

2024



TEXAS PUBLIC DEFENSE SALARY STUDY



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Texas Public Defense Salary Study 2024

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Executive Summary

TIDC's Board directed staff to establish a Salary Workgroup (Workgroup) to examine salary levels at Texas public defense offices and provide guidance to the Board and stakeholders on the compensation levels of various public defender's office (PDO) and managed assigned counsel program (MAC) staff across the state. *Texas Public Defense Salary Study 2024* summarizes the current state of Texas public defense funding, TIDC's role in funding indigent defense, the Workgroup's role, study findings, and adopted policy recommendations by TIDC's Board.

Texas Public Defense Overview

Texas has a non-unified or decentralized legal system in which each of Texas' 254 counties develops its own rules and procedures for the county's legal system within the State's broad statutory and constitutional framework. Counties are largely left to fund the majority of their own indigent defense expenditures. The Texas Legislature created the Texas Indigent Defense Commission (formerly called the Texas Task Force on Indigent Defense) to remedy persistent deficiencies in indigent defense by funding, overseeing, and improving county systems. In FY 2023, the state covered about 12% of indigent defense expenditures; Texas counties were left to cover 88%. Nearly all state-based indigent defense funding for public defense comes from TIDC's Formula Grants and Improvement Grants to counties.

Improvement Grants are competitive, available for new programs or expanding program capacity, and approved by TIDC's Board. For regular Improvement Grant projects, TIDC provides a four-year step-down funding model with an increasing county match, e.g. 80% TIDC-funded/20% county-funded, 60% TIDC-funded/40% county-funded, etc. TIDC developed sustainability funding for rural regional offices. Sustainability funding provides two-thirds TIDC funding for rural regional offices after the first year. Funding eligibility requires rural regional offices to serve three or more counties which have a population of 100,000 or less.

Thanks to the availability of state grant funding, the number of counties using public defense offices has grown dramatically. As of 2024, over 80 counties are served by a MAC or PDO, with many rural counties served by a multi-county PDO (Figure 2). Public defender office growth in rural communities addresses the decreasing number of local attorneys accepting appointed cases and the need for dependable solutions to meet the demand for lawyers to represent indigent clients. TIDC's grant funding has supported this growth with its sustainability funding for rural offices serving multiple counties (rural regional public defender offices).

Salary Study Process

Since TIDC began providing sustainability funding to rural regional public defender offices, it has received numerous grant modification requests to increase staff salaries. Additionally, as a non-unified state with the vast majority of indigent defense funds coming from counties, there was a need for guidance on public defense salaries.

In March 2023, TIDC's Board directed staff to establish a Salary Workgroup to examine salary levels at Texas public defense offices and provide guidance to the Board and stakeholders on the compensation levels of various PDO and MAC staff across the state. The Workgroup provided recommendations to TIDC's Board regarding:

- Evaluating Improvement Grant adjustment requests and Sustainability Grant requests for salary and benefits increases by PDO and MAC grantees;
- Evaluating salaries and benefits included in new Improvement Grant requests for PDOs and MACs; and
- Collecting additional salary and benefits data, if necessary, for a variety of purposes.

From December 2023 to February 2024, TIDC collected data from PDOs and MACs (public defense offices) concerning salaries and compensation levels, policies, and leadership perceptions. TIDC collected data in two forms: (1) an online "Salary Survey" and (2) a "Salary Worksheet" for employee salary data. These two forms were completed by public defense office leaders throughout the state.

After data collection from public defense offices and multiple Workgroup meetings, the Workgroup made recommendations to the TIDC Board.

Key Data Findings

Attorney positions stay vacant longer, averaging 6.4 months, while non-attorney positions were vacant for 2 months (Figure 3). At the time of data collection, there were 64 open attorney positions and 20 non-attorney positions across all public defense offices. Approximately 81% of public defense leaders reported that it has been either somewhat or extremely difficult to fill positions in their offices, with felony attorney positions being the most difficult to fill, followed by misdemeanor attorneys, social workers, investigators, and administrative positions. This order held when asked about staff retention. Leaders reported that salaries are an important but not the only factor when it came to recruitment and retention.

Overall, the median salary of Texas public defense offices is 20-29 percent below the market rate for Texas attorneys. When compared to public service attorneys in other jurisdictions, Texas salaries are mixed, sometimes higher and sometimes lower.

Adopted Policy Recommendations

On April 5, 2024, TIDC's Board voted to approve all the Salary Workgroup's recommendations. The policy recommendations were adopted as "Policy Guidance for Salary Levels in TIDC Improvement Grant Applications" (Appendix A). In adopted recommendations 7-9, three key policies outlined how grant applications and adjustments related to salaries will be evaluated (Table 8). Table 9 below details the salary ranges in the above framework by position type. These ranges are based on data received as of April 2024.

Table 8: Summary Chart of the Framework for Policies 7-9

Salary Percentile Set	Presumption	Additional TIDC Steps
Up to 25th percentile	Not presumptively approved	TIDC staff will advise counties that the salary proposal is less competitive and may be viewed less favorably in the competitive grants process.
25th to 50th percentile	Presumptively approved but not advised	TIDC staff will advise counties that the salary proposal is less competitive and may be viewed less favorably in the competitive grants process.
50th to 75th percentile	Presumptively approved as reasonable	TIDC staff will advise counties to set salaries in this range as they will be presumptively approved as reasonable.
75th to 100th percentile	Individual justifications required	TIDC staff will review requestor rationale and justification. Recommendations will be brought to the Board individually for review.

Table 9: Salary Ranges by Position Type as of April 2024

Position Type	Minimum	25th	50th	75th	Maximum	Average
Chief/Directors	\$95,000	\$128,000	\$150,416	\$184,152	\$239,438	\$157,076
Other Managers	\$85,000	\$113,362	\$139,110	\$162,000	\$215,653	\$140,814
Trial/Line Defenders	\$65,000	\$90,002	\$104,322	\$126,996	\$171,905	\$107,396
Other Attorneys (e.g., resource, myPadilla)	\$72,000	\$88,521	\$107,694	\$117,926	\$149,427	\$103,498
Social Service Personnel	\$39,437	\$50,050	\$61,950	\$72,030	\$109,138	\$64,233
Investigator	\$44,000	\$62,268	\$86,355	\$91,269	\$121,249	\$79,105
Paralegal	\$43,472	\$55,064	\$59,966	\$62,192	\$86,029	\$61,134
Admin/Support Personnel	\$21,488	\$42,250	\$50,398	\$58,420	\$128,398	\$55,071
Other (e.g., data analyst, IT)	\$53,123	\$65,000	\$68,956	\$90,000	\$125,000	\$79,215

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How Does Public Defense Work in Texas?

Legal Systems are County-Based Systems

Texas has a non-unified or decentralized legal system in which each of Texas' 254 counties develops its own rules and procedures for the county's legal system within the State's broad statutory and constitutional framework. Local rules and procedures may vary by case type (e.g., adult versus juvenile) and/or court level (e.g., district courts versus county courts). As a result, it is not unusual for different courts in the same county to have different rules and procedures, including for indigent defense.

