

Legislative Appropriations Request

for Fiscal Years 2020 and 2021

**Submitted to the
Office of the Governor, Budget Division,
and the Legislative Budget Board**

by the

Texas Indigent Defense Commission

August 3, 2018

**FY2020–21 Legislative Appropriations Request
Texas Indigent Defense Commission**

Table of Contents

Administrator’s Statement	1
Organizational Chart.....	6
2.A-F Summaries of Request	7
3.A Strategy Request.....	12
3.A.1 Program Level Request Schedule.....	16
3.B Rider Revisions and Additions Request.....	17
4.A-C Requests for Exceptional Items.....	19
6.E Estimated Revenue Collections Supporting Schedule	23
6.I 10 Percent Biennial Base Reductions Option Schedule	24
7.B Direct Administrative and Support Costs.....	27

Administrator's Statement

The Texas Indigent Defense Commission safeguards liberty by ensuring that Texas and its 254 counties provide the right to counsel guaranteed by the United States and Texas Constitutions. TIDC oversees, funds, and improves indigent defense throughout the State of Texas:

(1) **Oversight** (monitoring indigent defense in all 254 counties)

- Indigent Defense Expenditure Reports – Collect, analyze, and publish financial data from 254 counties
- Indigent Defense Plans – Collect, analyze, and publish policies and procedures from 254 counties
- Fiscal Monitoring – Audit financial data in select counties
- Policy Monitoring – Audit constitutional and statutory compliance in select counties
- Complaints – Field complaints from lawyers, judges, and defendants

(2) **Funding** (reimbursing counties that meet constitutional and statutory requirements)

- Formula Grants – Fund a portion of indigent defense representation in all 254 counties
- Discretionary Grants – Fund select projects that improve performance or accountability
- Innocence Program – Fund innocence projects at six Texas law schools

(3) **Improvement** (creating more efficient and effective indigent defense systems)

- Training – Educate lawyers, judges, and magistrates
- Publications – Create guides that help ensure effective and efficient representation
- Presentations – Speak about indigent defense at conferences and events
- Technical Assistance – Serve as a resource to county, regional, and state officials
- Policy – Advise policymakers on legislation and rulemaking

LAR Summary

TIDC requests 1 exceptional item: Restore estimated appropriation authority.

TIDC requests 1 rider revision: Remove TIDC's administrative and FTE caps.

Governing Board

TIDC operates under the direction and supervision of a 13-member governing board:

- The Honorable Sharon Keller, Presiding Judge, Court of Criminal Appeals – Austin (Chair)
- The Honorable Nathan Hecht, Chief Justice, Texas Supreme Court – Austin
- The Honorable John Whitmire, State Senator – Houston
- The Honorable Brandon Creighton, State Senator – Conroe
- The Honorable Andrew Murr, State Representative – Junction
- The Honorable Joe Moody, State Representative – El Paso
- The Honorable Sherry Radack, Chief Justice, Texas First Court of Appeals – Houston
- The Honorable Vivian Torres, Medina County Court at Law Judge – Hondo
- The Honorable Missy Medary, Presiding Judge, Fifth Administrative Judicial Region – Corpus Christi
- Mr. Alex Bunin, Chief Public Defender, Harris County Public Defender – Houston
- Mr. Don Hase, Criminal Defense Lawyer, Tarrant County – Arlington
- The Honorable Jon Burrows, County Judge, Bell County – Temple
- The Honorable Richard Evans, County Judge, Bandera County – Bandera

Significant Changes

- TIDC has helped establish 13 of Texas's 20 public defender offices. These offices offer improved quality, efficiency, data, and accountability. This year, over a dozen more counties have asked TIDC to help establish new offices.
- Civil Rights Corps—the group that filed money bail lawsuits in Harris and Dallas Counties—recently filed an indigent defense lawsuit in Galveston County. It is Civil Rights Corps' first indigent defense lawsuit. The case is pending.
- The number of indigent defendants in Texas has increased 45%, from 324,000 in FY02 to 470,000 in FY17.

Legislative Appropriations Request

TIDC requests 1 exceptional item: Restore estimated appropriation authority.

- The 85th Legislature directed additional general revenue-dedicated to the Fair Defense Account (Fund 5073).¹
- TIDC normally has estimated appropriation authority with regard to the Fund 5073, but its appropriation was capped last session.
- Restoring estimated appropriation authority will allow TIDC to ensure that Texas and its 254 counties meet their constitutional and statutory duties.

TIDC requests 1 rider revision: Remove TIDC's administrative and FTE caps.

- TIDC is subject to OCA's 236-FTE cap, as well as its own 11-FTE cap, an administrative budget cap, and board oversight.
- Other judicial branch commissions are subject only to OCA's cap and board oversight.
- Removing the administrative and 11-FTE caps will align TIDC with similar commissions. It will also allow TIDC to hire 4 FTEs to ensure that Texas and its 254 counties meet their constitutional and statutory duties.

