Texas Task Force on Indigent Defense

2007 Annual and Expenditure Report

OFFICERS:

Honorable Sharon Keller	Chair – Presiding Judge, Court of Criminal Appeals
Honorable Olen Underwood	Vice-Chair – Presiding Judge, 2nd Administrative Judicial Region of Texas

EX OFFICIO MEMBERS:

Honorable Sharon Keller	Austin, Presiding Judge, Court of Criminal Appeals
Honorable Wallace Jefferson	Austin, Chief Justice, Supreme Court
Honorable Orlinda Naranjo	Austin, Judge, 419th Judicial Civil District Court
Honorable Aaron Peña	Edinburg, State Representative
Honorable Sherry Radack	Houston, Chief Justice, First Court of Appeal
Honorable Todd Smith	Bedford, State Representative
Honorable Jeff Wentworth	San Antonio, State Senator
Honorable John Whitmire	Houston, State Senator

MEMBERS APPOINTED BY GOVERNOR:

Honorable Jon Burrows	Temple, Bell County Judge
Mr. Knox Fitzpatrick	Dallas, Attorney, Fitzpatrick, Hagood, Smith & Uhl
Mr. Anthony Odiorne	Wichita Falls, Chief Public Defender, Wichita County
Honorable Olen Underwood	Conroe, Presiding Judge, 2nd Administrative Judicial Region of Texas
Honorable B. Glen Whitley	Hurst, Tarrant County Judge

STAFF:

James D. Bethke	Director
Carol Conner	Fiscal Monitor
Joel Lieurance	Research Specialist, Program Monitor
Wesley Shackelford	Special Counsel
Whitney Stark	Grants Administrator (8/07-present)
Terri Tuttle	Executive Assistant
Sharon Whitfield	Budget and Accounting Analyst
Bryan Wilson	Grants Administrator (5/02-6/07)

Inside:

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Front cover photo by Ralph Barrera, Austin American-Statesman.

December 30, 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, 2007. Because of the efforts of the Task Force in collaboration with local jurisdictions, Texas is becoming known as a national leader in indigent defense programs. During the five years of its existence, the Task Force has funded numerous pilot projects, including the first stand-alone mental health public defender in the country and the state's first regional capital public defender office. We have doubled the number of public defender offices in Texas.

First and foremost, our success is due to local government doing its part and more. With the 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 in the following pages of this report, much of this dialogue has been turned into deliverables.

Sincerely,

Sharon Keller

Sharon Keller

Executive Summary

Overview and background

This year marks the fifth year of a statewide indigent defense program in Texas. The program is led by the Honorable Sharon Keller, Presiding Judge, Court of Criminal Appeals. Its purpose is to provide state funding to local government 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 January 2002 the Texas Fair Defense Act (FDA) became effective after its adoption by the Texas Legislature in 2001. The FDA is a major landmark promoting fairness and justice in Texas. The legislation established, for the first time in the history of the state, an organization to oversee the provision of indigent defense services in Texas. The oversight organization is the Texas Task Force on Indigent Defense (Task Force), a permanent standing committee of the Texas Judicial Council, 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 policies and standards. The Task Force is a body of thirteen appointed and ex-officio members supported by seven full-time staff members.

The Task Force supports local control and understands that indigent defense services are provided and funded primarily at the local level. To honor the tenets of local control, the Task Force applies evidence-based research to its mission and strategies. 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 responsible for providing these services as well as state policy makers. Knowledge rather than anecdotes drives decision making. The desired result is a more cost-effective indigent defense delivery system that meets the needs of the local jurisdictions while fulfilling the requirements of state and constitutional law.

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. The purpose of the Task Force 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.

Highlights of the fiscal year

There were many meaningful accomplishments, but to highlight just a few:

The 80th Session of the Texas Legislature passed indigent defense legislation to continue supporting the state's mission in this important area of criminal justice law. In particular, the Task Force is grateful to Senators Ellis and Seliger and to Representatives Flores and Peña for sponsoring legislation that increased funding by about 50 percent – the largest state increase since the inception of the Fair Defense Act in 2001. For FY2005 Texas ranked 43rd out of the 50 states – last out of the ten most populous states – in what we spent on indigent defense per capita ($6.19/per capita).[1]

State and local funding for indigent defense services, like many other public programs, faces an uphill battle. The demand and cost for providing constitutionally guaranteed assistance of counsel continues to rise. The population receiving court appointed counsel since the inception of the FDA has increased about 37 percent. In 2007, 382,118 adult defendants were served, up from 278,479 in 2002. During the same time frame, overall costs increased 40 percent – rising from $114 million in 2002 to $160 million in 2007. The new state funding increase will provide needed relief to local governments and help Texas continue its efforts to develop a more effective indigent defense delivery system. Other important legislation is discussed in this report.

The Task Force has focused its attention on improving the quality of indigent defense services while also containing costs. To meet these dual objectives, the Task Force has implemented a research strategy employing the principles of evidenced-based practices and a funding strategy to encourage local jurisdictions to invest in

The Task Force has doubled the number of public defender offices in the state.

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

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

Public Defender offices established through the Task Force's Discretionary Grant Program FY2005-FY2007:

2005
8. Bexar (appellate)
9. Hidalgo (misdemeanors)
2006
10. Val Verde, Edwards, Terrell and Kinney (first regional office in state and first to contract with a non-profit)
2007
11. Travis (mental health, first in nation)
12. Kaufman
13. Willacy
Awarded in 2007 for FY2008:
14. Lubbock (regional capital serving over 80 counties in West Texas)
15. Bowie, Red River regional full-service

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[1] While the state share of expenditures should increase relative to the counties because of the new legislation, the state's overall expenditures relative to population may not increase significantly.

establishing specialized direct client service programs that provide quality defense in a cost-effective manner. To that end, the Task Force has provided state funding to establish the nation's first stand-alone mental health public defender office in Travis County, a capital murder defender office covering the Seventh and Ninth Administrative Judicial Regions to serve over 80 counties in West Texas, an appellate defender office serving the Fourth Court of Appeals and two separate regional public defender offices serving rural jurisdictions.

The Task Force also prepared and published several studies. Data derived from the studies has enabled the Director and staff to educate many local jurisdictions and criminal justice stakeholders from across the state on evidence-based practices derived from research studies and projects. The findings from the studies facilitate change in county processes to simultaneously improve services to clients and improve proficiencies to help ease the burden on local jurisdictions' budgets. The research-driven data includes suggestions to improve certain process methodologies, which helps ensure that what limited funds are available for indigent defense services are dispensed prudently and waste is minimized. More in-depth discussion of these studies and technical assistance are provided later in this report.

The Task Force took another step in fulfilling its statutory mandate to "ensure that funds... are allocated and distributed to counties in a fair manner," by adopting an "Equalization Disbursement Policy." The purpose of this policy is to ensure that counties are reimbursed proportionally to some degree for local indigent defense expenses. More discussion about this policy and other accomplishments is included in this report.

To conduct its business, in FY2007, the Task Force and its committees held 12 public meetings guided by its strategic plan, entitled: A Strategic Plan for improving Texas indigent defense criminal justice systems 2005-2010. 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. The plan document is available online at: www.courts.state.tx.us/tfid. Much of what the Task Force has accomplished over the past two years has produced the intended outcomes to ensure continued successful state progress towards improving the delivery of indigent defense services in a cost-effective manner. The Task Force intends to revisit the plan and will announce its revised strategic plan in the near future.

Texas Task Force on Indigent Defense

A Strategic Plan for improving Texas indigent defense criminal justice systems 2005-2010

Looking Ahead

With many of the primary initiatives accomplished or underway as charted by the current 2005-2010 Strategic Plan, the Task Force will hold another strategic planning session in Spring 2008 to provide policy guidance to staff on emerging challenges relating to its funding programs, evidence-based research strategies, and monitoring responsibilities. Particular attention will be paid to how best to provide incentives for continued advancements at the local level and what strategies need to be in place to effectively measure the work that is being done.

In recent years, funds have been appropriated in Texas to enhance mental health services for the criminal justice population. The Task Force has also provided funding to a number of counties establish mental health public defender offices (Dallas, El Paso, and Travis). With access to more resources and in an effort to slow the recidivism of poor persons suffering mental illness facing criminal charges, counties are rapidly adopting new local diversion and treatment alternatives. In this climate of change and innovation, little objective analysis has been conducted to guide counties in their planning. The Task Force in collaboration with the Public Policy Research Institute at Texas A&M is framing a multi-year study to document the effectiveness of emerging pre-trial interventions and compare outcomes for mentally ill misdemeanor defendants represented by the mental health public defenders vs. appointed counsel. Exposing individuals to interventions is expected to demonstrate: 1) faster and more accurate identification of mental illness by the criminal justice system; 2) better access to stabilizing pre-trial mental health services; 3) higher rates of non-criminal diversion or treatment-oriented dispositions; 4) higher rates of sustained participation in community mental health treatment after the case is disposed; and 5) lower rates of recidivism.

Findings will then be used to produce a training curriculum to inform local court and criminal justice officials of options for their community, advise local leaders regarding advantages and disadvantages of each alternative, and provide guidelines for successful implementation.

FDA: Before and After

Since the inception of the FDA, many more indigent defendants have been served by court appointed attorneys. To better meet the increasing demand for services and balance cost and quality concerns a number of counties have converted to establish a public defender office. In FY2002, seven counties utilized public defender offices with two of those acting as specialty defenders (serving only juveniles). In FY2007, 15 counties were served by public defender offices with five offices focusing on specific populations (two juvenile defenders, one mental health defender, one misdemeanor defender, and one appellate defender[2]). The total Texas population receiving constitutionally guaranteed assistance to counsel has increased from 324,412 persons in FY2002 to 441,907 persons in FY2007, a 36 percent increase (total for both adult and juvenile cases).

Over this same period from FY2002 to FY2007, indigent defense expenses have increased from $114 million to $160 million, a 40 percent increase. However, total indigent defense expenses attributable to the entire criminal justice system are not primarily based on attorney fees but on the speed of disposition and the quality of representation. As an example, the Hidalgo Public Defender's Office has placed a special emphasis on removing case filing and disposition road blocks. If an arrestee has been in jail for six days without a case filing, the public defender calls to find out if the offense report has been handed over to the prosecution. This extra follow-up helps to speed the average time from arrest to disposition for jailed clients from 15.1 days for private assigned counsel to 11.0 days for the public defender. These extra four days of incarceration would otherwise be paid at the county's expense. Similarly, the mental health public defender offices in Dallas, El Paso, and Travis Counties aim to serve their clients' unique needs and reduce the high recidivism rate where mental health patients are repeatedly arrested and re-arrested at public expense. As reported by the Val Verde Public Defender Office, substantial savings have been created by cutting the Val Verde jail population in half. With a continued investment in specialized services, the needs of indigent defendants may be more effectively met, and hidden costs which the public must pay be reduced.

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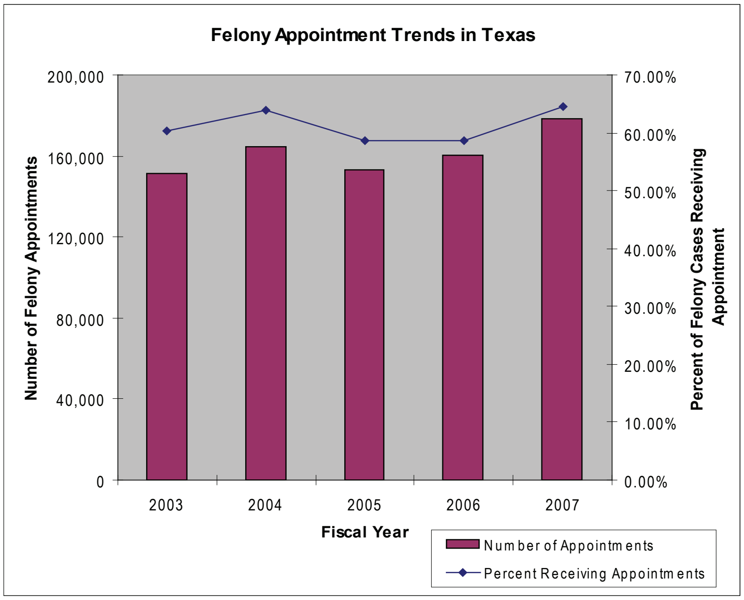
[2] Bexar County's Appellate Public Defender Office received FY2007 Technical Assistance project funding to expand into a regional office covering the 4th Court of Appeals region covering 32 counties. Please see page 38 of the Expenditure Report section in this Annual Report for more information.

