



Indigent Defense Expenditure Report Manual

Fiscal Year 2021¹

PUBLIC DEFENDER OFFICE SUPPLEMENT

This document is a supplement instruction guide specifically for counties with Public Defender Offices (PDOs) because those counties have unique indigent defense reporting issues. The challenge is to comply with statutory requirements while still making the information compatible with other statewide reporting.

Counties with PDOs will use this set of instructions and forms to supplement Indigent Defense Expenditure Report (IDER) Manual only **for reporting PDO information. The manual for the Indigent Defense Expenditure Report must still be used to report assigned counsel, contract, and managed assigned counsel (MAC) cases.**

For the purpose of the criminal and juvenile delinquency sections of the Indigent Defense Expenditure Report, the Commission uses the definition of public defender set forth in Article 26.044 of the Texas Code of Criminal Procedure:

(a) In this chapter, "public defender" means a governmental entity or nonprofit corporation: operating under a written agreement with a governmental entity, other than an individual judge or court; using public funds; and providing legal representation and services to indigent defendants accused of a crime or juvenile offense, as those terms are defined by Section 71.001, Government Code.

Some counties provide legal representation for parents and/or children in suits filed by Texas Department of Family and Protective Services (TDFPS) affecting the parent-child relationship through a public defender office or other county-operated law office dedicated to such representation. For purposes of the CPS sections of the IDER, these programs are considered a "public defender." See page 6 for guidance on new CPS reporting requirements.

Case Counting on the Criminal and Juvenile Delinquency Indigent Defense Court Report pages in the IDER

Public defender offices must provide a count of cases closed or disposed during the fiscal year to the county auditor for all trial-level cases. To avoid duplicate case counts, appeals should be counted once the brief has been filed, as opposed to when the appeal is disposed, due to the lengthy time to disposition. Use the

¹ Substantive manual revisions new in this edition are reflected with underlines.

case counting definitions and information provided in the Indigent Defense Expenditure Report Manual for Fiscal Year 2021.

At the bottom of the electronic form for each court on which criminal and juvenile delinquency cases are reported to the Commission there are four columns. The first column is used to report cases for the assigned counsel system; the second column is used to report cases for the contract counsel system; the third column is used to report cases for the managed assigned counsel system; and the fourth column is used to report cases for the public defender system. The cases must be reported for each specific court. Report all disposed cases on the court page form – some courts may have one or more of the following categories completed: assigned counsel cases, contract attorney cases, managed assigned counsel cases, and public defender cases.

Reported case counts will be determined by the respective public defender office’s internal case tracking system for cases disposed by the office for the various courts within a county. Financial officers are required by Texas Government Code 79.036 (e) to report these cases just as the invoice-based assigned counsel or contract systems. Care should be taken by financial officers to ensure that tracking systems in the public defender offices are accurate and verifiable. The PDO must report to the auditor the number of cases disposed in each court.

Attorney Level Detail Portion of Court Expenditure Report

Financial Officers must also provide the attorney level data for each attorney in the public defender office on the Court Attorney Detail page for each criminal and juvenile delinquency court report. The attorney detail page associated with each criminal and juvenile delinquency court report contains fields for case courts and total attorney fees paid for each attorney handling indigent cases in the county. Number of cases closed or disposed by public defender attorneys should be reported for each attorney in their respective categories. In counties that use horizontal representation, the county must attribute the case to the attorney that was present when the case was disposed. For public defender attorneys, the “Total Attorney Fees Paid” field of the attorney detail should be left blank for public defender attorneys. While public defender *cases* are captured in the court report and attorney detail, public defender *costs* are captured in the Public Defender Addendum described below. (Note that CPS court reports new in 2021 do not require corresponding attorney detail reports.)

