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Presiding Judge, Court of Criminal Appeals

Vice Chair:
The Honorable Olen Underwood

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Honorable Sherry Radack
Honorable Brandon Creighton
Honorable John Whitmire
Honorable Abel Herrero
Honorable Andrew Murr

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Honorable Jon Burrows
Honorable Linda Rodriguez
Mr. Anthony Odiorne
Mr. Don Hase

Executive Director:
James D. Bethke

Report from the Texas Indigent Defense Commission for February 26, 2016 Texas Judicial Council Meeting

Since the Texas Indigent Defense Commission’s last report to the Texas Judicial Council on September 18, 2015, the Commission had a full Commission meeting on December 3, 2015, and an Ad Hoc Technology Committee Meeting on November 3, 2015. A strategic planning session is scheduled for April 13th and 14th, 2016.

New Members

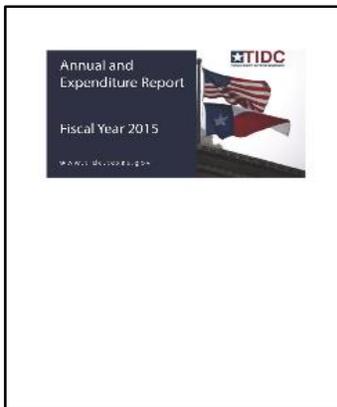


Senator Brandon Creighton replaces former Commission member Royce West. Sen. Creighton is an eighth generation Montgomery County resident and a graduate of the University of Texas. He holds his Doctor of Jurisprudence from Oklahoma City University School of Law.

Representative Andrew Murr replaces former Commission member Roberto Alonzo from the Judicial Council. He is an eighth generation Texan who grew up on a ranch in Kimble County and attended school in Junction. Rep. Murr earned his bachelor's degree in Agricultural Development with an emphasis in economics and policy at Texas A&M University, and he graduated with highest honors from Texas Tech University School of Law.



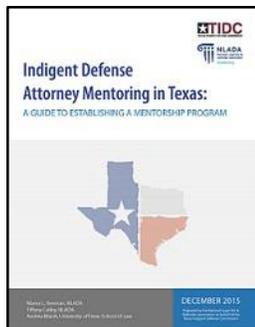
Recent Commission Publications



[Annual and Expenditure Report Fiscal Year 2015](#)



[Fair Defense Laws - 2015-2017](#)



[Indigent Defense Attorney Mentoring in Texas: A Guide to Establishing a Mentorship Program](#)) with [Mentoring Curriculum Menu Worksheets](#) (December 2015)

With the support of a grant from the Governor’s Criminal Justice Division, the Commission collaborated with the National Legal Aid and Defender Association (NLADA) to publish a new resource for developing mentoring programs for attorneys providing indigent defense services. The report will be useful for indigent defense system administrators, judges, county officials, bar leaders, and others interested in improving the professional preparedness of attorneys providing this important representation.

[FY 2016 Formula Grant Program Request for Applications \(RFA\)](#) (September 2015)

[Effective Indigence Screening](#) (September 2015)

[Indigent Defense Expenditure Report Manual – Fiscal Year 2015](#) (October 2015)

[Indigent Defense Expenditure Report Manual Public Defender Office Supplement](#) (October 2015)

[2015 Fall Edition e-Newsletter](#) (October 2015)

[TIDC and PPRI Awarded Major Federal Grant to Advance Evidence-Based Indigent Defense](#) (October 2015)

[TIDC Awards Grants to Fund Regional Public Defender Program in South Texas and to Support Defense in Capital Cases in Urban Counties; TIDC Announces Publication of Attorney mentoring Program Publication](#) (December 2015)

[FY 2017 Discretionary Grant Request for Applications \(RFA\)](#) (January 2016)

Appellate and Juvenile Trial Weighted Caseload Study

The appellate and juvenile trial weighted caseload studies being conducted by Dr. Dottie Carmichael and her team at Texas A&M University Public Policy Research Institute (PPRI) are well underway. Using the same framework it used in its adult trial-level caseload study published last year, PPRI has completed the analysis of attorney time-keeping records, as well as the convening of two Delphi panels of attorneys who are experts in each field. The panels met on consecutive days in mid-January here in Austin with nineteen juvenile attorneys able to participate and somewhat fewer for the appellate attorney panel. Each panel meeting included lively discussion at which both were able to reach a consensus on how much time is required for various types of cases in order to provide reasonably effective representation in juvenile and criminal appellate cases. PPRI will now analyze this data and prepare a final report of recommendations for setting attorney caseload guidelines in juvenile trial-level cases and adult felony appeals cases. The report is expected to be completed in mid-April.

Indigent Defense Expenditure Review

Every Texas county is required to report annually by November 1st on the number of indigent cases in each court and their associated expenses. Staff conducts a thorough desk review of the reports, which provide the basis for eligibility in all of the Commission’s grant programs, both formula and discretionary. Reviews of FY 2015 county reports revealed that over 460,000 cases received court-appointed counsel and total indigent defense costs reached \$238 million.

