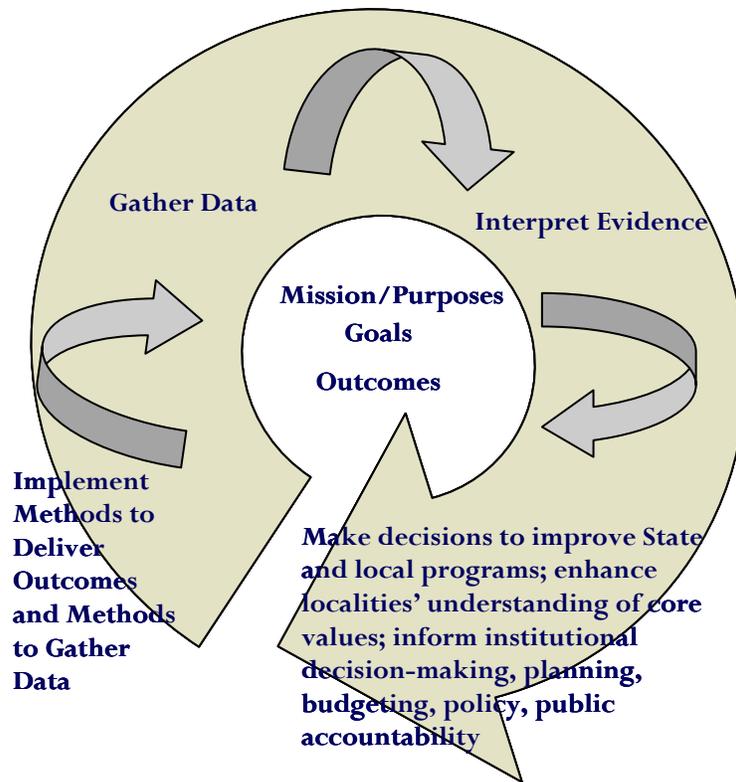




Evidence-based practices are good for public defense



Texas Task Force on Indigent Defense

2006 Annual Report and
Expenditure Report

Task Force on Indigent Defense members and staff:

Officers

Honorable Sharon Keller
Honorable Olen Underwood

Chair – Presiding Judge, Court of Criminal Appeals
Vice-Chair – Presiding Judge, 2nd Administrative Judicial Region

Ex Officio Members:

Honorable Sharon Keller
Honorable Wallace Jefferson
Honorable Terry Keel
Honorable Orlinda Naranjo
Honorable Sherry Radack
Honorable Todd Smith
Honorable Jeff Wentworth
Honorable John Whitmire

Austin, Presiding Judge, Court of Criminal Appeals
Austin, Chief Justice, Supreme Court
Austin, State Representative
Austin, Travis County Court at Law #2
Houston, Chief Justice, First Court of Appeal
Bedford, State Representative
San Antonio, State Senator
Houston, State Senator

Members Appointed by the Governor:

Honorable Jon Burrows
Mr. Knox Fitzpatrick
Mr. Anthony Odiorne
Honorable Olen Underwood
Honorable B. Glen Whitley

Temple, Bell County Judge
Dallas, Attorney, Fitzpatrick, Hagood, Smith & Uhl
Wichita Falls, First Assistant Public Defender, Wichita County
Conroe, Presiding Judge, 2nd Administrative Judicial Region of Texas
Hurst, Tarrant County Judge

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CONTENTS

- 1 Executive Summary
- 2 Policies and Standards Development
- 3 Promoting Local Compliance with Evidence-Based Practices
- 4 Funding Strategies
- 5 Grantee Stories
- 6 Texas Innocence Projects
- 7 Expenditure Report
- 8 Appendices
 - A List of FY 2006 Formula Grants to Texas Counties
 - B Per Capita Spending

Front cover photo:

Pictorial model of an Evidence-Based Practice system
Adapted from Maggy Maki, Ph.D. by Marilee J. Bresciani,
Ph.D. and used with permission by the Texas Task Force on
Indigent Defense



TEXAS TASK FORCE ON INDIGENT DEFENSE
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P.O. Box 12066, Austin, Texas 78711-2066

CHAIR:
THE HONORABLE SHARON KELLER
Presiding Judge, Court of Criminal Appeals

DIRECTOR:
MR. JAMES D. BETHKE

VICE CHAIR:
THE HONORABLE OLEN UNDERWOOD

January 12, 2007

Governor Rick Perry
Lieutenant Governor David Dewhurst
Speaker Tom Craddick
Chief Justice Wallace B. Jefferson
Texas Judicial Council

Dear Gentlemen:

It is our privilege to submit a report concerning the duties, activities and accomplishments of the Texas Task Force on Indigent Defense for the fiscal year ending August 31, 2006. As required by the Texas Fair Defense Act, Section 71.061, Government Code, the Task Force on Indigent Defense shall annually submit to the governor, lieutenant governor, speaker of the house of representatives, and council and shall publish in written and electronic form a report:

(1) containing the information forwarded to the task force from the Office of Court Administration of the Texas Judicial System under Section 71.0351(e); and (2) regarding: (A) the quality of legal representation provided by counsel appointed to represent indigent defendants; (B) current indigent defense practices in the state as compared to state and national standards; (C) efforts made by the task force to improve indigent defense practices in the state; and (D) recommendations made by the task force for improving indigent defense practices in the state.

On the front cover of this Annual Report is a diagram illustrating an evidence-based practices system. The Task Force applies this system to its mission and strategies. The Task Force understands that indigent defense services are provided and funded primarily at the local level. By deploying an evidence-based practice strategy, the Task Force is able to provide local and state officials solid information to make informed decisions about indigent defense practices. This approach places the knowledge in the hands of those of responsible for providing these services. Knowledge rather than anecdotes drives decision making. As a result the likelihood of achieving a cost-effective indigent defense system that also satisfies the requirements of the Constitution and the Texas Fair Defense Act of 2001 is maximized.

First and foremost, our success is due to local government doing its part and more. Through support of the Texas Legislature, the Office of the Governor, county government, and the judiciary, the Task Force will continue its statewide exchange of ideas with both the public and the private stakeholders concerning indigent defense. During the past year, as outlined on the following pages of this report, much of this dialogue has been turned into deliverables.

Sincerely,

Executive Summary

FY 2006 marked the fifth year of the statewide indigent defense program in Texas. The Task Force on Indigent Defense (Task Force) was established in January 2002 under legislation passed during the 77th Texas Legislature (2001) known as the Texas Fair Defense Act. The Texas Fair Defense Act established the Task Force as the first state organization to oversee the provision of indigent defense services in Texas, and connected the new organization to two existing entities: the Task Force is a permanent standing committee of the Texas Judicial Council, and is staffed as a component of the Office of Court Administration (OCA). The Task Force has authority to set statewide policies and standards for the provision and improvement of indigent defense, to grant state funds to counties for that purpose, and to monitor counties' compliance with indigent defense laws. The Task Force is a body of thirteen appointed and ex-officio members supported by seven full-time staff members.

The mission of the Task Force is to improve the delivery of indigent defense services through fiscal assistance, accountability and professional support to State, local judicial, county and municipal officials. This mission supports the ultimate purpose of the Task Force, which is to promote justice and fairness to all indigent persons accused of criminal conduct, including juvenile respondents, as provided by the laws and constitutions of the United States and Texas.

In 2006, the Task Force helped establish through funding the first regional public defender office in the state (serving Val Verde, Edwards, Terrell and Kinney counties). There was also continued funding of two new public defender offices in the state – Bexar and Hidalgo. Texas has nearly doubled the number of public defender offices that existed before the Texas Fair Defense Act established the Task Force.

In addition, the Task Force promulgated, and the Texas Judicial Council ratified, standards for managing contract defender systems. Also, through its Policies and Standards Committee the Task Force approved eight recommendations for consideration by the 80th Texas Legislature. Moreover, the Task Force began deployment of its evidence-based practices strategy to promote and encourage local compliance with the Texas Fair Defense Act. The Task Force also prepared and published, in collaboration with Texas A&M University's Public Policy Research Institute, the study "Evaluating the Impact of Direct Electronic Filing in Criminal Cases: Closing the Paper Trap."

LegalFront
Winter 2005 - Volume 6 No. 1

**Task Force on Indigent Defense Funds
Creation of Public Defender Offices**
By Judge Sharon Keller

On December 8, the Task Force on Indigent Defense (Task Force) awarded over \$13 million in grants to counties to support improvements in the delivery of indigent defense services. The Task Force awarded almost \$2 million in discretionary grants on a competitive basis to assist counties develop new and innovative programs. These grants were funded primarily by a new \$65 annual legal services fee paid by attorneys. One-half of the fee collected are designated for "demonstration or pilot projects that develop and promote best practices for the efficient delivery of quality representation to indigent defendants in criminal cases at trial, on appeal, and in postconviction proceedings." The other half of the fee supports civil legal services to the poor. The funds are instrumental in allowing counties to try groundbreaking models for the delivery of indigent defense services. Indigent defendants being served by these new programs will benefit greatly from the generous support provided by the attorneys of the state.

The Task Force has given top priority to funding for the creation of public defender offices and the provision of mental health defender services. We were pleased to be able to fund four new programs totaling over \$1 million that met these priorities, including two brand new public defender offices. These offices are the first large scale offices formed in Texas since the late 1980's and will

Bexar County was awarded over \$370,000 to create a new appellate public defender office staffed by attorneys who specialize in the handling of appeals. The centralization of these types of cases will allow the county to effectively manage the number of open cases any one attorney may have at any given time. It will also bring more predictability to the budgeting process and should result in long-term cost efficiencies.

Hidalgo County also was awarded nearly \$400,000 to assist the county in creating a public defender office to represent defendants charged with misdemeanors, or those charged with both misdemeanors and felonies. The new office will work in conjunction with the existing assigned counsel system. The program also will target representation for defendants who remain in custody and had previously refused to request counsel. Studies have shown that 90 percent of such defendants ultimately request and are appointed counsel at

Judge Sharon Keller, Chair of the Task Force on Indigent Defense and Presiding Judge of the Court of Criminal Appeals

Published by Texas Lawyers Care, the Pro Bono/Legal Services Support Project of the State Bar of Texas

Population Receiving Constitutionally Guaranteed Assistance of Counsel Rising as are Costs for Services

Since the inception of the Texas Fair Defense Act, there has been about a 24 percent increase in population receiving constitutionally guaranteed assistance of counsel. In 2006, 345,227 adult defendants were served, up from 278,479 in 2002. Overall costs increased 30.7 percent – rising from \$114 million in 2002 to \$149 million in 2006. This overall increase in cost is due in part to appointment trends. The graphs on the following pages break down the appointments in felonies (Figures 1 and 2) and misdemeanors (Figures 3 and 4) across the state. Data from 2002 is based on county reports which were annualized from a nine month period.

In 2006, 62 percent of felony defendants in Texas courts received appointed counsel. This appointment rate compares to 66 percent in federal courts as indicated with 1998 data by a Bureau of Justice Statistics report. (See Caroline Wolf Harlow, *Defense Counsel in Criminal Cases* (Bureau of Justice Statistics, U.S. Dep’t of Justice, Pub. No. NCJ 179023, Nov. 2000), available at <http://www.ojp.usdoj.gov/bjs/pub/pdf/dccc.pdf>.) For misdemeanors, 27.5 percent of defendants in Texas received appointed counsel as compared to the federal rate of 43 percent, indicated by the same Bureau of Justice Statistics study. No applicable study was found to compare appointment rates in Texas with those of other states.

Felony Appointments. As can be seen from Figure 1, felony appointments have varied since FY 2002, the first year after the Texas Fair Defense Act went into effect. The appointment rates are broken down further in Figure 2 by county size. Large counties are those with a 2000 census population of 250,000 or more persons. Medium counties have a 2000 census population of between 50,000 and 250,000 persons. Small counties have a 2000 census population of less than 50,000 persons.

