



**Starr County Regional Public Defender:  
Grant Evaluation  
November 2020**



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**MISSION**

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

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## I. Executive Summary

Starr, Duval, and Jim Hogg Counties historically did not regularly appoint counsel in misdemeanors, despite most defendants likely being constitutionally entitled to counsel. When counsel was appointed in felony cases, those attorneys were unsupervised, and the counties paid for these appointments without using adequate quality controls to ensure effective assistance of counsel.

To create a more streamlined and accountable system for appointing quality counsel, in 2016, Starr County received a grant from the Texas Indigent Defense Commission (TIDC) and partnered with the nonprofit Texas RioGrande Legal Aid (TRLA) to open a regional public defender's office also covering Duval and Jim Hogg Counties.

The grant applications for the office listed six objectives related to improving indigent defense. To evaluate the counties' progress on these objectives over the first four years of the grant, TIDC conducted site visits in 2017, and on July 24-26 and September 30 to October 2, 2019. TIDC observed court proceedings, interviewed stakeholders, and reviewed records.

TIDC finds that the public defender office achieved the counties' objectives identified in the grant application, and:

- The public defender office improved front-end appointment procedures.
- The office improved the quality of representation provided to indigent defendants, as demonstrated by new procedures, activities, and outcomes, especially:
  - More supervision of attorneys
  - More use of investigators
  - More pretrial release from jail
- Local stakeholders—including judges, prosecutors, and clients—are satisfied with the performance of the office and believe it is a good value for the counties it serves.

TIDC also finds that the counties must improve some procedures to comply with the Fair Defense Laws:

1. Magistrates must take requests for counsel and transfer them to the appointing authority (to judges or, if it is delegated, to the public defender).
2. Judges must rule on requests for counsel within three working days.

In total, TIDC invested \$1,702,035 in the office in its first four years. Because it is a rural, regional program, TIDC will continue to fund two-thirds of the office's costs in future years, subject to the program's continued performance and availability of state funding.

## II. Background

Under the United States Constitution and Texas statutes, people who may be incarcerated and are unable to afford counsel have the right to have counsel appointed for them.<sup>1</sup> The right to counsel applies in both felonies and misdemeanors.<sup>2</sup>

Starr, Duval, and Jim Hogg Counties' poverty rates are among the highest in Texas.<sup>3</sup> Over 25% of residents in each county receive food stamps.<sup>4</sup> Under the standards of the local indigent defense plan, which presumes someone is indigent if they receive food stamps or make less than 125% of the federal poverty guidelines, many qualify for appointed counsel.<sup>5</sup> At the same time, high poverty rates mean that the counties have limited resources for providing appointed counsel.<sup>6</sup> Finding attorneys in rural areas can also be difficult: in 2016, there were 10 attorneys in Jim Hogg County and 18 in Duval County.<sup>7</sup>

As a result, though many misdemeanor defendants would qualify for appointed counsel, most have not had counsel appointed. In 2016, prior to the establishment of the public defender office, the estimated percent of misdemeanor cases receiving appointed counsel in each county (3-35%) was significantly below the state average (42%). Most defendants (65-94%) confronted their charges without an attorney.

In felony cases, more defendants received appointed counsel than in misdemeanor cases. Counsel was appointed on an ad-hoc rotation basis, with little oversight. One indicator of attorneys' work on a case is whether they use an investigator. Financial reports from the counties indicate that investigators were almost never used: only \$350 total was spent on investigators for indigent defendants in the three counties for the five fiscal years prior to the public defender office. That \$350 was all for Starr County's 224 felony cases in 2016.

In 2015, Starr County recognized that it did not have "a comprehensive method to measure and manage the delivery of indigent defense services" and applied for a grant from TIDC to open a public defender's office.<sup>8</sup> A year later, it applied again, with Jim Hogg and Duval Counties, to expand the program.

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<sup>1</sup> *Gideon v. Wainwright*, 372 U.S. 335, 352 (1963); TEXAS CODE OF CRIM. PROC. Art. 1.051

<sup>2</sup> *Argersinger v. Hamlin*, 407 U.S. 25 (1972).

<sup>3</sup> In 2018, of 254 counties, Starr County had the second highest poverty rate (33.2% of people of all ages living in poverty) after Willacy County (35%). Duval and Jim Hogg had the 16<sup>th</sup> and 17<sup>th</sup> highest rates (25.5% and 25.2%, respectively). Census Bureau Small Area Income and Poverty Estimates (SAIPE) data tool available at <https://www.census.gov/data-tools/demo/saipe/>.

<sup>4</sup> In 2014-2018, 41.2% of people in Starr County, 29.5% in Duval County, and 27.6% in Jim Hogg County received food stamps; 12.2% of all Texans received food stamps. Census Bureau American Community Survey data profiles tool, available at <https://www.census.gov/acs/www/data/data-tables-and-tools/data-profiles/2018/>

<sup>5</sup> Indigent defense plan available at <http://tidc.tamu.edu/IDPlan/ViewPlan.aspx?PlanID=236>.

<sup>6</sup> Per the counties' 2016 grant application (on file with TIDC), "total tax rates are high and tax levies are low." Together, they wrote, they levied \$27.3 million in taxes in 2013.

<sup>7</sup> 2016 Starr County Grant Application, on file with TIDC.

<sup>8</sup> 2015 Starr County Grant Application, on file with TIDC.