¹ These funds are generated from a consolidated court cost that is collected from criminal defendants under Local Government Code § 133.102. Historically, TIDC was allocated 8.0143% of these court costs. However, TIDC's allocation was increased to 17.8448% because of two events: (1) the Texas Court of Criminal Appeals' decision in *Salinas v. State*; and (2) SB2053, a bill passed by the 85th Legislature. In *Salinas*, the Court of Criminal Appeals held that part of § 133.102 was unconstitutional, where it allocated a portion of the court costs to non-criminal justice purposes. Following the *Salinas* decision, the Legislature passed SB2053, which reallocated that portion of the court costs to the Fair Defense Account. Thus, approximately \$15 million in additional general revenue-dedicated funds are accumulating in the Fair Defense Account each year.

How TIDC Will Use These Funds

(1) Monitoring

- TIDC monitoring is how Texas knows whether its 254 counties comply with state and federal indigent defense laws.
- In 17 years, TIDC has found noncompliance in every county it has monitored and has worked to bring those counties into compliance. At its current rate, it will take TIDC over 20 years to monitor all 254 counties.
- TIDC will add 3 policy analysts to create a 10-year monitoring cycle with timely follow-up visits and swift-and-certain remediation.

(2) System Development

- TIDC has helped establish 13 of Texas's 20 public defender offices, which offer improved quality, data, efficiency, and accountability.
- Over a dozen counties have recently asked TIDC to help build public defender offices.
- TIDC will use funds to hire 1 FTE and incentivize counties to develop public defender offices and other managed systems.

(3) Training and Mentoring

- Training and mentoring enables judges and lawyers to meet constitutional, statutory, and ethical duties.
- There is a critical lack of indigent defense training and mentoring in Texas.
- TIDC will expand magistration and appointment-of-counsel training for judges and justices of the peace.
- TIDC will also work with partners to create rigorous mentoring programs for new defense attorneys.

Office of Capital and Forensic Writs

TIDC also supports the Office of Capital and Forensic Writs' legislative appropriation request.

Percent Biennial Base Reduction Options

TIDC's 10% reduction options are detailed in the LAR submitted by the Office of Court Administration. Each of four 2.5% reductions for Strategy 4-1-1 is for "a proportionate reduction in formula grant and discretionary grant awards across all counties."

