



**Indigent Defense Reporting**  
*AND*  
**Fiscal Monitoring**

<http://tidc.texas.gov>

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**Chair:**  
The Honorable Sharon Keller  
Presiding Judge, Court of Criminal Appeals

**Vice Chair:**  
The Honorable Olen Underwood

**Ex Officio Members:**  
Honorable Sharon Keller  
Honorable Nathan Hecht  
Honorable John Whitmire  
Honorable Royce West  
Honorable Roberto Alonzo  
Honorable Abel Herrero

**Members Appointed by Governor:**  
Honorable Olen Underwood  
Honorable Sherry Radack  
Honorable Jon Burrows  
Honorable B. Glen Whitley  
Honorable Linda Rodriguez  
Mr. Anthony Odiorne  
Mr. Don Hase

**Executive Director:**  
James D. Bethke

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**Commission Membership**

13 Members Serve Ex Officio or  
Appointed by the Governor

- Judges
- County Commissioners/Judges
- Legislators
- Defense Attorneys

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### Our Mission

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.

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### Indigent Defense

- The right to a lawyer for persons accused of crimes and who cannot afford to hire a lawyer
- Constitutional Right - 6<sup>th</sup> Amendment
- Necessary to ensure fairness and protection of rights in our adversarial system of justice

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### Gideon vs. Wainwright

In our adversarial system of criminal justice....

With government "quite properly" spending "vast sums of money to establish machinery to try defendants accused of crime".....you need

..... "procedural and substantive safeguard designed to assure fair trials before impartial tribunals in which defendants stands equal before the law"

"This noble ideal cannot be realized if the poor man charged with crime has to face his accusers without a lawyer to assist him."

Gideon v. Wainwright, 373 US 335 (1963)

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## Fair Defense Act of 2001

1. Set timelines for access to counsel, other standards to ensure fairness
2. Required judges to file and publish plan for providing indigent defense services
3. Created mechanism for (partial) state funding through grants
4. Required auditors to report financial and case information
5. Established Task Force (now Commission)

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### Why did we need the FDA?

Texas Indigent Defense Commission  
(formerly Texas Task Force on Indigent Defense)



Set infrastructure to address issues and implement FDA in 2001

No uniformity in local indigent defense appointment practices

Judges' discretion to select counsel, pay fees and determine who is indigent fueled appearance of cronyism

No consistent standards regarding training and experience

No state funding or oversight

No reporting on budget/performance

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## Main TIDC Responsibilities

*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 req't'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.

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### Formula Grant Eligibility

- Commissioners Court Resolution
- Indigent Defense Plan Compliance
- IDER Compliance
- Address any findings from monitoring

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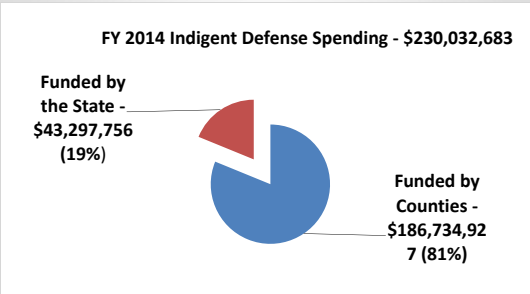
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### TIDC Funding in Context



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### State Funds for Indigent Defense

- In each of the last two legislative sessions the Commission requested large increases in funding.
- Objective: to share indigent defense funding more equally with counties.

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### State Funds for Indigent Defense

This year the Legislature appropriated \$7.5 million over the biennium in General Revenue to TIDC.

A fraction of the request, but an important step.

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### State Funds for Indigent Defense

- Future increases will come in response to county leaders making the case.
  - Commissioners Court Resolutions
  - County officials communicating with their legislators.

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### 3 Types of Reporting to TIDC

1. Indigent Defense Plans
2. Indigent Defense Expenditure Reports (IDER)
3. Attorney Practice Time Reports

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### Indigent Defense Plans

- What: Detailed plan on how indigent defense will be provided. Plans must meet certain requirements.
- Who: Administrative District & County Court Judges, Chair of Juvenile Board
- When: November 1 of every odd-numbered year.