FY 2015 is the second year the report includes the number of cases handled by and amounts paid to each attorney. Counties reporting figures for FY 2015 showed appointed case figures and amounts paid to 6,259 attorneys across all counties. Case totals per attorney varied from one to 1,353 criminal cases disposed with a median of 45 total felony and misdemeanor cases disposed across all counties. The amount paid to each attorney also varied widely from \$50 to over \$497,000 across all counties with a median of just over \$16,000.

Attorney Practice-Time Reporting and Court Attorney Reporting

House Bill (HB 1318) passed by the 83rd Legislature requires all attorneys who accept appointments in adult criminal and juvenile delinquency cases to submit to each county an annual statement that describes the percentage of their practice time that is dedicated to work on those appointed cases. As of February 4, 2016, 3,708 attorneys had completed reports. The median percentage of practice time devoted to appointed criminal and juvenile cases across all counties was about 57 percent.

Grants Update

Formula Grant Awards

At its December 3, 2015 meeting the Commission awarded \$24 million in FY 2016 formula grants to Texas counties. Counties are eligible to receive formula grants based on their compliance with the central requirements of the Fair Defense Act. The amount of a county's formula grant is calculated based on a combination of population and indigent defense expenditure figures.

The Commission also awarded \$1.1 million in new Supplemental Capital Defense Formula Grants for counties that are not eligible to join the Regional Public Defender Office for Capital Cases (RPDO). The Commission has supported most Texas counties in capital case indigent defense through support of the RPDO since 2008. Because Texas's largest counties are not eligible to participate in the RPDO, the Commission has allocated funds to provide supplemental formula grants to those counties to support indigent defense in capital cases. This funding is provided out of new general revenue provided to the Commission by the Texas Legislature in 2015.

Discretionary Grant Awards

The Commission also made several discretionary grant awards at its December meeting.

- The Commission awarded a Discretionary Grant of \$681,120 to Starr County to create a regional public defender office to include Duval and Jim Hogg Counties. The counties will contract with Texas RioGrande Legal Aid (TRLA), which also currently operates successful public defender programs for Bee, Willacy, Live Oak, and McMullen Counties.
- The Commission also awarded a Technical Support Grant of \$400,000 to Harris County to support the state's response to recent changes in the protocol for analysis and reporting of mixed DNA evidence that can in some cases significantly change the inclusion statistics reported. The Texas Forensic Science Commission has convened a statewide working group including prosecutors, defenders, judges, and others to help ensure that affected defendants are notified and appropriate cases provided with legal assistance. This grant-funded project will be coordinated by the Harris County Public Defender, which has staff that have extensive experience developing responses to similar systemic problems with forensic evidence that have been discovered. The program will coordinate with the statewide working group and provide case review and assistance to defendants from anywhere in Texas.
- The Commission awarded a Technical Support Grant of \$39,000 to Travis County to implement indigent defense attorney mentoring services. The Commission recently issued a new report funded by a grant from the Governor's Criminal Justice Division (CJD) titled [*Indigent Defense Attorney Mentoring in Texas: A Guide to Establishing a Mentoring Program*](#). The remaining CJD grant funds will put this new resource into action through implementation of a pilot mentoring program in Travis County through the Capital Area Private Defender Service (CAPDS).
- The Commission also authorized an award of \$500,000 to Lubbock County to fund operation of a dedicated capital case public defender program for Hidalgo County by the RPDO. The legislature directed \$500,000 of

the Commission's funds toward capital public defense in Cameron and Hidalgo Counties. After review of caseload and necessary county matching funds Cameron County declined to participate in the program. Commission staff is currently working with Lubbock and Hidalgo Counties to agree on budget and funding for the budget amount in excess of the legislatively directed funding.

- The Commission awarded a discretionary grant of up to \$255,000 to the Conference of Urban Counties to implement the upgraded TechShare Indigent Defense case management system together with a set of functional enhancements to the system for the eleven participating counties.

FY 2017 Discretionary Grant Cycle

The Commission has issued its [FY 2017 Discretionary Grant Request for Applications \(RFA\)](#). The deadline for the first step in the application process, the Intent to Submit Application (ISA), is March 11th, and the Full Application is due on May 6th. Commission staff conducted online grant training on February 12th and is consulting closely with several counties interested in making a grant application. Award decisions may be made at the Commission's June meeting following review of applications and feedback from our external grant review committee.

Staff

Brandon Bellows joined TIDC in September as a Policy Analyst responsible for assisting jurisdictions in meeting the requirements of the Fair Defense Act through review of county systems and procedures and collaboration with officials to promote local compliance. Brandon earned his J.D. from the SMU Dedman School of Law and holds a B.A. in Political Science from Baylor University. His academic career focused on public law, government, and history, and in 2011 he spent a summer abroad at Oxford University studying global legal systems. As a law student Brandon interned with the Tarrant County District Attorney's Office and the United States Attorney's Office, and as a research assistant he helped in the drafting of war crimes summaries for an international publication. Prior to joining TIDC Brandon practiced health care law and worked as a legal researcher for a student loan guarantor.