**Table 1: Starr, Duval, and Jim Hogg County Appointed Counsel and Investigators: Before Public Defender<sup>9</sup>**

	2012	2013	2014	2015	2016	Texas 2016
<b>Starr County</b>						
Misdemeanors						
% Charges with Appointed Counsel	13%	19%	25%	28%	35%	42%
% Charges with No Counsel	88%	81%	75%	72%	65%	23%
Spending Per Case on Investigators	\$0	\$0	\$0	\$0	\$0	\$4
Felonies						
% Charges with Appointed Counsel	26%	42%	32%	31%	36%	75%
Spending Per Case on Investigators	\$0	\$0	\$0	\$0	\$2	\$29
<b>Duval County</b>						
Misdemeanors						
% Charges with Appointed Counsel	3%	2%	2%	5%	3%	42%
% Charges with No Counsel	93%	92%	88%	80%	94%	23%
Spending Per Case on Investigators	\$0	\$0	\$0	\$0	\$0	\$4
Felonies						
% Charges with Appointed Counsel	51%	62%	55%	57%	67%	75%
Spending Per Case on Investigators	\$0	\$0	\$0	\$0	\$0	\$29
<b>Jim Hogg County</b>						
Misdemeanors						
% Charges with Appointed Counsel	4%	2%	1%	2%	18%	42%
% Charges with No Counsel	96%	98%	99%	98%	82%	23%
Spending Per Case on Investigators	\$0	\$0	\$0	\$0	\$0	\$4
Felonies						
% Charges with Appointed Counsel	25%	56%	86%	87%	217%	75%
Spending Per Case on Investigators	\$0	\$0	\$0	\$0	\$0	\$29

<sup>9</sup> Appointment and no-counsel rates are estimates by TIDC based on disparate data sets. All rates are based on the fiscal year October – September. Number of cases disposed and number of cases retained are reported monthly by counties to the Office of Court Administration (OCA). Number of cases paid is reported annually by counties to TIDC.

Appointment rates are calculated based on the formula; cases paid / cases disposed. No-counsel rates are calculated based on the formula: (Cases disposed less cases paid less cases retained) / cases disposed. No-counsel rates for Starr County are not accurate as TIDC observed retained counsel at both felony and misdemeanor dockets, but clerks reported 0 cases retained. TIDC does not include no-counsel rates for felonies here.

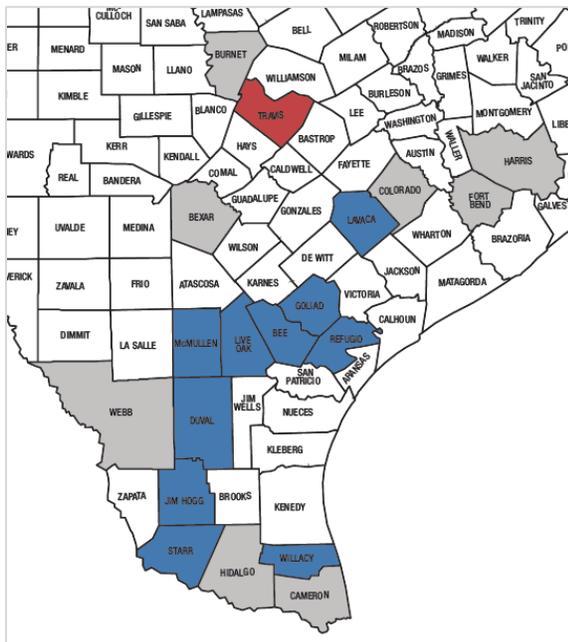
### III. Objectives

The counties' grant applications had six objectives for the office.

#### 1. Establish a regional office

*Grant Objective 1: Provide the services of the expanded regional public defender to new counties by contracting with a qualified indigent defense services provider and through interlocal agreement with the participating counties to detail the services and contributions required from each participating county.*

When Starr County received a grant from TIDC in 2016 to establish a regional public defender office with Duval and Jim Hogg, it contracted with Texas RioGrande Legal Aid (TRLA). Most staff work primarily out of Rio Grande City (Starr), but some are based in San Diego (Duval). TRLA now handles all non-capital, non-conflict indigent defense cases in the counties (about 80% of cases), in the 229<sup>th</sup> and 381<sup>st</sup> District Courts and three county courts. Private assigned attorneys handle conflict cases.



Public Defenders in Central and South Texas, with TRLA counties in blue.

TRLA, a nonprofit, has provided civil legal services in south and west Texas since 1970 and has provided criminal defense representation since 2009. TRLA's regional public defender program now serves 10 Texas counties, all of which are supported by TIDC grants. Texas A&M University is currently studying TRLA's public defender program outcomes.

TIDC funds 2/3 of costs for regional public defender offices. Starr County receives grants from TIDC to reimburse it for 2/3 of the cost of TRLA's contract. The remainder of the costs are shared by the three counties, based on an inter-local agreement that apportions funding by case volume.<sup>10</sup>

<sup>10</sup> See Section IV for indigent defense spending in each county.

