

*New Reporting Requirements and
the IDER*

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The mission of the Texas Indigent Defense Commission is to 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.

Chair: The Honorable Sharon Keller,
Presiding Judge, Court of Criminal Appeals
Vice Chair: The Honorable Olen Underwood
Executive Director: Mr. James D. Bethke

Ex Officio Members:

- Honorable Roberto Alonzo
- Honorable Nathan L. Hecht
- Honorable Abel Herrero
- Honorable Sherry Radack
- Honorable Linda Rodriguez
- Honorable Royce West
- Honorable John Whitmire

Members Appointed by Governor:

- Honorable Jon Burrows
- Mr. Don Hase
- Mr. Anthony Odiorne
- Honorable B. Glen Whitley

Indigent Defense

- The Right to Attorney for Indigent Defendants is a Constitutional Right (Federal & State)
- Fair Defense Act of 2001 (Texas)
- Texas Indigent Defense Commission (TIDC)

Fair Defense Act of 2001

1. Established Texas Indigent Defense Commission (formerly the Task Force)
2. Appropriated State Funds
3. Required Judges to Develop a Plan for providing Indigent Defense services
4. Required Auditors (or Treasurers) to Report Financial and Case information
5. Set time frames and other portions not covered today

Technical Support & Grants

Section 79.037, Local Gov't Code, provides that:

The commission shall:

- a. Assist** counties in improving their indigent defense systems;
- b. Promote** compliance by counties with reqt's of State law;
- c. Provide** Grants;
- d. Monitor** each county that receives a grant and enforce compliance by the county with the conditions of the grant.

HB 1318

New Reporting Requirements

- * Judicial Reporting Requirements
- * Attorneys Reporting Requirements
- * County Reporting Requirements
- * Weighted Caseload Study

Judicial Reporting Requirements

Starting November 1, 2013

- * Documents below (if applicable) must now be submitted with Indigent Defense Plans due Nov 1, 2013:
 - * Public Defender Plan or Proposal under Article 26.044, Code of Criminal Procedure
 - * Managed Assigned Counsel Plan of Operation under Article 26.047, Code of Criminal Procedure
 - * Contracts for Indigent Defense Services

Judicial Reporting Requirements

Starting November 1, 2013

- * Adult and Juvenile ID plans must to be amended to include attorney practice-time report in Minimum Attorney Qualifications section (discussed on next slides)
- * Most Juvenile ID Plans must be amended to require appointment of counsel prior to initial detention hearing unless it is “not feasible due to exigent circumstances” in the Prompt Appointment of Counsel section

New Attorney Reporting Requirement

Starting October 15, 2014

Code of Criminal Procedure Article 26.04. Procedures for Appointing Counsel.

(j) An attorney appointed under this article shall: ...

(4) not later than October 15 of each year and on a form prescribed by the Texas Indigent Defense Commission, submit to the county information, for the preceding fiscal year, that describes the **percentage of the attorney's practice time** that was dedicated to work based on appointments accepted in the county under this article and Title 3, Family Code.

New Attorney Reporting Requirement

Starting October 15, 2014

- * Report covers prior 12 months (Oct 1-Sept 30)
- * TIDC will promulgate optional worksheet in 2014 to assist attorneys estimate their practice time
- * Report applies to public defenders, contract attorneys, and all assigned counsel
- * Penalties for failing to submit practice-time statement by October 15 due date may be set by judges
- * Penalties may include an attorney's removal from appointment list as many do for late CLE report

New Attorney Reporting Requirement

Starting October 15, 2014

- * TIDC will provide both an online form and paper form
- * Each jurisdiction sets which method for attorneys to report
- * If online form is required then county will **not** need to forward reports to TIDC
- * Emails will be sent Sept 2014 with links to online form that county may send to attorneys

Texas Indigent Defense Commission Online Attorney Reporting Form

Under Article 26.04(j)(4), Code of Criminal Procedure, attorneys are required to report the percentage of their practice time devoted to appointed criminal and juvenile offender cases under Article 26.04, Code of Criminal Procedure, and Title 3, Family Code, in each county.