5 – year data comparisons

Appointment Trends

Felony Appointments Statewide

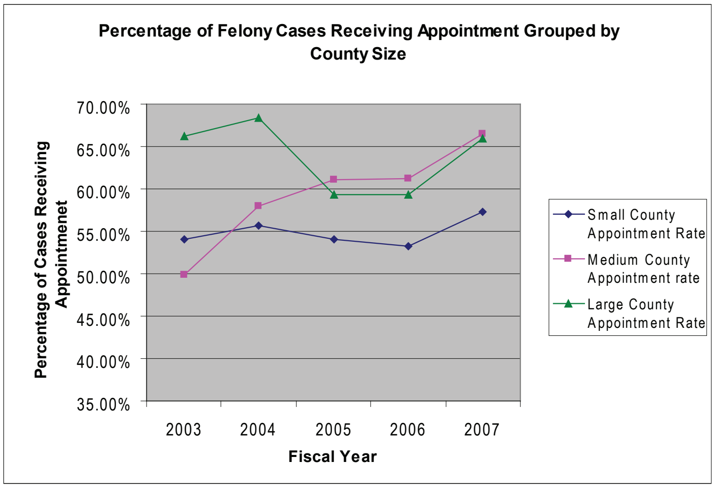


Fiscal Year	Felony Cases Paid	Felony Cases Added	Appointment Rate
2003	151,146	250,228	60.40%
2004	164,758	258,099	63.84%
2005	153,135	261,530	58.55%
2006	160,651	273,866	58.66%
2007	178,108	275,597	64.63%

Felony appointment rates grouped by 2000 census size:

Small Counties:	Under 50,000 persons
Medium Counties:	50,000 – 249,999 persons
Large Counties:	Over 250,000

Fiscal Year	Small	Medium	Large
2003	54.00%	49.84%	66.17%
2004	55.74%	57.99%	68.32%
2005	54.02%	61.04%	59.30%
2006	53.30%	61.22%	59.27%
2007	57.33%	66.46%	65.89%

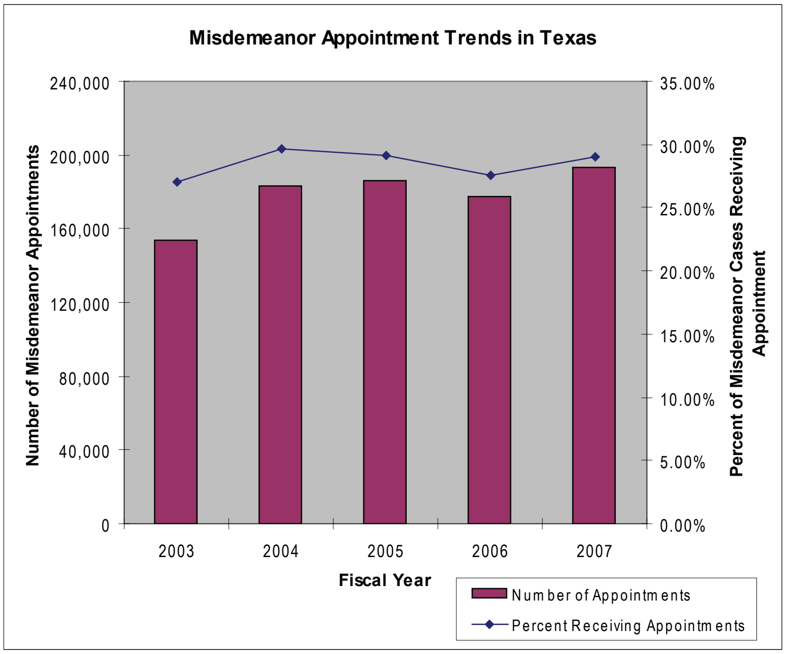


5 – year data comparisons

Appointment Trends

Misdemeanor Appointments Statewide

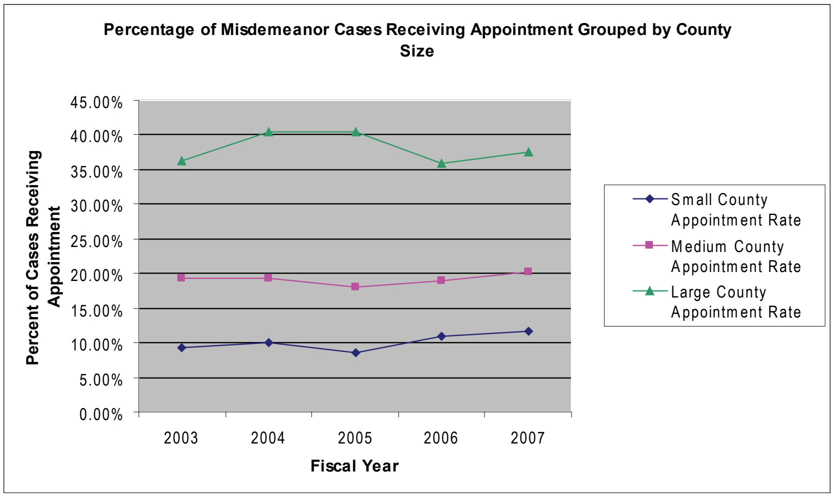
Fiscal Year	Misdemeanor Cases Paid	Misdemeanor Cases Added	Appointment Rate
2003	153,911	569,912	27.01%
2004	182,897	616,893	29.65%
2005	185,922	639,148	29.09%
2006	177,776	646,307	27.51%
2007	193,139	665,003	29.04%



Misdemeanor appointment rates grouped by 2000 census size:

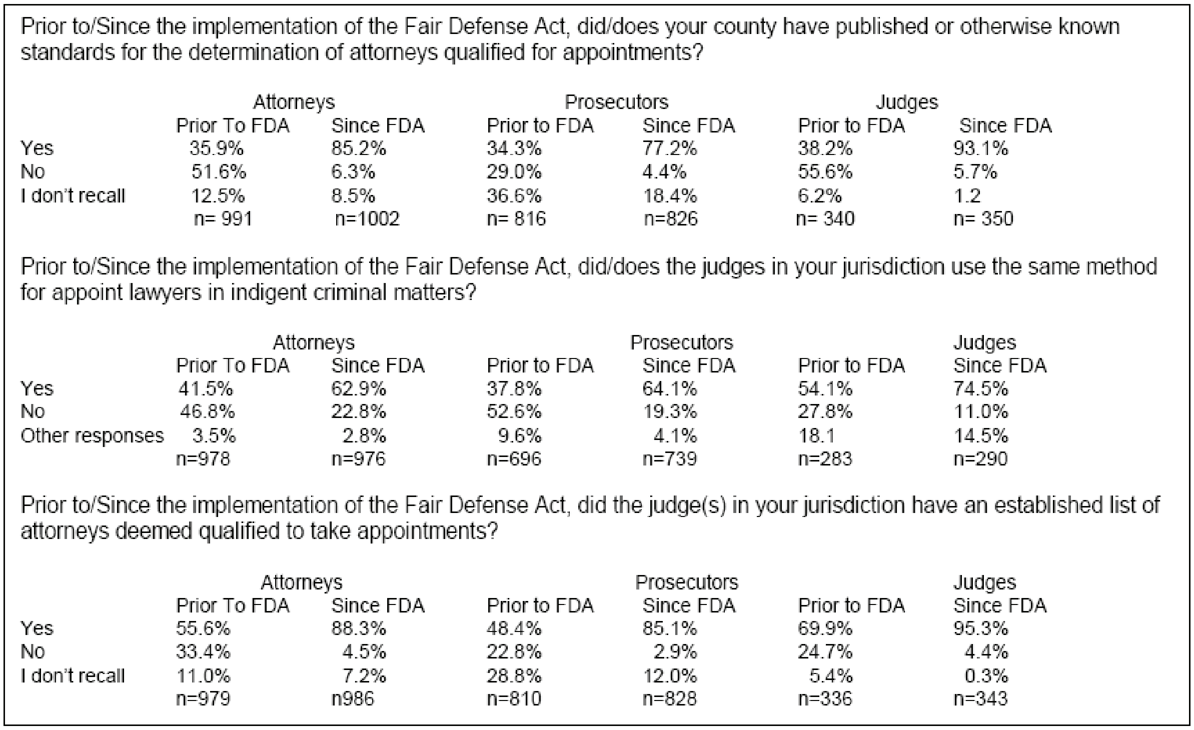
Small Counties:	Under 50,000 persons
Medium Counties:	50,000 – 249,999 persons
Large Counties:	Over 250,000

Fiscal Year	Small	Medium	Large
2002	11.42%	17.42%	34.34%
2003	9.36%	19.34%	36.30%
2004	9.93%	19.37%	40.53%
2005	8.49%	18.12%	40.50%
2006	10.87%	19.00%	35.83%
2007	11.61%	20.15%	37.56%



Study and survey by Allan Butcher and Michael Moore showing differences from pre-FDA

According to Butcher and Moore's recent survey and study of defense attorneys, prosecutors and the judiciary, it appears that the Fair Defense Act has improved indigent criminal defense in Texas. "While much work remains to be done, the process of representing indigents seems to be more transparent and the outcomes of this process, while still divergent when compared to clients who retain counsel, are less so."[3] The study goes on to say that "clearly, the FDA has had the desired effect of bringing increased commonality and consistency to the appointment process." One question on the survey was: "Prior to/Since the implementation of the Fair Defense Act, did/does your county have published or otherwise known standards for the determination of attorneys qualified for appointments?" The survey results are in the table below:



Prior to/Since the implementation of the Fair Defense Act, did/does your county have published or otherwise known standards for the determination of attorneys qualified for appointments?

	Attorneys		Prosecutors		Judges	
	Prior To FDA	Since FDA	Prior to FDA	Since FDA	Prior to FDA	Since FDA
Yes	35.9%	85.2%	34.3%	77.2%	38.2%	93.1%
No	51.6%	6.3%	29.0%	4.4%	55.6%	5.7%
I don't recall	12.5%	8.5%	36.6%	18.4%	6.2%	1.2
	n= 991	n=1002	n= 816	n=826	n= 340	n= 350

Prior to/Since the implementation of the Fair Defense Act, did/does the judges in your jurisdiction use the same method for appoint lawyers in indigent criminal matters?

	Attorneys		Prosecutors		Judges	
	Prior To FDA	Since FDA	Prior to FDA	Since FDA	Prior to FDA	Since FDA
Yes	41.5%	62.9%	37.8%	64.1%	54.1%	74.5%
No	46.8%	22.8%	52.6%	19.3%	27.8%	11.0%
Other responses	3.5%	2.8%	9.6%	4.1%	18.1	14.5%
	n=978	n=976	n=696	n=739	n=283	n=290

Prior to/Since the implementation of the Fair Defense Act, did the judge(s) in your jurisdiction have an established list of attorneys deemed qualified to take appointments?

	Attorneys		Prosecutors		Judges	
	Prior To FDA	Since FDA	Prior to FDA	Since FDA	Prior to FDA	Since FDA
Yes	55.6%	88.3%	48.4%	85.1%	69.9%	95.3%
No	33.4%	4.5%	22.8%	2.9%	24.7%	4.4%
I don't recall	11.0%	7.2%	28.8%	12.0%	5.4%	0.3%
	n=979	n986	n=810	n=828	n=336	n=343

The above chart reflects survey results of criminal justice professionals in Texas perceiving a marked improvement in established qualification standards for counsel.

> *"clearly, the FDA has had the desired effect of bringing increased commonality and consistency to the appointment process."*

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[3] ALLAN K. BUTCHER & MICHAEL K. MOORE, Giving Timbre To Gideon's Trumpet: Evaluating the Administration and Effectiveness of Legal Representation for Texas' Indigent Criminal Defendants (2007)

Improving Indigent Defense by Policies and Standards Development - Continued Progress Towards Goal One:

Initiatives under this goal are developed to provide additional consistency and improvement in the way Texas delivers services. While the FDA contains a variety of statutory requirements, the Task Force is given broad authority to develop additional policies covering a wide range of indigent defense issues. In approaching this process, the Task Force is always mindful of the potential costs associated with implementing additional requirements. In a system funded largely by the counties, the Task Force wants to ensure that any new requirements can be implemented in a cost effective manner.

Activities this Fiscal Year

Indigent Defense-related Legislation: Collaboration Promotes Better Indigent Defense Policy

The Task Force embraces an open and collaborative process for the purpose of developing policy recommendations for the Legislature. Acting under authority of its enabling statute, the Task Force through its Policies and Standards Committee holds a series of open meetings each summer of even-numbered years to discuss and consider proposals for the upcoming legislative session. Any and all ideas that relate to indigent defense are fair game.

The Process of Collaboration

During these summer sessions, individuals representing judges, counties, public interest groups, defense attorneys, legislators, prosecutors, and the Governor's office are invited and encouraged to participate in a series of lively discussions. Ideas that are larger in scope or that need more development are often referred to sub-workgroups of members interested in the topic before being brought back to the full workgroup. Task Force staff coordinates the activity of the workgroup and moderates meetings while allowing other members to take the lead on individual proposals. Last summer, the full workgroup of the Policies and Standards committee met three times with numerous sub-workgroup meetings and teleconferences.

At a formal meeting of the Policy and Standards Committee in late summer, proposals where consensus or near-consensus was reached were presented and discussed. The committee itself disapproved some items and requested additional work on others. The full committee later met one last time to consider the final list of proposals and to make recommendations to the full Task Force, which discussed and voted on the recommended proposals. Recommended items were converted into a resolution and presented to the Texas Judicial Council for approval. Ultimately, the recommendations were included in the Task Force's 2006 Annual Report to the Governor and Legislature.