## 2. Improve access to counsel

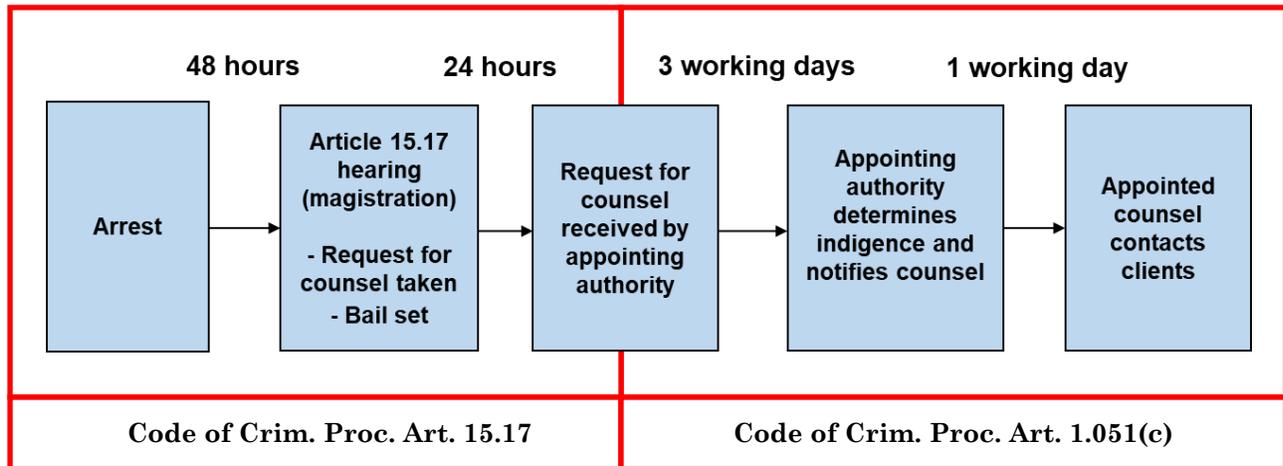
*Grant Objective 2: Provide trial and appellate defense counsel and support services to the indigent in all participating counties and in all courts.*

### Statutory Requirements

Under Article 15.17 of the Code of Criminal Procedure, an arrested person must be brought before a magistrate within 48 hours.<sup>11</sup> At this hearing, the magistrate must inform the accused of his or her right to counsel; inform the accused of the procedures for requesting counsel; and ensure the accused has reasonable assistance in completing the necessary forms for requesting assistance of counsel.<sup>12</sup> Within 24 hours of receiving a request for counsel, the magistrate must transmit this request to the appointing authority.<sup>13</sup>

Article 1.051(c) of the Code of Criminal Procedure requires the court or its designee to appoint counsel by the end of the third working day following receipt of the request for counsel made at the Article 15.17 hearing.<sup>14</sup> If a defendant does not request counsel at the Article 15.17 hearing, unrepresented defendants have another opportunity to request counsel at the first docket. Under Article 1.051(f-2), the court must explain the procedures for requesting counsel prior to any waiver of counsel.

**Figure 1: Statutory Timeline for Appointment of Counsel in Adult Criminal Cases**



### Local Practices

Starr, Duval, and Jim Hogg Counties have struggled to provide counsel for indigent people, especially in misdemeanors. The counties used an ad hoc method for appointing counsel, which relied on magistrates taking requests for counsel and county and district judges assessing indigence and appointing counsel based on private lawyers' availability.

<sup>11</sup> TEX. CODE CRIM. PROC. art. 15.17(a).

<sup>12</sup> TEX. CODE CRIM. PROC. art. 15.17(a).

<sup>13</sup> TEX. CODE CRIM. PROC. art. 15.17(a).

<sup>14</sup> *Rothgery v. Gillespie County* clarified that the initiation of adversarial judicial proceedings occurs at the Article 15.17 hearing. 554 U.S. at 212 – 13.

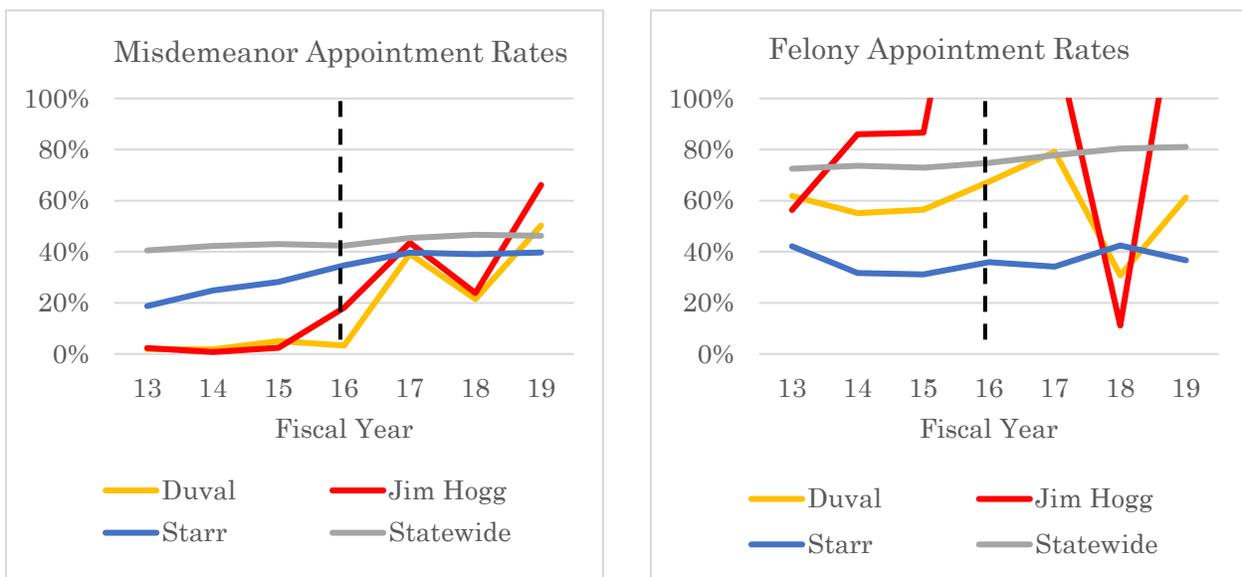
The public defender has helped improve front-end processes for assigning counsel. When someone has been arrested, an investigator from the office will visit them in jail to screen them for financial eligibility and conflicts in representation. If they qualify, the office can agree to represent them before magistration.