Limited Scope Appointments for Representation at Article 15.17 Magistration Hearings

Counties that appoint public defenders for the limited purpose of representation at the Article 15.17 magistration hearing should track the number of persons represented by the public defender and report those numbers in the Limited Scope 15.17 / Automatic Bail Review Hearing Addendum of the IDER. Public defender costs should NOT be included in this section under “Attorney Fees” but should be included in the Public Defender Addendum under the “Article 15.17 Magistration” case type. Costs for this category of representation should be allocated in the same manner that costs for other types of representation are allocated. Costs associated with defense representation at bond review hearings that are not reported elsewhere on the IDER should be reported here as well.

Regardless of whether the same public defender or a different public defender is appointed to represent a defendant beyond the Article 15.17 magistration hearing, the case should also be counted and recorded on

the IDER under the court in which the case is disposed and in the corresponding Attorney Detail for that court.

Public Defender Office Administrative Expenditure Report Addendum

Allocating Costs

The Commission attempts to capture the average cost for different types of cases (felony, misdemeanor, juvenile, etc.). Auditors and treasurers must work with the public defender to establish a clear basis for the assignment of cost per case. One factor used to calculate the cost per case is percent of actual time (or reasonable estimate) spent on different types of cases. To capture the average cost per case requires that each public defender office report how attorney and other salaries are allocated between different types of cases based on time spent. For example, a county may find that based on actual or estimated attorney time spent, 50% of attorneys' salaries are spent on felony representation, 25% on misdemeanors, and 25% on juvenile cases. If the total PDO expenses totaled \$500,000, then the estimated felony expenses would be \$250,000. The estimated misdemeanor expenses would be \$125,000, and the estimated juvenile expenses would be \$125,000 in this example. If a staff investigator only works on adult non-capital felonies, then 100% of the salary would be reported under adult non-capital felonies. These numbers should be entered into the appropriate felony, misdemeanor, and juvenile boxes under Personnel of the Public Defender Office Administrative Expenditure Report Addendum. If the county has a TIDC grant that partially reimburses the cost of the public defender office, the county should report the total expenditures associated with the operation of the office, not the county's net (i.e., unreimbursed) cost of the program after grants.

Reporting Costs

Personnel: Report all personnel costs by type (Attorney, Investigator, Mitigation Specialists, Mental Health Specialists, and Administrative Support). For each line item, report the combination of salary and fringe.

Attorneys: Attorney salaries are to be separated by felony, misdemeanor, juvenile, capital, and appeal expenses based on actual or estimated time. To capture these average costs requires that each public defender county report how attorney salaries are allocated between different types of cases based on time. If an attorney spends all her time on felony cases, 100% of that attorney's salary payments can be allocated to felony cases. If an attorney's time is split between types of cases, the attorney's salary should be split according to how the chief public defender documents or estimates each attorney's time was spent. As an example of reporting, the estimated expenses associated with each type of case, consider the public defender office below.

Atty.	Salary + Benefits	% of Time on Felony Non-Cap Cases	% of Time on Capital Cases	% of Time on Adult Misd Cases	% of Time on Juvenile Cases	% of Time on Juvenile Appeals	% of Time on Adult Felony Appeals	% of Time on Adult Misd Appeals
A	\$30,000			100%				
B	\$96,000	50%	50%					
C	\$72,000			50%	50%			
D	\$84,000	100%						
E	\$60,000			50%	50%			

From the above chart, the salaries can be summarized in the following way:

	Total Salary by Case Type
Felony Non-Cap	\$132,000
Capital	\$48,000
Adult Misdemeanor	\$96,000
Juvenile	\$66,000
Juvenile Appeals	
Adult Felony Appeals	
Adult Misdemeanor Appeals	

The Chief PD must estimate or provide actual time salary allocation for attorneys serving as managers and include them with the proper attorney category. **Note:** Please e-mail the Commission Grants Administrator the basis or method of calculation if an estimate is made.

Repeat the above calculation for each of the following:

Mitigation Specialists: These positions are attributed entirely to capital cases and offices.

Investigators: Counties can enter the actual salary and fringe of the investigators where the office has department investigators assigned to divisions within the office (i.e., felony, misdemeanor, juvenile, etc.). Alternatively, they may use the attorney breakdown to assign the cost in smaller departments or departments where investigators work with all level of cases.