Every two years, Texas county and district courts are required to submit their Indigent Defense Plans to the Texas Indigent Defense Commission (TIDC).¹ These plans contain the detailed rules and procedures for all aspects of a county's indigent defense program for jailable adult misdemeanor, adult felony, juvenile delinquency, and family protection representation cases. There are four main types of public defense appointment processes used in Texas:

- Assigned Counsel
- Managed Assigned Counsel
- Contract Counsel
- Public Defender's Office / Offices of Parent and Child Representation

Assigned counsel is the default method of appointing counsel in Texas. With this method, attorneys in private practice apply to be placed on a public appointment list of qualified attorneys and are individually appointed using a rotational system to provide legal representation and services to a particular individual accused of a crime or juvenile offense and compensated for their work with public funds.

Local judges appoint counsel from a rotating list of attorneys (the "wheel"). One of the first five attorneys on the list receives the next appointment. Once an appointment is assigned, that attorney is moved to the bottom of the list and then rotates back to the top before receiving another appointment. Courts have the discretion to make an exception to the rotation if the judge finds good cause to appoint out of order.² Examples of good cause might be an attorney who speaks the client's primary language or has a specialized skill set, such as representing clients with serious mental health issues.

In **managed assigned counsel (MAC)** systems, the judiciary delegates its authority to appoint counsel, approve payment vouchers, and other matters to a governmental entity, nonprofit corporation, or bar association. MAC programs operate under a written agreement with a county delineating the scope of the authority delegated and duties of the program. MAC programs in Texas are directed by, or have in a leadership position, a licensed attorney with substantial experience in the practice of criminal law and the ability to provide oversight and expertise for the attorneys

¹ Texas Government Code § 79.036.

² Texas Code of Criminal Procedure § 26.04.

selected to receive appointed cases from the program. Attorneys in private practice must apply to be placed on the MAC program's appointment lists and, while still independent contractors, receive limited oversight from the MAC program.³

Contract counsel systems have private attorneys who contract with the county to represent defendants in a fixed number of cases, or, in some instances nearly all the county's indigent cases, typically for a fixed monthly amount of public funds.⁴

Public defender's office (PDO) systems have a county department or nonprofit organization that provides representation to defendants in a certain percentage of certain types of indigent cases, with dedicated full-time employees, including attorneys, investigators, social/caseworkers, and support staff. In a public defender system, the judiciary and the county's governing body, the commissioner's court agree to have the public defender's office provide representation as defined in the office's plan of operation.⁵

Counties may use one type of system, or multiple systems to provide indigent defense services. Because a public defender's office cannot represent co-defendants or defendants with other types of ethical conflicts, there must be private assigned counsel, a MAC, contract counsel, or a second public defender's office to handle those conflicts.

Growing Interest in Public Defense Offices

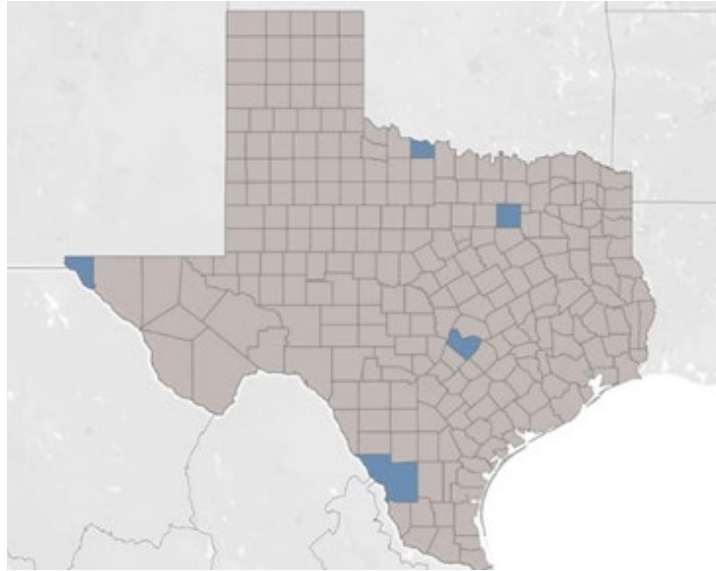
While Texas currently has a variety of methods to appoint counsel, this was not always the case. In 2001, the Texas Legislature created the Texas Task Force on Indigent Defense to remedy persistent deficiencies in indigent defense by funding, overseeing, and improving county systems. At that time, most counties relied solely on assigned counsel programs, with just five counties using public defender programs, most of which served large metropolitan counties (Figure 1). In 2011, the Task Force became the Texas Indigent Defense Commission.

³ Texas Code of Criminal Procedure § 26.047.

⁴ Texas Government Code § 79.001(4); Texas Administrative Code § 174.10-174.25.

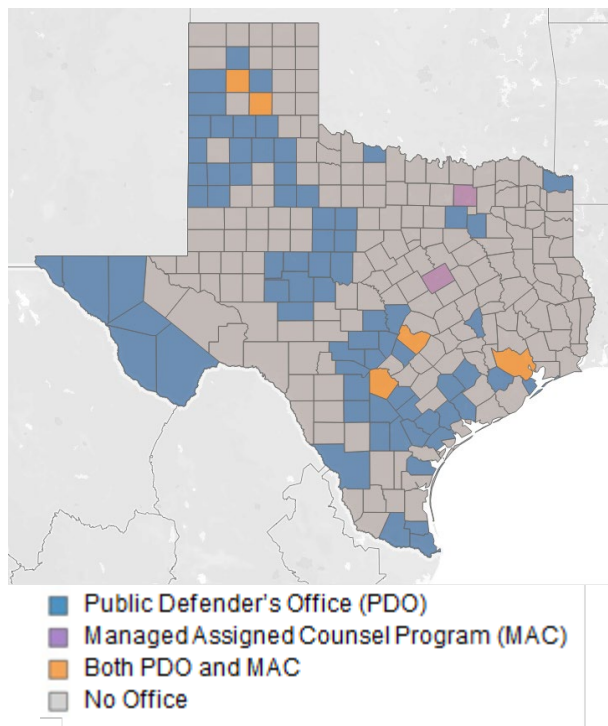
⁵ Texas Code of Criminal Procedure § 26.044.

Figure 1: Texas Public Defense Offices Before 2011



Thanks to the availability of state grant funding, the number of counties using managed assigned counsel programs or public defender's offices has grown dramatically. As of 2024, over 80 counties are served by a MAC or PDO with many rural counties served by a multi-county program (Figure 2). Part of the impetus for public defender office growth in rural communities is due to the decreasing number of local attorneys accepting appointed cases and the need for dependable solutions to meet the demand for lawyers to represent indigent clients. Additionally, TIDC's grant funding has supported this growth with its sustainability funding for rural offices serving multiple counties (rural regional public defender offices).