According to TIDC interviews, the local jails cannot reliably track how long people have been held there. By visiting the jail, investigators help to identify people who may have fallen through the cracks and ensure they receive assistance of counsel to be released if required.

Misdemeanor defendants can also request and receive appointed counsel at dockets. Public defender investigators screen defendants before and during dockets, and public defender attorneys are present at each docket to answer questions and accept case appointments. Judges appoint the office, and the office will determine which of its attorneys will handle the case. Judges reported to TIDC that the public defender’s reliability has made court processes more regular and streamlined.

As a result, since the public defender office opened in 2016, misdemeanor appointment rates have approached state averages. Felony appointment rate trends have been harder to track, in part because of data errors, and in part because there was no district judge for these counties during 2018.

**Chart 1: Estimated Appointment Rates Before and After Public Defender<sup>15</sup>**



There are still problems processing requests for counsel, however. First, defendants cannot request counsel at magistration. Article 15.17(a) of the Code of Criminal Procedure requires magistrates to inform people arrested of their right to counsel, to take requests for

<sup>15</sup> The public defender opened in 2016. See note 9 on how appointment rates are estimated. TIDC’s estimation methodology, counties’ reporting errors, and the absence of a district judge in 2018 may have caused inaccurate reports.

counsel, ensure assistance in completing necessary paperwork, and transfer requests to the appointing authority (district or county judge) within 24 hours.

During the review of the public defender system, TIDC found that Starr County magistrations does not follow a regular schedule or process. Some magistrates do not use the form adopted in the local indigent defense plan,<sup>16</sup> and some forms they use do not include a space to mark requests for counsel. Based on a sample review of case files, only one magistrate regularly accepted counsel requests. When people requested counsel from this magistrate, it appears that no financial affidavits were completed nor transferred to the courts for appointment of counsel.

Second, requests for counsel are not ruled on. Article 1.051(c) of the Code of Criminal Procedure requires the court or its designee to appoint counsel by the end of the third working day following receipt of the request for counsel made at the Article 15.17 hearing.

TIDC found that if a defendant made bail, the appointment of counsel would not occur until the defendant's initial appearance after a case had been filed with the clerk's office. If a defendant did not make bail, the appointment of counsel would not typically occur until the defendant had spent multiple weeks in the jail. Appointments of counsel must occur within three working days of a counsel request.

To follow the Fair Defense Act, properly assign cases to the public defender, and receive ongoing funding from TIDC, Starr County must ensure that requests for counsel at magistrations are accepted, transferred, and ruled on. TRLA investigators may assist the courts with screening defendants before or after magistrations, but defendants must be given an opportunity to request counsel at magistrations and have that request ruled on.

### **3. Improve quality of counsel**

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*Grant Objective 3: Provide quality representation to indigent defendants who are represented by the program and improve the performance of indigent defense systems throughout the region that will be served.*

Starr, Duval, and Jim Hogg Counties previously used an ad hoc assigned counsel system for indigent defense. The public defender office structure includes quality controls that are not possible in an assigned counsel system and delivers services that sole practitioners would normally be unable to provide.

#### ***a. Independence***

TRLA's nonprofit status allows it to make decisions independent of other influences. Decisions, such as when to use an investigator, social worker, caseworker, or *Padilla* attorney, rest in TRLA public defenders' hands alone. TRLA's willingness to take on this role also unburdens judges and court personnel from deciding or administering these choices.

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<sup>16</sup> Available at <http://tidc.tamu.edu/IDPlan/ViewPlan.aspx?PlanID=236>.

### ***b. Oversight***

Judges are responsible for overseeing the performance of private attorneys receiving appointments,<sup>17</sup> but cannot review aspects of performance that are part of the confidential attorney-client relationship, such as whether attorneys are communicating with clients, investigating facts, or researching law. TRLA supervisors, who are practicing criminal defense experts, closely review their attorneys' work and activities on individual cases. Newer attorneys can request help and training from more experienced colleagues.

### ***c. Administration***

Private attorneys taking appointments generally do not coordinate with each other and may not be available at each docket. Attorneys from TRLA are always present at dockets, and answer questions from judges and clients on behalf of the office even if an individual attorney is not able to attend that day. Local judges and county attorneys reported in interviews with TIDC that they appreciated the office's reliability and professionalism.

The office also serves as an institutional resource outside of the courtroom, assisting with coordinating and streamlining criminal justice procedures. In grant reports, the office identified persistent, systemic issues with courts, jails, and law enforcement not following procedures to uphold their clients' rights. The office reported filing motions and preparing legal memoranda to challenge some practices. For others, it met with other entities to reach a solution; for example, since some clerks will not keep affidavits of indigence for unfiled cases, the office coordinated with some justices of the peace for them to keep these records, which are essential to local assignment of counsel and state monitoring. This kind of criminal justice coordination and troubleshooting is not possible in an ad hoc assigned counsel system.

### ***d. Collaboration***

In an assigned counsel system, private attorneys generally work alone on cases. Clients of TRLA benefit from a full legal team, with public defender attorneys and investigators working together. Attorneys work with staff in the office and at other TRLA branches to share information, discuss legal questions, and prepare for challenging hearings.

Grant reports described, for example, the whole staff working on a juvenile murder case to review extensive discovery evidence, perform legal research and fact investigation, and file sixteen motions, all in an effort to prevent certification to adult court. In another case, to prepare for trial, multiple staff observed a co-defendant's contested hearings and prosecutors' jury selection in similar cases, then shared notes to prepare a trial strategy.