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### Attorney Practice Time Report

- Who: All attorneys who handled indigent defense cases during the fiscal year
- What: Percentage of practice time spent on indigent defense cases
- When: Annually by October 15<sup>th</sup> for work in previous year (October 1 - September 30)

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### Indigent Defense Expenditure Report

- What: Eligible indigent defense expenditures, number of cases paid/disposed and attorney information, reported for each court.
- Who: County Auditors (or Treasurers)
- When: Annually, on November 1

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### Reporting Requirements Added Last Year

- Attorney Practice Time Report
- New Attorney Detail of IDER
  - Case counts and total attorney fees reported for each court
  - A breakdown of figures already included on the report
- No new requirements this year!

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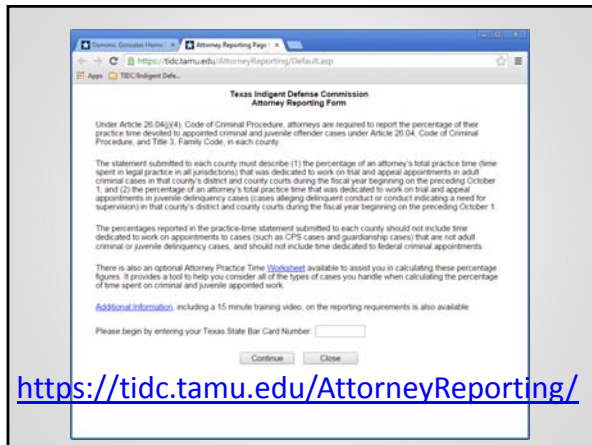
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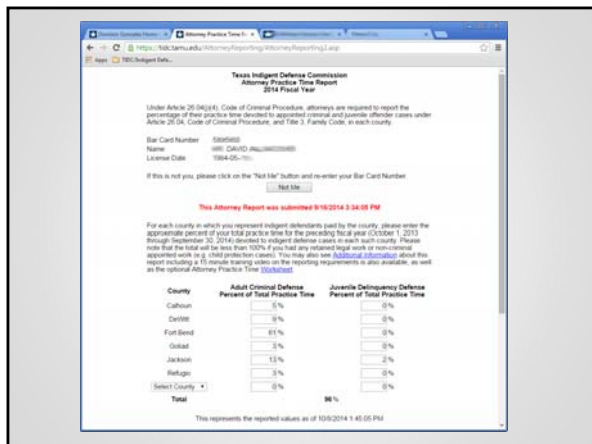
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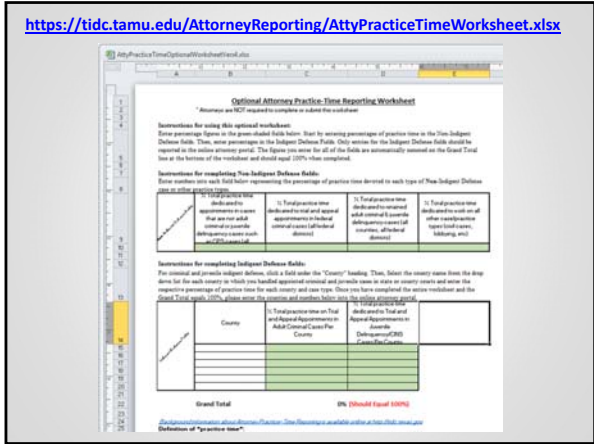
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<https://tidc.tamu.edu/AttorneyReporting/AttyPracticeTimeWorksheet.xlsx>



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## Additional Information

For questions related to the [attorney reporting](#) and plan submission requirements, contact Deputy Director/Special Counsel **Wesley Shackelford**

[wshackelford@tidc.texas.gov](mailto:wshackelford@tidc.texas.gov)  
512-936-6997

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## Payment Records are Basis of the 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 .....
- Invoice must include sufficient detail to allow auditor to prepare the report (type of expense, court, case type, etc.)

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### IDER Eligible Costs

Only Criminal/Juvenile Indigent Defense Costs Are Eligible

- No Civil Law Matters
- Not every case involving juveniles is eligible
  - Only juvenile delinquency, CINS cases
  - Not custody, CPS-related, guardianship or other civil matters.
- Not every court appointed attorney is an eligible indigent defense expense
  - Not special prosecutors, not ad litem attorneys in civil matters.

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### Attorney Detail of Court Expenditure Report

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.

