Grant Opportunities and Innovations in Indigent Defense

Presented to the Texas Association of County Auditors
October 2019
1. TIDC’s Mission
2. Funding in Context
3. Grant Opportunities
4. Data and Justice
TIDC’s Mission
Part One
Our Mission

We provide financial and technical support to counties to develop and maintain quality, cost-effective indigent defense systems that meet the needs of local communities and the requirements of the Constitution and state law.
What is Indigent Defense?

- The right to a lawyer for people accused of crimes who cannot hire a lawyer
- Guaranteed in Bills of Rights in the United States and Texas Constitutions
- Necessary for fairness

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Fair Defense Act of 2001

• Texas recognized its system was not up to constitutional standards:
  • Indigent people were not appointed attorneys
  • Judges’ discretion over selection and pay of attorneys looked like cronyism
  • Attorneys getting appointed had no standards for training
  • No state oversight or funding

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Fair Defense Act of 2001

- Basic legal requirements for appointment of counsel
- Reporting requirements
- State grants

Six core requirements

- Prompt Magistration
- Indigence Determination
- Prompt Appointment
- Attorney Qualifications
- Distribution of Appointments
- Data Reporting
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Four main systems

**Public Defender:** Full-time, salaried attorneys are appointed, supervised, and paid by an independent office.

**Managed Assigned Counsel:** Private attorneys are appointed, supported, and paid by a defense management organization on a case-by-case basis.

**Contract:** Private attorneys contract with a county to handle cases.

**Assigned Counsel:** Private attorneys are appointed and paid by the court on a rotating, case-by-case basis.
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Oversight
- Plans
- Expenditure Reports
- Policy Monitoring
- Fiscal Monitoring

Funding
- Formula Grants
- Improvement Grants
- Innocence Projects

Improvement
- Training
- Publications
- Presentations
- Technical Assistance
Due Soon to TIDC

- **Attorney Practice Time Reports**
  - Submitted by attorneys who took appointments last fiscal year
  - Due October 15

- **Indigent Defense Plans**
  - Submitted by Administrative District and County Court Judges and Chair of Juvenile Board
  - Due November 1

- **Indigent Defense Expenditure Reports (IDER)**
  - Submitted by County Auditors and Treasurers
  - Due November 1

- **Formula Grant Applications**
  - Submitted by County Judge
  - Due November 15
Funding in Context

Part Two
Funding in Context

A. National
B. Texas
C. Cost Drivers
D. New Appropriations
National Indigent Defense Funding

More than half of the states fund 100% of indigent defense.
Texas Indigent Defense Funding

The state funds about 12% of indigent defense.
Why are costs going up?

• Before the Fair Defense Act, Texas operating under a “Sixth Amendment Deficit”

• Since the FDA, costs have gone up due to:
  • Inflation
  • Population
  • More felony case filings
  • More people receiving counsel
  • Better accountability systems
New Appropriations

86th Legislature

- TIDC’s biennial budget went up from $66 million to $94 million: a 42% increase.
- TIDC is making more investments in rural counties, and in programs to improve accountability.
Grant Opportunities

Part Three
Grant Opportunities

A. Grant Types
B. Program Highlights
C. How to Apply
$23.3 million in Formula Grants, awarded by population and expenditures

$6.3 million in Improvement Grants, awarded competitively

TIDC FY2018 Grants
78% of funding was awarded in formula grants.
How to Apply

• November 15: County Judge submits a short, online application with a Commissioners Court Resolution

• To be eligible, submit:
  • Indigent defense plan (Nov. 1)
  • IDER (Nov. 1)
  • Responses to monitoring reports (as requested)
TIDC FY2018 Improvement Grants

64% of improvement funding was awarded in grants to sustain rural programs.
Our Mission

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Four main ways to provide indigent defense:

- **Public Defender**: Full-time, salaried attorneys are appointed, supervised, and paid by an independent office.

- **Managed Assigned Counsel**: Private attorneys are appointed, supported, and paid by a defense management organization on a case-by-case basis.