### ***e. Training***

Assigned counsel who work as solo practitioners can seek out training and mentoring at their own expense, but may feel too isolated or overwhelmed to do so, especially in rural areas. TRLA public defenders have training expenses reimbursed; the office spent over \$30,000 each year for training and travel expenses, and describes statewide, regional, and

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<sup>17</sup> TEXAS CODE OF CRIM. PROC. Art. 26.04(b)(6)

in-house training it attended and hosted in its grant reports. Newer attorneys receive on-the-job training and mentoring by working on teams with more experienced colleagues.

***f. Investigation***

Historically, local appointed attorneys almost never used investigators: just \$350 was spent on investigation on all 3,584 cases in the three counties from 2012 to 2016. TIDC’s caseload guidelines recommend that, on average, 5.3% of misdemeanor case time (28.5 minutes) and 7.7% of felony case time (85.3 minutes) is spent on investigator investigation for cases that do not go to trial.<sup>18</sup> In Starr, Duval, and Jim Hogg Counties, \$350 accounts for 0.02% of all indigent defense expenses during that period.<sup>19</sup>

There are two full-time investigators at the public defender office, whose salaries account for 8-9% of indigent defense expenses. Appointed attorneys do not use investigators.

**Table 2: Starr, Duval, and Jim Hogg County Use of Investigators in Misdemeanors and Felonies: Public Defender and Assigned Counsel<sup>20</sup>**

<b>Spending</b>	<b>2016</b>	<b>2017</b>	<b>2018</b>	<b>2019</b>
PD Investigation	N/A	\$118,703.00	\$93,146.00	\$96,231.00
Assigned Investigation	\$0.00	\$0.00	\$0.00	\$0.00
Total Indigent Defense	\$351,465.00	\$1,271,288.03	\$1,028,897.42	\$1,164,969.00
% on Investigation	0%	9.3%	9.1%	8.3%

According to the office’s grant reports, an investigator assisted attorneys with, on average, 150 misdemeanors and 107 felonies per quarter (or about 50 misdemeanors and 36 felonies per month). It reported an investigator assisting in almost every case it received.

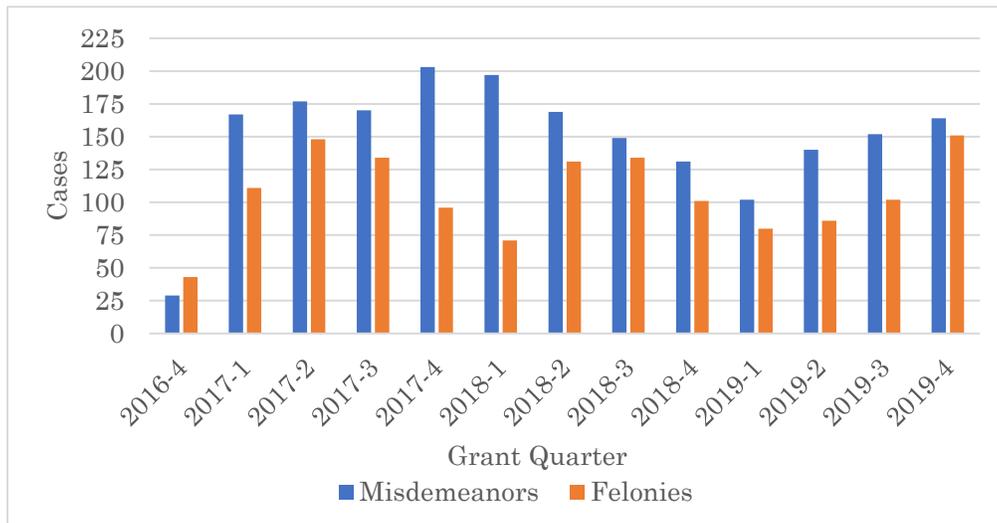
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<sup>18</sup> [tidc.texas.gov/caseloads](http://tidc.texas.gov/caseloads)

<sup>19</sup> Under the current fee schedule, the minimum hourly rate for investigators (\$20) is close to that for attorneys (\$30), though attorney pay varies depending on the type of case setting. Fee schedule available at <http://tidc.tamu.edu/IDPlan/ViewPlan.aspx?PlanID=236>.

<sup>20</sup> Investigation spending is for non-capital felonies and misdemeanors only. The public defender also reported investigation spending for juvenile and felony appeal cases during this period.

**Chart 2: Starr County Regional Public Defender Investigator Assistance<sup>21</sup>**



TRLA’s investigators are licensed and have experience in law enforcement. When a case is going to trial, they collect evidence by visiting crime scenes, interviewing witnesses, and researching records. Independent investigation of facts, and potentially challenging what was stated in a police report, is an essential function of a criminal defense team. Attorneys do not specialize in this work and cannot testify to facts they have investigated themselves.

As described above, the investigators also conduct the initial client screening at jails and dockets. The screening may indicate that the person does not financially qualify or that the office may not accept the appointment due to a conflict of interest. If the office is appointed on the case, investigators relay information from those interviews, like the need for mental health support, to attorneys immediately. Because of their screening role, however, they cannot dedicate as much time to fact investigation. Though almost all TRLA clients speak to an investigator, the intake interview is typically not about the facts of their case, and the investigator will not do further investigation unless the case is going to trial. In other counties, indigence screening is typically a court or pretrial services function; adding court or public defender staff to screen defendants would allow for more defense investigation and further improve the quality of representation.