Articles and Media Featuring the Commission

- [For the Defense: A New Mentorship Program](#) (September 2015)
- [Galveston court-appointed attorney costs in line with state](#) (September 2015)
- [Jefferson County joins capital defense collaboration](#) (October 2015)
- [Area counties should consider regional defender option to save tax dollars](#) (October 2015)
- [Texas Tech University School of Law](#) (November 2015)
- [Harvard Law Library Readies Trove of Decisions for Digital Age](#) (November 2015)
- [Commission Begins Study of Wrongful Convictions](#) (November 2015)
- [Indigent Defense Grant Money Withheld from Hidalgo County](#) (December 2015)
- [Texas Commission Votes to Withhold Grant Money from Hidalgo County](#) (December 2015)
- [Hidalgo County \\$660K State Grant in Jeopardy; Fourth time since 2009 court found out of compliance](#) (December 2015)
- [Judges Say Indigent Defense Program in Compliance: Attorneys who received disproportionate number of cases identified](#) (December 2015)
- [Texas Indigent Defense Commission Touts Criminal-Defense Mentoring Programs](#) (December 2015)
- [State grant funds legal aid for some arrestees with mental illness](#) (December 2015)
- [Lubbock County officials update indigent defense appointment process](#) (December 2015)
- [Bell County prepares for future capital murder cases](#) (December 2015)
- [Records: Judge assigned cases to his personal attorney](#) (December 2015)

Bell County Indigent Defense Attorney Mentorship Program:

Bell County program used as statewide model (December 2015)
FYE 15 General Fund final amendments approved (December 2015)
TIDC Provides New Resource to Assist Counties with SB 1517 Compliance (January 2016)
For those accused in Harris County, it's time to right a legal wrong (January 2016)
Bail hearings: Where prosecutors and magistrates ensure defenseless people stay in jail (January 2016)
New Fort Bend defender's office will make process more efficient (January 2016)
Judges vote in two new overseers of indigent defense program (January 2016)
The cost of Gabriel Hall's capital murder trial increased by \$14,000, according to officials (January 2016)
Only truly indigent defendants should be getting free lawyers (January 2016)
Texas leading massive review of criminal cases based on change in DNA calculations (January 2016)
1 in a million? Wrongful conviction experts study DNA odds (January 2016)

Indigent Defense Trainings and Events

Implementation of the Capital Area Private Defender Service (CAPDS) (September 2015)
Quality Legal Representation: Definition, Measurement, Theory and Practice (October 2015)
Texas Forensic Science Commission Subcommittee (DNA) (October 2015)
 Related media:
Advances in DNA Testing Could Put Thousands of Texas Cases in Legal Limbo (October 2015)
Concerns over DNA analysis spur review of hundreds of criminal cases (October 2015)
Sen. John Cornyn Roundtable on Mental Illness and Criminal Justice (October 2015)
TACA Presentation on Indigent Defense Reporting & Fiscal Monitoring (October 2015)
National Consortium on the Right to Counsel (November 2015)
 Staff met with Pima County, Arizona Public Defense Services officials (November 2015)
Reinvesting in Justice: What Comes Next? (November 2015)
Judicial Symposium on Using the Law and Economics to Reform the System of Criminal Justice (December 2015)
 Capital Area Private Defender Service (CAPDS) Criminal Defense Investigation Training (December 2015)
What do we mean by a "good" lawyer? (January 2016)
American Bar Association Mid-Year Summit (February 2016)
The Bureau of Justice Assistance, Smart Defense Initiative (February 2016)

Across the State

Hidalgo County First in Texas to E-File Criminal Cases (September 2015)
Defense's tab more than 10 times county's cost in Gabriel Hall trial (October 2015)
Texas Fair Defense Project Sues City of Austin for Jailing People Unable to Pay Fines and Fees (October 2015)
The Class Action Complaint
 El Paso County Jailing People for Unpaid Traffic Fines: (October 2015)
In Texas it's a crime to be poor
El Paso looks for answers on people illegally jailed for traffic fines
El Paso must stop illegally jailing the poor, advocates demand
Jailing the poor for unpaid traffic tickets
Harris County Judge's Court Attendance Questioned (October 2015)
Fannin County Reimbursed for Capital Murder Trial (November 2015)
Court of Criminal Appeals Orders Judge to Reinstate Attorney Who Asked for More Money (November 2015)
Presumed Innocent but Locked Up: Dallas County's Bail System Punishes the Poor (November 2015)

Around the Nation

[U.S. Dept. of Justice Files Amicus Brief in Pennsylvania Right to Counsel Case](#) (September 2015)

[Public Defenders in NOLA in the Washington Post](#) (September 2015)

[Report on Right to Counsel in Utah](#) (October 2015)

[Report on the Sixth Amendment Center](#) (October 2015)

[Poor Criminal Defendants Face 'Too Many Barriers' To Get Lawyers, Says DOJ](#) (November 2015)

[NACDL Right to Counsel](#) (November 2015)

[Kentucky's Protracted Struggle to Get Rid of Bail](#) (November 2015)

[Idaho - Figuring out who is 'responsible' for indigent defense](#) (December 2015)

[Idaho - State needs to lead on public defense](#) (December 2015)