"The Texas Task Force on Indigent Defense is a prime example of collaboration among advocates and agencies for positive outcomes. The Texas Criminal Justice Coalition seeks out a wide array of partners and allies to fulfill its mission. As our efforts gain more traction across the state, it has become possible for all of our campaigns to forge productive relationships with like-minded criminal justice practitioners, court officials, and critical state agencies. The entire staff at the Task Force has become an incredibly valuable resource."

Ana Yanez Correa
TCJC Executive Director

The Results of Collaboration

Part of this strategy is to make recommendations to the legislature based upon information gathered by staff and input from key criminal justice stakeholders. This past year the Task Force presented six proposals to the 80th Legislature, four were signed by the Governor (a summary of this new legislation is available at www.courts.state.tx.us/tfid). Also, in part because of this process and a thorough documenting of the need for better funding in Texas, the 80th Legislature successfully increased indigent defense funding by 50 percent – the largest state increase since the inception of the Fair Defense Act in 2001. The additional funds will provide needed relief to local governments and help Texas continue its efforts to develop a more effective indigent defense delivery system.

Summary of the recommendations that were signed into law this session:

- ***HB 1265*** *by Rep. Peña / Sponsor Sen. Seliger: HB 1265 allows the Task Force to meet four times per year rather than having to meet each quarter, and strikes "ad hoc" from the definition of assigned counsel programs. An "ad hoc" appointment system allows for a judge to appoint attorneys randomly instead of from a rotational list of attorneys, which is required by the Fair Defense Act.*

Summary of the recommendations that were signed into law this session (continued from below left):

- ***HB 1267*** *by Rep. Peña / Sponsor Sen. Seliger: HB 1267 allows appointed counsel to appeal a judge's failure to act on a request for payment within 60 days. This will encourage judges to act timely on attorney fee vouchers submitted. It also streamlines the payment system for paying attorneys for representing Texas Department of Criminal Justice inmates who are charged with new crimes and who may not be represented by the State Counsel for Offenders. Under the bill, counties will pay appointed counsel for services provided according the local fee schedule, and the comptroller shall reimburse counties for the cost of inmate indigent defense within 60 days after receiving a request for reimbursement. It also ensures that indigent inmate defense is governed by the Fair Defense Act. And last, it creates a new $2 fee on criminal convictions to be used for indigent defense services. The fee is expected to generate about $7.6 million in new revenue annually.*
- ***SB 168*** *by Sen. Ellis / Sponsor Rep. Flores: SB 168 eliminates the scheduled 2007 sunset of the State Bar legal services fee, half of which is allocated to indigent defense and half to civil legal services to the poor. The fee generates almost $2 million per year for indigent defense, which must be used for demonstration and pilot programs, and to date has been used to fund six new public defender offices in Texas.*

Funding

As a result of the legislative session funding streams (court costs, legal services fee, and surety bond fee) were continued and the amount of revenue is expected to slowly increase. On a related note, state indigent defense funding also appears poised to increase based on action by the 79th Legislature with regard to increasing juror pay. The revenue stream created by the juror pay bill has been exceeding the reimbursements to counties and any surplus in the fund over $10 million is directed to indigent defense services, which is expected to be reached next year. The legislature also continued funding for innocence projects in the four public law schools up to $100,000 per year per school. The funding for the Task Force is contained within the Office of Court Administration's budget in Article IV of the Appropriations Bill.

Please see complete funding stream information for the Task Force on page 32 of the Expenditure Report.

Contract Defender Program Standards

The most important policy development during the past year was the creation and adoption of rules setting minimum standards for managing contract defender systems which became effective on January 1st, 2007. 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. The rules were promulgated with a detailed commentary to assist jurisdictions in implementing effective contract systems.

Plan Submissions

In FY2006 plan submissions were required. However, it should be noted that Texas counties have had indigent defense plans online for public access since 2002. Plans can be updated anytime. Plan submissions are due November 1 of every odd-numbered year and counties submitted revised/new plans on November 1, 2007. The Task Force legal interns from the University of Texas will review each plan for compliance. If deficiencies are found the counties are contacted and staff will provide technical assistance to make the necessary corrections to the plan. Throughout FY2006 local processes associated with the plans were technically assisted on an as-needed or requested basis, either via monitoring site visits or other staff site visit/meeting.

Program Monitoring

The Task Force Program Monitor provides technical assistance and evaluates how well local jurisdictions are meeting the expectations of the core rerquirements of the Fair Defense Act.

The Program Monitor is able to visit only a percentage of Texas's 254 counties each year (20 monitoring visits in FY2007, not including study follow ups or technical assistance visits), however, to encourage all jurisdictions to meet the expectations of the Fair Defense Act, the Task Force recommends that self-assessments be conducted on a periodic basis. Self-assessments involve local jurisdictions examining records to identify the effectiveness of local policies and procedures. As part of this examination process, it is recommended that magistrate's warning forms be maintained in a central location and that these forms list the time/date of arrest, the time/date of the warning, and whether the arrestee requested court-appointed counsel. Self-assessment can be performed by any jurisdiction and adds accountability to the indigent defense process. Court personnel may have an internal belief of performance based on experience with a part of the indigent defense process, but without actual records, one cannot know the effectiveness of the system. For a summary of Program Monitoring Visits in FY2007 see chart below.

County	Date of Site Visit	Type of Visit
Harris	September 26 – 27, 2006	Study follow-up
McLennan	October 2 – 5, 2006	Program monitoring
Webb	October 10 - 13, 2006	Program monitoring
El Paso	November 7 – 8, 2006	Study follow-up
Bexar	November 13, 2006	Study follow-up
Galveston	January 18, 2007	Technical Assistance
Atascosa	January 19, 2007	Technical Assistance
Colorado	January 25 – 26, 2007	Program monitoring
Gregg	February 14 – 16, 2007	Program monitoring
Moore	February 20 – 23, 2007	Program monitoring
Dallam	February 21, 2007	Program monitoring
Hartley	February 21, 2007	Program monitoring
Sherman	February 22, 2007	Program monitoring
Panola	February 26 – 27, 2007	Program monitoring
Cameron	April 10 – 12, 2007	Technical Assistance
Jackson	April 16, 2007	Program monitoring
Victoria	April 17 - 18, 2007	Program monitoring
Calhoun	April 19, 2007	Program monitoring
DeWitt	April 20, 2007	Program monitoring
Midland	May 14 - 18, 2007	Program monitoring
Limestone	June 14, 2007	Study feasibility
Medina	June 19 - 20, 2007	Program monitoring
Uvalde	June 21 - 22, 2007	Program monitoring
McLennan	June 25, 2007	Monitoring follow-up
Denton	June 26 – 28, 2007	Program monitoring
Tarrant	July 10, 2007	Study supplement
Dallas	July 16 - 20, 2007	Program monitoring
Potter	July 23 - 27, 2007	Program monitoring
Cherokee	August 20, 2007	Monitoring follow-up
Brazos	August 21 - 24, 2007	Program monitoring

The core requirements of the Fair Defense Act are:

1. *Conduct prompt magistration proceedings:*
    - *Inform and explain right to counsel to accused;*
    - *Provide reasonable assistance to accused in completing necessary forms to request counsel;*
    - *Maintain magistrate processing records.*

2. *Determine indigence according to standard in local indigent defense plan.*

3. *Establish minimum attorney qualifications.*

4. *Appoint counsel promptly.*

5. *Institute a fair, neutral, and non-discriminatory attorney selection process.*

6. *Promulgate standard attorney fee schedule and payment process.*

Promote Local Compliance and Accountability with the Requirements of the FDA through Evidence-Based Practices - Continued Progress Towards Goal Two:

The Task Force is charged with promoting local compliance with the fiscal and legal requirements of the Fair Defense Act. An evidence-based practice strategy was selected as the best vehicle to promote compliance and to encourage improvements in outcomes related to indigent defense. The Task Force believes that issuing more compliance "rules" and requiring more monitoring reports may only lead to the promotion of "paper outcomes" — meaning that the outcomes become the production of the paperwork and not necessarily the production of a more effective indigent defense system. The use of evidence-based practices moves away from this traditional and often ineffective approach. The purpose of an evidence-based practice is to encourage:

- Local commitment to conduct systematic periodic evaluation of indigent defense services to identify weaknesses and areas in need of improvement;
- State commitment to provide proactive technical assistance to localities as a means of improving the system; and
- State and local collaboration in developing evidence-based knowledge to guide future policy development at the local and state level.

The Task Force applies evidence-based research 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 responsible for providing these services. Knowledge rather than anecdotes drives decision making. As a result of observing drivers to indigent defense processes, a jurisdiction may find ways to continually improve its service cost-effectively.

Studies

Toward this end, the Task Force published and dissmenated the following reports this past fiscal year:

Evidence for the Feasibility of Public Defender Offices in Texas (November 2006)

This study was conducted at the request of and in collaboration with the Governor's Criminal Justice Advisory Council. Dottie Carmichael, Ph.D., with the Public Policy Research Institute, assisted Task Force staff with data analysis and report preparation. The purpose of this study is to provide Texas policymakers data and information on what would be the fiscal impact on state and local governments in establishing public defender offices in the adult criminal justice system. The data provides evidence that public defender offices consistently achieved a lower cost per case to dispose both felonies and misdemeanors and also suggests, based on this preliminary study (more research is needed to document this), that public defenders do offer other advantages. The Task Force will continue to monitor both qualitative and quantitative data as it becomes available over time, but based on currently available indicators, the study indicates that the public defender model is one way to provide a cost-effective indigent defense delivery system.

Second Interim Report: An Analysis of the Newly Established Bexar and Hidalgo County Public Defender Offices after One Year of Operation (March 2007)

This report, by professional outside evaluators, finds that the new public defender offices funded by the Task Force on Indigent Defense (Task Force) in 2005 to be strongly effective. The report on the public defender offices in Bexar and Hidalgo counties was completed by The Spangenberg Group, a nationally respected research and consulting firm that specializes in improving indigent defense systems. The Bexar County office focuses exclusively on appeals of criminal cases and was found to have successfully sped up the appellate process while providing high quality defense for indigent appellants. The Hidalgo County Public Defender concentrates on representation in misdemeanor cases and has been able to successfully shorten the time from arrest to pre-disposition release and final disposition, thus reducing the pretrial jail population and subsequently the amount of money spent on housing inmates in the Hidalgo County Jail.

The Costs and Benefits of an Indigent Defendant Verification Program (July 2007)

The Costs and Benefits of an Indigent Defendant Verification Program is a study that provides an economic analysis of the collection and verification of financial information provided by criminal defendants who are seeking court-appointed defense counsel. The principal investigators conducted site visits of court and jail facilities in four north Texas counties, including collection of documents, interviews with county officials, and observation of magistrations and completion of the financial affidavit. Subsequently, the investigators conducted an economic assessment of the verification process of the financial information used by Collin and Tarrant Counties. Cost-benefit ratios were calculated combining the verification data and county level cost data collected. Finally, these county findings were applied to a select group of Texas counties as a way of illustrating how this information might be used to assess whether verification would be cost effective for other counties.

The principal investigators for the report are Richard K. Scotch, Ph.D., University of Texas at Dallas and Charles McConnel, Ph.D., University of Texas Southwestern Medical Center at Dallas. The study shows counties that the process of determining whether a defendant is indigent is one of the most important decisions the courts will make in resolving the issue of representation and that there are many options available to counties for screening defendants for indigence, from Travis County's streamlined screening process with no verification to Collin County's in-depth verification process. Using LexisNexis, TWC and county appraisal records can give counties a recent picture of a defendant's assets and income and encourage defendants to be forthright in their reporting. Counties that verify may also find that it adds a sense of fairness to the system by allowing those paying for court appointed counsel to feel that defendants are not receiving government services to which they are not entitled.

Midland Jail Study (July 2007)

The Office of Court Administration (OCA) received a request for assistance from Midland County to study the county's jail crowding issues. The Task Force staff assisted OCA staff in studying these issues. After reviewing the systems in place and interviewing various staff from departments across the criminal justice system, the study identified factors which increased jail crowding pressures and made recommendations for easing these pressures. Among the study's recommendations were to pursue an integrated information system, increase communication between departments so as to reduce delays in case filing, ensure adequate resources for pretrial services, and to consider increasing the number of arraignment hearings each week. The study was completed in July and has been used by Midland in its plans to meet future criminal justice needs. Concurrent with the OCA Midland Jail Study, Task Force staff also reviewed the Midland indigent defense delivery system and made a number of recommendations to improve indigent defense services locally.

Indigent Defense in the Texas Juvenile Justice System (August 2007)

Juvenile law and procedure in Texas is a combination of laws drawn from several areas. Juvenile cases are significantly different from adult criminal cases and are actually a hybrid of civil and criminal law. While the actual charges against a juvenile are brought by means of a civil lawsuit, the juvenile offender is given the same constitutional rights, privileges and protections that an adult criminal defendant possesses. This booklet is a joint report by the Task Force and the Texas Juvenile Probation Commission to provide information to families, defense attorneys, counties and juvenile boards.

Evidence-based research and practices shared in a number of ways

The Task Force serves as a clearinghouse of information about indigent defense and does so in a number of ways described below.