Figure 2: Texas Public Defense Offices in 2024



How TIDC Supports Public Defense Offices and Salaries

Public defense decisions in Texas largely happen at the local level by agreement of the county judge, commissioners, and local judiciary. As explained by Nathan Craddock, Tom Green County Auditor, “Texas has 254 counties. If you study public defense in one county, you know public defense in one of those 254 counties.” The same can be said for salaries in public defense.

For a county to have an institutional office (MAC or PDO), both the commissioner’s court and local judiciary have to agree on the program’s existence and types of cases the office will oversee. Many decisions must be made about the program and its employees: scope, staffing, funding, and organizational structure. Counties also must decide whether to operate independently or partner with neighboring counties. Many rural counties are choosing to establish regional public defender offices due to TIDC’s grant support, but also because of the unique challenges rural counties face. Rural counties often cannot financially support a public defense office on their own, however sharing administrative and other costs with other counties makes a system feasible.

Once a county decides the office’s scope, they must set the number of authorized positions and salaries for those positions. Setting salaries includes an examination of local market forces, as well as statewide and national trends, especially for licensed professional positions like attorneys. TIDC frequently provides salary guidance and develops planning studies for proposed offices. These planning studies analyze county infrastructure, court data, and local priorities to develop a budget for the proposed office, which includes recommended staffing levels, salaries, and logistical recommendations. Though county officials decide salary levels, TIDC’s guidance emphasizes the importance of competitive salaries in attracting and retaining talented employees to support program success.

In addition to providing counties with technical assistance to establish public defense offices, TIDC also provides substantial financial support.

TIDC currently provides four types of grant funding to counties, nonprofits, and law schools:

- Improvement Grants
- Formula Grants
- Extraordinary Grants
- Innocence Project Grants

Improvement Grants

TIDC supports the establishment and operation of PDOs and MACs through its Improvement Grants. Grants are competitive, available for new programs or expanding program capacity, and approved by TIDC’s Board (Board).

For regular Improvement Grant projects, TIDC provides a four-year step-down funding model with an increasing county match, reducing the fiscal challenges of adding new programs to county budgets.

The state/county match requirements for regular Improvement Grants are:

- Year 1: 80% TIDC-Funded – 20% County-Funded
- Year 2: 60% TIDC-Funded – 40% County-Funded
- Year 3: 40% TIDC-Funded – 60% County-Funded
- Year 4: 20% TIDC-Funded – 80% County-Funded
- Year 5 and beyond: 100% County-Funded

Rural Regional Sustainability Funding

Given the increasing need and unique factors of rural indigent defense, TIDC developed sustainability funding for rural regional offices. Sustainability funding provides two-thirds TIDC funding for rural regional offices after the first year. Funding eligibility requires rural regional offices to serve three or more counties which have a population of 100,000 or less. Recognizing local challenges, TIDC's Board has authorized exceptions to the 100,000-population requirement for counties which serve neighboring rural communities.

The state/county match requirements for sustainability grants are:

- Year 1: 80% TIDC-Funded – 20% County-Funded
- Year 2 and beyond: 66% TIDC-Funded – 33% County-Funded

Rural stakeholders have reported sustainability funding is the only way they can afford a public defender's office in their county.

How Texas Supports Prosecutor Salaries

The State of Texas covers some prosecutor salaries and expenditures, including the base starting salary of some prosecutors, salary supplements, longevity pay, and some office expenses. By statute, the State covers the starting base salary of \$140,000 for State Prosecutors.⁶ State Prosecutors include a district attorney, criminal district attorney, or county attorney performing the duties of district attorney in certain districts or counties. After four years of service, the base salary moves to \$154,000 and after eight years of service, the base salary moves to \$168,000. Counties are also authorized to supplement a State Prosecutor's state salary with additional funds. Texas law mandates that counties may not pay the State Prosecutor an amount less than the compensation of its highest paid district judge.⁷

Similarly, the State supplements County Prosecutors' compensation through the state supplemental salary. A County Prosecutor is a constitutional county attorney

⁶ Government Code Sec 46 Professional Prosecutors; Government Code §659.012 Judicial Salaries, and §46.003, Compensation of State Prosecutors.

⁷ Government Code, Sec, 46.003(b)

who does not have general felony jurisdiction and who is not a State Prosecutor.⁸ The state supplemental salary for County Prosecutors is equal to between one-sixth and one-half of the state base salary of a district judge with comparable years of service depending on the number of counties served.⁹

State Prosecutors and assistant prosecutors¹⁰ are eligible for longevity pay, an additional monthly supplement added to their salary, based on years of service, following the same compensation tier as a judge or justice. Available starting in year five, longevity pay adds \$20 per month for each year of lifetime service credit, capped at \$5,000 annually.

Additionally, the State allows State Prosecutors to receive at least \$22,500 each fiscal year in state funding to help defray salaries and office expenses.¹¹ Counties may also use any excess County Prosecutor salary funding to cover office expenses.¹²

Comparison: Texas Support of Public Defense Salaries and Prosecutor Salaries

In FY 2023, Texas covered about 12% of indigent defense expenditures; Texas counties were left to cover 88%. Nearly all state-based indigent defense funding for public defense comes from TIDC's Formula Grants and Improvement Grants to counties. TIDC awarded \$20.5 million in Formula Grants to 249 counties. TIDC awarded 43 Improvement and Sustainability Grants totaling \$25.4 million in FY2023. As noted above, Improvement Grants for public defender offices or managed assigned counsel programs generally follow the step-down model transitioning the program to being fully county-funded, unless the program qualified for rural regional sustainability funding.

As a result, TIDC grants partially cover some public defense staff salaries. Understanding the funding of public defense, and its employees' salaries, highlights the difference in the financing of prosecutor salaries.

In FY 22-23, the state paid over \$62 million in State Prosecutor salaries and payments for the biennium.¹³ An additional \$23 million was spent on assistant prosecutor longevity pay and County Attorney supplements for the biennium.¹⁴

8 Government Code Sec. 46.001

9 Government Code Sec. 46.0031(a)

10 Government Code Sec 41.125, ("Assistant prosecutor" averages an assistant district attorney, an assistant criminal district attorney, or an assistant county attorney.)

11 Government Code Sec. 46.004

12 Government Code 46.0031(c)

13 "House Appropriations Committee Summary, Judiciary Section, Comptroller's Department Funding Changes and Recommendations by Strategy," *Texas Comptroller's Office*, February 8, 2023, https://www.lbb.texas.gov/Documents/HAC_Summary_Recs/88R/Agency%20241.pdf, p12-13.

14 "HAC Summary."

SB 22 – Rural Law Enforcement and Prosecutor Grants

Recently, rural prosecutors were given additional funding. In 2023, the Texas Legislature passed Senate Bill 22 (SB 22) creating a \$330 million grant program to supplement salaries for rural law enforcement and prosecutor offices.¹⁵ Thus far, the Comptroller’s Office has awarded \$35.9 million in grants for prosecutor’s offices. While SB 22 has provided much needed resources to prosecutors and law enforcement,¹⁶ this fund further supports prosecutor salaries in a way that does not exist for public defense salaries.

