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Report from the Texas Indigent Defense Commission for August 19, 2016 Texas Judicial Council Meeting

The next Texas Indigent Defense Commission meeting is scheduled for Tuesday, August 30th. The Commission has had several meetings since its last report to the Judicial Council. At a July 12th meeting of the Grants and Reporting Committee, the Committee recommended to award a FY 17 discretionary grant of \$262,215 for one year to Bell County on behalf of the Conference of Urban Counties TechShare program to assist in transition to participant county funding. Commission staff will present the recommendation to the Commission at its August 30th meeting. A Policies and Standards Committee meeting was held on August 17th to discuss several agenda items including a report on the TIDC Legislative Workgroup and its proposals to improve indigent defense. Those items that received consensus will be presented to the full Commission at its August 30th meeting for adoption. What is adopted by the Commission will then be presented to the Judicial Council for its support.

Fifteen-year Anniversary Annual Report: 2001-2016

The Commission will publish its fifteen-year anniversary Annual Report for FY 2016 in September, to be followed by a separate Annual Expenditure Report to be published in early January 2017. In May, the Commission held a [Symposium](#) in Houston commemorating the 15-year anniversary of the Fair Defense Act.

Legislative Appropriations Request

The [Legislative Appropriations Request for Fiscal Years 2018 and 2019 \(LAR\)](#) was submitted on August 5th.

The Commission directed staff to submit the following requests as “exceptional items” or requests over and above its baseline budget.

- Restoration of 4 Percent Reduction in Funding
- Support 50/50 State-County Funding for Statewide Regional Public Defender Office for Capital Cases
- Support Statewide Funding for Early Identification and Representation of Defendants with Mental Illness
- Increase State Support for Texas Counties to Share Indigent Defense Costs More Equally

TIDC's Legislative Workgroup

In preparation for the upcoming 85th legislative session, the Commission convened a legislative workgroup composed of a broad range of stakeholders to assist in developing recommendations per our statutory directive in Government Code Section 79.035(b). The workgroup plays a vital role in vetting various proposals to improve indigent defense for the Commission. The workgroup met June 23rd and July 15th with more than 20 participants at each meeting. The following proposals will be considered by the Commission's Policies and Standards Committee on August 17th:

- Repeal the requirement that public defender attorneys must inform the court of the results of any investigation into a defendant's financial circumstances.
- Permit courts and counties to withhold payments for indigent defense services to attorneys who have failed to report their required indigent defense representation caseload percentage. Require these reports to be made directly to the Texas Indigent Defense Commission, rather than to the counties that must then forward these to the Commission.
- Require local indigent defense plans to establish attorney caseload limits.
- Potential clarifying revisions to Article 15.17, Code of Criminal Procedure, dealing with magistrate warning hearings for people arrested.

The Commission is also developing two additional legislative proposals. The first would provide a statutory framework for the operation of the Regional Public Defender Office for Capital Cases (RPDO), which is operated by Lubbock County and serving 179 counties. The proposal will likely include a succession process to transfer the coordinating county role to another county or the Commission should Lubbock County decide at some future point to withdraw from this role, as well as a request for the state to fund Lubbock County's long-term unfunded liabilities such as pensions, retirement, and health care. The second proposal would be to consider changing the terms of Commission board members to six years from two years. The proposal was suggested by the Office of the Governor as a means to provide greater stability and to alleviate the need to make appointments so frequently.