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### Number of Appointments by Attorney

- Attorney level case reports build on existing 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
  - Above information must be reported by attorney with total amount paid to each attorney

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Midwest Indiana Election Report Fiscal Report - Amendment Counts

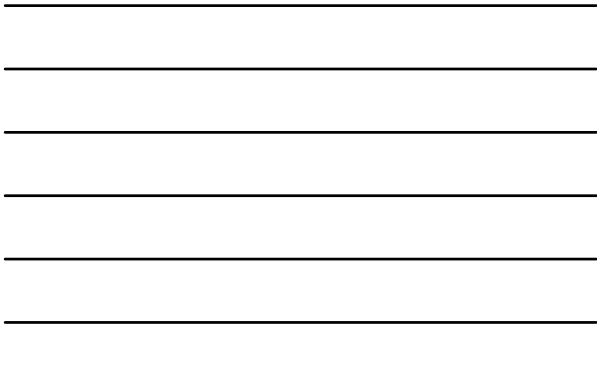
Weekend 1 2014 - Wednesday 31, 2014

Category of Service	Amendment	Count	Amount	Total
<b>Capital Murders</b>				
Amendment Count				
Amendment Fee				
Amendment Report Fee				
<b>Adult Felony Appeals</b>				
Amendment Count				
Amendment Fee				
Amendment Report Fee				
<b>Adult Misdemeanor Appeals</b>				
Amendment Count				
Amendment Fee				
Amendment Report Fee				
<b>Juvenile Appeals</b>				
Amendment Count				
Amendment Fee				
Amendment Report Fee				
<b>Other</b>				
Amendment Count				
Amendment Fee				
Amendment Report Fee				

Provide the total number of cases paid to attorney address amounts in this report by report of the following categories:

Category	Capital Murders	Adult Felony Appeals	Adult Misdemeanor Appeals	Juvenile Appeals	Other
Amendment Count					
Amendment Fee					
Amendment Report Fee					

[Click to add attorney case counts and total paid on Court Attorney Report.](#)



Felony Appeal Cases

Misdemeanor Appeal Cases

Total Cases

[Click to add attorney case counts and total paid on Court Attorney Report.](#)

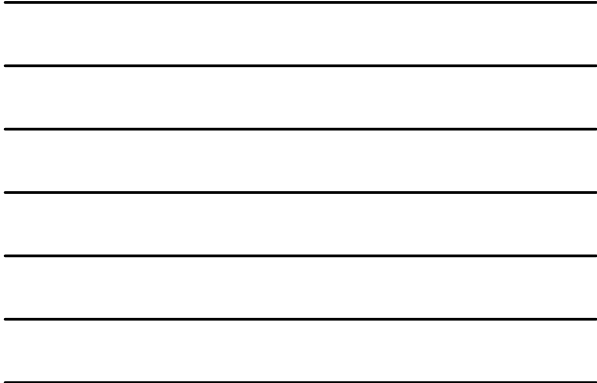
If you are unable to follow the instructions in the IDER manual please check one or more of the boxes:

Cases reported above are based on information from a clerk's office and not associated with the payment information in the attorney fee voucher.

The financial figures are estimates or are for some other reason unreliable.

The case counts are estimates or are for some other reason unreliable.

Notes (Please include any information needed by the Commission related to this report.)



Court Attorney Report for FY14 Anderson County 3rd District Court  
Court ID: 320010003

These pages are being made available early for review. You may enter data, but prior to the start of the fiscal year, all data will be deleted. This will be done before the official data collection process begins. Send a description of any issues or suggestions to [ianbeebe@ipori.tamu.edu](mailto:ianbeebe@ipori.tamu.edu). This page is still undergoing a few minor revisions.

Instructions: Enter a bar card number, the number of cases for each category, and the total amount paid to the attorney. Then click on the "Save" button. The screen will refresh with the name populated based the bar card number. A new line will be provided to enter an additional attorney. Click on "Save" and then click on "Close" when you are done.

Sort by

#	Bar Card	Attorney Name	Juvenile Cases Paid	Capital Murder Cases Paid	Adult Felony Cases Paid	Adult Misdemeanor Cases Paid	Juvenile Appeals Cases Paid	Felony Appeals Cases Paid	Misdemeanor Appeals Cases Paid	Total Paid
1		NATHAN L. HECHT	20							
2		PAUL W. GREEN	0							
3										



**Attorney Detail of  
Court Expenditure Report**

“Total Amount Paid” listed for each attorney should only include attorney fees.

If attorney payments included reimbursements for other expenses, such as investigators, expert witnesses, or other litigation expenses, those should not be included in attorney detail report.