Figure 1

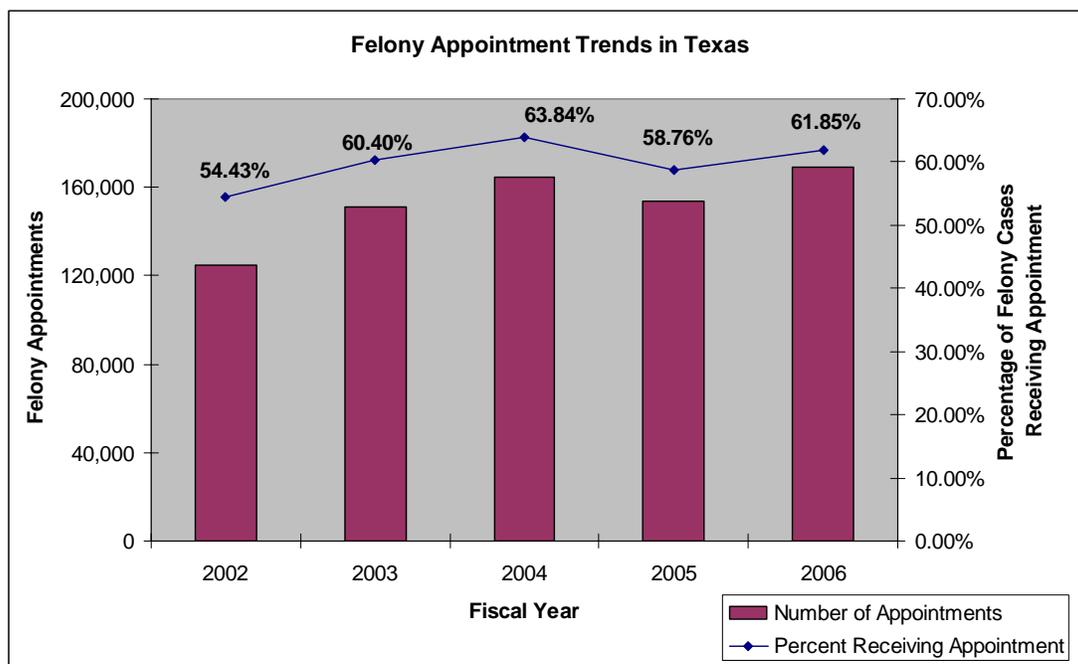
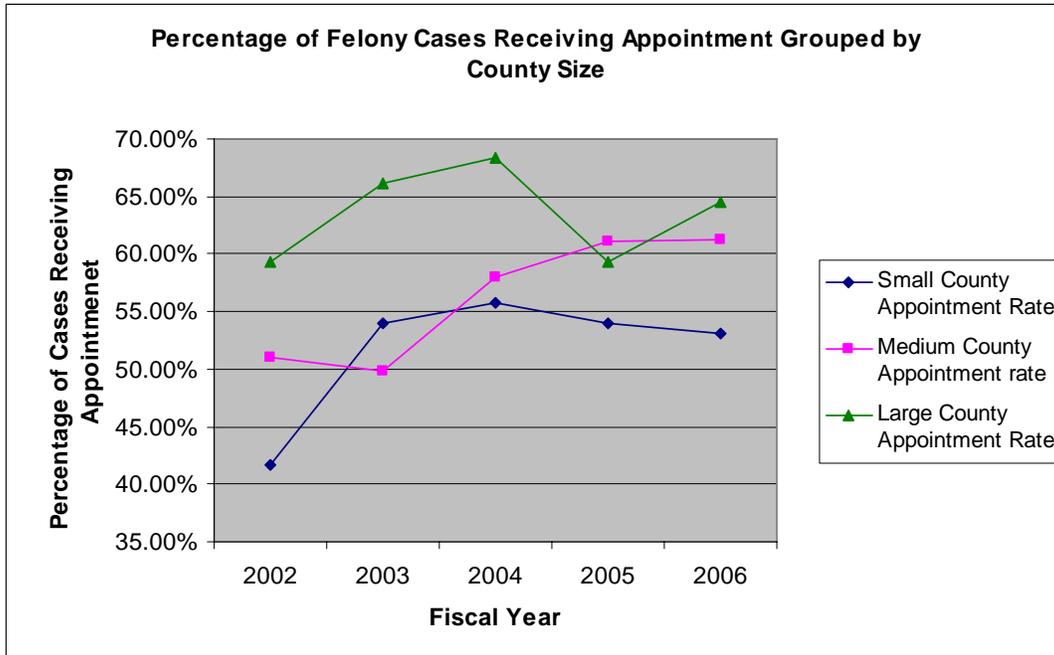


Figure 2



Misdemeanor Appointments. Like felonies, the total number of misdemeanor case appointments varied since FY 2002, the first year after the Texas Fair Defense Act went into effect. The appointment rates are broken down further in the next graph (Figure 4) by county size.

Figure 3

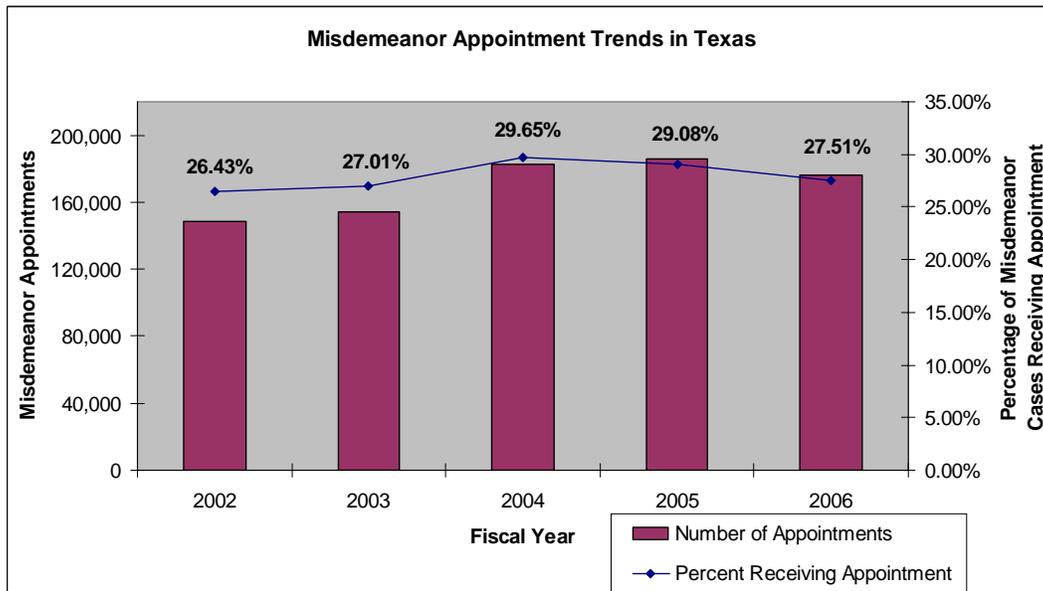
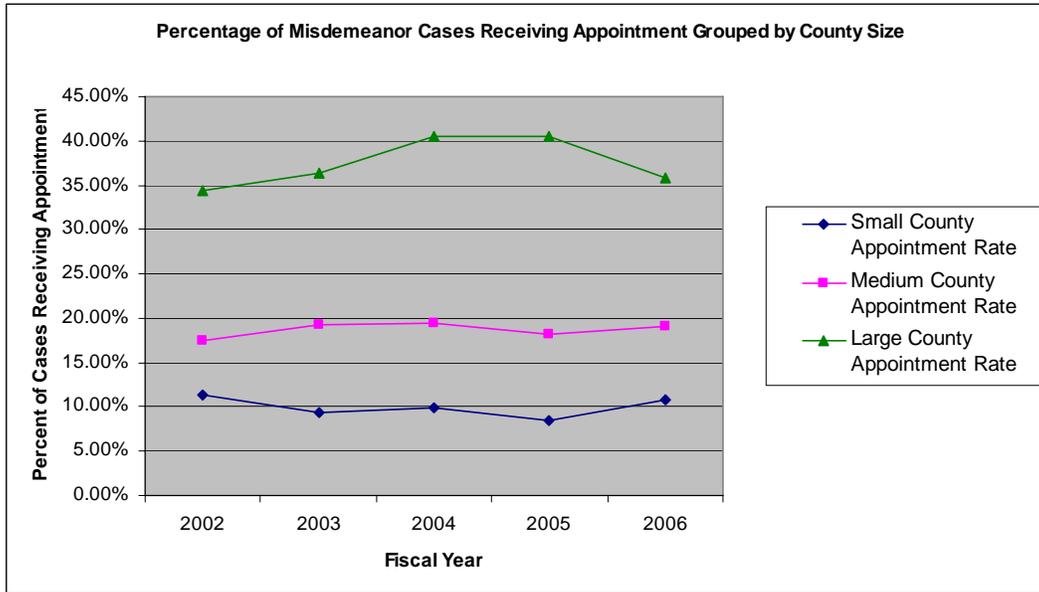


Figure 4



In FY 2006, the Task Force and its committees held 14 public meetings guided by its strategic plan, entitled: A Strategic Plan for improving Texas indigent defense criminal justice systems 2005-2010 (available online on the website at <http://www.courts.state.tx.us/tfid/pdf/StrategicPlan112905final.pdf>) The plan charts the course and direction of Task Force activities on three distinct but related legislative goals: 1) policies and standards development, 2) promoting local compliance with evidence-based practices, and 3) funding strategies. The plan identifies the necessary initiatives to continually improve indigent defense processes in Texas for future generations.

Policies and Standards Development

Goal one in the strategic plan is to develop policies and standards to improve the delivery of indigent defense services. In selecting strategic initiatives under this goal, the Task Force was guided by Section 71.060, Government Code. The section lists potential areas of policy development, which are achieved through development or rules, best practices, and model forms in a process that encourages stakeholder involvement and collaboration.

The most important policy development was the creation and adoption of rules setting minimum standards for managing contract defender systems. The rules provide for an open attorney application and selection process by the judges or juvenile board in whose court(s) the attorney(s) will serve. The rules also require that certain specific items be included in a contract for indigent defense services and the contract be approved by the county. The rules were developed with assistance from a stakeholders' workgroup that looked towards national guidelines and Texas practice. Commentary to the rules will also be promulgated to assist jurisdictions in implementing effective contract systems. The rules will become effective on January 1st, 2007.

The Task Force is charged with recommending to the legislature ways to improve Texas' indigent defense system. The Task Force developed a policy for making legislative recommendations and then formed a workgroup comprised of both public and private criminal justice stakeholders to assist the Policies and Standards Committee to develop such recommendations. At its year-end August meeting the Task Force approved eight recommendations for the upcoming 80th Regular Session of the Texas Legislature. Highlights include recommendations to simplify the establishment of public defender offices, to remove the sunset provision from the State Bar Legal Services Fee, and to create separate requirements for trial and appellate representation in death penalty cases.

In furtherance of two other strategic initiatives, the Task Force has collected and posted to its website the nine regional death penalty attorney qualifications and approved attorney lists. As part of this process, the Task Force provided information to the presiding judges of the administrative judicial regions related to new statutory minimum requirements. It also provided them information on the third chair program whereby volunteer attorneys may assist those attorneys appointed to represent defendants charged in death penalty cases.

The Task Force has begun work on an informational booklet to clarify the unique issues related to representation of children in juvenile courts. The booklet will assist juvenile justice stakeholders and family members understand the indigent defense requirements. The Task Force is also exploring the special issues related to representation of the mentally impaired in criminal or juvenile courts. Several mental health defender programs have been or are being established in El Paso, Limestone, Dallas, and Travis Counties and the Task Force is collecting data from these programs to evaluate the systems and explore the benefits of such systems.

Helpful links to Policy and Standards developments for FY2006:

- [Link to model forms](#)
- [Link to legislative recommendations](#)
- [Link to contract defender program rules/commentary](#)
- [Link to Regional Plans](#)

Promoting Local Compliance with Evidence-Based Practices

Goal two in the strategic plan is to promote local efforts for ensuring that competent counsel is timely appointed in each criminal case where the accused is indigent, and to ensure that state indigent defense funding is used appropriately by local governments.

In FY 2006 the Task Force hired a research specialist who is responsible for analyzing data collected at the local level, reviewing local county indigent defense plans and practices, and then reporting those findings to the Task Force. To measure the core outcomes, a comprehensive methodology was developed along with a risk assessment tool to determine in the future which jurisdictions should be reviewed. This program includes on-site review of local practices to see if these practices match their indigent defense plans and statutory requirements. Five site assessments were conducted in the final quarter of FY 2006. As part of the review and recommendations, a “self-assessment mechanism” is being recommended to the local jurisdictions to review relevant data to determine whether core fair defense requirements are being met and to take corrective actions if necessary.



An indigent defendant and his court appointed defense attorney appear before the Honorable Bob Perkins, 331st District Court Judge in Travis County.