- **Contract**: Private attorneys contract with a county to handle cases.

- **Assigned Counsel**: Private attorneys are appointed and paid by the court on a rotating, case-by-case basis.
Managed Programs

About 40 counties are served by a public defender or managed assigned counsel program.
Regional Public Defender Office for Capital Cases

About 180 counties are served by RPDO.
Benefits of Managed Programs

• Independence
• Oversight
• Efficiency
• Reliability
• Compliance
• Training

• In short:
  • Better management
  • Better representation
  • Better outcomes
More Examples of Improvement Projects

• **Indigent Defense Coordinators**
  • Personnel who screen for eligibility and manage appointment lists

• **TechShare.IndigentDefense**
  • Cloud-based software that streamlines attorney appointment and payment
  • Simplifies TIDC reporting

• **Mental health defense**
  • Legislature earmarked $5 million for the biennium

• **Research**
  • One-year evaluations of local programs
New TIDC Funding for Rural Programs

• Increased formula funding for small counties ➔ Baseline now $15,000 (up from $5,000)

• Increased sustainability funding for rural, regional public defender programs ➔ Now 2/3 funded by the state (up from 1/2)

• Increased sustainability funding for RPDO ➔ Now 2/3 funded by the state (up from 1/2)

• Extended improvement grants for indigent defense coordinators ➔ Now 4 years (up from 1 year)
Improvement Grants

How to Apply

• January: Receive Request for Applications (RFA) in January

• March: Submit Intent to Submit Application (ISA) form [*optional]

• May: Submit full application with Commissioners Court Resolution

• October: Begin program
Begin local conversations

- Key stakeholders:
  - District and County Court Judges (for program success; required to submit)
  - Constitutional County Court Judges and Commissioners (for budgeting and matching funds)
  - Justices of the Peace (for front-end procedures)
  - Sheriffs (for jail management)
  - Auditors (for payment processing and reporting)
  - Defense Bar (for representation needs)
  - Local Mental Health Authority (for mental health defense)
  - Community advocates (for local needs)
Begin local conversations*

- Conversation starters:
  - What challenges do we face in indigent defense?
  - What value do we get from high-performing defense attorneys? Do our courts or jails function better?
  - What training or other resources would help the local defense bar?
  - What are common delays or gaps in our system? Do defendants fall through the cracks?
  - How do we track where our money is going and the quality of performance? What other data would be useful?
  - How could we make reporting easier?

* And talk to TIDC
How TIDC Uses Your Data

• Monitoring access to and quality of counsel for defendants

• Identifying opportunities for financial and technical support for counties
Indigent Defense Data Portal

Your data is reported to the public at tidc.tamu.edu/public.net/.
## Harris County Data Sheet