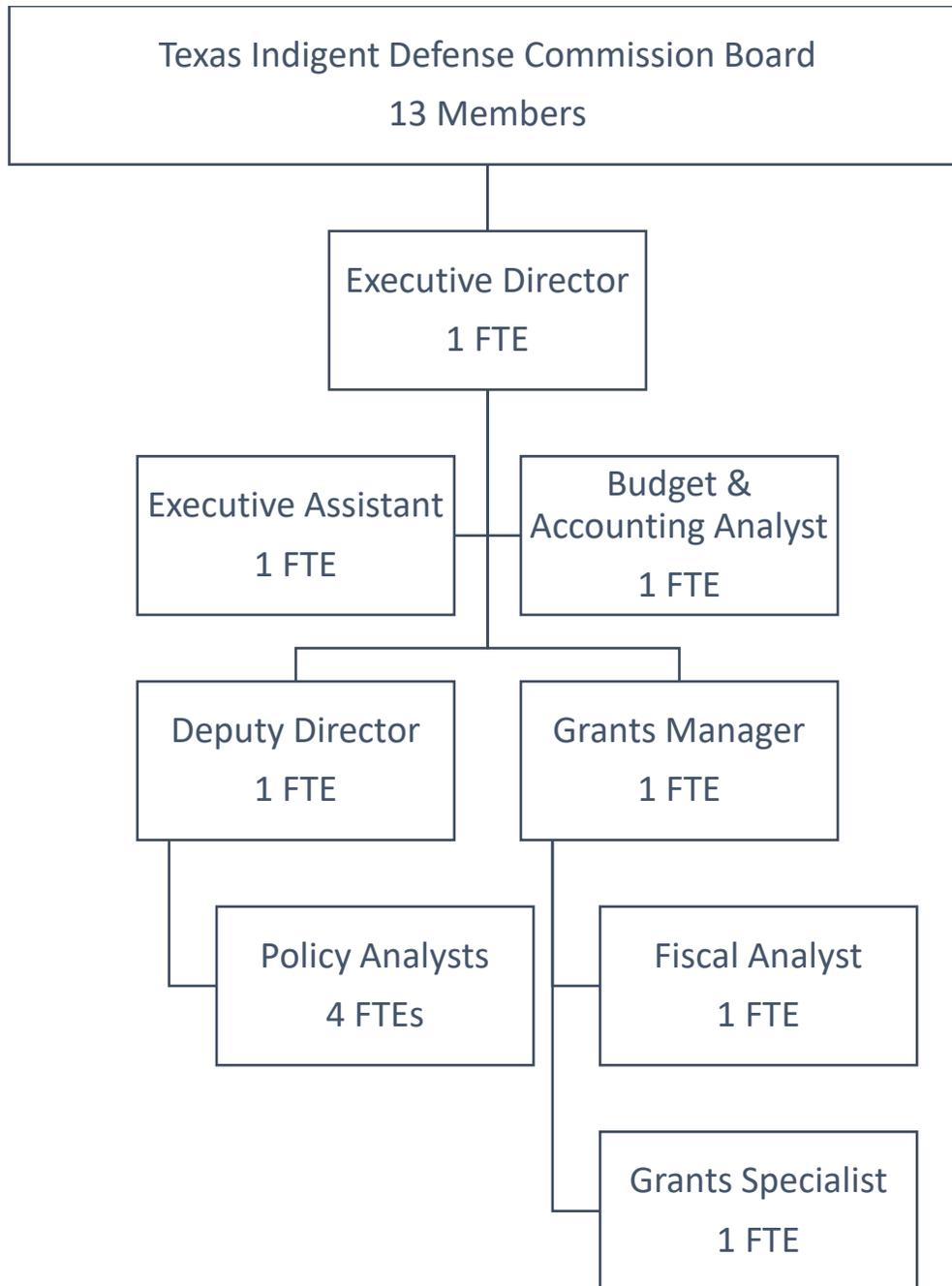
Conclusion

TIDC requests 1 exceptional item: Restore estimated appropriation authority. TIDC also requests 1 rider revision: Remove TIDC's administrative and FTE caps. These requests are limited to TIDC's most basic needs, so that Texas can meet its constitutional and statutory duties. TIDC staff is happy to discuss this request.

Respectfully submitted,

Geoffrey Burkhart

Executive Director, Texas Indigent Defense Commission



Board Composition

Ex Officio Members:

- Presiding Judge of the Court of Criminal Appeals
- Chief Justice of the Supreme Court
- One of the Courts of Appeals Justices serving on the Council who is designated by the governor
- One of the members of the Senate serving on the Council who is designated by the lieutenant governor
- Member of the Senate appointed by the lieutenant governor
- Chair of the House Criminal Jurisprudence Committee
- Member of the House of Representatives appointed by the Speaker of the House
- A county court or statutory county court judge serving on the council who is designated by the governor

Governor Appointments:

- A district judge serving as a presiding judge of an administrative judicial region
- A judge of a constitutional county court or a county commissioner
- A judge of a constitutional county court or a county commissioner of a county with a population of 250,000 or more
- A practicing criminal defense attorney
- A chief public defender in Texas or the chief public defender's designee, who must be an

2.A. SUMMARY OF BASE REQUEST BY STRATEGY
86th Regular Session, Agency Submission, Version 1
Automated Budget and Evaluation System of Texas (ABEST)

212 Texas Indigent Defense Commission, Texas Judicial Council

Goal/Objective/STRATEGY	Exp 2017	Est 2018	Bud 2019	Req 2020	Req 2021
4 Improve Indigent Defense Practices and Procedures					
1 Improve Indigent Defense Practices and Procedures					
1 INDIGENT DEFENSE	\$40,084,407	\$33,688,367	\$32,747,345	\$33,217,856	\$33,217,856
TOTAL, GOAL 4	\$40,084,407	\$33,688,367	\$32,747,345	\$33,217,856	\$33,217,856
TOTAL, STRATEGY REQUEST	\$40,084,407	\$33,688,367	\$32,747,345	\$33,217,856	\$33,217,856
METHOD OF FINANCING					
General Revenue Funds:					
0001	\$4,523,064	\$3,749,929	\$3,750,071	\$3,750,000	\$3,750,000
SUBTOTAL	\$4,523,064	\$3,749,929	\$3,750,071	\$3,750,000	\$3,750,000
General Revenue Dedicated Funds:					
5073 Fair Defense	\$35,561,343	\$29,938,438	\$28,997,274	\$29,467,856	\$29,467,856
SUBTOTAL	\$35,561,343	\$29,938,438	\$28,997,274	\$29,467,856	\$29,467,856
TOTAL, METHOD OF FINANCING	\$40,084,407	\$33,688,367	\$32,747,345	\$33,217,856	\$33,217,856

2.B. SUMMARY OF BASE REQUEST BY METHOD OF FINANCE
86th Regular Session, Agency Submission, Version 1
Automated Budget and Evaluation System of Texas (ABEST)