The Task Force offers technical assistance through site visits. In FY 2006 staff conducted 71 site visits to counties for a variety of purposes. Many visits were related to utilization of grant funding and expenditure reporting. The Task Force places a high priority on communication and training and educating all stakeholders in the indigent defense process. This assistance may be in the form of staff conducting a presentation, monitoring site visit or perhaps an informal meeting requested by a county grappling with spikes in spending, process related challenges and the like. Whatever a county’s issues or needs are with indigent defense, counties are encouraged to ask for technical assistance.

Prior to the hiring of the research specialist, Task Force staff responded to a request from Tarrant County and conducted a technical assistance visit in December 2005. The review of the attorney selection and indigence screening process resulted in a full report with recommendations to improve the system. The county has implemented a number of changes as a result including a more critical review by the judges of the quality of work provided by attorneys on the appointment list in addition to the objective qualification requirements. The report is at: <http://www.courts.state.tx.us/tfid/pdf/Tarrant%20County%20Report.pdf>.

The Task Force offers professional development educational programs to enhance understanding of the Texas Fair Defense Act. In FY 2006, Task Force staff made over 20 presentations to over 1,200 attendees at various professional associations. One of these presentations was the 3rd Annual Indigent Defense Workshop sponsored by the Task Force. Seventeen counties

participated, bringing key decision makers, including elected officials, to address specific local indigent defense challenges. The workshop demonstrated best practices and provided tools, such as a 90-day action plan, to address specific issues. The workshop also resulted in Hidalgo County hosting a criminal justice stakeholder symposium with over 100 in attendance to address issues pertaining to indigent defense in their jurisdiction.

To further promote best practices and responsibility at the local level, the Task Force serves as a clearinghouse of indigent defense information via its website, at www.courts.state.tx.us/tfid, with public access to all county indigent defense plans, expenditures, guides, model forms, rules, publications, e-newsletters and press releases. Over 11,114 distinct hits have been made to the public access site since its inception on September 23, 2003.

Ways in which the Task Force communicates and collaborates with and educates criminal justice stakeholders about indigent defense across the State of Texas is illustrated in the chart on the following page.

Communication, Education, Collaboration

Ways in which the Task Force communicates and collaborates with and educates criminal justice stakeholders about indigent defense across the State of Texas (see the map on the following page)...over 1,600 contacts made in FY2006

Presentations by board members and Task Force staff at professionally sponsored conferences (approximately 1,200 attendees)

These presentations present information about the Fair Defense Act, the Task Force's mission, goals and strategies and information is presented on best practices derived from studies undertaken regarding public defense processes. The Director often is the presenter. At times the staff member over a particular program area will co-present. Also if a board member or colleague will be attending the program, that person or persons will also co-present.

Over 20 such presentations were made to professionally sponsored conferences with over 1,200 in attendance to some of the following:

- Texas Association of County Auditors (S.Padre 10/12)
- Texas Association of Court Administration (Dallas 10/12)
- American Bar Association (Chicago 2/10)
- V.G. Young Institute of County Government (Lubbock 3/9)
- Rural Association of Court Administrators (Kerrville 3/28)
- Texas Association of Counties (Austin 8/17)
- Texas Criminal Defense Lawyers Association (Austin 8/20)
- Local bar associations (Fort Bend 9/9; Comal 9/15)
- Law schools

These presentations, often annual conferences, provide information to a myriad of professionals involved in the criminal justice system including district and county judges, criminal defense bar, auditors, prosecutors and law enforcement.

On-Site Technical Assistance visits to 71 sites (approximately 200 contacts)

71 total site visits broken down:

Fiscal monitoring: 9 visits were made by the Fiscal Monitor which relate to fiscal concerns are those related to the type and adequacy of the financial management system.

Program monitoring: 5 visits were made by the Research Specialist Programmatic with concerns related to compliance with the policies outlined in the county indigent defense plan

Other on-site/technical assistance: 57 visits were made to provide technical assistance as requested by a county, either in the form of a presentation or an informal meeting regarding spending or process related challenges.

Regional Grant and Expenditure Reporting Trainings (approximately 200 attendees)

Approximately 200 attendees representing over 100 counties received training on grant application and expenditure reporting processes and procedures and received overall information on the Task Force's grant and other funding programs available. The Grants Administrator conducts these trainings.

Annual Indigent Defense Workshop (approximately 50 attendees)

50 attendees, including elected officials, key decision makers, representing 17 counties attended.

The title of the workshop: Developing Best Practices for Managing Your Local Plan: Arrest Through First Appearance

The workshop demonstrated collaboration and integration examples to deal with decentralized criminal justice systems and 90-day action plans were developed by counties by participating in small work groups. Success in improving processes were achieved in several ways:

- Principals' Meeting (collaboration of all criminal justice stakeholders) to discuss solution: Hidalgo held a regional symposium
- Modification of procedures in existing public defender programs to shorten action timelines: Bexar, Hidalgo, Wichita
- Applied for and installation of VTC or improvement in some other technology to improve efficiency: Montgomery, Lubbock

In addition

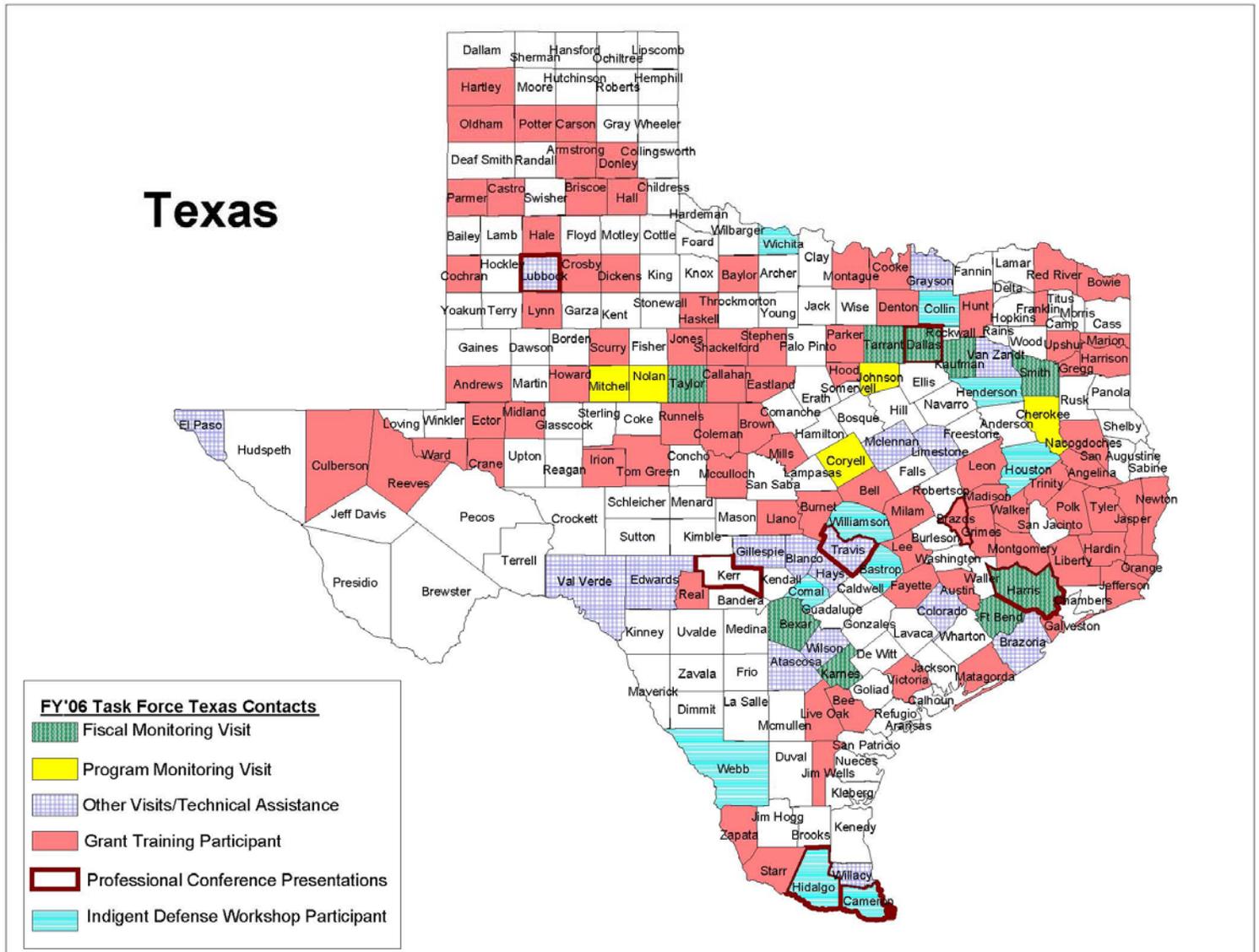
Website

As of November 1, 2006, there have been 11,114 distinct visits out of 31,778 page hits to the public access site since its inception on September 23, 2003. Multiple visits from one ip address on a day are counted as one distinct visit. The website communicates to the public and counties by keeping all plan, expenditure reporting data, links to studies, links to model forms that may assist counties with processes, links to resources.

e-Newsletter

Distributed to approximately 1,200 email addresses derived from database of contact information. The newsletter is distributed after each Task Force meeting which is four times a year.

The following map shows the state-wide geographical impact of all contacts made across the state in 2006.



Map Legend Note: A number of counties had more than one contact made by the Task Force so more than one legend color would apply. For example the map shows only 10 counties with light blue coloring who attended the workshop when actually 17 counties attended. The other 7 counties had other technical assistance on-site visits as noted by another color.

Other actions taken during FY 2006 towards goal two initiatives were:

- The Task Force prepared and published, in collaboration with Texas A&M University's Public Policy Research Institute, the study "Evaluating the Impact of Integrated Electronic Systems in Criminal Case Filings: Closing the Paper Trap" (July 2006) with a \$90,000 grant from the State Justice Institute (with \$50,000 match from Task Force funds). This study:
 - Documents and compares three systems for processing misdemeanor defendants from arrest to case disposition;
 - Links differences in case processing systems to defendant outcomes; and
 - Translates these findings into a replicable "best practices" model of misdemeanor case processing.
 - The study may be accessed at the website at:
[http://www.courts.state.tx.us/tfid/pdf/Final%20Report%207-12-06%20\(2\)%20w%20ackn.pdf](http://www.courts.state.tx.us/tfid/pdf/Final%20Report%207-12-06%20(2)%20w%20ackn.pdf)
- Two additional studies were initiated in FY 2006. One study will document effective strategies on determining indigence and will provide recommendations on what level of verification is necessary to maintain public trust and confidence in the system. This study is expected to be published in January 2007. The other study is being conducted in coordination with the Criminal Justice Advisory Council to explore the feasibility of state funded public defender offices to provide indigent defense services. The findings of this study are expected to be published in January 2007 as part of Governor Perry's 2nd Annual Report of the Criminal Justice Advisory Council.

"When I was invited to attend the Indigent Defense Workshop last October, I went reluctantly—not because of the workshop topic, but simply due to the workload here in Dallas County. It was well worth the time away from home! I found it extremely productive and gained a great deal of information which will assist us in Dallas County."

Judge Margaret Keliher
Dallas County Court Judge

Funding Strategies

Goal three in the strategic plan is to develop effective funding strategies. Distribution of and accounting for state funds to counties are critical responsibilities of the Task Force. In FY 2006, the Task Force awarded \$12.8 million in formula grants, \$1.5 million in discretionary grants, \$140,009 in direct disbursements to rural counties, and \$91,554 in reimbursements for counties with extraordinary expenses. The Task Force grant program encourages compliance with state and federal requirements by requiring counties to meet provisions of the Texas Fair Defense Act in their local indigent defense plans to qualify for funding.

In establishing funding strategies, the Task Force listens closely to counties and works to develop programs that encourage improved indigent defense systems. To encourage improvement and promote local compliance the Task Force distributed funds through four methods in FY 2006 – formula grants, direct disbursements, extraordinary disbursements, and discretionary grants. The annual Expenditure Report provides details of the expenses for these four categories.

Staff has continuously been in contact with key stakeholders to promote improved systems. The use of training and community stakeholder meetings has been fruitful in communicating the importance of counties improving their indigent defense systems. Local county staff works closely with the Task Force staff to obtain information to improve their systems. Hundreds of phone calls from county staff were responded to by Task Force staff during the fiscal year with an average resolution time of less than one day.