***g. Collateral Assistance***

People represented by TRLA public defenders receive constitutionally-required advice on immigration consequences and assistance with other legal matters that can affect the outcome of their criminal case.

***i. Immigration***

While they do not provide full-scope immigration representation, public defenders provide advice on immigration consequences of criminal convictions, which is required by the

<sup>21</sup> Data reported to TIDC in grant reports.

Constitution.<sup>22</sup> The office reported that clients did not receive this required advice from appointed counsel. Immigration issues are relevant to many people in the Rio Grande Valley. For clients who are not United States citizens, whether undocumented or legal permanent residents, an attorney in TRLA's immigration practice prepares a personalized assessment of the consequences of plea offers, which a public defender reviews with the clients.

ii. Mental Health

Public defenders work with a mental health liaison in TRLA's civil practice and local MHMRs to connect clients to treatment. The public defenders also directly support clients with mental health needs who do not have other means of support by, for example, driving them to pick up prescriptions needed to stabilize them.

iii. School Expulsion

Juvenile clients may be expelled from school because of their case. Public defenders refer them to TRLA's education practice, which can help them enroll in alternative schooling. This stability can be important to the outcome of the delinquency case,

iv. Driver's License Suspension

Before the Driver's Responsibility Program was officially ended in 2019, the office assisted clients in waiving burdensome fees and reinstating their driver's licenses.

## 4. Set staff caseloads

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*Grant Objective 4: Use the Commission's Weighted Caseload Study Guidelines to set caseload limits for the program, which will serve as a basis for staffing.*

Unlike assigned counsel, public defenders are not incentivized to take additional cases for additional pay. Public defenders still need to control their workload, however. Under the Code of Criminal Procedure, a public defender office must have maximum caseload limits for attorneys<sup>23</sup> and refuse cases that would violate these limits.<sup>24</sup> To receive TIDC grant funding, an office must set limits consistent with its caseload guidelines.

TIDC's guidelines are based on a study it commissioned from the Public Policy Research Institute at Texas A&M University that found that attorneys may not meet ethical duties to clients if they have excessive caseloads.<sup>25</sup> Because public defenders work with investigators and other support staff, the study found they can handle more cases per year than solo practitioners. The guidelines recommend Texas public defenders dispose no more than 138 felonies, 239 misdemeanors, or 31 appeals per year.

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<sup>22</sup> *Padilla v. Kentucky*, 559 U.S. 356 (2010).

<sup>23</sup> TEXAS CODE OF CRIM. PROC. Art. 26.044(c-1).

<sup>24</sup> TEXAS CODE OF CRIM. PROC. Art. 26.044(j)(4).

<sup>25</sup> <http://tidc.texas.gov/caseloads>

Staff needed for a public defender office can be estimated from case volume. Starr, Duval, and Jim Hogg Counties require at least three public defenders to handle misdemeanors and felonies.

**Table 3: Average Misdemeanor and Felony Caseloads and Minimum Public Defenders Needed (FY2017-19 Averages, Rounded)<sup>26</sup>**

	Misdemeanors			Felonies			M + F
	Indigent Cases	% to PD	Attorneys Needed	Indigent Cases	% to PD	Attorneys Needed	Total Needed
<b>Starr</b>	308.3	93%	1.2	173.3	82%	1.0	2.2
<b>Duval</b>	61.0	86%	0.2	80.3	59%	0.3	0.5
<b>Jim Hogg</b>	27.0	88%	0.1	16.3	84%	0.1	0.2
<b>Total</b>			<b>1.5</b>			<b>1.4</b>	<b>2.9</b>

The office currently employs five attorneys, two investigators, and other support staff. This is an appropriate staffing level, given that (a) directors should not carry a full caseload, (b) the staff spends time travelling between counties, which is not accounted for in the caseload guidelines, and (c) the office provides services beyond felony and misdemeanor representation (attorneys also provide juvenile and appellate representation, and investigators conduct indigence screening for the courts).<sup>27</sup>

The office’s individual attorney caseloads are also generally consistent with TIDC guidelines for public defenders, though a few attorneys have slightly exceeded them. TRLA sets lower caseload limits for its attorneys (which follow the guidelines for solo practitioners without support staff): no more than 128 felonies, 226 misdemeanors, or 31 appeals per year.<sup>28</sup> All attorney caseloads, listed below in Table 4, were about 5-10% higher when compared to these guidelines, and one or two attorneys per year exceeded them (the same as those who exceeded the higher caseload limits); total FTE caseload for each year was about 0.2-0.4 higher (the equivalent of an extra part-time attorney).

<sup>26</sup> Indigent Cases and % to PD are three-year averages for each county. Number of Attorneys Needed equals the public defender case volume divided by the caseload guidelines for public defenders.

<sup>27</sup> TRLA has also noted that, historically, staff has worked on many cases that are never filed nor dismissed. TRLA has improved its own system for tracking when representation begins and ends.

<sup>28</sup> TRLA Manual available at <http://tidc.tamu.edu/IDPlan/ViewPlan.aspx?PlanID=236>.