¹⁵ Carlos Noguera Ramos, “Rural Texas sheriffs, stretched thin, are getting an injection of cash from state lawmakers,” *Texas Tribune*, August 28, 2023, <https://www.texastribune.org/2023/08/28/rural-texas-sheriff-grants/>

¹⁶ “Rural Law Enforcement Grants Awarded Fiscal Year 2024,” Texas Comptroller of Public Accounts, accessed November 26, 2024, <https://comptroller.texas.gov/economy/development/grants/rural/awards.php>

Purpose of Study

Since TIDC began providing sustainability funding to rural regional public defender offices, it has received numerous grant modification requests to increase staff salaries. Additionally, as a non-unified state with the vast majority of indigent defense funds coming from counties, there was a need for guidance on public defense salaries.

In March 2023, TIDC's Board directed staff to establish a Salary Workgroup (Workgroup) to examine salary levels at Texas public defense offices and provide guidance to the Board and stakeholders on the compensation levels of various PDO and MAC staff across the state. The Workgroup provided recommendations to TIDC's Board regarding:

- Evaluating Improvement Grant adjustment requests and Sustainability Grant requests for salary and benefits increases by existing PDO and MAC grantees;
- Evaluating salaries and benefits included in new Improvement Grant requests for PDOs and MACs; and
- Collecting additional salary and benefits data, if necessary, for a variety of purposes.

Salary Workgroup Overview

On October 12, 2023, the Workgroup met for the first time. Nineteen individuals participated: chief public defenders, MAC directors, county auditors, and representatives for the counties. The attendees discussed a variety of factors impacting public defense salaries, as well as what additional data was needed.

From December 2023 to February 2024, TIDC collected data from PDOs and MACs (public defense offices) concerning salaries and compensation levels, policies, and their perceptions of salary levels and compensation policies. TIDC collected data in two forms: (1) an online "Salary Survey" and (2) a "Salary Worksheet" for employee salary data. These two forms were completed by public defense office leaders throughout the state. The forms are discussed in more detail below.

On March 25, 2024, the Salary Workgroup met for a second time and reviewed the data collected and potential policy recommendations for assessing compensation-based grant requests or grant adjustments. The 17 attendees supported the draft policy recommendations, recommending they be presented with some minor changes to the TIDC Board.

On April 5, 2024, TIDC's Board voted to approve all the Salary Workgroup's recommendations. The policy recommendations were adopted as "Policy Guidance for Salary Levels in TIDC Improvement Grant Applications" (Appendix A).

Methodology to Data Collection

Salary Survey

At the time of data collection, there were 39 different public defense offices in the state of Texas, serving 79 counties. TIDC collected responses from 35 offices. Offices ranged in size from two to 250 employees. TIDC also funds public defense offices related to Operation Lone Star (OLS), serving multiple counties near the Texas/Mexico border. Although the OLS offices have some different policies, they were included in the sample to help understand a full picture of public defense in the state.

The Salary Survey, distributed online, was completed by public defense office leaders. Organizations with more than one office type, e.g. a MAC and a PDO, completed a separate survey for each office type. Counties that had multiple offices, e.g., mental health PDO and adult PDO, also answered one survey per office.

The survey asked about office descriptive information such as staffing size, types of cases handled, benefits, and human resources policies. The survey also addressed perceptions around salaries, staffing, and retention.

Salary Worksheet

The Salary Worksheet collected information about attorney and non-attorney staff positions through an Excel worksheet template. The template collected detailed employee information including current salary, years of practice, and position type. Thirty offices submitted worksheets on 680 attorney positions (both filled and vacant) and 458 non-attorney positions (both filled and vacant). Though all offices were given the same worksheet to complete, not all offices provided data for every field requested. TIDC's summary takes this into account.

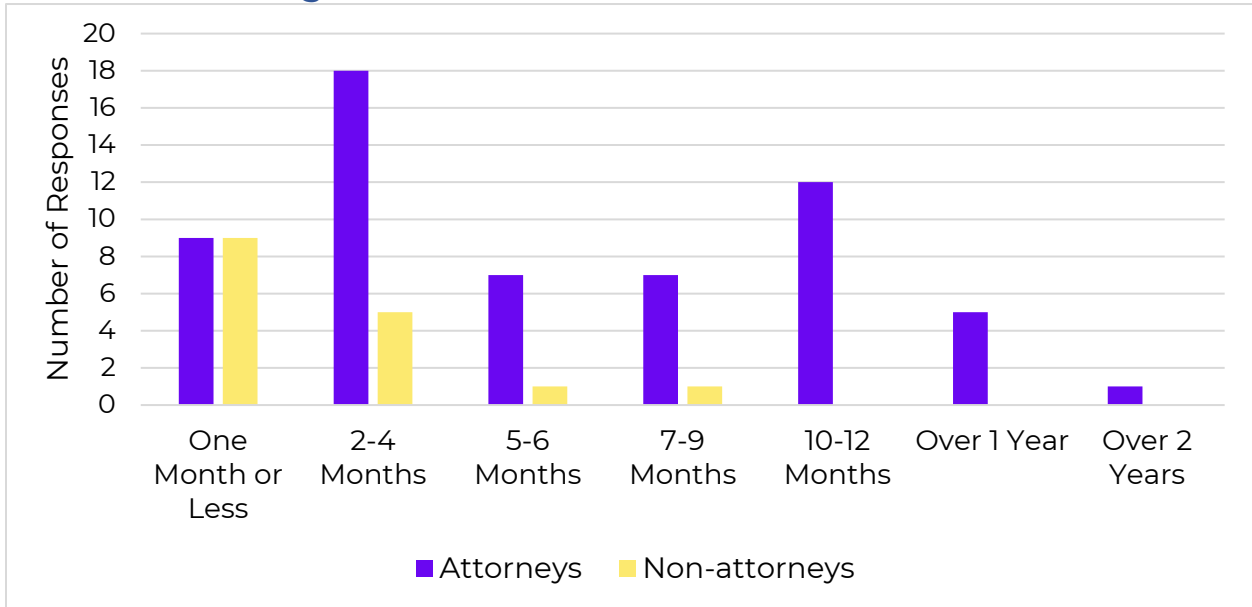
Data Findings

Staffing Public Defense Offices

Before exploring the public defense salary averages across the state, it is important to understand salaries in context. Findings in the Salary Worksheet and Salary Survey provide more insights, putting staffing in context.

One notable finding was the disparities in vacancy durations between attorney and non-attorney positions. Attorney positions stay vacant longer, averaging 6.4 months, while non-attorney positions were vacant for 2 months. (Figure 3). At the time of data collection, there were 64 open attorney positions and 20 non-attorney positions across all public defense offices.