The second part of this strategy is to account for the funds that are distributed. The Task Force established an annual report titled the Indigent Defense Expenditure Report as required in Texas Government Code Section 71.0351(e). The report includes all expenses for indigent defense paid out by Texas counties. The report also requires case information to be submitted by court. The fiscal and program monitor use the submitted reports as the basis for accounting for state funds and the corresponding court processes. The Expenditure Report of this Annual Report beginning on page 25 provides complete information on the funding programs, expenditures and budget of the Task Force.

Actions taken during FY 2006 towards goal three initiatives were:

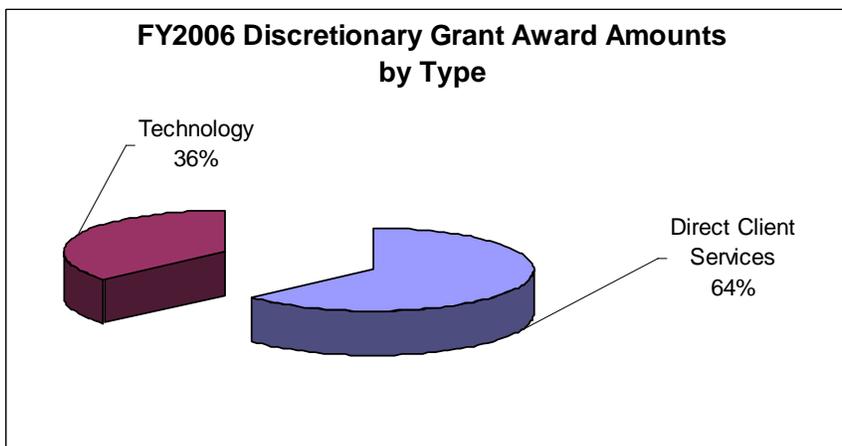
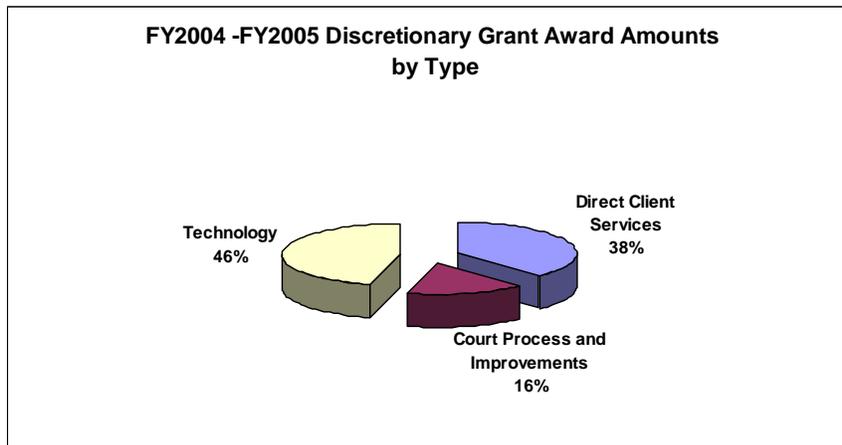
- Funded the establishment the state’s first regional public defender office. This is also the first public defender office in Texas to be operated by a non-profit legal aid organization. Texas Rio Grande Legal Aid (www.trla.org). The office serves Val Verde, Edwards, Terrell and Kinney Counties. Please see the Grantee Story on page 18 of this annual report.
- Contracted with The Spangenberg Group (www.spangengroup.com) to evaluate and provide technical assistance to two recently established public defender programs in Bexar and Hidalgo counties. The evaluation should assure financial commitment of counties to new programs initially funded by the state if the research demonstrates the success of these programs.
- Recommended that the legislature continue funding from the mandatory State Bar Legal Services Fee, which is due to expire on September 1, 2007.
- The Task Force leveraged state funds to bring in more dollars into the Texas indigent defense system. A research project performed by the Task Force in conjunction with Texas A&M Public Policy Research Institute brought federal dollars from the State Justice Institute to evaluate the impact of direct electronic filing of criminal cases. The

study may be accessed on the website at: [http://www.courts.state.tx.us/tfid/pdf/Final%20Report%207-12-06%20\(2\)%20w%20ackn.pdf](http://www.courts.state.tx.us/tfid/pdf/Final%20Report%207-12-06%20(2)%20w%20ackn.pdf)

- El Paso County used the Task Force discretionary grant funds to leverage foundation funds. The foundation funds provide the match for the mental health division of the public defender's office and allow the county to conduct an evaluation of the program.
- Funded a mental health public defender office in Travis County.
- Funded a public defender office in Kaufman and Willacy counties.

Effective Funding Strategies - Discretionary Grant Program

In FY 2006, 15 discretionary grants successfully discharged, although some of these programs continue operations with subsequent grants as part of a multi-year program. These programs represented \$2.4 million in overall program operating costs with \$1.6 million paid for by state funds. There were 4 single-year court process programs, 5 single-year technology grants, and 6 multi-year direct client service programs that discharged. There were other grants funded for the first time covered in other sections of this document. Counties applied mainly for court process grants in the early years. With the introduction of the state bar funds the Task Force has been moving to more direct client service programs that serve as demonstration and pilot projects. The direct client service multi-year programs are the fastest growing type of grant. The charts below show how the Task Force and counties have changed in the types of programs funded.



Single-year Court Process Programs are designed to improve the administration of the Fair Defense Act within the county. They typically utilize staff to impact the operations of the county to move cases through the system more efficiently. A common by-product of these programs is the improved ability of the county to demonstrate compliance through better reporting.

County	Program Name	Major Results
Webb	Webb County Indigent Defense Coordinator	The coordinator improved stakeholder knowledge of the indigent defense plan and was able to develop procedures to monitor lengthy pre-trial incarceration. The coordinator is working towards implementing an appointment and tracking system for all courts and levels.
Grimes	Part-time Coordinator, Tracking System Software Package, and Courtroom Computer/Printer/Handheld PC for Indigent Defense Services to Improve Timeliness of Processing and Tracking	The coordinator was able to improve tracking and demonstrate the county's compliance with prompt appointment requirements of the Texas Fair Defense Act.
Hill	Coordinator for Indigent Defense Services for Hill County	The coordinator was able to improve tracking and demonstrate the county's compliance with prompt appointment requirements of the Texas Fair Defense Act.
Tarrant	Tarrant County Centralized Indigency Determination Magistration Project	The system coordinated the process for determining indigency from many disparate municipalities to a centralized magistrate system. The system also provides a model for obtaining and processing financial information from defendants.

Single-year Technology Programs can improve processes and serve as a vehicle to improve the actual defense services an indigent defendant receives from the attorney or the system. Technology can shorten the amount of time between arrest and the defendants being informed of their constitutional rights by a magistrate. These programs often improve the likelihood that a defendant will have an opportunity to discuss the case with their attorney in advance of the day of court.

County	Program Name	Major Results
Henderson	Video Teleconferencing (VTC) for Henderson County, Texas	The VTC system was used to expedite the magistration and appointment process. It also allowed attorneys to meet with their clients with greater frequency.
Hockley	Video Teleconferencing For Hockley and Cochran Counties	The system reduced the time between arrest and magistration. The county also used the VTC to assist in determining indigency. Defendants can complete request for counsel electronically.
McLennan	Facilitated Representation for Indigent Felons and Juveniles in McLennan County through video teleconferencing and computer technology	This system was lauded by the defense bar, sheriff, and courts. It is heavily used. Improved attorney/client communication, attorney and jail staff time savings and safety were all clear benefits to this system

Tom Green	Installation of Video Conferencing Equipment for the 51st and 119th Judicial Districts	The system reduces the amount of time attorneys charge the county for long drives to rural counties. Judges are implementing procedural changes to encourage greater use.
Van Zandt	Technology Resources (VTC and legal research access)	The system provided legal research to the attorneys on the appointment wheel. The system was used to expedite the determination of indigency and appointment process.

Multi-year Direct Client Service Programs provide for new methods within counties to provide representation and related defense services for indigent defendants. These programs operate for up to four years with decreasing state funding over the time period.

County	Program Name	Major Results
Bexar	Appellate Public Defender's Office for Bexar County, Texas	The county and courts had excellent coordination and implementation. The program accepted its first appointment on 8/1/2005. The program filed 343 briefs in fiscal year 2006, a jump from 127 assigned counsel filings in 2005. Cost per filing fell from \$2,410/case to \$1,545/case in 2006.
Dallas	Mental Health Division Dallas County Public Defender's Office (Multi Year Grant)	Judges report special representation has improved successful outcomes. The mental health defender provides specialized defense services and uses social workers to locate resources in the community.*
El Paso	Public Defender Forensic Resources Coordinator	Purchased reference material, equipment and consultation services to increase the public defender use of forensic evidence.
El Paso	Public Defender Mental Health Unit	The first public defender office in Texas to establish a mental health department. Judges have commended the program. Preliminary data shows a reduction in the cycle of offenders with mental illness.
Hidalgo	Hidalgo County Indigent Defense Public Defender	More misdemeanants are receiving appointment in Hidalgo County. The PD is able to consult with the defendants in most cases prior to court date. Reduction of average pre-trial disposition jail days from 32 to 16.
Limestone	Mental Health/Mental Retardation Defense Program	Limestone County coordinated with Freestone and Leon counties to establish a mental health unit through a contract for attorney services and a mental health case worker. Local officials noted that getting mental health services in the rural communities is challenging.

*See statement from Judge Ada Brown on the next page.

The following letter was sent by Judge Ada Brown to the staff of the Dallas Public Defender Office Mental Health Unit. The Mental Health Unit was funded by a Task Force FY05 Multi-Year Discretionary Grant and received continued funding in 2006:

“Thank you all so much for your group efforts to help a young lady indigent defendant. She looked so bright-eyed and healthy today when she appeared in my court to plea. It was a far cry from the angry, desperate, addicted woman we saw last time in our court. What a joy to see some fight in her eyes! Instead of a young girl who felt too powerless and pitiful to dream of escaping an abusive pimp was a young woman ready to begin the fight for her life and for her sobriety. If nothing else ever happens on the bench but this, seeing one life starting to wind its way back on track made this whole year as a judge mean something. Most of you weren't in the courtroom to see this exciting turn of events so I hope you won't mind my emailing you so you can share in the joy. We meet so many people in this courthouse who don't care about the needs and lives of other folks (and not just defendants). I hope you know how wonderful it is to see people like you caring enough about another human being to put forth the energy to help her out. You are truly good people and a blessing to Dallas County and to me.”

The following map illustrates the statewide geographic impact of the Task Force's Discretionary Grant Program by category (from its inception in 2003 until 2006) increasing direct client services, technology and court services.

**Texas Task Force on Indigent Defense
Discretionary Grant Program
2003-2006**
Establishment of
Direct Client Services, Technology, and Court Services
in the State of Texas
*Access to all applications on the web at:
<http://tfid.tamu.edu/Public/default.asp>*

Direct Client Services

Public Defender offices in existence prior to the Fair Defense Act, January 1, 2002

Public Defender offices established through Task Force on Indigent Defense grant funds

- 1. Travis (juvenile only) est. 1971
- 2. Dallas est. 1983
- 3. El Paso est. 1987
- 4. Colorado est. 1987
- 5. Webb est. 1988
- 6. Wichita est. late 1980's
- 7. Cameron (juvenile only) est. 1999

- 2005
- 8. Bexar (appellate)
- 9. Hidalgo (misdemeanors)
- 2006
- 10. Val Verde, Edwards, Terrell and Kinney (first regional in state, first anywhere to contract with non-profit)

Mental health defender programs established through Task Force on Indigent Defense grant funds

Contract Defense Attorney

- 2004
- 1. El Paso
- 2005
- 2. Limestone regional with Freestone and Leon
- 3. Dallas