<table>
<thead>
<tr>
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<tbody>
<tr>
<td>Population (Non-Census years are estimates)</td>
<td>28,525,596</td>
<td>4,660,474</td>
<td>4,582,398</td>
<td>4,573,568</td>
<td>4,503,245</td>
<td>4,365,601</td>
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<tr>
<td>Felony Charges Added (from OCA report)</td>
<td>288,260</td>
<td>40,525</td>
<td>40,918</td>
<td>44,918</td>
<td>41,070</td>
<td>42,646</td>
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<tr>
<td>Felony Cases Paid</td>
<td>215,240</td>
<td>34,327</td>
<td>35,670</td>
<td>31,511</td>
<td>27,237</td>
<td>28,745</td>
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<tr>
<td>% Felony Charges Defended with Appointed Counsel</td>
<td>75%</td>
<td>85%</td>
<td>87%</td>
<td>70%</td>
<td>66%</td>
<td>67%</td>
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<tr>
<td>Felony Trial Court-Attorney Fees</td>
<td>$127,990,245</td>
<td>$21,745,608</td>
<td>$21,807,784</td>
<td>$19,698,691</td>
<td>$17,003,912</td>
<td>$16,381,418</td>
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<tr>
<td>Total Felony Court Expenditures</td>
<td>$144,671,726</td>
<td>$24,481,955</td>
<td>$25,302,729</td>
<td>$23,698,820</td>
<td>$19,834,964</td>
<td>$20,163,266</td>
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<tr>
<td>Misdemeanor Charges Added (from OCA report)</td>
<td>467,851</td>
<td>56,473</td>
<td>60,425</td>
<td>65,006</td>
<td>67,284</td>
<td>68,527</td>
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<tr>
<td>Misdemeanor Cases Paid</td>
<td>214,494</td>
<td>23,324</td>
<td>25,046</td>
<td>28,840</td>
<td>35,972</td>
<td>36,024</td>
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<tr>
<td>% Misdemeanor Charges Defended with Appointed Counsel</td>
<td>46%</td>
<td>41%</td>
<td>41%</td>
<td>44%</td>
<td>53%</td>
<td>53%</td>
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<tr>
<td>Misdemeanor Trial Court Attorney Fees</td>
<td>$43,911,167</td>
<td>$4,741,317</td>
<td>$4,442,941</td>
<td>$3,304,989</td>
<td>$3,353,274</td>
<td>$3,311,278</td>
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<tr>
<td>Total Misdemeanor Court Expenditures</td>
<td>$44,786,546</td>
<td>$4,758,758</td>
<td>$4,464,283</td>
<td>$3,321,852</td>
<td>$3,367,198</td>
<td>$3,370,671</td>
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<tr>
<td>Juvenile Charges Added (from OCA report)</td>
<td>28,970</td>
<td>7,276</td>
<td>7,647</td>
<td>7,048</td>
<td>8,415</td>
<td>8,344</td>
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<tr>
<td>Juvenile Cases Paid</td>
<td>41,578</td>
<td>7,159</td>
<td>7,136</td>
<td>7,096</td>
<td>6,225</td>
<td>6,438</td>
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<tr>
<td>Total Juvenile Expenditures</td>
<td>$12,312,690</td>
<td>$3,414,098</td>
<td>$3,379,879</td>
<td>$2,989,055</td>
<td>$2,654,579</td>
<td>$2,456,660</td>
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<tr>
<td>Total Attorney Fees</td>
<td>$189,152,540</td>
<td>$30,346,150</td>
<td>$30,312,278</td>
<td>$26,689,522</td>
<td>$23,554,977</td>
<td>$22,618,271</td>
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<td>Total ID Expenditures</td>
<td>$276,229,545</td>
<td>$45,729,595</td>
<td>$45,225,009</td>
<td>$40,880,025</td>
<td>$36,018,642</td>
<td>$35,425,781</td>
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<tr>
<td>Increase in Total Expenditures over 2001 Baseline</td>
<td>211%</td>
<td>316%</td>
<td>311%</td>
<td>272%</td>
<td>228%</td>
<td>222%</td>
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<tr>
<td>Total ID Expenditures per Population</td>
<td>$10</td>
<td>$10</td>
<td>$10</td>
<td>$9</td>
<td>$8</td>
<td>$8</td>
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<tr>
<td>Commission Formula Grant Disbursement</td>
<td>$23,320,001</td>
<td>$3,981,449</td>
<td>$5,354,343</td>
<td>$4,033,657</td>
<td>$3,611,531</td>
<td>$5,522,894</td>
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<tr>
<td>Costs Recouped from Defendants</td>
<td>$10,281,678</td>
<td>$75,124</td>
<td>$63,370</td>
<td>$40,743</td>
<td>$49,979</td>
<td>$53,595</td>
</tr>
</tbody>
</table>
Purpose of the IDER

Quality Assessment

• How many defendants plead guilty without an attorney?
• Are appointments distributed fairly, to qualified attorneys?
• Do attorneys use investigators to investigate facts of the case?
• Do enough attorneys handle the right amount of cases?

Answers to these questions tell us where resources are needed.
Thank You!

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