Figure 3: Time Positions Have Been Vacant



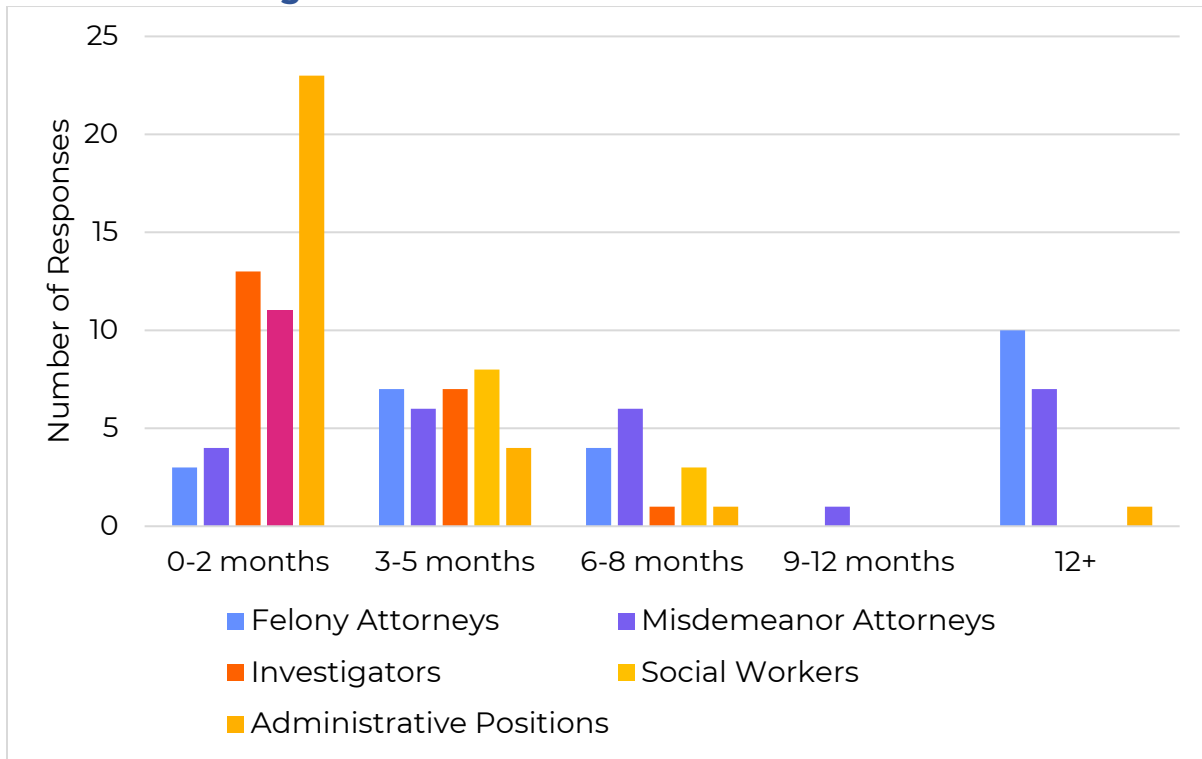
Survey responses underscore the difficulty public defense leaders expressed in filling positions, regardless of type, in their offices over the past 12 months. Approximately 81% reported that it has been either somewhat or extremely difficult to fill positions in their offices.

When exploring position types, public defense leaders ranked positions from most difficult to least difficult to staff in the following order:



Figure 4 shows the typical length of time, in months, public defense leaders estimated it took to fill positions in their offices.

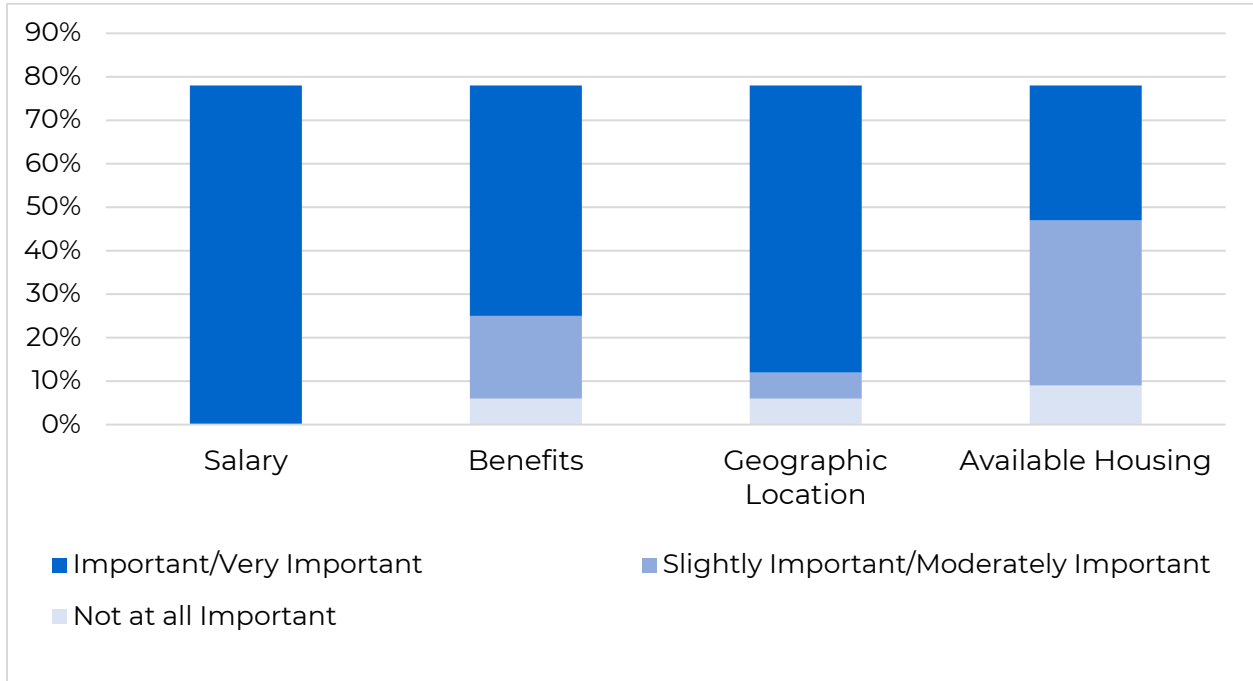
Figure 4: Number of Months to Fill Vacancies



Both the public defense leaders survey responses and information provided in the salary worksheet help demonstrate that filling attorney positions is more difficult than non-attorney positions, with additional difficulty filling more experienced attorney positions.

The Salary Survey also explored considerations that could help staff recruitment. Figure 5 highlights public defense leaders' perceptions of the top factors influencing recruitment. Competitive salaries, geographic location, benefits, and available housing all play significant roles in attracting qualified personnel. Incentives such as staff training, internship, and work-from-home were also reported as tools to help augment recruitment efforts.