Bar Card Number _____

| | Adult Criminal Defense Percent of Practice Time | Juvenile Delinquency Defense Percent of Practice Time |
|-----------------|---|---|
| Select County ▼ | 0 % | 0 % |
| Select County ▼ | 0 % | 0 % |
| Select County ▼ | 0 % | 0 % |
| Select County ▼ | 0 % | 0 % |

This represents the reported values as of 9/10/2013 6:45:40 AM

Save

New County Reporting Requirement

Starting November 1, 2014

Government Code Section 79.036. Indigent Defense Information.

(a-1) Not later than November 1 of each year and in the form and manner prescribed by the commission, each county shall prepare and provide to the commission information that describes for the preceding fiscal year the number of appointments under Article 26.04, Code of Criminal Procedure, and Title 3, Family Code, made to each attorney accepting appointments in the county, and information provided to the county by those attorneys under Article 26.04(j) (4), Code of Criminal Procedure.

County Report – Number of Appointments by Attorney

- * Attorney level case reports build on existing infrastructure -Indigent Defense Expenditure Report (IDER) which requires aggregate figures:
 - * Cases paid by case type (Juvenile, Capital Murder, Adult Felony, Adult Misdemeanor, Juvenile Appeals, Felony Appeals, and Misdemeanor Appeals)
 - * By court each year by November 1st (the same date as the new reporting requirement)
- * Above information must be reported by attorney with total amount paid to each attorney

County Report – Number of Appointments by Attorney

- * Templates with a standard Excel data format have been provided on Commission website to permit county auditors to complete and then upload the report rather than manually entering the data into the website
- * If attorneys permitted to use paper form then county will need to report attorney practice-time figures

Additional Information

**For questions related to the attorney reporting and plan submission requirements, the judges should contact Deputy Director/Special Counsel Wesley Shackelford wshackelford@tidc.texas.gov
512-936-6997**

IDER

- * The statute (Texas Code of Criminal Procedure Article 26.05 (c)) states that “no payment shall be made under this article until the form for **itemizing** the services performed is submitted to the judge presiding over the proceedings”

IDER

Completing the Report

1. Arrange Information by Court
 - a. Amount Spent
 - b. Cases Disposed on Itemized Invoice
 - c. Other Costs
 - d. Special Considerations (PD, MAC, Contract)
2. Complete Report On-line
 - a. Input Information by Court
 - b. Ignore Case Filing Arrangements in Clerks' Office
 - c. Ensure All Payments are sorted to Statutory Categories
3. Final Review by Stakeholders

The Transaction

1. Qualification (ID Plan and fee schedule)
 - * Defendant was informed of Rights, asked if they want attorney, a record of the response in county
 - * Defendant Requested Counsel
 - * Magistrate or Court Designees determined defendant qualified
2. Legal Authority Appoints Attorney (TLGC §262.022. (6))
3. Service is Rendered (ID Plan and fee schedule)
4. Invoice Submitted By Attorney (TxCCP Art. 26.05)
5. Invoice Approved by Judge (TxCCP Art. 26.05)
6. Invoice Paid (TLGC §113.064)

IDER

- * 4 Items of Costs Mentioned in Statute

- * Attorney Fees
- * Licensed Investigators
- * Expert Witness
- * Other Direct Litigation Costs

- * 2 Types of Systems Mentioned in Statute

- * Private Attorney – Includes Assigned Counsel, Managed Assigned, and Contract Counsel systems
- * Public Defender

- * 4 Types of Courts

- * district, county, statutory county, and appellate court

Grants

Formula Grant

- * Only to Counties
- * Applications Were Due November 15, 2013
- * \$35 Million will be Awarded December 12, 2013
- * \$15 Million will be issued as a special payment to counties represents funds held in FY12 and FY13
- * \$20 Million to be issued in equal quarterly payments

Discretionary

- * Direct Client Services
 - * Managed Assigned Counsel (Tx CCP Art. 26.046)
 - * Public Defender (Tx CCP Art. 26.044)
 - * Specialized Representation
 - * Mental Health
 - * Juvenile
 - * Veterans
 - * ID Process Improvements

Indigent Defense Solutions

- * Funded Bell County in FY11 to develop a Case Management System
- * Eight other counties joined program through the Conference of Urban Counties TechShare program
- * Other counties may join in FY15 through the Discretionary Grant Program
- * Covers all indigent defense processes from intake through invoice
- * Includes report features for IDER