Site visits

The Task Force offers technical assistance in various ways, including site visits. In FY2007 staff conducted 94 site visits in 64 separate 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 visits or perhaps an informal meeting requested by a county grappling with spikes in spending, process related challenges and the like. The Director and other staff travel to many jurisdictions across the state. The sharing of information between the state and local jurisdiction benefits not only the local jurisdiction, but the state comes away from these meetings or presentations with a better understanding of local challenges. As a result, the state is better able to meet the needs of the local jurisdiction and oftentimes process changes are implemented by the locals that benefit not only the county but the client as well. Whatever a county's issues or needs are with indigent defense, counties are encouraged to ask for technical assistance.

Presentations to professional organizations

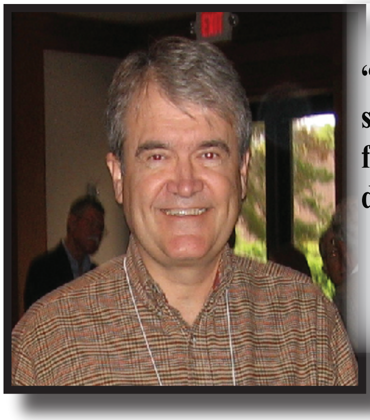
The Task Force also offers professional development educational programs to enhance understanding of the FDA. Many of the presentations share findings (evidence-based research) from the Task Force research studies. In FY2007, the Director of the Task Force provided many presentations to share the important findings from the study Evaluating the Impact of Direct Electronic Filing in Criminal Cases: Closing the Paper Trap. Integrated processes and system examples from El Paso and Harris Counties and findings concerning an electronic sharing of information were given to many county criminal justice stakeholders, including a presentation sponsored by Texas District and County Attorneys Association in April 2007. These presentations are well-received and have resulted in facilitating change in counties. County officials came away from these presentations with ideas to further the proficiencies of their county processes. For example, Bexar, Cameron, Montgomery, Williamson County and other counties are in various stages of expanding direct electronic filing to more of the counties' court systems.

> **"The collaborative nature of the Task Force has been a welcome change to what is often a very adversarial area of public policy. We have enjoyed working with the Task Force to improve the quality of legal representation in the criminal justice system, and we look forward to continuing that relationship in the future."**
>
> Shannon Edmonds
> Texas District and County Attorneys Association

The Task Force provided presentations based on invitations received from various organizations such as:

- American Bar Association
- National Legal Aid and Defender Association
- Texas Association of Counties
- VG Young Institute of County Government
- County Judges and Commissioners Association of Texas

Over 1,100 participants attended presentations in FY2007.



> **"I am so glad I attended the 2006 Indigent Defense Workshop. The presentations were informative and practical; and, the interactions with folks from other counties were invaluable. It's amazing how similar our indigent defense challenges are -- regardless of the size of the county."**
>
> Judge Lee Hamilton, 104th District Judge,
> Taylor County

Annual Indigent Defense Workshop

Each October the Task Force has presented an annual workshop. In 2003-2004 the workshops were geared towards educating newly funded or created indigent defense coordinator positions. In 2005 the workshop format was modified to address county elected officials and required a 'team' cross-section of county division leaders (court, law enforcement, prosecution, defense, etc.). There were approximately 100 attendees at the October 2006 workshop. The advisory panel and staff invited counties with expenditure spikes and those that had not participated in past years' workshops. What was learned from this workshop is that all counties basically share four common issues:

- Disconnected criminal justice systems;
- Determining indigence and verification;
- Attorney accountability issues; and
- Technology (software and tracking systems)

County team attendees quickly saw from presentations and small workgroup sessions that collaboration and integrated processes were the keys to success. This requires a complete shift of focus from individual players to the entire process. Many counties expressed willingness, even eagerness, to partner with other criminal justice entities in their respective counties to implement some of the ideas they got from the workshop. Technical Assistance projects and ideas for innovative programs funded by discretionary grants frequently result from these workshops. Example: Lubbock County applied for an FY2008 Discretionary grant for a regional public defender system for capital cases.

Features in other publications, news stories

Task Force activities are often featured in outside publications and in the news.

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WEST TEXAS PLANS PUBLIC DEFENDER OFFICE

by MARY ALICE ROBBINS

Vote set on indigent defense

Friday, August 24, 2007

Money would support regional office for capital murder cases

The Dallas Morning News

Task force may improve murder defense for poor

LUBBOCK AVALANCHE-JOURNAL FRIDAY, AUGUST 24, 2007

BY ENRIQUE RANGEL

AUSTIN BUREAU

e-Newsletters

After each Task Force meeting, staff issues a newsletter by email to over 1200 county and other justice system stakeholders. Newsletters provide counties with information regarding grant application deadlines, instructions on applying for grants, monitor findings, new rules, forms, studies, publications and stories featuring other county's systems to share successful examples for other counties to learn from.

Website

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. As of Nov 1, 2007 there have been 15,300 distinct visits out of 40,739 page hits to the public access site since its inception on September 23, 2003.

Communication, Education, Collaboration

This chart illustrates the various ways in which the Task Force communicates and collaborates with and educates criminal justice stakeholders about indigent defense. In FY 2007, Task Force staff made presentations, site visits, and provided trainings to more than 1,500 participants.

-

Presentations by board members and Task Force staff at professionally sponsored conferences (approximately 1100 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.

Eleven such presentations were made to professionally sponsored conferences with over 1,100 in attendance to some of the following:

- Texas District Court Alliance (Kerrville, 9/13, presentation by PPRI to approximately 250 attendees)
- County Judges and Commissioners Association of Texas (Addison 9/20 to approximately 300 attendees)
- National Legal Aid and Defender Association (Charlotte 11/8 to approximately 25 attendees)
- State Counsel for Offenders (Huntsville 12/13 to approximately 80 attendees)
- Texas Association of Counties (Lubbock 1/23 to approximately 100 attendees)
- Texas Association of Counties (Austin 1/30 to approximately 75 attendees)
- American Bar Association (Miami 2/7 to approximately 125 attendees)
- Office of Court Administration (Austin 3/23 to approximately 16 attendees)
- Texas Justice Courts Training Center (San Antonio 3/26 to approximately 25 attendees)
- Texas County and District Attorneys Association (Austin 4/24 to approximately 50 attendees)
- V.G. Young Institute of County Government (Corpus Christi 6/20 to approximately 150 attendees)

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

94 On-Site Technical Assistance visits to 64 counties (approximately 200 contacts)

** 94 total site visits broken down:

Fiscal monitoring: visits to 19 counties were made by the Fiscal Monitor relating to the type and adequacy of the financial management system.

Program monitoring: visits to 20 counties were made by the Program Monitor with concerns related to compliance with the policies outlined in the county indigent defense plan

Other on-site/technical assistance: 67 visits to 37 counties 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. **12 counties received both a fiscal monitoring visit and a program monitoring visit.

Regional Grant and Expenditure Reporting Trainings (approximately 120 attendees)

Approximately 120 attendees representing just over 30 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. Trainings were held regionally in Travis County on 9/27, Potter County on 10/12 and Galveston County on 10/16.

Annual Indigent Defense Workshop (approximately 100 attendees)

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

The title of the workshop: Strategies for Efficient Implementation of Indigent Defense Practices

The workshop demonstrated collaboration and integration examples to deal with disconnect in criminal justice systems and 90-day action plans were developed by counties by participating in small work groups

Successes in improving processes were achieved in several ways:

- Polk County would consider a Contract Defender System
- Taylor County would consider expanding its Criminal Justice Advisory Council to include law enforcement and magistrates
- Lubbock County would consider a regional public defender office to represent capital cases

In addition

Website

As of November 1, 2007 there have been 15,300 distinct visits out of 40,739 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.

Develop Effective Funding Strategies - Continued Progress Towards Goal Three:

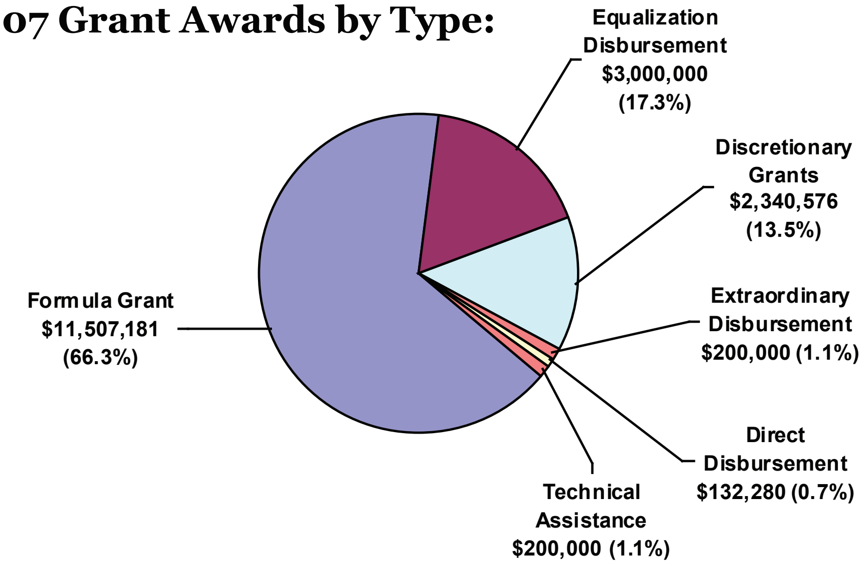
Goal three in the strategic plan is to develop effective funding strategies. Distribution of and accounting for state funds to counties are critical responsibilities of the Task Force. The Task Force grant program encourages compliance with state and federal requirements by requiring counties to meet provisions of the Texas Fair Defense Act in their local indigent defense plans in order to qualify for funding.

In FY2007, the Task Force awarded over $17 million to counties through six funding methods – $11,750,371 in formula grants, $2,340,576 in discretionary grants, $132,280 in direct disbursements to rural counties, $200,000 in reimbursements for counties with extraordinary expenses, $200,000 in Technical Assistance funds to Bexar County to expand the Appellate Public Defender Office to cover the entire 4th Court of Appeals region, and $3 million in a new equalization disbursement. (See page 37 for more information about this new fund.) The Expenditure Report on pages 35-39 provides details of the expenses for each of the five funding methods.

In establishing funding strategies, the Task Force stays in continuous contact with key stakeholders and works closely with counties to develop programs to encourage improved indigent defense systems. Community stakeholder meetings have been fruitful in communicating the importance of counties improving their indigent defense systems. Local county staff works closely with 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 that counties submit case information submitted by court. The fiscal and program monitor use the submitted reports as the basis to account for state funds and the corresponding court processes. The Expenditure Report in this Annual Report beginning on page 31 provides complete information on the funding programs, expenditures and budget of the Task Force.

FY2007 Grant Awards by Type:



FY2007 Formula Grant Program

The Task Force on Indigent Defense awarded almost $12 million in Formula Grants to 223 Texas counties. The remaining 31 counties were automatically assigned to the direct disbursement funding pool. The $12 million in formula grant funding must be used to improve counties' indigent defense systems.

Direct Disbursement

A total of $166,420 was available in FY2007 for direct disbursement. Thirty-one counties did not apply for a formula grant and therefore were eligible to receive a direct disbursement if they incurred indigent defense expenses above their baseline amount. A total of $132,280 has been distributed in direct disbursement funding for FY2007. More detailed information on Direct Disbursement and a list of counties that received these funds is located on page 36 in the Expenditure Report of this Annual Report.

New Equalization Disbursement Policy and Funding Adopted

In November the Task Force adopted an Equalization Disbursement Policy. The new equalization policy provides additional state funds to counties with the lowest percentage of state reimbursements of overall increased indigent defense costs. While the formula grant and direct disbursement programs ensure that some funds are available to every Texas county, this equalization payment works to equalize the percentage amount of increased costs that any one county must absorb. With the passage of this policy, the Task Force took another step in fulfilling its statutory mandate to "ensure that funds ...are allocated and distributed to counties in a fair manner."

There were 67 counties that qualified for this payment and $3,000,000 was distributed. More detail on the Equalization Disbursement policy and a table of counties receiving this payment is located on page 37 of the Expenditure Report section of this Annual Report.

> **"Seeing the Task Force's funding increased by the 80th Legislature was a welcome sign from Lubbock County. After having experienced such a dramatic increase in costs in recent years, it was nice to see the Legislature recognize a need that the counties in Texas had. The Task Force's decision to distribute the equalization grants was also a step in the right direction. Ensuring that counties across the state are receiving at least a minimum amount of funding as a percentage of their total increase in expenditure has helped many counties across the state, including Lubbock County. I know that the funds from the increased funding will be put to good use in formula grants and/or discretionary grants to allow Texas to continue to improve the delivery of indigent defense, and the funding from the equalization disbursement will assist counties in meeting the obligation to deliver indigent defense."**
>
> David Slayton, Director of Court Administration,
> Lubbock County

Extraordinary Disbursement

To qualify for extraordinary disbursement funding, a county must demonstrate indigent defense expenses in the current or immediately preceding county fiscal year constituting a financial hardship for the county. The Task Force voted in August to distribute a total of $200,000 in extraordinary disbursement funding to two counties, Brazoria and Hunt. Page 36 of the Expenditure Report contains more detailed information on extraordinary disbursement funding.