Figure 5: Contributing Factors in Recruiting Staff



Public defense office positions were frequently filled by applicants from outside the county: 31% stated it happened regularly while 38% said it was a common practice. This underscores the need for comprehensive strategies to attract talent to public defense roles from across the state or country.

Retention of Public Defense Staff

In addition to understanding perceptions around recruiting staff in public defense offices, staff retention was also explored. Public defense leaders overwhelmingly believe that salary increases will improve retention. A significant 91% believe that salary increases are likely or extremely likely to keep employees around longer.

To delve deeper into retention concerns, public defense leaders ranked positions as the most difficult to keep filled over time. Survey responses indicated the following positions in rank order from the most difficult to retain to the least:

Attorney positions, both felony and misdemeanor attorneys, were viewed as being more problematic to fill than non-attorney positions. There are many factors that can be considered in retaining quality staff, but salary is usually the top factor that comes into play.

- 1 FELONY ATTORNEYS
- 2 MISDEMEANOR ATTORNEYS
- 3 SOCIAL WORKERS
- 4 INVESTIGATORS
- 5 ADMINISTRATIVE POSITIONS

Public Defense Salaries—Medians and Averages

There were nine types of positions identified in public defense offices across the State of Texas. This included four types of attorney positions and five types of non-attorney positions. Table 1 has salary ranges by each of these nine positions. It also includes averages and the number of observations in each category type.

Table 1: Salary Ranges by Position Types as of April 2024

Category	Observations	Minimum	Median	Maximum	Average
Chief/ Directors	29	\$95,000	\$150,416	\$239,438	\$157,076
Other Managers	106	\$85,000	\$139,110	\$215,653	\$140,814
Trial/Line Defenders	438	\$65,000	\$104,322	\$171,905	\$107,396
Other Attorneys	28	\$72,000	\$107,694	\$149,427	\$103,498
Social Service Personnel	104	\$39,437	\$61,950	\$109,138	\$64,233
Investigator	89	\$44,000	\$86,355	\$121,249	\$79,105
Paralegal	23	\$43,472	\$59,966	\$86,029	\$61,134
Admin/Support Personnel	172	\$21,488	\$50,398	\$128,398	\$55,071
Other (e.g., data analyst, IT)	22	\$53,123	\$68,956	\$125,000	\$79,215

Table 1 provides medians and averages for the four attorney positions as well as provides an overall average salary for attorneys across all position types and offices. The median income of a public defense attorney, regardless of office location or type, is \$110,000, with an average of \$115,506.

Table 2: Attorney Salary Medians and Averages by Position Type in Texas Public Defense Offices

Position Type	Median	Average	Number of Salaries
Chief Public Defender/Director	\$150,416	\$157,076	29
Other Managing Attorneys	\$139,110	\$140,814	106
Line Defenders	\$104,322	\$107,396	439
Other Attorneys (Resource Attorneys, etc.)	\$107,694	\$103,498	28
All Attorneys in Sample	\$110,000	\$115,506	602

Public Defense Salaries by Location

There can be misconceptions or oversimplifications when discussing salaries in rural and urban counties. Do urban offices have higher salaries? Sometimes. While averages are higher for offices in urban locations and lower for offices in rural locations, there is often overlap. In some pockets throughout the state, rural offices are paying more than urban offices and urban offices are paying less than rural offices.

Another factor is salaries in public defense offices providing representation in Operation Lone Star cases (OLS offices). These salaries are based on different policies and funding structures. To understand the picture of salaries in these different locations, averages and medians were also calculated for OLS offices, rural counties, and urban counties (Table 3). Counties were deemed rural or urban following the previously mentioned grant structure, with counties having less than 100,000 population considered rural, while those larger than 100,000 considered urban.

Table 3: Attorney Salary Medians and Averages by Location

Office Location	Median	Average	Number of Salaries
Urban	\$108,720	\$107,425	472
Rural	\$92,880	\$96,927	79
OLS	\$112,200	\$112,582	64

Public Defense Leaders' Perceptions of Current Pay

The salary survey explored public defense leaders' perceptions regarding their employees' pay. When asked: "Do you believe positions are underpaid in your office?" The majority—87%—reported that positions are underpaid.

To further understand this response, public defense leaders were asked which positions they felt were underpaid. In order of strength of belief, the following positions were reported as being underpaid:

This perception is often set against the backdrop of increasing salaries. In the past twelve months about 72% of public defense offices implemented a salary increase for their employees. The most common reason given for this increase was that "initial salaries were too low." Even with this increase, offices anticipate the need to raise salaries in the next year.



Discussion – Salary Comparisons

Understanding Texas public defense attorneys' salaries in the context of comparable positions with other employers is crucial. This section will explore parity with district attorneys and comparisons to attorney salaries in other organizations, both in Texas and nationally.

How Do Public Defense Salaries Compare to Prosecutor Salaries in Texas?

Salaries from the Salary Worksheet were used to explore whether public defender compensation is in parity with district attorney offices. We made comparisons between the salaries of chief public defenders or directors of managed assigned counsel offices (PD office leaders) and elected district attorneys. District attorney salaries were obtained from *The Texas Tribune*, Government Salaries Explorer.¹⁷ *The Texas Tribune* data reflected salaries on January 1, 2024, from the Comptroller of Public Accounts, Judiciary Section. The full dataset of state salaries was downloaded, and district attorney salaries were extracted for the comparison.

There were 28 sets of data used to compare PD office leaders and elected district attorneys. In reviewing those comparisons, 16 PD office leaders (57%), were paid less than the elected district attorney salary, while five (18%) were paid more.

How Do Salaries in Texas Public Defense Offices Compare to Texas Attorney Salaries in Private Practice?

According to the State Bar of Texas surveys, attorneys reported a median income of \$122,666 in 2019, equivalent to \$147,454 in 2024 US dollars. Similarly, Texas attorneys reported a median income of \$135,740 to the U.S. Bureau of Labor Statistics in 2022. The Texas Workforce Commission found that the average income for Texas attorneys was \$166,616, with a median income of \$134,158 in 2022. (Table 4).

¹⁷ "Government Salaries Explorer," *The Texas Tribune*, accessed March 2024, <https://salaries.texastribune.org/departments/comptroller-of-public-accounts-judiciary-section/positions/criminal-district-attorney/>

Table 4: Texas Attorney Salaries in Public Defense Offices Compared to Those in Private Practice

Source	Median	Average
Line Defenders (TIDC Data Sample)	\$104,322	\$107,396
All Public Defense Attorneys (TIDC Data Sample)	\$110,000	\$115,506
Texas Workforce Commission (2022)	\$134,158	\$166,616
U.S. Bureau of Labor Statistics (2022)	\$135,740	N/A
Other Managing Attorneys (TIDC Data Sample)	\$139,110	\$140,814
State Bar of Texas (2024 adjusted)	\$147,454	N/A

When comparing the average or median attorney salaries in TIDC's sample to salary data from the U.S. Bureau of Labor Statistics and Texas Workforce Commission, public defense office salaries are lower, indicating a lag behind the industry (Table 4). It is important to note, TIDC salary data includes only those working full-time employees in public defense offices and does not include private criminal defense attorneys taking public defense cases. There was insufficient data in these data sets to make comparisons for supervisors and managers. **Overall, the median salary of Texas public defense offices is 20-29 percent below market rate.**

How Do Salaries in Texas Public Defense Offices Compare to Public Service Attorney Salaries Nationally?