Mental Health Professionals (including case managers): Counties with mental health public defenders can enter the actual salary and fringe of the mental health professionals where the office has department professionals assigned to divisions within the office (i.e., felony, misdemeanor, juvenile, etc.). Alternatively, they may use the attorney breakdown to assign the cost in smaller departments or departments where mental health professionals work with all level of cases.

Administrative Support: Counties can enter the actual salary and fringe of the administrative support staff where the office has department support staff assigned to divisions within the office (i.e., felony, misdemeanor, juvenile, etc.). Alternatively, they may use the attorney breakdown to assign the cost in smaller departments or departments where support staff work with all level of cases.

Commission staff will attribute the following costs based on the breakdown of personnel costs:

Public Defender Travel and Training: Include travel and training of all types for PDO employees.

Public Defender Equipment: Report all equipment purchased for the public defender.

Public Defender Other Direct Operating Expenditures: Include identifiable direct costs attributable to operating a public defender program. Examples include supplies, software, building and machine rental, and all other operating cost not specifically recorded in the other sections.

Other Public Defender Court Related Expenses: All court related expenses authorized by a judge must be included in the court page of the IDER. This section is only for expenses of contract investigators (not including PD employees), expert witnesses, and other direct litigation costs paid for from the public defender office budget.

Indirect Costs Rates

Counties may not claim indirect costs, except for the portion attributable to public defender offices. These allowable indirect cost rates may only be calculated based on public defender staff salaries. Do not include fringe in the indirect cost calculation. PDOs claiming indirect costs must have the allocation schedule or cost allocation plan available in the event of a monitoring site visit. The county must fill in the spaces provided for the rate (percent) and the approving agency.

The Commission uses the definition of indirect costs set forth in the Uniform Grant Management Standards as promulgated by the Office of the Governor.

“F. Indirect Costs

1. General. Indirect costs are those: (a) incurred for a common or joint purpose benefiting more than one cost objective, and (b) not readily assignable to the cost objectives specifically benefited, without effort disproportionate to the results achieved. The term ‘indirect costs’ as used herein, applies to costs of this type originating in the grantee department, as well as those incurred by other departments in supplying goods, services, and facilities. To facilitate equitable distribution of indirect expenses to the cost objectives served, it may be necessary to establish a number of pools of indirect costs within an entity or in other agencies providing services to an entity. Indirect cost pools should be distributed to benefited cost objectives on bases that will produce an equitable result in consideration of relative benefits derived.

2. Cost allocation plans and indirect cost proposals. Requirements for development and submission of cost allocation plans and indirect cost rate proposals are contained in Attachments C, D, and E.

3. Limitation on indirect or administrative costs.

a. In addition to restrictions contained in this Circular, there may be laws that further limit the amount of administrative or indirect cost allowed.

b. Amounts not recoverable as indirect costs or administrative costs under one Federal or state award may not be shifted to another Federal or state award, unless specifically authorized by Federal or state legislation or regulation.”

TIDC Grant Funded Programs

TIDC grant-funded public defenders or grant-funded departments within public defender offices will report all data in the Indigent Defense Expenditure Report (IDER). Counties funded by direct client service discretionary grants will report total costs, including both the state-funded portion and the county-funded portion on the Public Defender Addendum. All case count data will be reported on the IDER by court. All investigative, expert witness and other direct litigation costs associated with public defender work will be reported in the public defender addendum to the IDER. IDER reporting is separate from any grant-specific expenditure reporting to TIDC.

Counties participating in a regional public defender program will report any funds paid to or received from the other participating counties as part of an interlocal agreement in the boxes provided on the main page

of the IDER. Host counties of regional programs should report total program costs in the public defender addendum.

Parent and Child Representation in CPS Cases – NEW for FY2021

Beginning with the 2021 IDER, counties will report summary data for each court on parent and child representation associated with Child Protective Services (CPS) cases, pursuant to Government Code § 71.0355. In FY2022, counties will begin to break down CPS case data by representation category. See the main IDER manual for details on Parent and Child Representation Court Reports.