Technical Assistance

The Task Force coordinates with counties to develop technical assistance projects to improve indigent defense services. Many types of technical assistance projects may be initiated, but all projects must raise the knowledge base about indigent defense and establish processes that have the potential to be model programs. The Task Force awarded $200,000 in Technical Assistance funds to Bexar County to expand the Appellate Public Defender Office to cover the entire 4th Court of Appeals region. Detailed information on Technical Assistance funding and the Bexar County project is located on page 38 of the Expenditure Report.

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. The types of programs identified as priorities by the Task Force are:

- Programs that provide direct services to indigent defendants.
- Establishment of public defender offices.
- Establishment of regional public defender offices.
- Programs that provide mental health defender services.
- Programs that provide juvenile defender services.

In FY2007, 10 discretionary grant projects were awarded and successfully completed, although some of these programs continue operations with subsequent grants as part of a multi-year program. These programs represented $3,285,500 in overall program operating costs with $2,340,576 paid for by state funds. The projects funded include one single-year technology grant, three new multi-year, direct client service projects and six continued multi-year direct client service projects. A list of each grant project funded is provided below:

New Single Year Grant

- Lubbock - $46,533 to purchase a video-teleconferencing system

New Multi-Year Grants

- Kaufman - $190,256 to establish a public defender office
- Travis - $500,000 to establish the nation's first mental health public defender office
- Willacy - $179,664 to establish a public defender office

Continued Multi-Year Grants

The six counties awarded continued discretionary grant funding were Bexar, Dallas, El Paso, Hidalgo, Limestone and Val Verde. A detailed list of these grant projects begins on page 39 of the Expenditure Report.

Please see Appendix B which illustrates the statewide geographic impact of the Task Force's Discretionary Grant Program by category (from its inception in 2003 until 2007) increasing direct client services, technology and court services.

FY2008 Discretionary Grants Awarded during FY2007

The Task Force authorized staff to publish the FY2008 Discretionary Grant Request for Applications (RFA) during FY2007. This timeline gives counties more time to plan, budget and implement new programs for the upcoming new fiscal year. In April, several applications were submitted for consideration. The Task Force awarded the following discretionary grants at its August 24, 2007 meeting [reports on these programs will be in the FY2008 Annual Report]:

FY2008 New Multi-Year Programs

- Bowie County - $621,517 to establish a public defender's office serving Bowie and Red River counties.
- Lubbock County - $650,685 to establish a regional capital murder public defender's office to serve an 85-county region in the 7th and 9th judicial regions.

Bexar, Dallas, El Paso, Hidalgo, Kaufman, Limestone, Travis, Val Verde and Willacy counties were also awarded continuation grant funding for FY2008 on August 24, 2007. Page 39 of the Expenditure Report includes more detail on each of the grant programs awarded.

Service to Counties: Useful Grant Information Available Online to Counties Considering a Discretionary Grant

The Task Force public pages now offer several options to see grant information that counties can utilize when considering and/or planning to apply for a discretionary grant. The public pages are located at http://tfid.tamu.edu/public. Counties and the public in general have access to useful information about funded (and not funded) grants.

Fiscal Program Monitoring

The Task Force on Indigent Defense is required by Texas Government Code §71.062(a)(3) to monitor counties that receives a grant and enforce compliance by the county with the conditions of the grant, as well as state and local rules and regulations. Grant rules and the Uniform Grant Management Standards (UGMS) set monitoring priorities for the counties.

A total of 24 on-site visits were conducted in FY2007 (September 1, 2006 to August 31, 2007). The 24 on-site visits consisted of 19 fiscal monitoring and four technical assistance visits, and one follow-up meeting.

In accordance with the Uniform Grant Management Standards (UGMS), counties that received grant funds in excess of $500,000 in a fiscal year (Bexar, Dallas, Harris, and Tarrant) were monitored annually. The counties receiving less than $500,000 were monitored based on relative risk assessment score and geographical area. The fiscal monitoring visits represented over $6,400,000 in formula and discretionary grant awards.

The review process considers programmatic and fiscal concerns in determining the county's risk level. Fiscal concerns are related to the type and adequacy of the financial management system, the overall percentage of administrative expenses relating to total expenditures, value of grants awarded, value of equipment purchased, and adjustment or tardiness in document submission. For a summary of all fiscal monitoring visits in FY2007, please see the chart above right.

County	Date of Site Visit	Type of Visit
Webb	October 10-13, 2006	fiscal
Limestone	December 5, 2006	tech assist
Bexar	January 30, 2007	follow-up
Moore	February 20, 2007	fiscal
Hartley	February 21, 2007	fiscal
Dallam	February 21 2007	fiscal
Sherman	February 22, 2007	fiscal
Guadalupe	Feb. 27-Mar. 1, 2007	fiscal
Gonzales	March 2, 2007	tech assist
Harris*	March 20-23, 2007	fiscal
Jackson	April 16, 2007	fiscal
Victoria	April 17-18, 2007	fiscal
Calhoun	April 19, 2007	fiscal
DeWitt	April 20, 2007	fiscal
Guadalupe	June 12, 2007	tech assist
Medina	June 19-20, 2007	fiscal
Real	June 21, 2007	fiscal
Uvalde	June 22, 2007	tech assist
Bexar*	June 26-29, 2007	fiscal
Dallas*	July 17-20, 2007	fiscal
Potter	July 23-24, 2007	fiscal
Randall	July 25-26, 2007	fiscal
Tarrant*	**August 7-10, 2007	fiscal
Travis*	**August 14-17, 2007	fiscal

*Statutorily required monitoring
**Scheduled fiscal monitoring visits

Most common fiscal findings/issues identified for improvement:

- *Attorney fee voucher incomplete, signature from judge or attorney missing.*
- *Updated fee schedule, often not submitted to the Task Force.*
- *Indigent Defense Expenditure Report (IDER), some counties are not capturing total amounts spent on other direct litigation expenses for each court.*
- *Attorney application or attorney qualification, documents are not maintained on file.*
- *Approval of qualified attorneys, not documented.*
- *Attorney continuing legal education requirements, not consistently documented.*

Texas Innocence Projects

In 2005 the Texas Legislature directed Task Force funds to the state's four public law schools to support their work investigating claims of innocence by incarcerated individuals. The Office of Court Administration and Task Force on Indigent Defense is currently responsible for administering the $800,000 allocation to four active programs. 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 80th Legislative Session.

The law schools at the University of Houston, University of Texas, and Texas Tech University each have an operational innocence project, while Texas Southern University established an innocence project in the summer of 2007.

The Task Force partnered with the Public Policy Research Institute at Texas A&M University to create a centralized, internet-based reporting system and applied for and received an $11,000 grant to create the database from the Office of the Governor Criminal Justice Division. This coordinated online system eliminates confusion regarding which site is accountable for individual cases, and makes better use of resources. The system standardizes performance data input by the Innocence Project sites then summarizes results in a form that is easily accessible to project administrators, legislators, members of the Criminal Justice Advisory Council, advocates, and the general public. The online system is appended to the current Task Force website used to administer indigent defense program funds to Texas counties. By allowing concerned stakeholders to view performance results via the web, the State of Texas, the Office of the Governor, the Task Force, and the Innocence Projects will demonstrate openness and accountability to the public and show their commitment to redress for the wrongfully convicted. The link to the database is: http://innocence.tamu.edu/Public.

FY2007 highlights of the Innocence Projects are on the following page.

Innocence Project highlights:

University of Houston School of Law (University of Houston Innocence Project)	Received and screened 1,399 requests for assistance. Of these, 1,097 made a claim of actual innocence and questionnaires were issued to gather additional case information. Of the questionnaires returned during FY2007, 307 cases were rejected based on the information provided and 67 cases were investigated further. One of these cases was referred to another Texas innocence project better situated geographically to handle the case. A total of 30 students participated in the University of Houston Innocence Project, providing 3,831 hours of client services.
University of Texas Law School (Texas Center for Actual Innocence)	Received and processed 707 requests for assistance. Of these, 512 made a claim of innocence and were sent questionnaires to gather additional case information. Of the questionnaires returned and reviewed during the fiscal year, 106 were rejected based on the information provided, 14 underwent further investigation and 41 were referred to innocence projects in other states or another Texas innocence project. At the end of the fiscal year, seven cases were still under investigation to determine if a legal remedy could be pursued, six were rejected, and one case was accepted and is pending the results of DNA testing. A total of 38 students participated in the Actual Innocence Clinic during the fall semester of 2006 and the spring semester of 2007, providing 4,281hours of client services.
Texas Tech University School of Law (West Texas Innocence Project)	Received and processed 881 requests for assistance. Of these, 443 made claims of actual innocence and were issued questionnaires to gather additional case information. Of the questionnaires returned and reviewed, 53 were referred to another state or to other Texas innocence projects, 12 cases were rejected based on the additional information and four were investigated further. A total of 23 students participated in the program and provided 1,807 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.
Texas Southern University/ Thurgood Marshall School of Law	Project implementation date June 1, 2007. Shawn McDonald will head up the program. The first priority will be to create and implement a policies and procedures manual. Participating students will commit one semester during their third year. During the short period of time from June 1, 2007-October 1, 2007 there were 17 requests received with 5 questionnaires sent; two students participated for a total of 8 hours.

Other Program Initiatives and Updates

Robert O. Dawson Indigent Defense Distinguished Service Award

Court of Criminal Appeals Presiding Judge Sharon Keller, Chair of the Task Force, and Dr. Tony Fabelo

The Robert O. Dawson Indigent Defense Distinguished Service Award honors and acknowledges the late Professor Robert O. Dawson's outstanding contributions and symbolizes his lasting impact on the Texas Fair Defense Act and the Task Force. Each year the award will recognize service by a group or an individual that makes an outstanding contribution to the improvement in the way Texas provides counsel for its poorest citizens accused of crimes.

The Task Force presented Dr. Tony Fabelo with the award at its March meeting. Dr. Fabelo received the award for his continuing service to help the Task Force develop its long term strategic goals and assist it with numerous research projects. Dr. Fabelo is the former Executive Director of the Criminal Justice Policy Council. He is currently Senior Research Consultant with the Counsel of State Governments and helps the legislatures of four states (Pennsylvania, Connecticut, Kansas and Texas). He is on the National Right to Counsel Committee for Representation in Indigent Defense. As she presented the award, Judge Keller said, "He is an extraordinary person who never ceases to surprise me with what he knows and how helpful he is to us in so many ways."

Judge Keller to head State Mental Health Task Force

The Chief Justices' Criminal Justice / Mental Health Leadership Initiative is a national project designed to assist state supreme court chief justices in guiding efforts in their state to improve the response to people with mental illnesses in the criminal justice system. The Honorable Sharon Keller, Presiding Judge of the Court of Criminal Appeals, and Chair of the Task Force on Indigent Defense, has created a Mental Health Task Force to address problems involving people with mental illness who are in the criminal justice system. She applied to the Council of State Governments for outside funding and technical assistance for the committee.

According to a 2006 report by the U.S. Bureau of Justice Statistics, nearly a quarter of both state prisoners and jail inmates who reported they had a mental health problem had served three or more sentences prior to incarceration. This makes them familiar faces in our nation's courtrooms.

The Texas Department of Criminal Justice reports that 30% percent of the people incarcerated in the state have a prior service history with the public mental health system. The number of people with mental illness appearing in criminal courts, and the frequency with which these people cycle through our prisons and jails, has significant implications for the administration of our judicial system.

In Texas, every jail inmate is cross-referenced with the state's mental health database. But unfortunately, there is no formal system to notify the courts of a defendant's mental health disorder. As a result of this information gap, a defendant who might be eligible for specialized supervision and treatment may be sentenced instead to incarceration. The Mental Health Task Force will identify gaps in procedural, regulatory, and statutory provisions that contribute to this and other problems, and make recommendations toward corrective action.

The mental health task force members (in bold) are, from right to left: **Sharon Keller**, Presiding Judge, Court of Criminal Appeals and Chair of the Task Force on Indigent Defense; **Dee Wilson**, Director, Texas Correctional Office on Offenders with Medical or Mental Impairments; Dr. Tony Fabelo (consultant); **John Bradley**, Williamson County District Attorney; **Mary Anne Wiley**, Deputy General Counsel, Office of the Governor; Lisa Kaufman, General Counsel to **Robert Duncan**, State Senator; **Jim Bethke**, Director, Texas Task Force on Indigent Defense; **Jason Bryl**, Council of State Governments; **Mike Maples**, Texas Department of State Health Services, Director Mental Health/Substance Abuse; and **David Gutierrez**, Lubbock County Sheriff.

Board members, staff, UT Law Interns

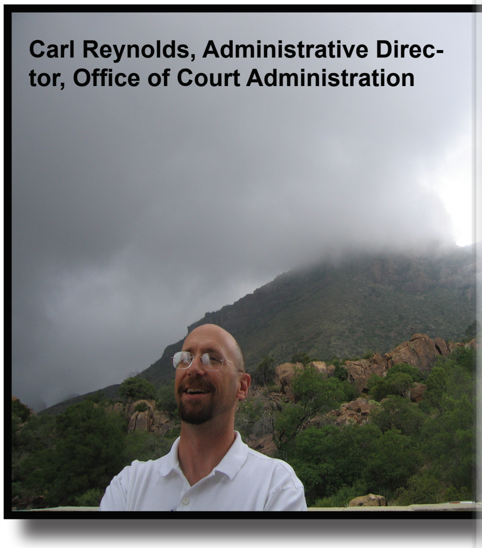
Judge Keller (right) presents Bryan Wilson (left) with an appreciation award from the Task Force at its August 24th meeting.