While attorney licensing occurs at the state level, it is important to recognize that the job market for attorneys, like doctors and other licensed professionals, is national. The National Association for Law Placement (NALP) surveys attorneys working in legal services organizations, such as public defenders or in public interest organizations, every two years. In 2022 the survey found the entry-level public defender median salary was \$59,700, increasing to \$100,500 for public defenders with 11-15 year of experience. The median salary in 2022 for a public defender with five years of experience was \$75,700 (Table 5).

Table 5: Attorney Salaries in Texas Public Defense Offices Compared to Other Public Service Salaries

Source	Median	Average
NALP Public Service – Entry-Level Public Defender (2022)	\$59,700	N/A
NALP Public Service – 5 Years Experience Public Defender (2022)	\$75,700	N/A
NALP Public Service – 11-15 Years Experienced Public Defender (2022)	\$100,500	N/A
Texas Line Defenders (TIDC Data Sample)	\$104,322	\$107,396
Texas Other Managing Attorneys (TIDC Data Sample)	\$139,110	\$140,814
Texas Chief Public Defender/Director (TIDC Data Sample)	\$150,416	\$157,076

Another comparison point is the Office of Colorado State Public Defender (Colorado State PD). In 2022, the Colorado State PD completed a detailed compensation study looking at salaries of public defenders in different levels and the Colorado legal market (Table 6). On average, “[attorney] salar[ies] [were] 26.2% below the market average salary for 417 out of the agency’s 577 attorneys—nearly 73% of all attorneys.”¹⁸ As a result, the Colorado Legislature passed a \$16.1 million budget increase to raise public defender salaries.

Table 6: Colorado’s 2022 Compensation Study

OSPD Title	Avg. Salary	Range Min	Range MidPt	Range Max	Market Avg. Salary	OSPD vs Market	Market Avg. Range Min.	OSPD vs Market	Market Avg. Range MidPt.	OSPD vs Market	Market Avg. Range Max	OSPD vs Market
Deputy Public Defender	\$69,242	\$66,192	\$81,756	\$97,308	\$87,369	-26.2%	\$78,044	-17.9%	\$94,000	-15.0%	\$109,957	-13.0%
Senior Deputy Public Defender	\$81,796	\$80,112	\$98,940	\$117,768	\$103,226	-26.2%	\$89,473	-11.7%	\$112,485	-13.7%	\$135,496	-15.1%
Lead Deputy Public Defender	\$113,409	\$96,432	\$120,540	\$144,648	\$129,069	-13.8%	\$105,432	-9.3%	\$134,060	-11.2%	\$162,678	-12.5%
Supervising Deputy Public Defender	\$127,461	\$114,600	\$143,256	\$171,900	\$153,517	-20.4%	\$123,731	-8.0%	\$156,088	-9.0%	\$188,427	-9.6%
Public Defender Office Head	\$162,490	\$128,472	\$160,596	\$192,708	\$172,962	-6.4%	\$142,289	-10.8%	\$173,145	-7.8%	\$204,312	-6.0%

18 Colorado Office of the State Public Defender Fiscal Year 2023-24 Budget Request, Colorado State Public Defender, p 53, <https://www.coloradodefenders.us/wp-content/uploads/FY24-OSPD-Budget-Request.pdf>.

Job descriptions for these positions are available on the Colorado’s Office of State Public Defender website: <https://www.coloradodefenders.us/jobs/job-descriptions-2/>.

NALP’s survey of law firms in 2023 reported first-year associates in firms with one hundred or fewer employees earned a median income of \$155,000. NALP also compared 2023 data to prior years and found in that size firms’ first-year associate median salaries increased from \$110,000 to \$155,000 from 2019 to 2023.¹⁹ This significant disparity reflects the differences in salaries between private practice and public service attorneys.

When compared to the Colorado State PD and NALP, Texas public defense salaries may be competitive in some circumstances but not in others (Table 7). The recruitment and retention struggles of some offices reflect their less competitive salaries. For example, the Colorado State PD experienced an attorney attrition rate of 20.8% in FY 2021-22.²⁰ Other factors, such as work-life balance, geography, and office culture, also influence recruitment and retention decisions, as noted in the Salary Survey and Salary Worksheet results.

Table 7: Attorney Salaries in Texas Public Defense Offices vs Office of Colorado State Public Defender

Source	Median	Average
Colorado Deputy Public Defender (2022)	N/A	\$69,242
Colorado Senior Public Defender (2022)	N/A	\$81,796
Colorado Lead Public Defender (2022)	N/A	\$113,409
Texas Line Defenders Attorneys (TIDC Data Sample)	\$104,322	\$107,396
Colorado Supervising Public Defender (2022)	N/A	\$127,461
Texas Other Managing Attorneys (TIDC Data Sample)	\$139,110	\$140,814
Colorado Supervising Public Defender (2022)	N/A	\$162,490
Texas Chief Public Defender/Director (TIDC Data Sample)	\$150,416	\$157,076

¹⁹ From the NALP Report: Because the pool of respondents varies from year to year, changes in medians are not necessarily indicative of individual firms. Thus, comparisons of medians from year to year should be made with caution. Also, because each median is calculated independently based on figures reported for that class year only, salary figures either within a given year or across years should not be interpreted as a typical salary scale. Medians have been rounded to the nearest \$25.

“2023 Associate Salary Survey: Special Report to Survey Participants,” National Association for Law Placement, https://www.nalp.org/uploads/ASSR/2023_ASSR_Participants_Summary.pdf

²⁰ Colorado Office of the State Public Defender, p 55.

Texas Adopted Policy Recommendations for Salary-Related Requests

On March 25, 2024, TIDC staff presented these findings and 14 policy recommendations to the Salary Workgroup. Then TIDC staff and the Workgroup finalized the policy recommendations for submission to TIDC's Board. On April 5, 2024, TIDC staff presented the findings of the Salary Workgroup and proposed guidelines to the TIDC Board, which adopted the findings and recommendations. In total, there were 14 policy recommendations adopted by the Board broken into four categories: 1) Policy Recommendations for Improvement Grant Requests re: Salary and Benefits (General), 2) Salary and Benefits for Existing Public Defender and MAC Program Grantees, 3) Salary and Benefits for New Public Defender and MAC Program Grantees, and 4) Additional Data Collection.