212 Texas Indigent Defense Commission, Texas Judicial Council

METHOD OF FINANCE	Exp 2017	Est 2018	Bud 2019	Req 2020	Req 2021
GENERAL REVENUE FUND					
0001 General Revenue					
<i>REGULAR APPROPRIATIONS:</i>					
Regular Appropriations from MOF Table (2016-17 GAA)	\$3,750,000	\$0	\$0	\$0	\$0
Regular Appropriations from MOF Table (2018-19 GAA)		\$3,750,000	\$3,750,000		
Regular Appropriations from MOF Table (2020-21 GAA)				\$3,750,000	\$3,750,000
<i>UNEXPENDED BALANCES AUTHORITY:</i>					
Art IX, Sec 14.05, UB Authority within the Same Biennium (2016-17 GAA)	\$773,064				
Art IX, Sec 14.05, UB Authority within the Same Biennium (2018-19 GAA)		(\$71)	\$71		
	\$0	\$0	\$0		
TOTAL General Revenue Fund - 0001	\$4,523,064	\$3,749,929	\$3,750,071	\$3,750,000	\$3,750,000
GENERAL REVENUE FUND - DEDICATED					
5073 GR Dedicated - Fair Defense Account No. 5073					
<i>REGULAR APPROPRIATIONS:</i>					
Regular Appropriations from MOF Table (2016-17 GAA)	\$31,859,376	\$0	\$0		
Regular Appropriations from MOF Table (2018-19 GAA)	\$0	\$30,043,124	\$28,892,588		
Regular Appropriations from MOF Table (2020-21 GAA)				\$29,467,856	\$29,467,856
<i>RIDER APPROPRIATION:</i>					
Art. IV, OCA Rider 8, Revised Receipts (2016-17 GAA)	\$3,178,643	\$0	\$0		
<i>TRANSFERS:</i>					
Art. IX, Sec. 17.06 Salary Increase for General State Employees (2016-17 GAA)	\$15,206	\$0	\$0	\$0	\$0
<i>UNEXPENDED BALANCES AUTHORITY:</i>					
Art IX, Sec 14.05, UB Authority within the Same Biennium (2016-17 GAA)	\$508,118	\$0	\$0	\$0	\$0
Art IX, Sec 14.05, UB Authority within the Same Biennium (2018-19 GAA)	\$0	(\$104,686)	\$104,686	\$0	\$0
TOTAL GR Dedicated - Fair Defense Account No. 5073	\$35,561,343	\$29,938,438	\$28,997,274	\$29,467,856	\$29,467,856
GRAND TOTAL	\$40,084,407	\$33,688,367	\$32,747,345	\$33,217,856	\$33,217,856

2.C. SUMMARY OF BASE REQUEST BY OBJECT OF EXPENSE

86th Regular Session, Agency Submission, Version 1
 Automated Budget and Evaluation System of Texas (ABEST)

212 Texas Indigent Defense Commission, Texas Judicial Council

OBJECT OF EXPENSE	Exp 2017	Est 2018	Bud 2019	Req 2020	Req 2021
1001 Salaries & Wages	\$847,642	\$875,535	\$875,535	\$875,535	\$875,535
1002 Other Personnel Costs	\$41,452	\$17,688	\$17,688	\$17,688	\$17,688
2001 Professional Fees & Services	\$209	\$50,447	\$447	\$447	\$447
2003 Consumables	\$1,555	\$1,500	\$2,500	\$2,500	\$2,500
2004 Utilities	\$2,250	\$2,312	\$3,380	\$3,380	\$3,380
2005 Travel	\$33,746	\$39,000	\$38,000	\$38,000	\$38,000
2006 Rent- Building	\$320	\$1,020	\$620	\$620	\$620
2007 Rent-Machine & Other	\$1,673	\$2,929	\$2,929	\$2,929	\$2,929
2009 Other Operating Expense	\$716,395	\$867,685	\$943,889	\$893,889	\$893,889
4000 Grants	\$38,439,165	\$31,830,251	\$30,862,357	\$31,382,868	\$31,382,868
OOE Total (Excluding Riders)	\$40,084,407	\$33,688,367	\$32,747,345	\$33,217,856	\$33,217,856
OOE Total (Riders)					
Grand Total	\$40,084,407	\$33,688,367	\$32,747,345	\$33,217,856	\$33,217,856

2.E. SUMMARY OF EXCEPTIONAL ITEMS REQUEST
86th Regular Session, Agency Submission, Version 1
Automated Budget and Evaluation System of Texas (ABEST)

212 Texas Indigent Defense Commission, Texas Judicial Council

Priority	Item	2020			2021			Biennium		
		GR and GR Dedicated	All Funds	FTEs	GR and GR Dedicated	All Funds	FTEs	GR and GR Dedicated	All Funds	
1	TIDC - Restore Estimated Revenue Auth	\$41,365,864	\$41,365,864	4.0	\$15,000,000	\$15,000,000	4.0	\$56,365,864	\$56,365,864	
			\$0			\$0		\$0	\$0	
			\$0			\$0		\$0	\$0	
			\$0			\$0		\$0	\$0	
Total, Exceptional Items Request		\$41,365,864	\$41,365,864	4.0	\$15,000,000	\$15,000,000	4.0	\$56,365,864	\$56,365,864	
Method of Financing										
	General Revenue	\$0	\$0		\$0	\$0		\$0	\$0	
	General Revenue -Dedicated	\$41,365,864	\$41,365,864		\$15,000,000	\$15,000,000		\$56,365,864	\$56,365,864	
		\$41,365,864	\$41,365,864		\$15,000,000	\$15,000,000		\$56,365,864	\$56,365,864	
Full Time Equivalent Positions				4.0				4.0		
Number of 100% Federally Funded FTEs				0.0				0.0		

2.F. SUMMARY OF TOTAL REQUEST BY STRATEGY
 86th Regular Session, Agency Submission, Version 1
 Automated Budget and Evaluation System of Texas (ABEST)