**Table 4: Starr County Regional Public Defender Weighted Caseloads, Compared to Texas Public Defender Guidelines<sup>29</sup>**

<b>Attorney</b>	<b>2017</b>	<b>2018</b>	<b>2019</b>
Ahee, William	--	101.6%	118.5%
Anderson, Jessica	81.8%	76.4%	100.3%
Burnett, Abner	86.4%	43.6%	23.9%
Canter, Jessica	125.9%	--	--
Castillo, Elizabeth	29.2%	14.4%	--
Gonzalez, Linda	10.4%	7.5%	70.6%
Hamam, Rhiannon	65.0%	91.3%	--
Lopez, Gema	--	60.2%	64.5%
Mata, Leonel	--	--	64.9%
Proske, Laura	--	--	71.4%
Silva, Heriberto	87.1%	18.6%	18.3%
Williams, Ashley	--	42.0%	--
<b>Total FTE Caseload</b>	<b>4.9</b>	<b>4.6</b>	<b>5.3</b>

## **5. Support private assigned counsel**

### *Grant Objective 5: Act as a resource to assigned private counsel representing indigent defendants in participating counties.*

The office reported that it provides materials it has developed—sample motions and writs, for example—to private attorneys upon request. It answers their general questions and coordinates on case strategy for shared clients (while avoiding ethical conflicts). It exchanges resources both ways with more experienced members of the private bar.

Private attorneys have noted that the office has “drastically” improved the quality of counsel for indigent people, to the benefit of clients, the court system, and the community.<sup>30</sup> The office’s diligent advocacy for its clients and for systemic improvements have improved the justice system for everyone, they say, including private defense practitioners.

<sup>29</sup> Combined felony and misdemeanor caseloads across all counties, for TRLA attorneys taking appointments in Starr, Duval, or Jim Hogg Counties. Caseloads do not include juvenile or appellate cases. Some attorneys were employed for only part of the year and some were based in other counties.

<sup>30</sup> For private attorney testimonials, see <https://www.youtube.com/watch?v=7xHADnfNz8E>.

## 6. Assess outcomes

*Grant Objective 6: Measure program outcomes and assess program performance in order to provide information to local county and court officials about their indigent defense systems.*

### *a. Case Outcomes*

A key measure of defense attorney outcomes is whether they reduce clients' charges. The office reported that it reduced or dismissed charges in 617 felony and misdemeanor cases in FY2017-2019, which is equivalent to 40% of those cases it disposed. There are not data available to compare these outcomes to those of self-represented defendants or defendants represented by assigned counsel. However, it is clear from these reports that a significant portion of the public defender's clients have charges reduced or dismissed, meaning they avoid criminal records, jail time, and court costs.

**Table 5: Starr County Regional Public Defender: Felony and Misdemeanor Charges Reduced/Dismissed and Disposed<sup>31</sup>**

	2017		2018		2019		Total		
	Red.	Disp.	Red.	Disp.	Red.	Disp.	Reduced	Disposed	%
<b>Fel.</b>	120	210	105	176	54	220	279	606	46%
<b>Misd.</b>	4	335	148	347	186	162	338	844	40%
<b>Total</b>	124	545	253	523	240	382	617	1450	43%

### *b. Jail Population*

Since the public defender office began operations in 2016, the pretrial jail population has dropped in each county. In Starr and Jim Hogg Counties, more jail beds have been contracted to other entities (i.e., they house detainees from other Texas counties and federal detainees). In Duval County, fewer people have been sent to other counties' jails. In all three counties, these changes may lead to savings on jail costs.

One cause may be public defenders' efforts to seek the client's pretrial release from detention. TRLA investigators regularly monitor jails for people who may need counsel or need to be released on reduced bonds. According to interviews, the office makes Article 17.151 motions in 10-15% of felony cases.<sup>32</sup>

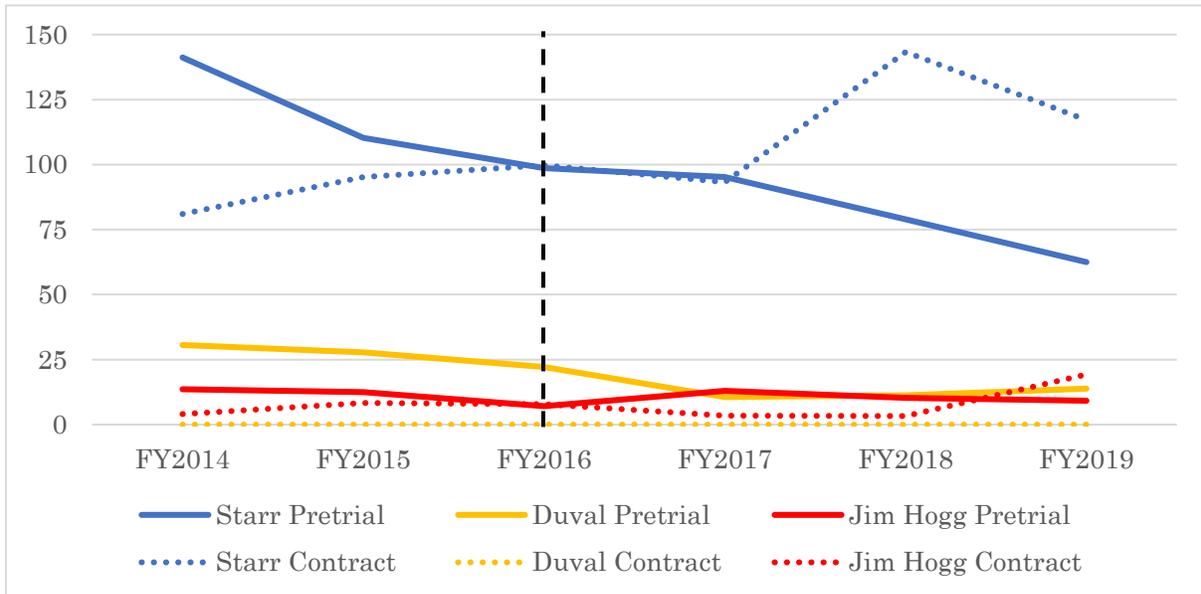
<sup>31</sup> Number of charges reduced or dismissed are from grant reports and cases disposed are from expenditure reports from the county auditor. Percentage rates are estimates from these disparate sources and exact counts are not reliable; for example, the office reported more misdemeanor charges reduced or dismissed than the county reported cases disposed in 2019.