Many board members and staff have now been with the program for over five years. Staff appreciates that it takes effort and time away from busy professionals to attend meetings and strives to make every meeting productive and efficient. Much has been accomplished due to the commitment of board members to attend. The original core staff has remained intact. One exception late in the fiscal year to report: Bryan Wilson has left to pursue another grants administration opportunity with the Supreme Court in its new initiative in the Foster Care Courts. The Task Force expresses appreciation to Bryan for his tireless efforts on behalf of this program.

The new grants administrator, Whitney Stark (pictured left), joined the Task Force in August. Whitney comes to the Task Force from the Governor's Criminal Justice Division where she served as a grant program specialist.

Three Task Force UT law interns, Kate Pietsch, Annelies Lottmann, and Laura Smith (pictured right), worked for over two years assisting the Task Force with plan review and research and writing projects. Without these contributions, the Task Force would not have been able to make the same progress towards its goals.

Office of Court Administration



Carl Reynolds, Administrative Director, Office of Court Administration

The Task Force benefits enormously from the administrative support and leadership provided to it by the Office of Court Administration (OCA). This support includes purchasing, human resources, fiscal, and other operations. This support leverages the economies of scale of the larger organization, while allowing staff designated to work for the Task Force to focus exclusively on the substantive work of improving indigent defense. In turn, the Task Force's staff is able to lend their expertise to OCA when issues arise related to criminal and juvenile law, as well as the front-end of the criminal case management systems. Legislative bill tracking and communication is another service provided by staff of the Task Force to assist the overall mission of OCA and the judiciary.

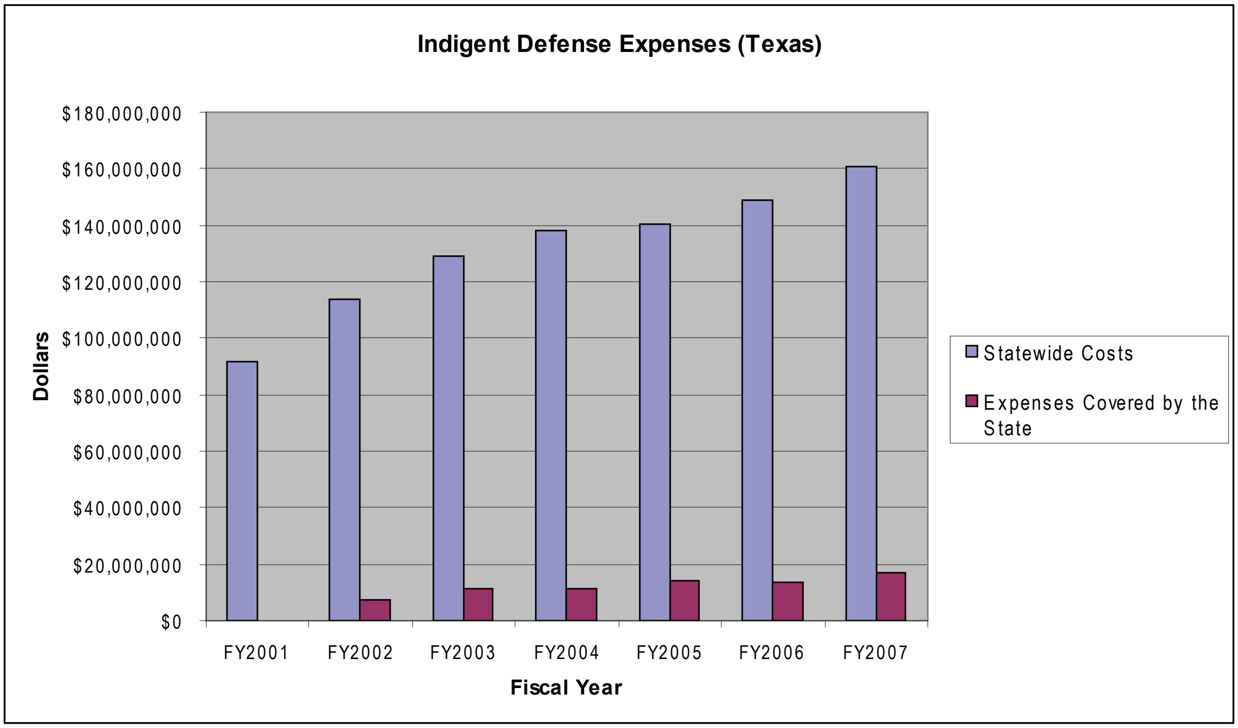
Part II – Expenditure Report

I. Expenditures

The Task Force is committed to assisting counties with their increased indigent defense expenses due to the passage of the Fair Defense Act. This year, county indigent defense expenses totaled $160,859,573 compared to FY2006 recorded expenses of $149,049,976 and FY2005 recorded expenses of $140,287,674.

To help offset increased costs, counties are eligible to receive grant and other funds to cover expenses above their fiscal year 2001 baseline expenditures. FY2001 was the year prior to the implementation of the Fair Defense Act. This year, state funding totaled approximately $17.1 million. From FY2002 to FY2007, the percentage of expenses covered by the state increased from 6.31% to 10.68%.

	FY01	FY02	FY03	FY04	FY05	FY06	FY07
Statewide Costs	$91,426,518	$113,960,219	$129,273,613	$138,340,592	$140,287,674	$149,049,976	$160,859,573
Expenses Covered by the State	$0	$7,187,036	$11,532,658	$11,647,076	$13,443,110	$13,826,623	$17,180,037
Percent State Coverage	0.00%	6.31%	8.92%	8.42%	9.58%	9.28%	10.68%



II. Funding

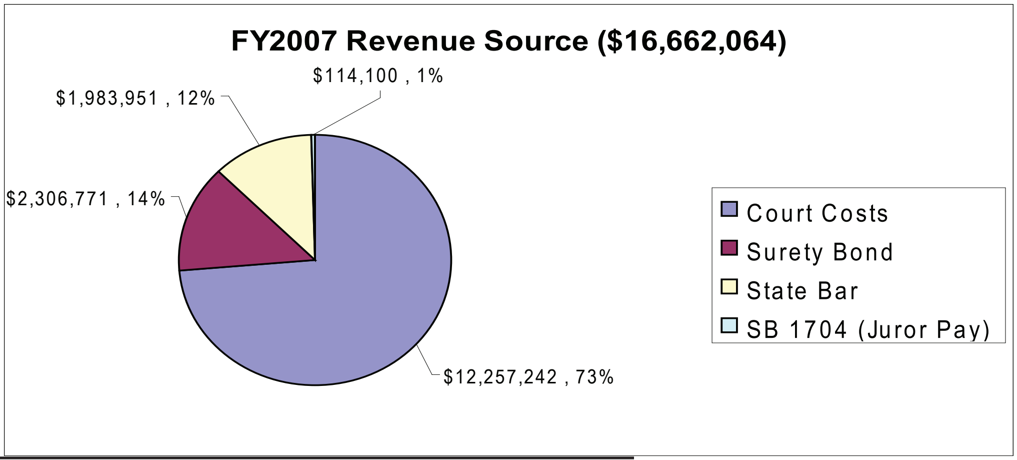
Distributing state funds to assist counties in meeting their constitutional and statutory duties to improve indigent defense services is a critical responsibility of the Task Force. The primary source of funding for the Task Force is through court cost collections. Court costs are paid upon conviction by defendants convicted of offenses ranging from non-jailable misdemeanors to felonies. This fiscal year, court costs deposited into the Fair Defense Account totaled $12,257,242. In FY2006, deposits equaled $12,030,092 and, in FY2005, $11,337,770.

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. This year the Task Force received a little over $2.3 million from this fund.

Another funding stream for indigent defense is State Bar Fees. One-half of the State Bar Fee collected, is allocated to the Fair Defense Account. This fiscal year, the portion received by the Task Force was over $1.9 million. The Task Force designates funds collected from this fee to fund single and 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 client services to indigent defendants.

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. When the balance in the newly created jury service fund exceeds $10 million, the overage will be transferred to the Fair Defense Account. These funds were appropriated to the Task Force to reimburse counties for the costs of providing indigent defense services. This fiscal year the Task Force received $114,100 of the overage of the $10 million collected.



In 2006, the Task Force began implementing a rider that directs up to $800,000 over the biennium 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. Innocence projects involve law students working under supervision of professors. The innocence project at Texas Southern University was not operational until late FY2007. For FY2007, $323,294 has been expended and in FY2006, $265,303 was expended for a total of $588,597 expended for the biennium. See Table 1.

Table 1.

Law School	FY2006	FY2007	Total
University of Houston	$86,293	$113,707	$200,000
University of Texas	$79,109	$92,099	$171,208
Texas Southern University	$0	$17,500	$17,500
Texas Tech University	$99,901	$99,988	$199,889
Total Expended	$265,303	$323,294	$588,597

III. Operating Budget for Fiscal Year 2007

Budget Category	FY2007 Total Expended	FY2006 Comparative Total
Salaries & Wages	$444,469	$413,157
Other Personnel Cost	$12,515	$19,570
Benefit Replacement Pay	$1,797	$1,797
Professional Fees & Services	$53,979	$44,879
Computer/Programming Services	$62,123	$48,000
In-State Travel	$31,711	$26,884
Out-of State Travel	$3,858	$2,908
Training	$7,219	$2,624
Postage	$3,940	$679
Materials & Supplies	$6,500	$11,768
Printing & Reproduction	$52	$3,961
Maintenance & Repairs	$8	$1,225
Telecommunications	$8,745	$6,462
Rentals & Leases	$2,606	$1,973
Other Operating Expenses	$119,870	$132,332
Innocence Project (4)	$323,294	$126,907
Formula Grant (1)	$11,507,931	$12,424,437
Discretionary Grant (2)	$2,340,576	$1,553,166
Equalization Disbursement	$3,000,000	
Extraordinary Disbursement	$200,000	$91,554
Direct Disbursement	$132,280	$140,009
Capital Outlay	$0	$0
Total	$18,262,723	$15,054,292

Method of Finance Category	FY2007 Method of Finance	FY2006 Method of Finance
Court Costs	$12,257,242	$12,030,092
Surety Bond Fee	$2,306,771	$2,221,712
State Bar Fee	$1,983,951	$1,943,087
Jury Pay Fee	$114,100	$0
State Pass Thru Grant from Gov.	$11,132	
Appropriated Receipts (SJI Grant)		$53,334
Total Revenue	$17,508,996	$16,248,225
FY2005 Carryover Funds		$2,847,090
FY2006 Carryover Funds	$4,041,023	($4,041,023)
FY2007 Carryover Funds (3)	($3,287,296)	
Total MOF	$18,262,723	$15,054,292

(1) The actual amount expended for FY2006 Formula Grants totaled $12,426,483 based on the indigent defense expenditure reports submitted by counties.

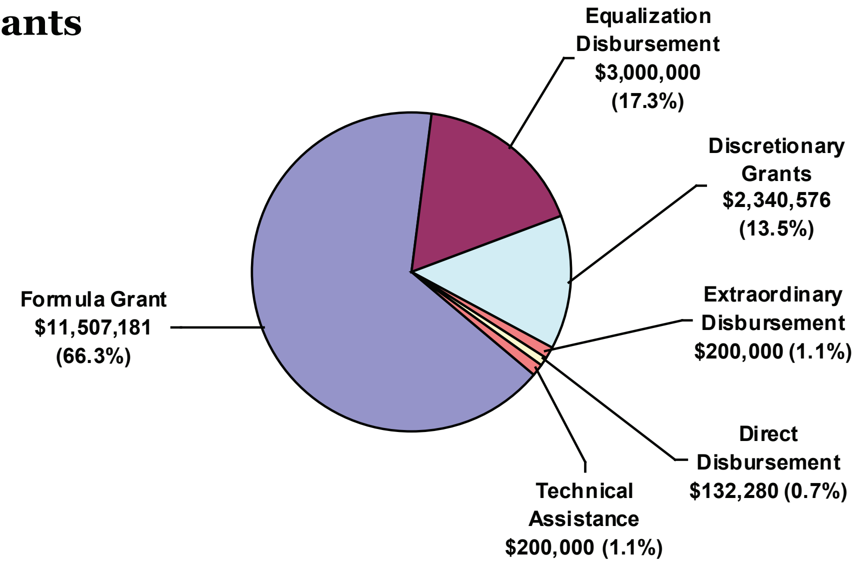
(2) Amount showing for FY2007 Discretionary Grants reflects the grant award; grants have not been completed. The actual amount expended for FY2006 Discretionary Grants totaled $1,170,633.

(3) Carryover is primarily related to fees collected in excess of the amount estimated.

(4) Actual amount expended for FY2006 totaled $265,303.

This fiscal year, the Task Force expended $676,097 for administrative costs from the Fair Defense Account. Administrative cost represents 3.7% 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 to all county plans and expense information submitted by courts and counties, and other administrative operational functions as shown in chart on the previous page.