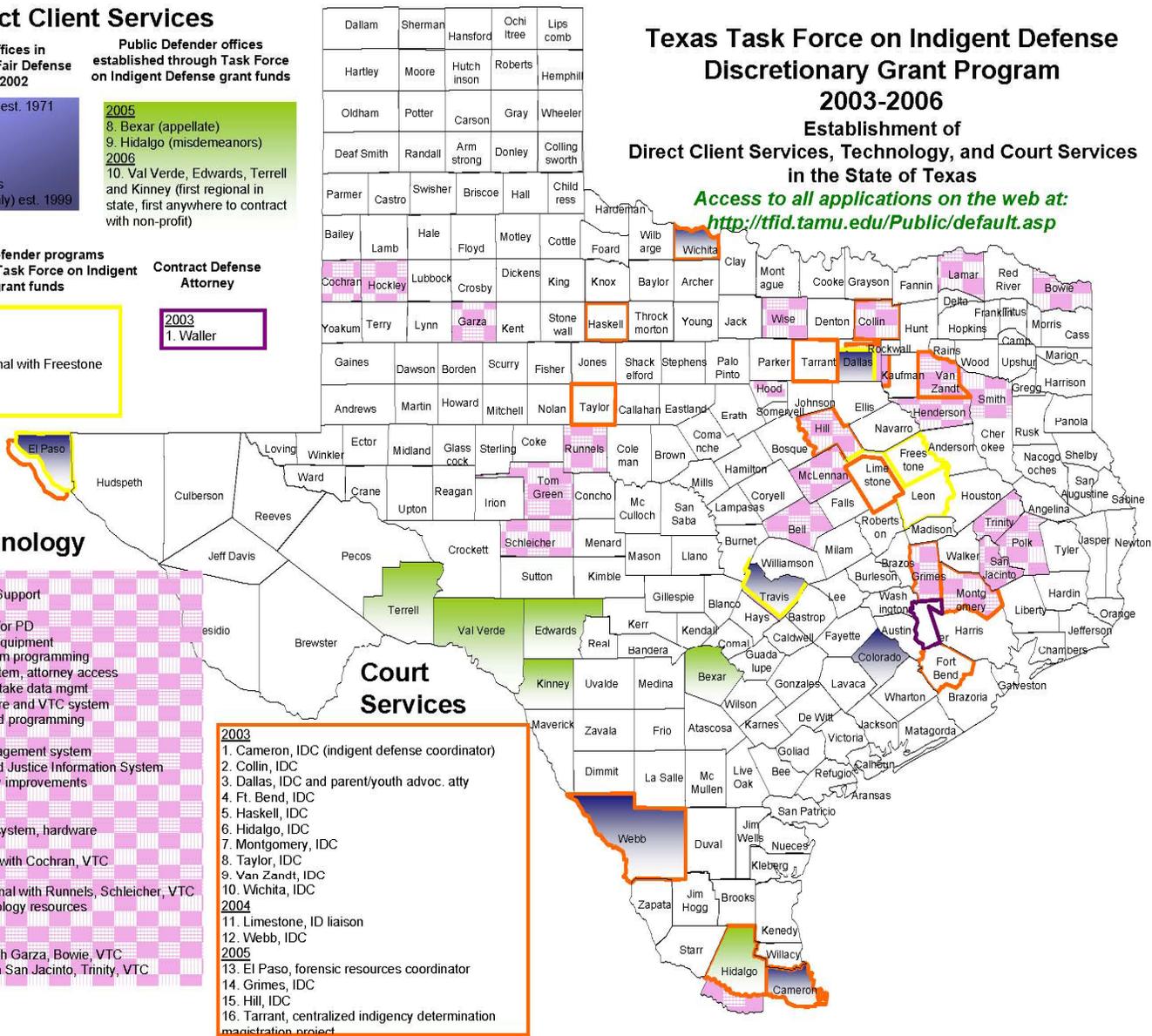
- 2003
- 1. Waller

Technology

- 2003
- 1. Bell, ID Computer Support
- 2. Hidalgo, VTC
- 3. Dallas, computers for PD
- 4. Lamar, ID related equipment
- 5. Montgomery, system programming
- 6. Smith, imaging system, attorney access
- 7. Travis, improved intake data mgmt
- 8. Wichita, PD software and VTC system
- 9. Wise, computer and programming
- 2004
- 10. Dallas, case management system
- 11. Tarrant, Integrated Justice Information System
- 12. Travis, technology improvements
- 2005
- 13. Collin, VTC
- 14. Grimes, tracking system, hardware
- 15. Henderson, VTC
- 16. Hockley, regional with Cochran, VTC
- 17. McLennan, VTC
- 18. Tom Green, regional with Runnels, Schleicher, VTC
- 19. Van Zandt, technology resources
- 2006
- 20. Hill, VTC
- 21. Hood, regional with Garza, Bowie, VTC
- 22. Polk, regional with San Jacinto, Trinity, VTC

Court Services

- 2003
- 1. Cameron, IDC (indigent defense coordinator)
- 2. Collin, IDC
- 3. Dallas, IDC and parent/youth advoc. atty
- 4. Ft. Bend, IDC
- 5. Haskell, IDC
- 6. Hidalgo, IDC
- 7. Montgomery, IDC
- 8. Taylor, IDC
- 9. Van Zandt, IDC
- 10. Wichita, IDC
- 2004
- 11. Limestone, ID liaison
- 12. Webb, IDC
- 2005
- 13. El Paso, forensic resources coordinator
- 14. Grimes, IDC
- 15. Hill, IDC
- 16. Tarrant, centralized indigency determination magistrature project



Grantee Stories



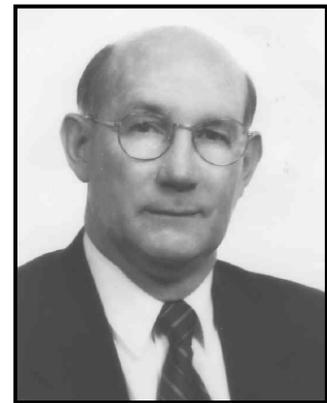
The Val Verde Regional Public Defender Office

funded by FY 2006 Discretionary Grant funds is extraordinary in a number of ways: The regional concept (it serves four counties: Val Verde, Edwards, Terrell and Kinney) was a first in Texas. With very few attorneys available to represent clients in this rural area covering over 9,000 square miles, the idea was a hit! It had a champion – Val Verde County Commissioner Ramon – because without his vision and support it could not have even begun. The community partnered with the State to receive \$470,304 (80% of program

cost in the first year) in multi-year Discretionary Grant funding in FY 2006 and contracted with a non-profit legal aid program (also a first in Texas). The multi-year grant program funds over four years at 80%, 60%, 40%, and 20%, respectively. On the state level, the Task Force grants administrator worked closely with the Commissioner and the non-profit legal program, Texas Rural Legal Aid (TRLA), to form its partnership and set-up the program. Notably, the program attracted a federal public defender, Joseph Cordova, to become its new Chief Public Defender. He felt strongly that this type of defense program was needed at the state court level. To demonstrate his commitment to service, his family sacrificed by him leaving his federal post and relocating. The district judge, Judge Tom Lee, was fully supportive of the program as well. The county did not heed those who said things could not be done in a certain timeframe. The office manager, Janie Ramon, had an amazing ability to get things done more efficiently because she was an inspirational and influential hometown public servant. Another aspect unique to the public defender office is that TRLA had a pre-existing civil legal aid department. The criminal public defender can now focus totally on criminal defense and whenever civil issues arise, as they often do, those are referred to the civil division. This program has received positive attention in numerous articles and publications due to these remarkable features and the way in which it was done. For further information about the office, please see the TRLA Fall 2006 newsletter at http://www.trla.org/pdf/nl_fl06.pdf.

“The new public defender office increases the efficiencies in the process by reducing the administrative time of appointing attorneys and reviewing payment vouchers. This allows me to focus on my judicial duties. The public defender office removes inefficiency by getting the job done correctly. It has no gain by putting extra costs that do not need to be there. I am also very encouraged by the fact that case flow is moving along very smoothly.”

Judge Tom Lee, 63rd District Court Judge *Pictured right*
Val Verde





Val Verde County Commissioner Ramiro Ramon shares his thoughts at the grand opening ceremony. Ramon called the innovative project “the role model for the state.” “We’re off and running and we’re already seeing a big difference,” Ramon said. From left to right: Janie Ramon, Joseph Cordova, TRLA Director David Hall, Representative Pete Gallego, TRLA Board Member Diana Abrego (Photo credits: Ruben Barragan)



TRLA Chief Public Defender Joseph Cordova shakes hands with State Task Force on Indigent Defense Director Jim Bethke at the conclusion of the grand opening ceremony.

“I am excited that our society has in some measure realized that helping the indigent when they are arrested and charged with a crime actually benefits all of society. Everyone, not just the rich, deserves the best representation possible and I hope our office will be able to provide that caliber of representation to the indigent.”

Joseph A. Cordova (pictured above right)
Chief Public Defender
Val Verde Regional Public Defenders Office
Newly funded with FY2006 Discretionary Grant

Although the Bexar and Hidalgo Public Defender programs were initially funded with FY 2005 Discretionary Grant funds, the programs did not start until FY 2006. In addition, these are multi-year grants and each county was required to re-apply to have this continued funding which each county did receive in FY 2006. Multi-year Discretionary Grants are funded over a four year period at 80%, 60%, 40% and 20% for each respective year and the county funds the remaining costs. Decidedly the Task Force does not take the “good luck” approach with these newly funded programs and it places strong emphasis on technical support to all newly funded public defender offices. This includes on-site technical assistant visits, facilitation of stakeholder meetings, on-site evaluations, recommendations from best practices derived from national consultant studies regarding office organization and systems, procedural and performance standards, workload standards and overall office policies and practices, so that these programs stand an excellent chance of becoming successful models not only for Texas, but for the nation as well. For more information about these offices, please read “An Analysis of the Newly Established Bexar and Hidalgo Public Defender Offices,” prepared by The Spangenberg Group, on the Task Force website at:

<http://www.courts.state.tx.us/tfid/pdf/Final%20Revised%20Version%20Initial%20Interim%20Report.pdf>

Bexar County

is in the forefront...county officials, judges, and others in its criminal justice community, in collaboration with the Task Force, established the first stand-alone county appellate public defender office in the State.

Before. Appeals in Bexar County were brought before the Fourth Court of Appeals, which covers 32 counties in Texas, with Bexar being the largest. Prior to the establishment of the Bexar County Appellate Defender Office, the Fourth Court of Appeals raised concerns with the quality of some appellate briefs being filed. Other concerns included the fact that most of the caseload fell on a small group of lawyers who were qualified in this highly specialized area of the law, which caused serious appellate delay, with attorneys asking for two to three extensions on every brief filed due to overload. The criminal district court administrator, whose office oversees court-appointments, saw a need to address the appearance of impropriety and appellate delay. The system was suffering in a quagmire of appellate cases not moving forward.



After. A grant application was submitted and the Task Force made a \$370,076 grant to establish an appellate defender office in Bexar County. By September 1, 2005 the office was fully functional. Four highly trained and experienced appellate attorneys, headed by Chief Appellate Public Defender Angela Moore, in one shop, are now handling the briefs more efficiently and with lower cost...\$115,000 in county expenditures for services provided by private assigned counsel in the first year compared to \$350,000 in the previous year. Ms. Moore had a vision and mission: to provide high quality representation for indigent appellants by ensuring appellants consistent, accountable, highly qualified professional representation. The 100th brief filed milestone was reached in fall of 2006 demonstrating record achievement. The APDO handles juvenile, misdemeanor, felony and capital appeals, but does not take civil appeals including habeas corpus appeals. The APDO is responsible for filing briefs in the Fourth Court of Appeals and for death penalty cases in which the appeal is filed directly with the Texas Court of Criminal Appeals. The current budget for the APDO is \$468,000 (which includes rental on building, salaries, benefits, etc.). Each year of the four-year grant, Bexar County is expected to cover more of the expenses for the office. Bexar County is required to reapply for continuing grant funding

each year with the grant paying for 60 percent of expenses next year, and a 20 percent reduction each year thereafter. In addition the office is serving as a resource and clearinghouse of information for the private bar, much like the services provided by the appellate section of the District Attorney's office provided for their trial attorneys. Based on evaluations and data gathered, combined with general comments from the oversight committee and other Bexar County officials, the office is a success. The Bexar County criminal justice community should be proud of its efforts to implement an innovative way to handle indigent appeals in a cost-effective manner and with qualitative improvement. To view the online data concerning this grant application and program narrative, go to: <http://tfid.tamu.edu/DiscretionaryGrantProgram/ViewApplication.asp>.

Bexar's major results: The county and courts had excellent coordination and implementation. The program accepted its first appointment on 8/1/2005. The program filed 343 briefs in fiscal year 2006, a jump from 127 assigned counsel filings in 2005. Cost per filing fell from \$2,410/case to \$1,545/case in 2006.