<sup>32</sup> Article 17.151 of the Code of Criminal Procedure requires arrestees to be released from jail if the state is not ready for trial within specific time periods (5-90 days, depending on offense level) from the date of detention.

**Table 6: Jail Populations Before and After Regional Public Defender<sup>33</sup>**

	FY14	FY15	FY16	FY17	FY18	FY19
<b>Starr County</b>						
Pretrial Population	141.2	110.3	98.6	95.2	78.9	62.5
Total Local Jail Population	159.9	132.8	113.2	117.6	102.1	86
• Contract Population	81	95.2	99.8	93.3	143.3	117.1
Detainees Out-of-County	0	0	0	0	0	0
<b>Duval County</b>						
Pretrial Population	30.6	27.8	22.2	10.6	11.3	13.8
Total Local Jail Population	26.7	24.5	25	22.8	23.1	22.5
• Contract Population	0	0	0	0	0	0
Detainees Out-of-County	10	10.3	8.4	5.1	3.2	3.9
<b>Jim Hogg County</b>						
Pretrial Population	13.6	12.5	7.1	13	10.3	9.2
Total Local Jail Population	22.2	17.4	13.8	16.4	13.8	12.6
• Contract Population	4.1	8.3	7.8	3.4	3.3	19.3
Detainees Out-of-County	0	0	0	0	0	0

**Chart 3: Pretrial Populations and Contract Populations in Local Jails, Before and After Regional Public Defender**



<sup>33</sup> Based on monthly one-day snapshots reported by the Texas Commission on Jail Standards.

#### IV. Indigent Defense Expenses

Starr, Duval, and Jim Hogg Counties now appoint qualified counsel for most defendants. Because of TIDC funding, they have increased appointment rates and quality of counsel while keeping local costs at or below statewide averages for per capita spending.

Because the public defender's office is a rural, regional program, TIDC will continue to fund 2/3 of its costs, subject to ongoing performance and availability of state funds.

**Table 7. Indigent Defense Expenses in Starr, Duval, and Jim Hogg Counties**

	FY14	FY15	FY16	FY17	FY18	FY19
<b>Duval County</b>						
Assigned Counsel	\$101,141	\$101,840	\$120,006	\$80,321	\$33,865	\$13,880
Public Defender				\$39,164	\$80,267	\$95,841
Total Spending	\$101,141	\$114,230	\$122,057	\$121,537	\$117,188	\$112,777
Population	11,494	11,323	11,328	11,078	11,083	10,949
Per Capita	\$8.80	\$10.09	\$10.77	\$10.97	\$10.57	\$10.30
<b>Jim Hogg County</b>						
Assigned Counsel	\$27,800	\$23,725	\$28,208	\$12,948	\$7,050	\$8,050
Public Defender				\$17,753	\$24,794	\$29,169
Total Spending	\$29,390	\$25,845	\$29,208	\$31,701	\$33,219	\$38,594
Population	5,166	5,248	5,177	5,180	5,064	5,129
Per Capita	\$5.69	\$4.92	\$5.64	\$6.12	\$6.56	\$7.52
<b>Starr County</b>						
Assigned Counsel	\$301,441	\$228,933	\$200,200	\$58,300	\$45,091	\$30,198
Public Defender			\$170,280	\$1,002,833	\$734,538	\$681,825
State Grants			\$170,280	\$635,850	\$479,205	\$416,700
Total Spending	\$301,441	\$228,933	\$200,200	\$425,283	\$300,424	\$295,323
Population	61,854	62,929	63,241	64,556	64,053	63,406
Per Capita	\$4.87	\$3.64	\$3.17	\$6.59	\$4.69	\$4.66
<b>State of Texas</b>						
Total Spending	\$228.1m.	\$235.6m.	\$245.6m.	\$263.3m.	\$273.3m.	\$299.9m.
Population	26.6m.	27.2m.	27.7m.	28.1m.	28.5m.	28.9m.
Per Capita	\$8.56	\$8.66	\$8.86	\$9.37	\$9.59	\$10.38

## V. Conclusion

TIDC finds that the TRLA Starr County Regional Public Defender Office improved indigent defense in Starr, Duval, and Jim Hogg Counties, while keeping costs low. Without the office, defendants would likely have been deprived of their Sixth Amendment right to competent counsel. Since the office opened in 2016:

- Appointment rates have approached state averages
- Use of investigators has approached TIDC guidelines
- Pretrial jail populations have decreased
- Spending has been consistently low

The public defenders have improved the administration of justice and the lives of their clients in many other ways described in this report and by clients themselves.<sup>34</sup> Clients and other stakeholders can rely on the office to be present, prepared, and professional.

To comply with the Fair Defense Act, the counties must address these issues:

1. Magistrates must take requests for counsel and transfer them to the appointing authority (to judges or, if it is delegated, to the public defender).
2. Judges must rule on requests for counsel within three working days.

TIDC will continue to monitor the counties' progress in meeting these requirements. It will also continue to fund 2/3 of the office's costs, subject to performance and availability of state funds.

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<sup>34</sup> For client testimonials, see <https://www.youtube.com/watch?v=7xHAdnfNz8E>.