IV. Grants



Formula Grant

Formula grants provide money to counties for increased indigent defense costs using a standard allocation formula. Funds are distributed based on a $5,000 floor with the remainder based on a county's percent of population. Funds are distributed to all counties who apply, document their increased expenditures, and maintain a countywide indigent defense plan that complies with statutes and standards requirements set by the Task Force.

This fiscal year, the Task Force awarded formula grants to two hundred twenty three (223) counties totaling $11,750,371. Formula grants represent 67.0% of total grant funding. See Appendix A for a complete listing of FY2007 grant awards and final disbursements.

Direct Disbursement

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 grant funds. 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-one 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 $132,280. This amount represents 0.80% of total grant funding. Table 2 lists all counties which received a disbursement.

Table 2.
FY2007 Direct Disbursements

County	Direct Disbursement Amount Received
Borden	$25
Duval	$4,812
Edwards	$5,156
Fisher	$10,598
Foard	$2,277
Frio	$12,612
Hardin	$14,951
Hudspeth	$6,719
Jeff Davis	$3,307
Kenedy	$3,775
King	$7,125
Lavaca	$14,191
McMullen	$2,561
Nolan	$12,182
Oldham	$5,038
Rains	$9,794
Stonewall	$725
Uvalde	$16,432
Total (18 counties)	$132,280

Extraordinary Disbursement

The Task Force distributed $200,000 in extraordinary disbursement funding to two counties which represents 1.2% of total grant funding. Brazoria and Hunt County received $100,000 each in extraordinary disbursement funds. 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 with $100,000 being the maximum amount a county could receive. Table 3 below details the funds disbursed under this program.

Table 3. FY07 Extraordinary Disbursements

County	Expended Amount	Award Amount	Reason for Extraordinary Costs
Brazoria	$142,238	$100,000	Capital murder case & DWI murder case
Hunt	$393,266	$100,000	Two capital murder cases

Equalization Disbursement

This fiscal year the Task Force took another step in fulfilling its statutory mandate to ensure that funds are allocated and distributed to counties in a fair manner with the creation of the Equalization Disbursement Policy and funding. The new equalization policy provides additional state funds to counties with the lowest percentage of state reimbursements of overall increased indigent defense costs.

With the three million ($3,000,000) the Task Force made available for this funding, the Task Force could ensure that every county was reimbursed for at least 24% of their increased indigent defense costs. The sixty-seven (67) counties that received payment under this program varied in size and characteristics. The smallest county to receive a payment was King County with a population of 356 and the largest county to receive a payment was Harris County with a population at over 3 million. Forty-three (43) of the counties receiving payment had population less than 100,000. The median population was about 43,000. The size of payments varied from $26 to $500,000. See Table 4 for listing of disbursement.

Table 4. FY2007 Equalization Disbursements

County	Amount Disbursed
Anderson	$25,285
Bastrop	$4,978
Bell	$23,578
Brazoria	$53,445
Brooks	$1,754
Brown	$33,711
Burnet	$11,263
Calhoun	$2,514
Childress	$1,198
Cooke	$26,015
Dallam	$776
Deaf Smith	$6,655
Duval	$4,814
Eastland	$4,515
Ector	$24,724
El Paso	$28,020
Ellis	$92,534
Fannin	$8,296
Fisher	$26
Fort Bend	$18,109
Gaines	$4,247
Galveston	$121,800
Gray	$7,457
Grayson	$38,038
Guadalupe	$34,488
Harris	$351,964
Hidalgo	$54,504
Hill	$834
Hockley	$7,088
Hood	$2,758
Houston	$3,734
Hunt	$176,029
Hutchinson	$26,711
Johnson	$17,063
Kaufman	$62,021
Kerr	$5,449
Kimble	$493
King	$92
Lamar	$52,957
Lubbock	$53,403
Madison	$6,919
McLennan	$110,433
Medina	$2,487
Midland	$13,282
Montgomery	$280,313
Moore	$22,716
Morris	$5,341
Nueces	$162,811
Ochiltree	$1,999
Parker	$2,729
Pecos	$1,665
Polk	$18,406
Randall	$31,373
Rockwall	$3,717
Runnels	$367
San Jacinto	$84
Smith	$47,829
Tarrant	$477,172
Taylor	$96,718
Tom Green	$30,693
Upton	$5,171
Victoria	$23,984
Webb	$213,279
Wichita	$27,889
Wilbarger	$7,624
Willacy	$4,542
Williamson	$7,117
Total - 67 Counties	$3,000,000

Technical Assistance

The Task Force coordinates with counties to develop technical assistance projects to improve indigent defense services. Many types of technical assistance projects may be initiated, but all projects must raise the knowledge base about indigent defense and establish processes that have the potential to be model programs. Technical assistance projects must result in a paper about the process and the outcome. Examples of past technical assistance projects include studies and evaluations of a county's indigent defense system or processes.

The Task Force awarded $200,000 in Technical Assistance funds to Bexar County to expand the Appellate Public Defender Office to cover the entire 4th Court of Appeals region. During FY2007, Bexar County secured inter-local agreements from the counties of the 4th Court of Appeals region and accepted 18 cases through the technical support expansion project. Table 5 shows the detailed budget for the Technical Assistance Project.

Table 5. Bexar County Technical Assistance Budget

1) Personnel (Total Number of FTEs: 2)	**$129,036**
2) Fringe Benefits	**$42,395**
3) Travel and Training	**$1,090**
4) Equipment	**$5,357**
5) Supplies	**$1,632**
6) Telecommunication Services and Office Rental	**$20,490**
Total Amount Funded by Task Force	**$200,000**

Discretionary Grants

The Task Force also distributes funds in the form of discretionary grants. Discretionary grants are awarded on a competitive basis to assist counties develop 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 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. Typically, the funding schedule for multi-year grants allows for state funds to pay up to 80% of total project costs the first year, 60% the second year, 40% the third year and 20% the fourth year. Applications for discretionary grants were reviewed and scored by a select multi-disciplinary committee prior to being presented to the Grants and Reporting Committee and the full Task Force.

This year multi-year grants established two public defender offices (Kaufman and Willacy counties) and a mental health public defender office (Travis County). The Travis County mental health public defender office is the first in the nation. The single-year grant was for a video-teleconferencing system (Lubbock County). The total amount awarded for all discretionary grants was $2,340,576 which is 13.5% of total grant funding. A summary of each funded program is contained in Table 6.

Table 6.

County	Grant Number	Program Title	Grant Award Amount
Kaufman	212-07-D07	Public Defender Initiative	$190,256
Travis	212-07-D08	Mental Health Public Defender Office	$500,000
Willacy	212-07-D09	Public Defender Program	$179,664
		Sub-Total (Multi Year)	**$869,920**
Bexar	212-57-D01	Appellate Public Defender Office	$268,134
Dallas	212-57-D02	Mental Health Division for Dallas Co. Public Defender Office	$114,301
El Paso	212-57-D05	Public Defender Mental Health Unit	$105,175
Hidalgo	212-57-D03	Misdemeanor Public Defender Office	$292,109
Limestone	212-57-D04	Mental Health/Mental Retardation Contract Defense Program	$174,100
Val Verde	212-67-D06	Regional Public Defender Program	$470,304
		Sub-Total (Continued Multi Year)	**$1,424,123**
Lubbock	212-07-D10	Video Teleconferencing	$46,533
		Sub-Total (Single Year)	**$46,533**
	Total - Multi & Single Year		**$2,340,576**

Grantee Story:

Travis County Mental Health Public Defender
Institutional Voice for Defendants with Mental Illness

Travis County, with four-year discretionary grant of over $1.3 million from the Task Force, has established the nation's first stand-alone public defender's office devoted solely to persons with mental illness. The office will handle 500 Class A and B misdemeanor cases a year between the Staff Attorney, who will handle 300 of the cases, and the Chief Public Defender, who will handle 200 cases. Joining them are two case workers, two social workers, and two support staff. The Task Force awarded $250,000 to Travis County for the office's operations during fiscal year 2007. During the next grant period in fiscal year 2008, the office will receive 80% funding from the state in the amount of $500,000 for a full 12-months of operations, with a reduction in funding each year as Travis County picks up more of the bill.

Identified as "an innovative approach to a growing problem," the grant and creation of the office comes at a time when mental hospitals are at full capacity and the Legislature is worried about overcrowded jails and prisons and the high cost of incarceration. Criminal defendants with mental illness make up about 15% of the county's jail population and spend longer periods incarcerated than other defendants. Data compiled by the Travis County Sheriff's Office shows that inmates with mental illness spend about twice the time in pretrial detention as other inmates.

The office works to steer the seriously mentally ill (the office's priority population will be those with schizophrenia, bipolar disorder or major depression) away from prison and into mental health services and treatment. Support staff screens potential clients in jail, compiling social profiles on defendants and seeking services as possible alternatives to incarceration. This can include housing, treatment programs, SSI benefits and medication. Attorneys determine whether clients are candidates for probation and participation in these programs depending on their criminal history and level of mental illness.

The following story about a client, "John," typifies the work that the Travis County MHPD is doing. "John" went off his medication and became psychotic, jumping out of a car while his parents were driving him to a mental health facility and later getting arrested by police and taken to jail. An office attorney and social worker succeeded after two days of work to have him released and transported to a mental health facility in Austin. As Director Jeanette Kinard says, "This is the kind of client and situation our office was set up to address, and I feel we made a difference in this family's situation."

Grantee Story:

Kaufman County Public Defender office
First Mid-Size County to Establish a Comprehensive Office

Utilizing $190,000 from a Task Force discretionary grant, the Kaufman County Public Defender opened in November 2006, with two public defenders, an investigator, and secretary. The office handles misdemeanor and low-level felonies, and with a population around 100,000, Kaufman County is the first mid-sized county to establish a comprehensive office. The county's grant application chronicled an overburdened system and steeply rising indigent defense costs, largely due to population growth and a shift from rural to suburban status, which made it an ideal candidate for a Task Force grant.

The number of adult indigent defendants in Kaufman County has risen sharply, from 630 in FY2003 to 1,247 in FY2006, resulting in the county more than doubling the amount spent on indigent defense during the same time period. Defendants were also feeling the effects of the crisis, spending long periods of time in jail with no advocate and no way to make bail. The public defender has worked to change this. The grant requires that the public defender see indigent defendants within 24 hours, and Andrew Jordan, Chief Public Defender, said his office initially focused their efforts on reducing jail overcrowding. The office's initiative has paid off; since November, the average daily jail population has shrunk from 430 to 225-250, and the sheriff is now renting out roughly 70 beds a day to other counties.

> "My staff and I take a great deal of pride in the fact that the poorest person in our county has the same access to the justice system, and will have his/her rights just as vigorously protected as the richest."
>
> Andrew Jordan
> Chief Public Defender
> Kaufman County

"We are very proud and happy with the results from our Mental Health Unit. There is a feeling of having done something useful and worthwhile at the end of the day. The difference this Unit has made on the lives of individuals is huge. And we have managed to save the County of El Paso over one million dollars in the last twenty-two months while doing this good work. This is very gratifying."

Clara Hernandez, Chief Public Defender,
El Paso County

Grantee Story: El Paso Public Defender's Mental Health Unit

In 2004, El Paso County was awarded a four year, $327,210 discretionary grant to establish the Mental Health Unit of the Public Defender's Office. The Mental Health Unit represents individuals charged with criminal and juvenile offenses who have mental illness and mental retardation. The program utilizes experienced attorneys and social workers familiar with the unique needs and challenges associated with serving the mentally ill and mentally retarded. Program staff works to expedite the resolution of pending charges and also help their clients to comply with the terms of their release and/or remain free of criminal behavior in the future. In fiscal year 2007, the program served over 200 individuals.

The following stories are from cases recently handled by the Mental Health Unit. The individuals' stories are typical of the type of clients represented by the office.

Mitch's Case

Mitch was arrested late one evening after his father called 911 asking for help for his son. Mitch, a 38-year-old nurse with schizophrenia, had come home to attend the funeral of an old friend who had died of AIDS. The emotional turmoil caused by the loss of his friend and the subsequent intake of alcohol and his prescription medication caused a very dangerous situation.

Mitch began having a seizure. When his father tried to prevent him from biting his tongue, Mitch bit his hand. When EMS arrived and found Mitch's father with a human bite to the hand, they called the police to investigate. Mitch was transported to the hospital for treatment where he remained for five days. When he was released he was arrested.

The El Paso Public Defender's Mental Health Unit was appointed to his case six days after his arrest. Mitch's father was very upset that he had been arrested. He was present at his son's bond hearing to testify that he only wanted help for his son. Ten days after being arrested Mitch was released on Personal Recognizance (PR) Bond.

The case was indicted, but subsequently dismissed. Mitch continued on his medication and treatment for his mental illness. He was placed in an MHMR supervised living center for support services.

Misty's Case

Misty was arrested one evening after her mother contacted authorities because she was concerned about her daughter's mental health. Misty who had a long history of schizo-affective bipolar disorder, had gone to visit her mother. When she arrived, her elderly mother realized that Misty was not taking her medication and was acting in an aggressive, delusional manner. She contacted the authorities requesting that they take her daughter to the hospital. Instead of being transported to the El Paso Psychiatric Center, Misty was arrested for a felony charge of Injury to an Elderly Individual.