212 Texas Indigent Defense Commission, Texas Judicial Council

Goal/Objective/STRATEGY	Base 2020	Base 2021	Exceptional 2020	Exceptional 2021	Total Request 2020	Total Request 2021
4 Improve Indigent Defense Practices and Procedures						
1 <i>Improve Indigent Defense Practices and Procedures</i>						
1 INDIGENT DEFENSE	\$33,217,856	\$33,217,856	\$41,365,864	\$15,000,000	\$74,583,720	\$48,217,856
TOTAL, GOAL 4	\$33,217,856	\$33,217,856	\$41,365,864	\$15,000,000	\$74,583,720	\$48,217,856
TOTAL, STRATEGY REQUEST	\$33,217,856	\$33,217,856	\$41,365,864	\$15,000,000	\$74,583,720	\$48,217,856

3.A. Strategy Request
 86th Regular Session, Agency Submission, Version 1
 Automated Budget and Evaluation System of Texas (ABEST)

8/3/2018 11:36:16AM

212 Office of Court Administration, Texas Judicial Council

GOAL: 4 Improve Indigent Defense Practices and Procedures
 OBJECTIVE: 1 Improve Indigent Defense Practices and Procedures
 STRATEGY: 1 Improve Indigent Defense Practices and Procedures

Service Categories:

Service: 07 Income: NA Age: NA

CODE	DESCRIPTION	Exp 2017	Est 2018	Bud 2019	BL 2020	BL 2021
Output Measures:						
KEY 1	Number of Site Visits, Trainings, and Reports Issued	71.00	80.00	80.00	80.00	80.00
KEY 2	Percentage of Counties Receiving State Funds for Indigent Defense	100.00 %	98.00 %	98.00 %	98.00 %	98.00 %
Objects of Expense:						
1001	SALARIES AND WAGES	\$847,642	\$875,535	\$875,535	\$875,535	\$875,535
1002	OTHER PERSONNEL COSTS	\$41,452	\$17,688	\$17,688	\$17,688	\$17,688
2001	PROFESSIONAL FEES AND SERVICES	\$209	\$50,447	\$447	\$447	\$447
2003	CONSUMABLE SUPPLIES	\$1,555	\$1,500	\$2,500	\$2,500	\$2,500
2004	UTILITIES	\$2,250	\$2,312	\$3,380	\$3,380	\$3,380
2005	TRAVEL	\$33,746	\$39,000	\$38,000	\$38,000	\$38,000
2006	RENT - BUILDING	\$320	\$1,020	\$620	\$620	\$620
2007	RENT - MACHINE AND OTHER	\$1,673	\$2,929	\$2,929	\$2,929	\$2,929
2009	OTHER OPERATING EXPENSE	\$716,396	\$867,685	\$943,889	\$893,889	\$893,889
4000	GRANTS	\$38,439,164	\$31,830,251	\$30,862,357	\$31,382,868	\$31,382,868
TOTAL, OBJECT OF EXPENSE		\$40,084,407	\$33,688,367	\$32,747,345	\$33,217,856	\$33,217,856

Method of Financing:

212 Office of Court Administration, Texas Judicial Council

GOAL: 4 Improve Indigent Defense Practices and Procedures
 OBJECTIVE: 1 Improve Indigent Defense Practices and Procedures
 STRATEGY: 1 Improve Indigent Defense Practices and Procedures

Service Categories:

Service: 07 Income: NA Age: NA

CODE	DESCRIPTION	Exp 2017	Est 2018	Bud 2019	BL 2020	BL 2021
1	General Revenue Fund	\$4,523,064	\$3,749,929	\$3,750,071	\$3,750,000	\$3,750,000
SUBTOTAL, MOF (GENERAL REVENUE FUNDS)		\$4,523,064	\$3,749,929	\$3,750,071	\$3,750,000	\$3,750,000
Method of Financing:						
5073	Fair Defense	\$35,561,343	\$29,938,438	\$28,997,274	\$29,467,856	\$29,467,856
SUBTOTAL, MOF (GENERAL REVENUE FUNDS - DEDICATED)		\$35,561,343	\$29,938,438	\$28,997,274	\$29,467,856	\$29,467,856
TOTAL, METHOD OF FINANCE (INCLUDING RIDERS)					\$33,217,856	\$33,217,856
TOTAL, METHOD OF FINANCE (EXCLUDING RIDERS)		\$40,084,407	\$33,688,367	\$32,747,345	\$33,217,856	\$33,217,856
FULL TIME EQUIVALENT POSITIONS:		11.0	11.0	11.0	11.0	11.0
STRATEGY DESCRIPTION AND JUSTIFICATION:						

212 Office of Court Administration, Texas Judicial Council

GOAL:	4	Improve Indigent Defense Practices and Procedures	
OBJECTIVE:	1	Improve Indigent Defense Practices and Procedures	Service Categories:
STRATEGY:	1	Improve Indigent Defense Practices and Procedures	Service: 07 Income: NA Age: NA

CODE	DESCRIPTION	Exp 2017	Est 2018	Bud 2019	BL 2020	BL 2021
------	-------------	----------	----------	----------	---------	---------

The Texas Indigent Defense Commission (TIDC) safeguards liberty by ensuring that Texas and its counties provide the right to counsel guaranteed by Article 1 of the Texas Constitution and the Sixth Amendment to the United States Constitution. TIDC oversees, funds, and improves indigent defense throughout the State of Texas:

