar Card	Attorney Name	Juvenile Cases Paid	Capital Murder Cases Paid	Adult Non-Capital Felony Cases Paid	Adult Misdemeanor Cases Paid	Juvenile Appeals Cases Paid	Felony Appeals Cases Paid	Misdemeanor Appeals Cases Paid	Total Attorney Fees Paid	A% J%
1											
Totals			0	0	0	0	0	0	0	$0.00	

Save | Reset | Home

Sample Limited Scope Representation Addendum

Indigent Defense Expenditure Report
Limited Scope Representation: Article 15.17 Magistration and Automatic Bail Review Hearings
[redacted] County

Counties should complete this addendum ONLY if they provide limited scope defense representation specifically for Article 15.17 Magistration hearings and/or Automatic Bail Review Hearings. Representation is considered "limited scope" when it is provided separately from any appointment to represent a defendant against alleged offenses. If unsure, contact TIDC for assistance.

Expenditures and Defendants Represented
October 1, 2019 - September 30, 2020

Counsel Type	Attorney Fee Expenditures	Number of Defendants Represented
Limited Scope Representation for Article 15.17 Magistration Hearings		
Assigned Counsel		
Contract Counsel		
Managed Assigned Counsel		
Public Defender	*	
Limited Scope Representation for Automatic Bail Review Hearings		
Assigned Counsel		
Contract Counsel		
Managed Assigned Counsel		
Public Defender	*	
Total	$0.00	0

* PD expenditures associated with limited scope representation for these purposes should be reported in the Public Defender Addendum.

Notes (Please include any information needed by the Commission/OCA related to this report.)

Save Reset Cancel

Sample Managed Assigned Counsel Addendum

Managed Assigned Counsel Administrative Expenditures
October 1, 2019 - September 30, 2020

Counties reporting Managed Assigned Counsel administrative expenditures for FY20 may report those costs on this form. Reported costs must be related to indigent defense and follow cost principles established in the Uniform Grant Management Standards.

Expenditure Category	Expenditures
Managed Assigned Counsel Administrative Expenditures	
Personnel	$0.00
Travel and Training	$0.00
Equipment	$0.00
Other Direct Expenditures	$0.00
Total Administrative Expenditures	$0.00
Fund Balance or carryover as of September 30, 2020	$0.00