In adopted recommendations 7-9, three key policies outlined how grant applications and adjustments related to salaries will be evaluated (Appendix A). Table 8 below provides a quick policy summary and steps the TIDC team will take in advising new and existing grantees. Salaries within the 50th and 75th percentile will be presumptively approved as reasonable as it is a competitive starting salary. TIDC acknowledges counties continue to retain authority to set and adjust salaries and compensation for county positions and contracts, but also wants counties to be fully informed on where their proposed salaries stand compared to data across Texas. If a salary proposal is under the 25th percentile, it will not be automatically approved since it is less competitive and will likely lead to positions being vacant for longer periods of time as potential new hires choose higher paying positions in other jurisdictions.

Table 8: Summary Chart of the Framework for Policies 7-9

Salary Percentile Set	Presumption	Additional TIDC Steps
Up to 25th percentile	Not presumptively approved	TIDC staff will advise counties that the salary proposal is less competitive and may be viewed less favorably in the competitive grants process.
25th to 50th percentile	Presumptively approved but not advised	TIDC staff will advise counties that the salary proposal is less competitive and may be viewed less favorably in the competitive grants process.
50th to 75th percentile	Presumptively approved as reasonable	TIDC staff will advise counties to set salaries in this range as they will be presumptively approved as reasonable.
75th to 100th percentile	Individual justifications required	TIDC staff will review requestor rationale and justification. Recommendations will be brought to the Board individually for review.

Table 9 below details the salary ranges in the above framework by position type. These ranges are based on data received as of April 2024.

Table 9: Salary Ranges by Position Type as of April 2024

Position Type	Minimum	25th	50th	75th	Maximum	Average
Chief/Directors	\$95,000	\$128,000	\$150,416	\$184,152	\$239,438	\$157,076
Other Managers	\$85,000	\$113,362	\$139,110	\$162,000	\$215,653	\$140,814
Trial/Line Defenders	\$65,000	\$90,002	\$104,322	\$126,996	\$171,905	\$107,396
Other Attorneys (e.g., resource, myPadilla)	\$72,000	\$88,521	\$107,694	\$117,926	\$149,427	\$103,498
Social Service Personnel	\$39,437	\$50,050	\$61,950	\$72,030	\$109,138	\$64,233
Investigator	\$44,000	\$62,268	\$86,355	\$91,269	\$121,249	\$79,105
Paralegal	\$43,472	\$55,064	\$59,966	\$62,192	\$86,029	\$61,134
Admin/Support Personnel	\$21,488	\$42,250	\$50,398	\$58,420	\$128,398	\$55,071
Other (e.g., data analyst, IT)	\$53,123	\$65,000	\$68,956	\$90,000	\$125,000	\$79,215

With these ranges and current public defense salary data, county officials can make more informed decisions when setting competitive salaries. If salaries are too low initially, it will be harder to recruit and fill positions, leading to high vacancy rates and having to seek increased funding from TIDC through a grant modification. This reduces client representation capacity, leading to clogged dockets and slower case resolutions.

Conclusion

While public defense offices continue to grow in the state of Texas, TIDC is now poised to make more informed salary funding decisions. With the number of private practice attorneys taking indigent defense cases waning, leaders' struggle to retain and fill salaried public defense positions will be even more vital. At the same time, TIDC will continue to explore the factors people consider when choosing to work in public defense programs. Salary levels are critically important in setting budgets, recruiting staff, and retaining that staff. This examination of public defense salaries enables county officials to make more informed decisions about setting salaries and assists TIDC in evaluating grant requests. In the end, this study should help leaders in Texas and beyond create more sustainable public defense systems that serve the public more effectively and efficiently.

Appendix A: Policy Guidance for Salary Levels in TIDC Improvement Grant Applications

Adopted Policies

The adopted policy recommendations will guide the TIDC Board when considering grant applications and adjustments.

Counties continue to retain authority to set and adjust salaries and compensation for county positions and contracts.

Policies for Improvement Grant Requests re: Salary and Benefits

Policy 1: Set and maintain attorney salaries at a competitive rate. Requestors are highly encouraged to prioritize setting and maintaining competitive and sustainable attorney salaries.

Policy 2: Salaries that are equivalent to local prosecutor's office salaries should presumptively be approved as reasonable.

Policy 3: Requestors may make an annual grant adjustment request to provide employees a Cost-of-Living Adjustment (COLA). Grant adjustments for COLAs reflecting the Consumer Price Index (CPI) are presumptively approved as reasonable.

Policies for Improvement Grant Adjustment Requests re: Salary and Benefits for Existing Public Defender or Managed Assigned Counsel Program Grantees

Policy 4: County-wide COLA-based grant adjustment requests are presumptively approved as reasonable. County-wide wage adjustment grant requests are presumptively approved as reasonable.

Policy 5: Office-wide COLA-based grant adjustment requests should be supported by individualized justifications. Office-wide wage adjustment grant requests should be supported by individualized justifications.

Policy 6: TIDC's Board will consider salary adjustments at one Board meeting per grantee per year. Each fiscal year, there will be two Board meetings at which the annual request may be submitted. The timing of these Board meetings will be set after further research.

Only in circumstances with individualized justifications may an office seek a salary adjustment in the middle of the grant cycle.

If a previously approved request comes back to TIDC's Board based on county action since the last TIDC Board meeting and meets all other requirements, it is presumptively approved as reasonable.

Policies for New Improvement Grant Requests re: Salary and Benefits for New Public Defender or Managed Assigned Counsel Programs

Policy 7: Setting salaries in the lower 50% (salaries up to 50th percentile) for a position type are not recommended. Requests with salaries in this range will be viewed as less favorable and the grant request will be viewed as a less competitive request in the competitive grants process.

Policy 8: Setting salaries in the middle 50% range (salaries from 25th to 75th percentile) for a position type should be presumptively approved as reasonable, although those in the lower half (salaries from 25th to 50th percentile) may be insufficient for hiring and retention as the recommendation above notes.

Policy 9: Setting salaries in the upper 25% (salaries from 75th to 100th percentile) for a position type should be supported by individualized justifications.

Policy Recommendations for Additional Data Collection Necessary for Policy Recommendations and Improvements

Policy Recommendation 10: Authorize TIDC to collect salary and benefits data as a pilot nonmandatory section of the annual Indigent Defense Expenditure Report (IDER).

Policy Recommendation 11: Authorize TIDC staff to study the timing and processes used by counties or offices to determine COLAs and/or wage adjustments, including through surveys of budget/auditor offices if needed. This is necessary to support Policy Recommendation 6.

Policy Recommendation 12: Authorize TIDC staff to review how other grant-making entities or indigent defense commissions evaluate compensation levels of grantees and requests to modify grants to increase compensation.

Policy Recommendation 13: Create a system to track the setting of salaries and any salary adjustment requests to inform future policy decisions.

Policy Recommendation 14: Consider requesting funding from the Legislature for public defender chiefs', managed assigned counsel directors', and public defenders' compensation as is provided to prosecutors today. Authorize TIDC staff to research this issue.



TEXAS INDIGENT DEFENSE COMMISSION

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