Jaime Gonzalez, Hidalgo County Chief Public Defender

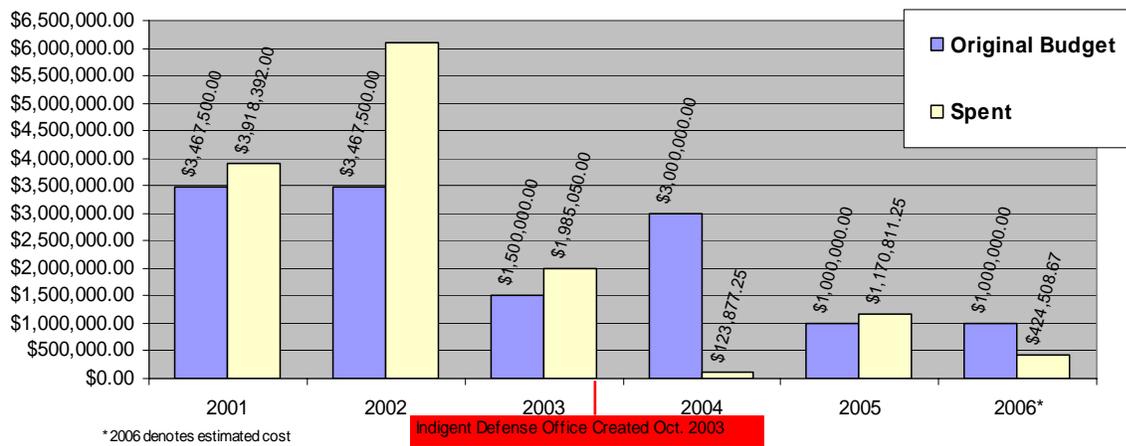
Hidalgo County

Overcrowded jails. Spiraling costs to house inmates. Congestion caused by defendants who didn't understand their rights. Resolute Hidalgo County officials put their heads together and decided collaboratively to apply for a grant from the State to create a public defender office to handle misdemeanor cases. They succeeded in getting a \$395,490 multi-year Discretionary Grant from the Task Force and the office began operation on October 21, 2005, headed by Jaime Gonzalez, a former Assistant District Attorney in Hidalgo County. There are four assistant public defenders. Through a contract with the county pursuant

to a grant from the Task Force, the office will be responsible for representing 25 percent of all in-custody misdemeanor indigent defendants and for interviewing all in-custody defendants who fail to apply for an attorney and thus stall their case. For those defendants who, after speaking with a public defender, decide to seek appointed counsel, either the public defender or assigned counsel will be appointed. There is also a provision in the public defender's contract that allows the public defenders to handle any "tie-in" felony charges that their misdemeanor clients are facing. Representation of tie-in felonies is limited to in-custody misdemeanor clients. Three of the five assistant public defenders are eligible to handle felonies; however, as of February 2006 the Office had not begun receiving these type of cases. The public defender's office will not handle appeals, nor will they take felony probation revocations.

One year later, data shows that the arrest to release date for in-custody misdemeanor defendants has decreased. The county also illustrates its cost savings in the following graph:

**Hidalgo County
Cost to House Inmates Out of County Jail FY 2001-2006***



	Original Budget	Spent
2001	\$3,467,500.00	\$3,918,392.00
2002	\$3,467,500.00	\$6,108,089.25
2003	\$1,500,000.00	\$1,985,050.00
2004	\$3,000,000.00	\$123,877.25
2005	\$1,000,000.00	\$1,170,811.25
2006*	\$1,000,000.00	\$424,508.67

Leadership. Creativity. Collaboration. Maximizing State Resources. For Hidalgo County to get this done, project leadership talked to all county stakeholders in the criminal justice system to consider all stakeholder input and interests. The county used collaboration by having stakeholder meetings (also referred to as principals’ meetings) in getting this project off the ground. The county took advantage of state resources such as grant funding from the Task Force to leverage county monies to pay for the project. The county used creativity to come up with other effective and efficient ways to do things such as installing a video-teleconferencing system for Article 15.17, C.C.P. magistrations. In these ways, Hidalgo County is meeting its goals of providing quality legal representation while lowering jail population and saving taxpayers’ money. To view the online data concerning this grant application and program narrative, go to: <http://tfid.tamu.edu/DiscretionaryGrantProgram/ViewApplication.asp>.

Hidalgo’s major results: More misdemeanants are receiving appointment in Hidalgo County. The PD is able to consult with the defendants in most cases prior to court date. Reduction of average pre-trial disposition jail days from 32 to 16.

Texas Innocence Projects

During FY 2006, the Task Force began implementing a rider to the appropriations bill that directs up to \$800,000 over two years to innocence projects for the law schools at the University of Houston, the University of Texas, Texas Southern University and Texas Tech University to assist people wrongly convicted of crimes. When an investigation reveals a potentially provable case of actual innocence the projects then work to pursue remedies for the inmate through the courts or clemency procedures. Innocence projects involve law students working under supervision of professors. Each school is eligible to receive up to \$100,000 per year from money the Legislature approved during the 79th Legislative Session.

The law schools at the University of Houston, University of Texas, and Texas Tech University each have an operational innocence project. As of this writing, Texas Southern University has not established an innocence project.

The FY 2006 highlights include:

<p>University of Houston School of Law (University of Houston Innocence Project)</p>	<p>Received and processed 1,973 requests for assistance. Of these, 945 made a claim of actual innocence. A total of 136 cases were opened as a new investigation and 111 investigations were completed. The remainder of cases were either closed due to no claim of innocence, or transferred to other projects. There are currently 236 open investigations. At present, two cases are at the litigation stage and three are at the clemency stage.</p> <p>A total of 47 students participated in the University of Houston Innocence Project, providing 4,515 hours of client services.</p>
<p>University of Texas Law School (Texas Center for Actual Innocence)</p>	<p>Received and processed 1,152 requests for assistance. Of these, 451 made a claim of innocence and remain open in the preliminary screening process. An additional 96 cases entered the screening process and were closed for lack of new evidence to prove innocence. Forty-nine cases were referred to innocence projects in other states or another Texas innocence project better situated geographically to handle the case. The project also received 13 requests from inmates sentenced to death, and all were referred to the Capital Punishment Center located at the University of Texas School of Law. The remaining 543 cases made a request outside the program's definition of innocence or unrelated to innocence. Three cases are presently in litigation, with no cases in the clemency process</p> <p>A total of 23 students participated in the Actual Innocence Clinic during the fall semester of 2005 and the spring semester of 2006, providing 1363 hours of client services.</p>
<p>Texas Tech University School of Law (West Texas Innocence Project)</p>	<p>Received and processed 1,064 requests for assistance. Of these, 218 were opened as new investigation and 88 investigations were completed. The remainder of cases were either closed due to no claim of innocence, or transferred to other projects. There are currently 36 cases under active investigation and 168 cases that are open and await investigation. At present, six cases are at the litigation stage and one at the clemency stage.</p> <p>A total of 44 students participated in the program and provided 3,780 hours of client services. In addition, this project coordinated with the Texas Criminal Defense Lawyers Association to present an Innocence Training Conference for students and lawyers.</p>

Grant Awarded from Governor's Criminal Justice Division

To better coordinate the efforts of the public law schools and other universities involved with the innocence projects, the Governor's Criminal Justice Division awarded a grant to the OCA and the Task Force to develop an online reporting system for the administration of the innocence projects. One goal of this grant is to develop a framework through which the Innocence Project sites can report standardized performance information to key stakeholders including the Office of the Governor, Task Force administrators, policymakers, advocacy groups, and the public. The second goal is to create an information-sharing tool through which the sites can communicate with each other regarding the assignment of responsibility for individual cases and thereby avoid duplication of work. This unified online reporting system will be functional in January 2007 and viewable at: <http://innocence.tamu.edu/Public> .

Expenditure information concerning these projects is on page 29 in the Expenditure Report that follows.

Participating in the Actual Innocence Clinic at the University of Texas School of Law has been the high-point of my experience as a law student. In the past few months I have learned more about how criminal law actually operates in the "real world" than in all my other classes combined. By introducing law students to issues surrounding post-conviction innocence claims, students have the unique opportunity to "back-track" through the case, dissecting everything that led to the conviction—trial records, witness statements, arrest reports, etc.—as well as re-interviewing inmates, witnesses, and attorneys. Even where a claim of innocence cannot be proved with new evidence, the process serves both to educate law students and provides a cost-effective review to ensure that the system functions properly and that justice is served.

M. Andrew Garbe

Law Student, The University of Texas School of Law

J.D. Candidate, May 2008

Expenditure Report

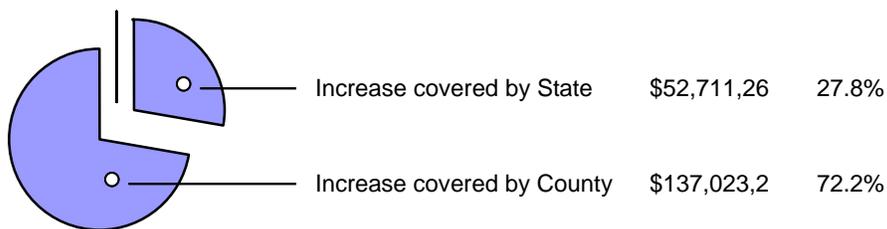
I. Expenditures

The Task Force is committed to assisting counties with improving their effectiveness in providing indigent defense services and to assist them with their increased indigent defense expenses due to the passage of the Texas Fair Defense Act. This year, indigent defense expenditures totaled \$148,965,310 compared to FY 2005 recorded expenses of \$140,274,559.

To help offset increased costs, counties are eligible to receive grant and other funds to cover expenses above their FY 2001 baseline expenditures. FY 2001 was the year prior to the implementation of the Texas Fair Defense Act. It is used as the comparison year to ensure that counties do not supplant county funds with state funds. This year \$14.2 million was disbursed/awarded in state funding. Funding consist of Formula Grant, Direct Disbursements, Extraordinary Disbursements and Discretionary Grants.

Not including Discretionary Grants, disbursements totaled a little over \$12.6 million, which covered close to 28% of the increased indigent defense services expenditures for the year. From FY 2002 to FY 2006, expenses over the baseline totaled \$189,734,469 with the state covering \$52,711,268 (27.8%) of that increase.

FY02-FY06 Indigent Defense Services Over FY01 Baseline - \$189,734,469



State and county expenditure data is collected for all 50 states each year by The Spangenberg Group on behalf of the American Bar Association. These figures can then be divided by the state's population that year to create a measure of spending comparable across jurisdictions. For 2005, the most recent year for which figures are available, overall per capita spending was \$11.88. Texas' per capita spending is \$6.33, ranking it 43rd out of 50 states. The chart below shows the ten largest states by population and their respective per capita spending from highest to lowest.

State	2005 Population	2005 Total Expenditure	Expenditures Per Capita
New York	19,254,630	\$402,479,830	\$20.90
California	36,132,147	\$572,877,808	\$15.86
Florida	17,789,864	\$232,700,000	\$13.08
New Jersey	8,717,925	\$104,552,000	\$11.99
Georgia	9,072,576	\$94,227,081	\$10.39
Illinois	12,763,371	\$124,777,783	\$9.78
Ohio	11,464,042	\$111,458,380	\$9.72
Pennsylvania	12,429,616	\$100,652,582	\$8.10
Michigan	10,120,860	\$78,856,113	\$7.79
Texas	22,859,968	\$144,683,654	\$6.33

Appendix B is a map of Texas showing the amount of increase in per capita spending by county that takes into account reimbursements received from the Task Force. While many counties experienced significant indigent defense expense increases, Texas indigent defense expenditures per capita are still much lower than in much of the nation.

II. Funding

Distributing state funds to assist counties in meeting their constitutional and statutory duties to improve indigent defense services is a critical responsibility of the Task Force. The primary source of funding for the Task Force is court costs collected. Court costs are paid upon conviction by defendants convicted of offenses ranging from misdemeanors to felonies. This fiscal year, \$11,080,784 was appropriated from these collections. The appropriation amount represents an estimate of the amount of revenue that will be collected in court costs. The actual amounts collected vary from year to year. This fiscal year, \$12,030,092 was collected. In FY 2005, \$11,337,770 was collected and, in FY 2004, \$11,461,888 was collected.

The Task Force also receives funding from Surety Bond Fees. Of Surety Bond fees collected, one-third goes to the Fair Defense Account and the remaining balance goes to support longevity pay for prosecutors. The Task Force received over \$2.2 million this fiscal year.