- (1) Oversight (monitoring indigent defense in all 254 counties)
 - Indigent Defense Expenditure Reports – Collect, analyze, and publish financial data from 254 counties
 - Indigent Defense Plans – Collect, analyze, and publish policies and procedures from 254 counties
 - Fiscal Monitoring – Audit financial data in select counties
 - Policy Monitoring – Audit constitutional and statutory compliance in select counties
- (2) Funding (reimbursing counties that meet constitutional and statutory requirements)
 - Formula Grants – Fund a portion of indigent defense representation in each county
 - Discretionary Grants – Fund select projects that improve performance or accountability
 - Innocence Program – Fund innocence projects at six Texas law schools
- (3) Improvement (creating more efficient and effective indigent defense systems)
 - Training – Educate lawyers, judges, and magistrates
 - Publications – Create guides that help ensure effective and efficient representation
 - Presentations – Speak about indigent defense at conferences and events
 - Technical Assistance – Serve as a resource to county, regional, and state officials
 - Policy – Advise policymakers on legislation and rulemaking

TIDC is administratively attached to the Office of Court Administration.

212 Office of Court Administration, Texas Judicial Council

GOAL: 4 Improve Indigent Defense Practices and Procedures
 OBJECTIVE: 1 Improve Indigent Defense Practices and Procedures Service Categories:
 STRATEGY: 1 Improve Indigent Defense Practices and Procedures Service: 07 Income: NA Age: NA

CODE	DESCRIPTION	Exp 2017	Est 2018	Bud 2019	BL 2020	BL 2021
------	-------------	----------	----------	----------	---------	---------

EXTERNAL/INTERNAL FACTORS IMPACTING STRATEGY:

Three external factors affect TIDC’s current and future strategy funding. First, TIDC’s target population is rising: the number of indigent defendants in Texas has increased 45%, from 324,000 in FY02 to 470,000 in FY17. Second, pending litigation may affect the cost of indigent defense: Civil Rights Corps—the group that filed money bail lawsuits in Harris and Dallas Counties—recently filed an indigent defense lawsuit in Galveston County, alleging that practices in that county violate the United States Constitution. Third, Texas counties’ demand for TIDC’s assistance in building public defender offices and other managed systems is on the rise, including over a dozen recent requests.

Three internal factors affect TIDC’s current and future strategy funding. First, in addition to being subject to OCA’s 236-FTE cap, TIDC is subject to an 11-FTE cap and an administrative budget cap. These restrictions hinder TIDC’s ability to fulfill its mission. Second, TIDC’s budget is largely dependent upon court costs collected under § 133.102. Court cost revenues are declining by approximately 2% each year. Third, while TIDC can demonstrate marked improvements in indigent defense provision, it continues to document persistent systemic deficiencies in each new county it monitors.

EXPLANATION OF BIENNIAL CHANGE (includes Rider amounts):

<u>STRATEGY BIENNIAL TOTAL - ALL FUNDS</u>		<u>BIENNIAL</u>	<u>EXPLANATION OF BIENNIAL CHANGE</u>	
Base Spending (Est 2018 + Bud 2019)	Baseline Request (BL 2020 + BL 2021)	CHANGE	\$ Amount	Explanation(s) of Amount (must specify MOFs and FTEs)
\$66,435,712	\$66,435,712	\$0	\$0	Total of Explanation of Biennial Change

3.A.1. PROGRAM-LEVEL REQUEST SCHEDULE
 86th Regular Session, Agency Submission, Version 1
 Automated Budget and Evaluation System of Texas (ABEST)

Agency Code: 212		Agency: Texas Indigent Defense Commission (OCA)				Prepared By: Jennifer Henry					
Date:						18-19	Requested	Requested	Biennial	Biennial Difference	
Goal	Goal Name	Strategy	Strategy Name	Program	Program Name	Base	2020	2021	Total 20-21	\$	%
	Improve Indigent Defense										
D	Practices and Procedures	D.1.1.	TX Indigent Defense Commission	D.1.1.1.	TX Indigent Defense Commission	\$66,435,712	\$33,217,856	\$33,217,856	\$66,435,712	\$0	0.0%
			Exceptional Item	D.1.1.2.	E.I. #1-Restore Estimated Appropriation Authority	\$0	\$41,365,864	\$15,000,000	\$56,365,864	\$56,365,864	

Agency Code: 212	Agency Name: Office of Court Administration, Texas Indigent Defense Commission	Prepared By: Sharon Whitfield	Date: 8/3/18	Request Level: Baseline
----------------------------	---	---	------------------------	-----------------------------------

Current Rider Number	Page Number in 2018-19 AA	Proposed Rider Language
-----------------------------	----------------------------------	--------------------------------

1

IV-25

Performance Measure Targets

D. Goal: INDIGENT DEFENSE

D.1.1. Strategy: TX INDIGENT DEFENSE COMM

Output (Volume):

Number of ~~Fiscal and Policy Monitoring~~ Site Visits, ~~Technical Support Visits, and Trainings Conducted Yearly~~ and Reports Issued

80

80

Percentage of Counties Receiving State ~~Funds~~ Grants for Indigent Defense

98%

98%

Updating titles.