Some public defender offices or other dedicated county-operated offices provide representation in CPS cases. If so, the expenditures associated with CPS cases must **not** be included in the criminal and juvenile delinquency indigent defense public defender addendum to the IDER. If a public defender does provide such representation, all costs associated with such representation should be reported in the new Parent and Child Representation Public Defender Addendum to the IDER. See page 8 for a sample form.

For the FY2021 IDER, public defenders that provide representation in CPS cases are only asked to report summary totals and do not need to allocate by appointment types (i.e., custodial parents, non-custodial parent, child, etc.). Beginning in FY2022, public defenders will need to allocate expenditures to appointment type.

Public defenders will also need to provide the number of CPS appointments to county auditors to complete the Parent and Child Representation CPS Court Reports. Because CPS-Related Expenditures are captured in the Public Defender CPS Representation Addendum, no public defender costs should be included on the Parent and Child Representation CPS Court Reports. Only the number of public defender appointments should be included on the court report. Appointments for representation in CPS matters should be reported in the year the representation concludes.

Sample Criminal/Juv. Delinquency Public Defender Operational Expense Addendum

Criminal & Juvenile Delinquency Public Defender Addendum

_____ County

October 1, 2020 - September 30, 2021

Expenditures

Public Defender Personnel

	Attorney Salary and Fringe Benefits	Investigator Salaries and Fringe Benefits	Mitigation Specialist Salaries and Fringe Benefits	Mental Health Professionals Salaries and Fringe	Administrative Support Salaries and Fringe Benefits
Juvenile	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>
Capital Murder	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>
Adult Non-Capital Felony	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>
Adult Misdemeanor	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>
Juvenile Appeals	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>
Adult Felony Appeals	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>
Adult Misdemeanor Appeals	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>
Limited Scope 15.17/ Automatic Bail Review	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>
Total					

Total Public Defender Personnel Cost and Fringe Benefits \$0.00

Please provide the County's average fringe benefit rate (%)

Public Defender Travel and Training

Public Defender Equipment

Public Defender Other Direct Operating Expenditures

Total Administrative Expenditures \$0.00

Other Public Defender Court Related Expenditures

Expert Witness Expenditures

Contract Investigator Expenses

Other Direct Litigation Expenditures

Total Court Related Expenditures \$0.00

Indirect Expenditures

Public Defender Indirect Costs (Apply rate to salaries line item only)

Public Defender Indirect Rate (The approving agency) %

Grand Total of All Public Defender Expenses \$0.00

Sample Parent & Child Representation Public Defender Operational Expense Addendum

Parent and Child Representation Public Defender Office Addendum, _____ County
Expenditures October 1, 2020 - September 30, 2021

Public Defender Personnel Cost and Fringe Benefits

Category of Services	Attorney Salaries and Fringe Benefits	Social Worker Salaries and Fringe Benefits	Investigator Salaries and Fringe Benefits	Administrative Support Salaries and Fringe Benefits
Custodial Parents	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>
Non-Custodial Parents	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>
Non-Parent Conservator	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>
Children	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>
Adult Appeal	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>
Children Appeal	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>
Column Total	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>
Grand Total	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>

Total Public Defender Personnel Cost and Fringe Benefits

Direct Administrative Expenditures

Public Defender Travel and Training	<input type="text"/>
Public Defender Equipment	<input type="text"/>
Public Defender Other Direct Operating Expenditures	<input type="text"/>
Other Public Defender Court Related Expenditures	
Expert Witness Expenditures	<input type="text"/>
Contract Investigator Expenses	<input type="text"/>
Other Direct Litigation Expenditures	<input type="text"/>

Indirect Expenditures

Public Defender Indirect Costs (Apply rate to salaries line item only)	<input type="text"/>
Public Defender Indirect Rate (The approving agency <input type="text"/>)	<input type="text"/> %

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

- Cases reported above are based on information from a clerk's office and not associated with the payment information in the attorney fee voucher.
- The financial figures are estimates or are for some other reason unreliable.
- The case counts are estimates or are for some other reason unreliable.

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