Remembering Robert (Bob) Spangenberg

The 'father of modern indigent defense reform' Mr. Bob Spangenberg passed away on June 22, 2016, at age 83. Bob always began his speeches at TIDC events with "I love Texas!" He was truly a great friend to the Commission and will be deeply missed. Bob was a major contributor to the *Fair Defense Report: Analysis of Indigent Defense Practices in Texas*, issued by Texas Appleseed in 2000. This report cataloged, for the first time ever, information on indigent defense practices throughout Texas's 254 counties and offered concrete findings and recommendations. In 2001, the year Governor Rick Perry signed into law the Fair Defense Act, Bob worked with our Commission and local governments sharing his expertise and passion to improve the delivery of indigent defense services for the poor in our state. In December 2008, the Task Force on Indigent Defense (now the Commission) honored Bob with the Robert O. Dawson Indigent Defense Distinguished Service Award for his efforts to improve indigent defense in Texas over the previous decade. Earlier this year, Bob was awarded the [ABA SCLAID Lifetime Achievement Award](#) by the Standing Committee on Legal Aid and Indigent Defendants at the ABA mid-year meeting in San Diego. Highlights of Bob's work done in whole or in part in Texas can be seen [here](#). Mr. Spangenberg's [obituary](#) was published in *The Boston Globe*.



New Leadership at the Regional Public Defender for Capital Cases (RPDO)

Mr. Ray Keith, former Assistant Chief Public Defender at the RPDO, was named the new Chief Public Defender after Mr. Jack Stoffregen retired in June. Mr. Stoffregen led the RPDO since it was created with funds from a discretionary grant from the Commission in 2007. Some highlights of his career and his tenure at the RPDO are available in this local [news story](#). Mr. Keith has been working with TIDC staff and meeting with leaders of the capital defense bar on ways to improve office operations. Jim Bethke gave a presentation to RPDO staff at its Annual Staff Development Retreat in early August. He reported on the findings of an employee satisfaction survey administered by OCA and also gave a preview of the upcoming 85th legislative session.

New Discretionary Grant Awarded to Travis County for Holistic Defense Initiative

At its June 2nd meeting, the Commission awarded a discretionary grant to Travis County to add additional support services to their managed assigned counsel program. Beginning in FY 2017 the Capital Area Private Defender Service (CAPDS) will have two full-time social workers working with defense counsel to improve outcomes for defendants with mental illness. In addition, a full-time attorney specializing in immigration and criminal law will join the team to ensure compliance with the U.S. Supreme Court's ruling in *Padilla vs. Kentucky*. An essential part of an effective defense is advising clients of the collateral consequences they may face if convicted. In *Padilla*, the court held that defense attorneys have a duty to fully advise clients of possible immigration consequences resulting from a criminal case. Many criminal defense lawyers lack expertise in this complex area of law to effectively comply with this requirement.

Recent Commission Publications

[2016 Spring/Summer Edition e-newsletter](#) (July 2016)



Indigent Defense Trainings and Events

Public Defender Training: Texas Criminal Defense Lawyers Association (June 2016)

Harris County Statutory County Court at Law Judges – Strategic Planning Session (August 2016)

RPDO Employee Satisfaction Survey and RPDO Funding & Governance (August 2016)

Recent Articles and Media

Across the State

[Bexar County Seeks Greater Financial Assistance from the State](#) (Bexar County - June 2016)

[Bexar County Asks State to Pay for Indigent Defense](#) (Bexar County - June 2016)

[\\$1.3 million in presumed costs savings in Kaufman County in \\$1.9 million Brownlow defense](#) (Kaufman County – June 2016)

[Indigent defense costs rise 202 percent since 2001](#) (Wichita County - June 2016)

[New White Paper on pretrial release and bail reform in Texas](#) (June 2016)

[Unexpected career: Stoffregen steps down from public defender's office after 42 years as lawyer](#) (June 2016)

Around the Nation

State of New York:

[State Legislature Passes Measure to Address Disparities in New York's Justice System](#) (NY State Assembly - June 2016)

[A Big Victory for Public Defense in New York](#) (*The New York Times*- June 2016)

[Indigent Defense Proponents Hail 'Historic Moment' in NY](#) (Sixth Amendment Center - June 2016)

[Letter from ABA President Urging Gov. Cuomo to Sign Public Defense Bill](#) (American Bar Association - August 2016)

The Wall Street Journal:

[Reining in Prosecutorial Misconduct](#) (By John Hollway, Executive Director of the Quattrone Center for the Fair Administration of Justice – July 2016)