The Mental Health Unit was appointed to the case six days after her arrest. During an initial interview with Misty it became clear that she was in desperate need of in-patient psychiatric care. An immediate request for civil commitment was made. Misty was transferred to the El Paso Psychiatric Center for treatment. When she was released she was placed under the care of MHMR ACT Team and was placed in foster care. Her mother signed a non-prosecution affidavit requesting that the charges against her daughter be dropped. After Misty spent ten days in jail, and twenty-nine days in the hospital, all of the charges against her were dismissed.

FY2008 Discretionary Grants Awarded during FY2007

The Task Force authorized staff to publish the FY2008 Discretionary Grant Request for Applications (RFA) during FY2007. This timeline gives counties more time to plan, budget and implement new programs for the upcoming new fiscal year. In April, several applications were submitted for consideration. The Task Force awarded the following discretionary grants at its August 24, 2007 meeting [reports on these programs will be in the FY2008 Annual Report]:

FY2008 New Multi-Year Programs:

- Bowie County - $621,517 to establish a public defender's office serving Bowie and Red River counties.
- Lubbock County - $650,685 to establish a regional capital murder public defender's office to serve an 85-county region in the 7th and 9th judicial regions.

FY2008 Continued Multi-Year Programs:

- Bexar County - $178,756 to continue operation of the appellate public defender's office.
- Dallas County - $76,200 to continue operation of the mental health division of the Dallas County public defender's office.
- El Paso - $46,745 to continue operation of the mental health unit of the public defender's office
- Hidalgo - $194,739 to continue operation of the public defender office
- Kaufman - $180,256 to continue operation of the public defender office
- Limestone - $65,865 to continue operation of the mental health division of the public defender office
- Travis - $500,000 to continue operation of the mental health public defender office
- Val Verde - $352,728 to continue operation of the contracted regional public defender office (includes Edwards, Terrell and Kinney counties)
- Willacy - $179,664 to continue operation of the public defender office

Appendix A

FY2007 Formula Grant Awards for Texas Counties adopted by the Task Force on Indigent Defense November 15, 2006

Anderson	$31,588
Andrews	$11,089
Angelina	$43,814
Aransas	$16,443
Archer	$9,401
Armstrong	$6,034
Atascosa	$25,526
Austin	$17,335
Bailey	$8,150
Bandera	$14,304
Bastrop	$37,626
Baylor	$6,918
Bee	$20,765
Bell	$124,541
Bexar	$714,070
Blanco	$9,408
Borden	Direct Disbursement
Bosque	$13,536
Bowie	$48,318
Brazoria	$135,198
Brazos	$81,354
Brewster	$9,365
Briscoe	Direct Disbursement
Brooks	$8,740
Brown	$23,059
Burleson	$13,294
Burnet	$23,238
Caldwell	$21,915
Calhoun	$14,699
Callahan	$11,322
Cameron	$182,662
Camp	$10,943
Carson	$8,020
Cass	$19,357
Castro	$8,604
Chambers	$19,232
Cherokee	$27,778
Childress	$8,628
Clay	$10,397
Cochran	$6,655
Coke	$6,848
Coleman	$9,305
Collin	$307,957

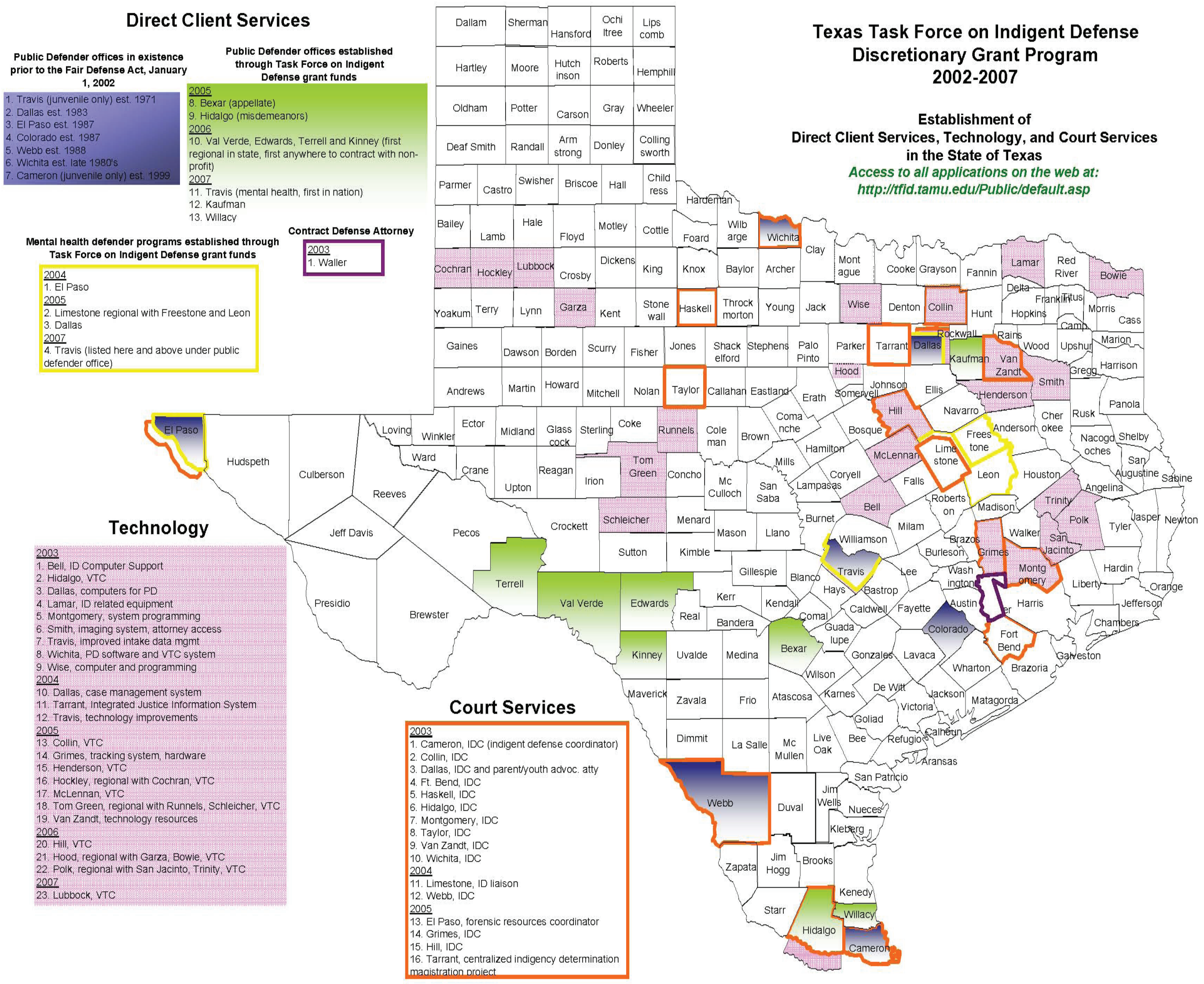
Collingsworth	$6,438
Colorado	$15,169
Comal	$48,804
Comanche	$11,605
Concho	Direct Disbursement
Cooke	$23,437
Coryell	$40,102
Cottle	Direct Disbursement
Crane	$6,886
Crockett	$6,943
Crosby	$8,059
Culberson	$6,299
Dallam	$7,989
Dallas	$1,090,079
Dawson	$11,673
Deaf Smith	$13,840
Delta	$7,509
Denton	$262,542
DeWitt	$14,605
Dickens	Direct Disbursement
Dimmit	Direct Disbursement
Donley	$6,906
Duval	Direct Disbursement
Eastland	$13,760
Ector	$64,223
Edwards	Direct Disbursement
El Paso	$345,108
Ellis	$67,371
Erath	$20,995
Falls	$13,608
Fannin	$20,990
Fayette	$15,918
Fisher	Direct Disbursement
Floyd	Direct Disbursement
Foard	Direct Disbursement
Fort Bend	$215,610
Franklin	$9,686
Freestone	$13,883
Frio	Direct Disbursement
Gaines	Direct Disbursement
Galveston	$134,440
Garza	$7,362
Gillespie	$15,852
Glasscock	Direct Disbursement

Goliad	$8,344
Gonzales	$14,350
Gray	$15,497
Grayson	$60,214
Gregg	$59,224
Grimes	$16,712
Guadalupe	$54,599
Hale	$22,128
Hall	$6,726
Hamilton	$8,875
Hansford	$7,553
Hardeman	$7,248
Hardin	$29,008
Harris	$1,742,857
Harrison	$34,646
Hartley	$7,512
Haskell	$7,826
Hays	$63,140
Hemphill	$6,573
Henderson	$42,217
Hidalgo	$321,757
Hill	$21,265
Hockley	$15,784
Hood	$27,134
Hopkins	$20,888
Houston	$16,030
Howard	$20,596
Hudspeth	Direct Disbursement
Hunt	$43,819
Hutchinson	$15,621
Irion	$5,845
Jack	$9,168
Jackson	$11,788
Jasper	$21,913
Jeff Davis	Direct Disbursement
Jefferson	$123,246
Jim Hogg	$7,492
Jim Wells	$24,247
Johnson	$73,776
Jones	$14,782
Karnes	Direct Disbursement
Kaufman	$46,148
Kendall	$18,557

Kenedy	Direct Disbursement
Kent	$5,376
Kerr	$26,873
Kimble	$7,139
King	$5,161
Kinney	$6,576
Kleberg	$20,083
Knox	$6,866
La Salle	$7,832
Lamar	$28,773
Lamb	$11,994
Lampasas	$14,814
Lavaca	Direct Disbursement
Lee	$12,916
Leon	$12,737
Liberty	$41,166
Limestone	$15,636
Lipscomb	$6,442
Live Oak	Direct Disbursement
Llano	$13,752
Loving	$5,030
Lubbock	$122,758
Lynn	$7,958
Madison	$11,331
Marion	$10,269
Martin	$7,192
Mason	$6,876
Matagorda	$22,823
Maverick	$29,119
McCulloch	$8,815
McLennan	$108,779
McMullen	Direct Disbursement
Medina	$25,186
Menard	$6,117
Midland	$61,877
Milam	$17,043
Mills	$7,413
Mitchell	$9,553
Montague	$14,255
Montgomery	$179,507
Moore	$14,543
Morris	$11,212
Motley	Direct Disbursement
Nacogdoches	$34,382
Navarro	$27,433
Newton	$11,982
Nolan	Direct Disbursement
Nueces	$154,942
Ochiltree	$9,397
Oldham	Direct Disbursement
Orange	$45,044
Palo Pinto	$17,972
Panola	$15,755
Parker	$53,698
Parmer	$9,678
Pecos	$12,686
Polk	$26,603
Potter	$61,098
Presidio	$8,758
Rains	Direct Disbursement
Randall	$57,144
Reagan	$6,467
Real	$6,516
Red River	$11,666
Reeves	$10,406
Refugio	$8,668
Roberts	$5,431
Robertson	$12,647
Rockwall	$32,873
Runnels	$10,242
Rusk	$28,029
Sabine	$10,119
San Augustine	$9,288
San Jacinto	$16,181
San Patricio	$38,034
San Saba	$7,904
Schleicher	Direct Disbursement
Scurry	$12,596
Shackelford	$6,576
Shelby	Direct Disbursement
Sherman	$6,492
Smith	$94,007
Somervell	$8,605
Starr	$33,848
Stephens	$9,507
Sterling	$5,603
Stonewall	Direct Disbursement
Sutton	$6,981
Swisher	$8,759
Tarrant	$764,956
Taylor	$66,086
Terrell	$5,502
Terry	$10,877
Throckmorton	$5,811
Titus	$19,250
Tom Green	$54,025
Travis	$422,339
Trinity	$11,872
Tyler	$15,130
Upshur	$22,352
Upton	$6,506
Uvalde	Direct Disbursement
Val Verde	$27,576
Van Zandt	$29,350
Victoria	$45,501
Walker	$34,781
Waller	$22,409
Ward	$9,987
Washington	$20,062
Webb	$111,453
Wharton	$25,073
Wheeler	$7,264
Wichita	$64,808
Wilbarger	$11,702
Willacy	$14,873
Williamson	$154,268
Wilson	$23,292
Winkler	$8,242
Wise	$31,007
Wood	$23,856
Yoakum	$8,431
Young	$13,423
Zapata	$11,655
Zavala	$10,611
Total - Formula Grant Award	$11,750,371

Appendix B

FY2003-2007 Discretionary Grant Program Map



Texas Task Force on Indigent Defense
Discretionary Grant Program
2002-2007

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

1. Travis (junvenile 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 (junvenile only) est. 1999

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

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)
2007
11. Travis (mental health, first in nation)
12. Kaufman
13. Willacy

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

2004
1. El Paso
2005
2. Limestone regional with Freestone and Leon
3. Dallas
2007
4. Travis (listed here and above under public defender office)

Contract Defense Attorney

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
2007
23. Lubbock, 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 magistration project

1/26/2007