



Report from the Texas Indigent Defense Commission for June 30, 2017 Texas Judicial Council Meeting

Chair:

The Honorable Sharon Keller
Presiding Judge, Court of Criminal
Appeals

Ex Officio Members:

The Honorable Nathan Hecht
The Honorable John Whitmire
The Honorable Brandon Creighton
The Honorable Joseph "Joe" Moody
The Honorable Andrew Murr
The Honorable Sherry Radack
The Honorable Linda Rodriguez

Members Appointed by Governor:

Mr. Alex Bunin
The Honorable Jon Burrows
The Honorable Richard Evans
Mr. Don Hase
The Honorable Missy Medary

Executive Director:

James D. Bethke

Since the Texas Indigent Defense Commission's last report to the Texas Judicial Council on February 17, 2017, the Commission held several meetings. During its March 9 full board meeting, the Commission welcomed its new members, received the Board Committee charge and membership, presented the Gideon Recognition Award to Bee, Live Oak, and McMullen Counties and Texas RioGrande Legal Aid, and heard from David Slayton and Dr. Dottie Carmichael on the study of pretrial release practices in Texas. The Commission also received an update on the audit of OCA and TIDC by the State Auditor's Office. Throughout June, the Grants and Reporting Committee (June 15), the Policies and Standards Committee (June 20), and the full board each met (June 29). During the full board's June 29 meeting,

the Commission heard an update on the 85th Legislative Session, considered discretionary grant awards and modifications, heard another update on the State Auditor's Office review, and considered the publication of new TAC rules related to grant administration, policy monitoring, contract defender programs, and continuing legal education requirements in the Texas Register.

New Members

With his appointment as Chair of the House Committee on Criminal Jurisprudence during the 85th Legislative Session, Representative Joe Moody became the newest Commission member, replacing Representative Abel Herrero. Representative Moody represents Texas's District 78, a mixed urban and rural district covering much of northern El Paso County. Before entering private practice, he served as a prosecutor with the El Paso County District Attorney's Office. Representative Moody is a partner at the Law Offices of Neil & Moody, P.C., where his practice focuses on probate and estate planning as well as criminal defense.



Legislative Update

On June 12, Governor Greg Abbott signed SB 1 into law. For TIDC, the budget:

- Appropriates \$33,793,124 for FY18 and \$32,642,588 for FY19 (plus unexpended balance) **totaling \$66.48 million over the FY18/19 biennium** (compared to \$71.13 million in FY16/17);
- Increases the administrative allocation for operations by \$100,000 per year to \$1,164,988;

- Includes rider language restricting the use of \$5.04 million in grant funds over the biennium to implement cost containment initiatives designed to limit local indigent defense cost increases;
- Requires TIDC to “submit a report to the Legislature no later than December 1, 2018, detailing the effectiveness of various cost containment measures implemented by counties and to propose additional measures to reduce county operating costs with respect to indigent defense”;
- Includes rider language to provide \$600,000 per year out of the amounts appropriated in each year of the biennium to fund innocence project programs at the six state law schools in the amount of \$100,000 per year to each school. The rider provides that the funds are “to support innocence project screening, investigation, and litigation activities regarding claims of actual innocence in non-capital cases in Texas and associated expenses necessary to conduct those activities. Funding shall be used to provide direct assistance to investigate actual innocence cases post-conviction and to pursue relief for defendants with credible claims of actual innocence, and shall not be used for legal clinic expenses, teaching, and student supervision.”; and
- Did not grant any of TIDC’s exceptional item requests.

Despite the budget cuts sustained in SB 1, the 85th Legislative Session held tremendously good news for TIDC. **SB 2053**, which reallocates certain court costs to the Fair Defense Account, was passed and signed into law by Governor Abbott on June 15. SB 2053 is expected to generate **an additional \$15 to \$17 million per year**. While TIDC will not be able to spend this influx of funds until state leadership gives it approval to do so perhaps next session, the increase of \$30 to \$34 million over the biennium is the single largest increase to the Fair Defense Account ever — about a 50% increase. As for TIDC’s other legislative proposals:

- **SB 1214** — relating to the RPDO succession plan was signed by Governor Abbott on June 12; and
- Other bills covering TIDC commission terms, public defender indigency determinations, and the creation of an innocence grant program died during legislative session.

Staff Update

In February, we wished farewell to Jamie Dickson, TIDC Special Counsel and Policy Analyst, and Joan Thomas, TIDC Publications Manager and Analyst.

On April 3, Doriana Torres joined TIDC as a Grant Specialist. Doriana has a B.A. and M.A. in history from the University of Texas at El Paso. Her academic work focused on immigration policy and the borderlands, specifically the El Paso/Ciudad Juarez region. Prior to providing administrative assistance to the State Prosecuting Attorney's office, she worked as a Legislative Aide for State Representative Mary Gonzalez through the Mexican American Legislative Leadership Foundation Fellowship.



In late May, two law clerks joined TIDC for the summer.

Susan Stradley is a rising 2L from the University of Texas School of Law. She is the Chairman of the Outreach & Events Committee for the Environmental Law Society and is an active member of the Texas Journal of Energy, Oil, & Gas Law Society and the Women's Law Caucus. Before coming to law school, Susan earned her Bachelor's in Environmental Studies with Honors from Baylor University. She hopes to pursue a career in administrative or environmental law and is interested in public interest issues.