8

IV-26

Texas Indigent Defense Commission (TIDC).⁵ ~~Amounts appropriated above from the General Revenue Dedicated Fair Defense Account No. 5073 in Strategy D.1.1., Texas Indigent Defense Commission, includes \$1,164,988 and 11.00 FTEs in fiscal year 2018 and \$1,164,988 and 11.0 FTEs in fiscal year 2019 for the administration of the Commission. Included in amounts appropriated above from the General Revenue-Dedicated Fair Defense Account No. 5073 are court costs pursuant to Code of Criminal Procedure, Art. 102.0045, Fee for Jury Reimbursement to Counties (estimated to be \$6,200,000~~6,100,000 in fiscal year ~~2018~~2020 and ~~\$6,200,000~~6,100,000 in fiscal year ~~2019~~2021). In addition to the amounts appropriated above in Strategy D.1.1., Texas Indigent Defense Commission, are all unobligated and unexpended balances remaining in the General Revenue Fair Defense Account No. 5073 as of August 31, 2019 (estimated to be \$26.3 million). Any amounts deposited in excess of \$29,467,856 in fiscal year 2020 and \$29,467,856 in fiscal year 2021 are hereby appropriated to the Office of Court Administration, Texas Judicial Council, in Strategy D.1.1., Texas Indigent Defense Commission, to assist counties in the improvement of indigent defense.

~~Out of the amounts appropriated above, TIDC shall make grants to counties from the General Revenue-Dedicated Fair Defense Account No. 5073 in accordance with all uses authorized by Government Code, Chapter 79, with funds being disbursed by the Comptroller. Of this amount, \$2,566,528 in fiscal year 2018~~2020 and ~~\$2,474,370 in fiscal year 2019~~2021 shall be distributed to counties that implement cost

containment initiatives designed to limit local indigent defense cost increases. No portion of the appropriation made by this section shall be used to offset the Office of Court Administration's administrative support provided to TIDC except by mutual agreement of TIDC and the Office of Court Administration.

TIDC shall submit a report to the Legislature no later than December 1, ~~2020~~, detailing the effectiveness of various cost containment measures implemented by counties and proposing additional measures to reduce county operating costs with respect to indigent defense.

TIDC requests removal of the language regarding administration of the Commission. TIDC staffing is already subject to the Office of Court Administration's 236-FTE cap, as well as to approval by TIDC's Board. By further restricting staffing and administration, the language hinders TIDC's ability to efficiently and effectively manage its program, including its ability to monitor counties that receive state funds to ensure financial accountability and compliance with state and federal law. Removal of the language will create consistency with two similar OCA-attached commissions: The Forensic Science Commission and the Judicial Branch Certification Commission. TIDC also requests addition of language to ensure that it has access to all funds collected for the purpose of indigent defense that are not allocated to the Office of Capital and Forensic Writs. The Fee for Jury Reimbursement to Counties revenue estimate has been updated to reflect recent historical trends.

11

IV-26

Innocence Projects. Out of amounts appropriated above in Strategy D.1.1., Texas Indigent Defense Commission, \$600,000 in each year of the biennium from the General Revenue-Dedicated Fair Defense Account No. 5073 shall be used by the Commission to contract with law schools at the University of Houston, the University of Texas, Texas Tech University, Texas Southern University, University of North Texas and Texas A&M University 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 pursue relief for defendants with credible claims of actual innocence and shall not be used for legal clinic expenses, teaching and student supervision. The amount of each contract with each university shall be \$100,000. Any unobligated and unexpended balances remaining from the \$600,000 in funds designated for innocence projects as of August 31, ~~2018~~~~2020~~ are appropriated to Strategy D.1.1., Texas Indigent Defense Commission, for the same purpose for the fiscal year beginning September 1, ~~2018~~~~2021~~.

Updating dates.

4.A. Exceptional Item Request Schedule
 86th Regular Session, Agency Submission, Version 1
 Automated Budget and Evaluation System of Texas (ABEST)

DATE: **8/3/2018**
 TIME: **11:17:05AM**

Agency code: **212**

Agency name: **Office of Court Administration, Texas Judicial Council**

CODE	DESCRIPTION	Excp 2020	Excp 2021
	Item Name: Restore Estimated Appropriation Authority		
	Item Priority: 7		
	IT Component: No		
	Anticipated Out-year Costs: Yes		
	Involve Contracts > \$50,000: No		
	Includes Funding for the Following Strategy or Strategies: 04-01-01 Improve Indigent Defense Practices and Procedures		
 OBJECTS OF EXPENSE:			
1001	SALARIES AND WAGES	295,000	295,000
1002	OTHER PERSONNEL COSTS	1,440	1,440
2003	CONSUMABLE SUPPLIES	1,600	1,600
2004	UTILITIES	1,400	1,400
2005	TRAVEL	24,000	24,000
2009	OTHER OPERATING EXPENSE	508,000	508,000
4000	GRANTS	40,534,424	14,168,560
	TOTAL, OBJECT OF EXPENSE	\$41,365,864	\$15,000,000
 METHOD OF FINANCING:			
5073	Fair Defense	41,365,864	15,000,000
	TOTAL, METHOD OF FINANCING	\$41,365,864	\$15,000,000
	FULL-TIME EQUIVALENT POSITIONS (FTE):	4.00	4.00