Another key funding source for the Task Force is the State Bar Legal Services Fees (State Bar Fee). One-half of the State Bar Fee collected from attorneys paying their state bar dues, is allocated to the Fair Defense Account. This fiscal year, the portion received by the Task Force was over \$1.9 million. The State Bar Fee is required to be used for demonstration and pilot projects. The Task Force designates funds collected from this fee to fund the multi-year discretionary grant proposals whose priorities included establishing public defender offices, regional public defender offices, mental health defender services, and programs that provide direct services to indigent defendants.

In 2005, the 79th Legislature passed a bill that provided an additional funding source for indigent defense. S.B. 1704 increased juror pay from \$6 per day to \$40 per day after the first day of service. The bill created a new \$4 court cost payable upon conviction for any offense, excluding pedestrian or parking related offenses. These funds will be used to reimburse counties \$34 per day after the first day of service by each juror. This bill also provides that if the balance in the newly created jury service fund exceeds \$10 million, the overage must be transferred to the Fair Defense Account. These funds are appropriated to the Task Force to reimburse counties for the

increased costs of providing indigent defense services as well as to assist local jurisdictions in improving the quality of these services. Less than \$10 million was collected this year, therefore, the Task Force did not receive any funds from this revenue source.

FY2006 Revenue Source (\$16,194,891)



III. Operating Budget for FY 2006

Budget Category	FY06 Total Expended	FY05 Comparative Total
Salaries & Wages	\$413,157	\$368,507
Other Personnel Cost	\$19,570	\$6,080
Benefit Replacement Pay	\$1,797	\$2,054
Payroll Related Costs	\$0	\$0
Professional Fees & Services	\$44,879	\$6,515
Computer/Programming Services	\$48,000	\$48,000
In-State Travel	\$26,884	\$24,545
Out-of State Travel	\$2,908	\$1,195
Training	\$2,624	\$3,067
Postage	\$679	\$2,669
Materials & Supplies	\$11,768	\$5,998
Printing & Reproduction	\$3,961	\$802
Maintenance & Repairs	\$1,225	\$1,050
Telecommunications	\$6,462	\$5,138
Rentals & Leases	\$1,973	\$2,735
Other Operating Expenses	\$132,332	\$190,297
Innocence Project	\$126,907	\$0
Formula Grant Payment ⁽¹⁾	\$12,424,437	\$11,953,417
Discretionary Grant Payment ⁽²⁾	\$1,553,166	\$2,129,641
Extraordinary Grant Payment	\$91,554	\$316,000
Direct Disbursement Payment	\$140,009	\$196,217
Capital Outlay	\$0	\$0
Total	\$15,054,292	\$15,263,927

Method of Finance Category	FY06 Method of Finance	FY05 Method of Finance
Court Costs	\$12,030,092	\$11,337,770
Surety Bond Fee	\$2,221,712	\$2,173,578
State Bar Fee	\$1,943,087	\$1,906,260
Appropriated Receipts (SJI Grant) (4)	\$53,334	\$90,000
Total Revenue	\$16,248,225	\$15,507,608
FY04 Carryover Funds		\$2,603,409
FY05 Carryover Funds	\$2,847,090	(\$2,847,090)
FY06 Carryover Funds (3)	(\$4,041,023)	

⁽¹⁾ The actual amount expended for FY05 Formula Grants totaled \$11,506,830 based on the indigent defense expenditure reports submitted by counties. The amount reported in the FY05 Expenditure Report was based on the grand award, as the grants were not complete as of the issuance of the FY05 Expenditure Report.

⁽²⁾ Amounts showing for Discretionary Grant in FY06 and FY05 reflect the grant award; grants have not been completed.

⁽³⁾ Carryover is primarily related to state bar fee as well as surety bond fees collected in excess of the amount estimated.

⁽⁴⁾ The actual amount expended for FY05 Appropriated Receipts (SJI Grant) was \$36,666. The amount reported was based on the award amount.

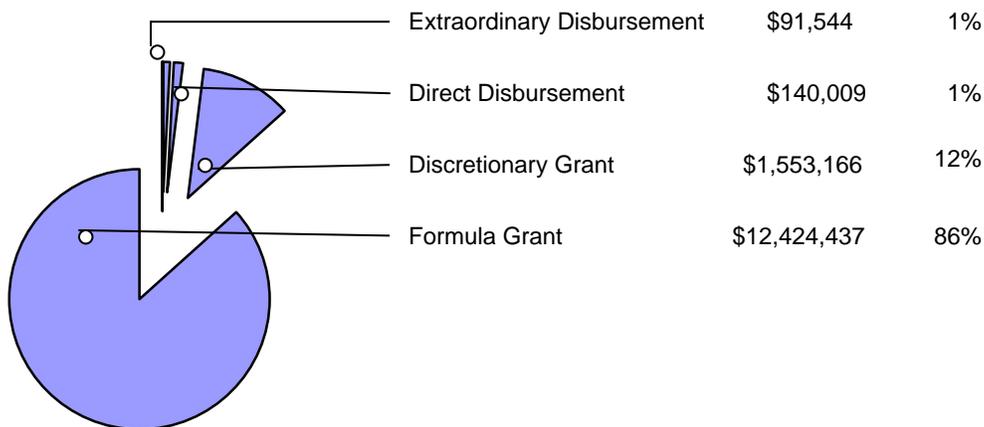
This fiscal year, the Task Force expended \$624,885 for administrative costs from the Fair Defense Account. Administrative cost represents 4.1% of the total amount expended. These expenses included salaries for seven full-time staff, travel for board members and staff, an on-line data system which provides public access through the internet of all plans and expense information submitted by courts and counties, and all other administrative operational functions as shown in chart above.

During FY 2006, the Task Force began implementing a rider to the appropriations bill that directs up to \$800,000 over two years to innocence projects for the law schools at the University of Houston, the University of Texas, Texas Southern University and Texas Tech University to assist people wrongly convicted of crimes.

Each school is eligible to receive up to \$100,000 per year from money the Legislature approved. The law schools at the University of Houston, University of Texas, and Texas Tech University each have an operational innocence project and so far, \$126,907 had been expended (Texas Tech - \$54,838; University of Texas - \$72,069). At the time of this report, the University of Houston had not submitted their expenses.

IV. Grants

FY2006 Grants (Disbursement Award) \$14,209,156



Formula Grants

Formula grants provide money to counties for increased indigent defense costs using a standard allocation formula. Funds are distributed based on a floor award amount with the remainder based on a county’s percent of statewide population. Funds are distributed to all counties that apply, document their increased expenditures, and maintain a countywide indigent defense plan that complies with statutes and policies set by the Task Force.

Eligibility for a formula grant for FY 2006 required the countywide indigent defense plan to comply with statutory time-frames for prompt access to counsel. A county must also have submitted a copy of the indigent defense plan used in juvenile cases in the county. The plan must also meet statutory requirements related to payment for indigent defense services including an adopted attorney fee schedule, an attorney fee voucher, and procedures to pay for expert

witnesses and investigative expenses with and without prior court approval, as well as procedures and documentation to meet minimum attorney continuing legal education (CLE) standards set by the Task Force.

This fiscal year, the Task Force awarded formula grants to two hundred twenty one (221) counties totaling \$12,719,382. Of the 221 counties awarded a grant, two hundred fourteen (214) counties qualified and received disbursements totaling \$12,424,437. This is an increase of over \$900,000 from the previous year amount of \$11,513,942. Formula grants represent more than 86% of total grant funding. See **Appendix A** for a complete listing of FY 2006 grant awards and final disbursements.

Direct Disbursements

The Direct Disbursement grant category was established to give small counties that have low incidences of crime and low indigent defense costs a way, if needed, to receive funding besides applying for a Formula Grant. Small counties often do not have sufficient indigent defense expenses to qualify for a formula grant. Two-thirds of the funds that would have been allocated to counties that do not apply for a formula grant are budgeted for direct disbursement. If a county has indigent defense expenses above its baseline year amount, that county is eligible to receive funding based on requirements set by the Task Force and availability of funds.

Thirty-three counties did not apply for a formula grant and were, therefore, eligible to receive a direct disbursement if they incurred indigent defense expenses above their baseline amount. A county may decide not to apply for a grant if the county did not expend any of its previous grant award or the county does not anticipate increased indigent defense costs over the baseline amount. The total amount disbursed for this grant category was \$140,009. Table 1 below lists all counties that did not apply for a formula grant and any direct disbursement made.

Table 1

Counties in the Direct Disbursement pool	Direct Disbursement Amount Received		
		Jim Hogg	\$7,722
Borden	\$650	Karnes	\$0
Briscoe	\$1,998	Kenedy	\$0
Brooks	\$9,123	King	\$0
Concho	\$1,292	Knox	\$4,750
Cottle	\$4,670	Lavaca	\$11,287
Crockett	\$14,188	Lipscomb	\$12,885
Crosby	\$7,878	Live Oak	\$0
Dickens	\$0	McMullen	\$0
Dimmit	\$0	Motley	\$0
Duval	\$0	Nolan	\$13,004
Edwards	\$3,974	Oldham	\$6,152
Fisher	\$0	Rains	\$10,719
Floyd	\$8,781	Shelby	\$0
Foard	\$1,780	Stonewall	\$5,821
Frio	\$0	Throckmorton	\$0
Jeff Davis	\$6,172	Uvalde	\$18,218
		Total (20 counties)	\$140,009

Extraordinary Disbursements

The Task Force distributed \$91,554 in extraordinary disbursement funding to two counties. Galveston County received \$84,054 and Haskell County received \$7,500. To qualify for this funding, a county must demonstrate indigent defense expenses in the current and/or immediately preceding county fiscal year constituting a financial hardship for the county. Each request is evaluated on a case-by-case basis against other requests and the amount of funds available. See Table 2.

Table 2

County	Requested Amount	Amount Disbursed
Galveston	\$84,054	\$84,054
Haskell	\$7,500	\$7,500
Total	\$91,554	\$91,554

Discretionary Grants

The Task Force also distributes funds in the form of discretionary grants. Discretionary grants are awarded on a competitive basis to assist local government in developing new, innovative programs or processes to improve the delivery of indigent defense services. A county can apply for a single-year or a multi-year grant. Single-year grants may pay up to 100% of an awarded activity on a reimbursement basis. Multi-year grants require a cash match, and funding for a grant project is available for up to four years. Under a multi-year grant, a county is required to re-apply for continued funding each grant year. The grant will pay up to 80% of total project costs the first year, 60% the second year, 40% the third year, and 20% the fourth year. Programs that provide direct services to indigent defendants are eligible for multiyear grants. These have been programs to establish a public defender office, to establish a regional public defender office or to provide mental health defender services. Applications for discretionary grants are reviewed and scored by a select multi-disciplinary committee prior to being presented to the Grants and Reporting Committee and the full Task Force. Counties may compete for a discretionary grant if their countywide plan is in compliance with applicable statutes and standards requirements set by the Task Force.

This fiscal year, Val Verde County was awarded a new multi-year grant and three counties (Hill, Hood and Polk) were awarded new single-year grants. Five counties (Bexar, Dallas, El Paso, Hidalgo, and Limestone) had their previously awarded multi-year grants renewed. The total amount awarded for all discretionary grants was \$1,553,166 which represents approximately 11% of total grant funding. A summary of each funded program is contained in Table 3 below.