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**How to Reconcile Court Report  
and Attorney Detail**

- Both the aggregate report for the court and the attorney detail portion include case counts and amounts paid.
- The total case counts in the court report may slightly differ from the total number of cases in the attorney detail report.
- The total attorney fees paid in the court report should match the total paid on the attorney detail.

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**Attorney Detail Report Options**

- Web Based Data Entry
- Excel Template with a standard data format provided on Commission website to permit county auditors to complete and then upload the report rather than manually entering the data into the website.

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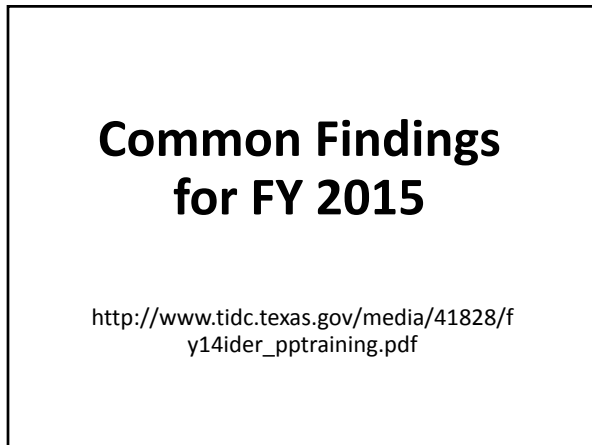
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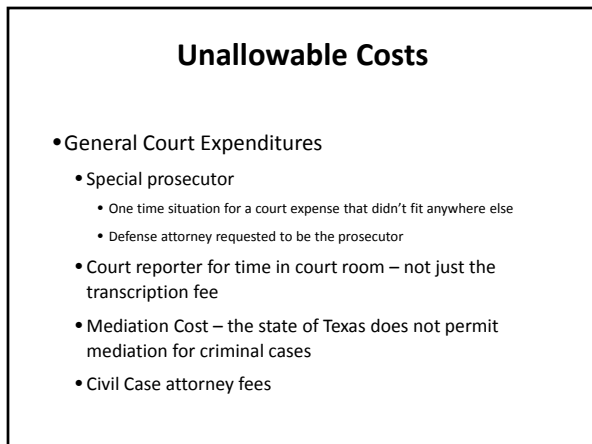
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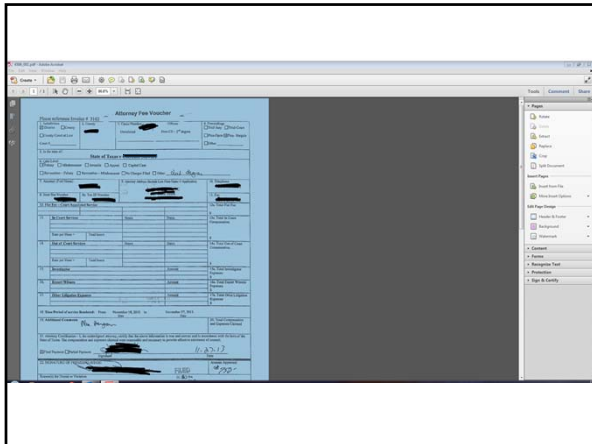
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### Case Counts

- Case Count Errors –
  - Simple math errors
  - No support and unable to duplicate.
- No cases listed on a Mental Health contract invoice
  - For contracted attorney's the voucher must include list of cases disposed for the time period covered by invoice.

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### Fee Schedule

- Vouchers are not paid in accordance with published fee schedule.
  - Fee schedule didn't list fees for certain type cases.
  - Judge routinely added extra "mileage" for certain attorney's. Fee schedule was approved to take in consideration for miles as county was isolated.

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**CLE Hours**

CLE hours were not maintained

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**Reporting Errors**

- Errors/Mis-Categorized
  - New attorney reporting -- I saw case numbers added to other attorneys because the bar card number was not provided.
    - [www.Texasbar.com](http://www.Texasbar.com)
  - Reimbursements to attorneys are included as attorney fees.
    - Supplies and Mileage reimbursements
    - Investigator Fees

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Thank you!

**Edwin Colfax**

**512-463-2508**

**[ecolfax@tidc.texas.gov](mailto:ecolfax@tidc.texas.gov)**

**Debra Stewart**

**512-936-7561**

**[dstewart@tidc.texas.gov](mailto:dstewart@tidc.texas.gov)**

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