Rebecca Yung is a rising 2L from the University of Texas School of Law. She is originally from Dallas and graduated from Texas A&M in 2016 with her bachelor's degree in political science. Rebecca is a staff editor for the American Journal of Criminal Law and participates in UT Law's Expunction Project, a pro bono project that helps indigent clients obtain expunctions and orders of nondisclosure. Outside of class, Rebecca enjoys reading mystery novels and working out at the student gym.



Indigent Defense Workshop

On September 21-22, 2017, TIDC will host the indigent defense workshop [Catalyst for Change: Building Off What's Working and Changing What's Not](#). Please save the date for this program, and watch for a registration announcement toward the end of June.

Commission Publications

[Bee, Live Oak, and McMullen Counties and Texas RioGrande Legal Aid Honored with Texas Gideon Award](#) (March)

[The Power of Choice: The Implications of a System Where Indigent Defendants Choose Their Own Counsel](#) (March)

- Authored by the Justice Management Institute and commissioned by Comal County, with funding from the Texas Indigent Defense Commission

["A Defense Attorney's Ethical Responsibilities in a Specialty Court"](#) (April)

[County Progress Magazine: "Wichita County Serves as Model for Indigent Defense Practices"](#) (April)

[Spring Edition Indigent Defense Newsletter](#) (April)

Indigent Defense Trainings and Events

[Discretionary Grant Application Online Training](#) (February)

County and District Clerks' Association Winter Conference (February)

- Presentation: [Court Appointed Attorneys - Indigent Defense](#)

Standing Committee on Legal Aid and Indigent Defendants (February)

- [Twelfth Annual Summit on Public Defense](#)
- Indigent Defense Advisory Group Meeting

[Beyond the Sentence: Collateral Consequences of Substance-Abuse Related Crime](#) (March)

State & Federal Court Comparisons: Two Judges' Perspectives (*March*)

Indiana Law Review Symposium: 50th Anniversary (*April*)

- Agenda: [Implementing Gideon's Promise: The Right to Counsel in the Nation and Indiana](#)
- Presentation: [Public Defense Innovations in Texas](#)

Texas Association of Specialty Courts Conference (*April*)

- Presentation: [A Defense Attorney's Ethical Responsibilities in a Special Court](#)

Texas Association of Pretrial Services 4th Annual Conference and Training Institute (*April*)

- Presentation: [Indigent Defense & ABA Pretrial Release Standards](#)

Mexican American Bar Association of Tarrant County (*April*)

- Presentation: [Overview of Texas Indigent Defense](#)

Spring 2017 Global Justice Information Sharing Advisory Committee (*May*)

Smart Defense Inter-Site Summit (*May*)

- Presentation: [Texas Smart Defense Data Portal](#)

Executive Forum for Criminal Justice Planners (*May*)

- Presentation: [Texas Indigent Defense Commission](#)

Recent Articles and Media

ACROSS THE STATE

[Milam County Faces Hefty Bills for Capital Murder Cases](#) (*February*)

[Commissioners Hear Report about Increasing Indigent Legal Costs](#) (*March*)

[Expert Details Houston Jail's New Risk-Assessment Tool](#) (*March*)

[Harris County to Place Public Defenders at Bail Hearings](#) (*March*)

[State Lawmakers Tell Counties to Study Travis for Personal Bond Reform](#) (*March*)

[Texas Lawmakers, Judges Push For Major Bail Reform](#) (*March*)

[Bail Bondsmen: Reform Bill Will Drive Us Out of Business](#) (*April*)

[Harris County Bail System Unconstitutional, Federal Judge Rules](#) (*April*)

[Poor Defendants Should Get to Choose Their Lawyers Too](#) (*April*)

[State Imposes Unfunded Mandates While Preaching Tax Relief](#) (*April*)

[West Texas Leaders: Local Governments to Bear Brunt of Proposed State-Wide Tax Relief](#) (*April*)

[Appeals Court Halts Judge's Order to Change Harris County Bail System](#) (*May*)

[Bill to End Jail Time for Those Too Poor to Pay Fines Heads to Texas Governor](#) (*May*)

[Harris County Appeals Judge's Ruling in Bail Lawsuit](#) (*May*)

[Smith County Applies for Grant to Help Create a Mental Health Court](#) (*May*)

[South Texas College of Law Houston Receives Nearly \\$1.3m to Launch Criminal Defense Certification Program](#) (*May*)

[Texas Legislature Sends \\$217 Billion Budget to Gov. Abbott](#) (*May*)

[Tom Green County Needs Help with Capital Murder Costs](#) (*May*)

AROUND THE NATION

[A 'Constitutional Crisis' in Missouri](#) *(March)*

[Getting the Mentally Ill Out of Jails](#) *(April)*

[Inside NOLA Public Defenders' Decision to Refuse Felony Cases](#) *(April)*

[Public Defenders Score New Caseload Caps, State Funding](#) *(April)*

[Task Force Seeks Changes to Indigent Defense](#) *(April)*

[To Reform Indigent Defense, Bring the Market In](#) *(April)*

[Lawyers for Maine's Poor Face Months with No Pay as State Fund Dries Up](#) *(May)*

[Louisiana's Public Defender System Target of Potential Class Action Lawsuit](#) *(May)*

[Public Defenders Allege Prosecutor's Office Filing Unwarranted Charges Against Them](#) *(May)*

[Report on the October 2016 R2C National Consortium](#) *(May)*

[Texas May Offer a Model for Missouri's Public Defender Crisis](#) *(May)*