Table 3

County	Grant Number	Program Title	Grant Award Amount
Val Verde	212-06-D06	Regional Public Defender Program	\$470,304
		Sub-Total (Multi Year)	\$470,304
Bexar	212-56-D01	Appellate Public Defender Office	\$198,888
Dallas	212-56-D02	Mental Health Division for Dallas Co. Public Defender Office	\$72,981
El Paso	212-56-D05	Public Defender Mental Health Unit	\$35,058
Hidalgo	212-56-D03	Misdemeanor Public Defender Office	\$222,087
Limestone	212-56-D04	Mental Health/Mental Retardation Contract Defense Program	\$101,558
		Sub-Total (Continued Multi Year)	\$630,572
Hill	212-06-D07	Courtroom Audio/Video Trial Support	\$139,773
Hood	212-06-D08	Video Teleconferencing (Multi-County)	\$115,523
Polk	212-06-D09	Video Teleconferencing	\$196,994
		Sub-Total (Single Year)	\$452,290
		Total - Multi & Single Year	\$1,553,166

Appendix A – FY 2006 Formula Grant Awards to Texas Counties

County	Grant Award	Grant Award Received
Anderson	\$33,945	\$33,945
Andrews	\$11,795	\$3,745
Angelina	\$47,751	\$47,751
Aransas	\$17,756	\$17,756
Archer	\$9,905	\$9,882
Armstrong	\$6,094	\$3,518
Atascosa	\$26,906	\$26,906
Austin	\$18,324	\$14,826
Bailey	\$8,355	\$8,355
Bandera	\$15,205	\$8,089
Bastrop	\$41,212	\$41,212
Baylor	\$7,128	\$7,128
Bee	\$22,281	\$22,281
Bell	\$137,726	\$137,726
Bexar	\$780,874	\$780,874
Blanco	\$9,733	\$0
Borden	Eligible for Direct Disbursement	\$0
Bosque	\$14,299	\$14,299
Bowie	\$52,923	\$52,923
Brazoria	\$144,629	\$144,629
Brazos	\$90,124	\$90,124
Brewster	\$9,932	\$9,932
Briscoe	Eligible for Direct Disbursement	\$0
Brooks	Eligible for Direct Disbursement	\$0
Brown	\$25,023	\$25,023
Burleson	\$14,269	\$14,269
Burnet	\$25,085	\$25,085
Caldwell	\$23,597	\$23,597
Calhoun	\$16,043	\$16,043
Callahan	\$12,121	\$12,121
Cameron	\$199,395	\$199,395

Camp	\$11,540	\$11,540
Carson	\$8,389	\$8,389
Cass	\$21,035	\$21,035
Castro	\$9,084	\$0
Chambers	\$19,962	\$5,487
Cherokee	\$30,233	\$30,233
Childress	\$8,883	\$8,883
Clay	\$10,958	\$10,958
Cochran	\$6,881	\$713
Coke	\$7,031	\$2,999
Coleman	\$9,852	\$9,852
Collin	\$325,101	\$325,101
Collingsworth	\$6,510	\$6,510
Colorado	\$15,980	\$15,980
Comal	\$52,013	\$52,013
Comanche	\$12,526	\$12,526
Concho	Eligible for Direct Disbursement	\$0
Cooke	\$25,061	\$25,061
Coryell	\$44,298	\$44,298
Cottle	Eligible for Direct Disbursement	\$0
Crane	\$7,119	\$7,119
Crockett	Eligible for Direct Disbursement	\$0
Crosby	Eligible for Direct Disbursement	\$0
Culberson	\$6,454	\$135
Dallam	\$8,275	\$8,275
Dallas	\$1,208,511	\$1,208,511
Dawson	\$12,542	\$12,542
Deaf Smith	\$14,706	\$14,706
Delta	\$7,897	\$7,897
Denton	\$279,888	\$279,888
DeWitt	\$15,834	\$15,834
Dickens	Eligible for Direct Disbursement	\$0
Dimmit	Eligible for Direct Disbursement	\$0
Donley	\$7,060	\$7,060
Duval	Eligible for Direct Disbursement	\$0
Eastland	\$14,590	\$14,590
Ector	\$70,327	\$70,327
Edwards	Eligible for Direct Disbursement	\$0

El Paso	\$379,404	\$379,404	Hidalgo	\$345,181	\$345,181
Ellis	\$71,641	\$71,641	Hill	\$22,702	\$22,702
Erath	\$22,839	\$22,839	Hockley	\$16,914	\$16,914
Falls	\$14,697	\$8,283	Hood	\$28,685	\$28,685
Fannin	\$22,278	\$22,278	Hopkins	\$22,069	\$22,069
Fayette	\$17,204	\$17,204	Houston	\$17,438	\$17,438
Fisher	Eligible for Direct Disbursement	\$0	Howard	\$22,639	\$22,639
Floyd	Eligible for Direct Disbursement	\$0	Hudspeth	\$6,838	\$6,838
Foard	Eligible for Direct Disbursement	\$0	Hunt	\$47,450	\$47,450
Fort Bend	\$225,340	\$225,340	Hutchinson	\$17,011	\$17,011
Franklin	\$10,116	\$10,116	Irion	\$5,938	\$1,194
Freestone	\$15,068	\$15,068	Jack	\$9,637	\$9,637
Frio	Eligible for Direct Disbursement	\$0	Jackson	\$12,710	\$12,710
Gaines	\$12,764	\$12,764	Jasper	\$23,881	\$23,881
Galveston	\$145,754	\$145,754	Jeff Davis	Eligible for Direct Disbursement	\$0
Garza	\$7,670	\$7,670	Jefferson	\$136,589	\$93,673
Gillespie	\$16,762	\$10,060	Jim Hogg	Eligible for Direct Disbursement	\$0
Glasscock	\$5,687	\$0	Jim Wells	\$25,823	\$25,823
Goliad	\$8,790	\$8,790	Johnson	\$79,642	\$79,642
Gonzales	\$15,009	\$15,009	Jones	\$15,682	\$15,682
Gray	\$16,530	\$16,530	Karnes	Eligible for Direct Disbursement	\$0
Grayson	\$65,964	\$65,964	Kaufman	\$48,822	\$48,822
Gregg	\$64,845	\$64,845	Kendall	\$19,124	\$19,124
Grimes	\$17,859	\$17,859	Kenedy	Eligible for Direct Disbursement	\$0
Guadalupe	\$57,397	\$57,397	Kent	\$5,425	\$0
Hale	\$24,094	\$9,116	Kerr	\$29,025	\$29,025
Hall	\$7,089	\$4,208	Kimble	\$7,355	\$7,355
Hamilton	\$9,420	\$7,461	King	Eligible for Direct Disbursement	\$0
Hansford	\$7,786	\$7,786	Kinney	\$6,728	\$6,728
Hardeman	\$7,360	\$7,360	Kleberg	\$21,632	\$21,632
Hardin	\$31,008	\$0	Knox	Eligible for Direct Disbursement	\$0
Harris	\$1,908,009	\$1,908,009	La Salle	\$8,085	\$8,085
Harrison	\$38,014	\$38,014	Lamar	\$30,902	\$30,902
Hartley	\$7,792	\$7,792	Lamb	\$12,727	\$12,727
Haskell	\$8,070	\$8,070	Lampasas	\$15,281	\$15,281
Hays	\$67,381	\$67,381	Lavaca	Eligible for Direct Disbursement	\$0
Hemphill	\$6,717	\$6,717	Lee	\$13,751	\$13,751
Henderson	\$45,095	\$45,095	Leon	\$13,523	\$13,523

Liberty	\$44,899	\$44,899	Parker	\$57,586	\$57,586
Limestone	\$16,780	\$16,780	Parmer	\$10,133	\$10,133
Lipscomb	Eligible for Direct Disbursement	\$0	Pecos	\$13,495	\$13,495
Live Oak	Eligible for Direct Disbursement	\$0	Polk	\$28,255	\$28,255
Llano	\$14,587	\$14,587	Potter	\$67,396	\$67,396
Loving	\$5,032	\$5,032	Presidio	\$9,097	\$34
Lubbock	\$137,438	\$137,438	Rains	Eligible for Direct Disbursement	\$0
Lynn	\$8,368	\$7,320	Randall	\$62,693	\$62,693
Madison	\$12,011	\$12,011	Reagan	\$6,653	\$6,653
Marion	\$10,626	\$10,626	Real	\$6,615	\$6,615
Martin	\$7,415	\$4,250	Red River	\$12,466	\$12,466
Mason	\$6,984	\$6,984	Reeves	\$11,719	\$11,719
Matagorda	\$25,014	\$25,014	Refugio	\$8,905	\$8,905
Maverick	\$31,689	\$26,058	Roberts	\$5,429	\$548
McCulloch	\$9,333	\$7,408	Robertson	\$13,286	\$0
McLennan	\$121,467	\$121,467	Rockwall	\$35,316	\$35,316
McMullen	Eligible for Direct Disbursement	\$0	Runnels	\$10,808	\$10,808
Medina	\$27,004	\$27,004	Rusk	\$30,213	\$30,213
Menard	\$6,252	\$3,776	Sabine	\$10,251	\$10,251
Midland	\$67,669	\$67,669	San Augustine	\$9,668	\$9,668
Milam	\$18,330	\$17,034	San Jacinto	\$17,109	\$17,109
Mills	\$7,667	\$7,667	San Patricio	\$41,111	\$41,111
Mitchell	\$9,972	\$9,972	San Saba	\$8,242	\$3,571
Montague	\$15,358	\$15,358	Schleicher	\$6,519	\$975
Montgomery	\$189,137	\$189,137	Scurry	\$13,505	\$13,505
Moore	\$15,712	\$15,712	Shackelford	\$6,652	\$6,652
Morris	\$11,727	\$11,727	Shelby	Eligible for Direct Disbursement	\$0
Motley	Eligible for Direct Disbursement	\$0	Sherman	\$6,706	\$6,706
Nacogdoches	\$37,007	\$37,007	Smith	\$102,101	\$102,101
Navarro	\$30,320	\$30,320	Somervell	\$9,019	\$9,019
Newton	\$12,723	\$10,701	Starr	\$35,647	\$35,647
Nolan	Eligible for Direct Disbursement	\$0	Stephens	\$10,094	\$9,962
Nueces	\$170,150	\$170,150	Sterling	\$5,738	\$5,738
Ochiltree	\$9,706	\$9,706	Stonewall	Eligible for Direct Disbursement	\$0
Oldham	Eligible for Direct Disbursement	\$0	Sutton	\$7,145	\$7,145
Orange	\$49,680	\$41,973	Swisher	\$9,134	\$9,134
Palo Pinto	\$19,369	\$19,369	Tarrant	\$834,315	\$834,315
Panola	\$16,915	\$16,915	Taylor	\$71,133	\$71,133

Terrell	\$5,522	\$5,522
Terry	\$11,508	\$11,508
Throckmorton	Eligible for Direct Disbursement	\$0
Titus	\$20,358	\$20,358
Tom Green	\$59,536	\$59,536
Travis	\$462,334	\$462,334
Trinity	\$12,273	\$12,273
Tyler	\$16,209	\$0
Upshur	\$24,227	\$24,227
Upton	\$6,657	\$6,657
Uvalde	Eligible for Direct Disbursement	\$0
Val Verde	\$29,593	\$29,593
Van Zandt	\$31,562	\$31,562
Victoria	\$49,754	\$49,754
Walker	\$38,098	\$38,098
Waller	\$23,928	\$23,928
Ward	\$10,369	\$10,369
Washington	\$21,325	\$21,325
Webb	\$120,076	\$120,076
Wharton	\$27,211	\$17,640
Wheeler	\$7,594	\$7,594
Wichita	\$73,478	\$73,478
Wilbarger	\$12,533	\$12,533
Willacy	\$15,874	\$15,874
Williamson	\$163,657	\$163,657
Wilson	\$24,053	\$24,053
Winkler	\$8,483	\$8,483
Wise	\$33,163	\$33,163
Wood	\$25,416	\$25,416
Yoakum	\$8,746	\$8,746
Young	\$14,452	\$14,452
Zapata	\$12,425	\$12,425
Zavala	\$10,986	\$4,311
Total	\$12,719,382	\$12,424,437

- 221 Counties applied for a Formula Grant
- 214 Counties received Formula Grant disbursements

Appendix B – Amount of increase in per capita spending by county that takes into account reimbursements received from the Task Force

The map on the following page shows FY 2006 per capita increases in indigent defense expenses since the inception of the Texas Fair Defense Act. These expense increases take into account Task Force reimbursements from FY 2006. Eighteen counties did not receive a Task Force reimbursement in 2006. Thirty-two counties saw no per capita increased expenses after Task Force reimbursements. Eighty counties received Task Force reimbursements and had per capita spending increases above \$2 per person. One hundred twenty-four counties' per capita spending was less than \$2 but more than \$0. The median increase in per capita indigent defense expenses after Task Force reimbursements was \$1.17. While many counties experienced significant indigent defense expense increases, Texas indigent defense expenditures per capita are still much lower than in much of the nation. See the Expenditure Report at page 25 of this annual report.

Per capita increases were determined by:

1. Taking FY 2006 reported indigent defense expenses and subtracting Task Force reimbursements for FY 2006 to yield net expenses for FY 2006.
2. Net expenses for 2006 were then divided by the estimated 2005 population of each respective county (the last population estimate offered by the Texas State Data Center) to yield 2006 net per capita expenses.
3. Adjusted baseline expenses from FY 2001 were then divided by the estimated 2001 population of each respective county to yield 2001 net per capita expenses.
4. Net per capita expenses from FY 2001 were subtracted from net per capita expenses from FY 2006 to yield net per capita increases since 2001.

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