DESCRIPTION / JUSTIFICATION:

TIDC requests 1 exceptional item: Restore estimated appropriation authority. The 85th Legislature directed additional revenue to the Fair Defense Account (Fund 5073). TIDC normally has estimated appropriation authority with regard to the Fair Defense Account, but its appropriation was capped last session. Restoring estimated appropriation authority will allow TIDC to ensure that Texas and its 254 counties meet their constitutional, statutory, and financial duties and that funds collected for the purpose of indigent defense are used for that purpose. Approximately \$15 million in additional general revenue-dedicated funds are collecting in the Fair Defense Account each year. Of these funds, approximately \$295,000 will be used to hire 4 additional positions, including 3 policy analysts to enhance TIDC's ability to monitor counties' constitutional, statutory, and financial compliance, and 1 senior staff member dedicated to working with counties to improve indigent defense by planning and developing public defender and other managed systems that improve quality, data, efficiency, and accountability. Approximately \$11 million will be devoted to building and sustaining these public defender and managed systems. The remaining grant funds will be distributed via TIDC formula grants. TIDC's 13-member Board will oversee grant distribution.

EXTERNAL/INTERNAL FACTORS:

These funds are generated from a consolidated court cost that is collected from criminal defendants under § 133.102. Historically, TIDC was allocated 8.0143% of these court costs. However, TIDC's allocation was increased to 17.8448% because of two events: (1) the Texas Court of Criminal Appeals' decision in Salinas v. State; and (2) SB2053, a bill passed by the 85th Legislature. In Salinas, the Court of Criminal Appeals held that part of § 133.102 was unconstitutional, where it allocated a portion of the court costs to

4.A. Exceptional Item Request Schedule
 86th Regular Session, Agency Submission, Version 1
 Automated Budget and Evaluation System of Texas (ABEST)

DATE: **8/3/2018**
 TIME: **11:17:05AM**

Agency code: **212**

Agency name:
Office of Court Administration, Texas Judicial Council

<u>CODE</u>	<u>DESCRIPTION</u>	<u>Excp 2020</u>	<u>Excp 2021</u>
-------------	--------------------	------------------	------------------

non-criminal justice purposes. Following the Salinas decision, the Legislature passed SB2053, which reallocated that portion of the court costs to the Fair Defense Account. Thus, approximately \$15 million in additional general revenue-dedicated funds are accumulating in the Fair Defense Account each year. TIDC shares the Fair Defense Account with the Office of Capital and Forensic Writs (OCFW), which receives a sum certain appropriation from the Fair Defense Account. TIDC supports OCFW's LAR. Restoring TIDC's estimated appropriation authority will not affect OCFW's sum certain appropriation.

PCLS TRACKING KEY:

DESCRIPTION OF ANTICIPATED OUT-YEAR COSTS :

Restoration of funding would continue to be available for grants in the out years.

ESTIMATED ANTICIPATED OUT-YEAR COSTS FOR ITEM:

<u>2022</u>	<u>2023</u>	<u>2024</u>
\$15,000,000	\$15,000,000	\$15,000,000

4.B. Exceptional Items Strategy Allocation Schedule
 86th Regular Session, Agency Submission, Version 1
 Automated Budget and Evaluation System of Texas (ABEST)

DATE: 8/3/2018
 TIME: 11:18:39AM

Agency code: **212** Agency name: **Office of Court Administration, Texas Judicial Council**

Code	Description	Excp 2020	Excp 2021
Item Name:		Restore Estimated Appropriation Authority	
Allocation to Strategy:		4-1-1	Improve Indigent Defense Practices and Procedures
OUTPUT MEASURES:			
<u>1</u>	Number of Site Visits, Trainings, and Reports Issued	25.00	25.00
OBJECTS OF EXPENSE:			
1001	SALARIES AND WAGES	295,000	295,000
1002	OTHER PERSONNEL COSTS	1,440	1,440
2003	CONSUMABLE SUPPLIES	1,600	1,600
2004	UTILITIES	1,400	1,400
2005	TRAVEL	24,000	24,000
2009	OTHER OPERATING EXPENSE	508,000	508,000
4000	GRANTS	40,534,424	14,168,560
TOTAL, OBJECT OF EXPENSE		\$41,365,864	\$15,000,000
METHOD OF FINANCING:			
5073	Fair Defense	41,365,864	15,000,000
TOTAL, METHOD OF FINANCING		\$41,365,864	\$15,000,000
FULL-TIME EQUIVALENT POSITIONS (FTE):		4.0	4.0

4.C. Exceptional Items Strategy Request
 86th Regular Session, Agency Submission, Version 1
 Automated Budget and Evaluation System of Texas (ABEST)

DATE: 8/3/2018
TIME: 11:19:48AM

Agency Code: **212** Agency name: **Office of Court Administration, Texas Judicial Council**

GOAL: 4 Improve Indigent Defense Practices and Procedures

OBJECTIVE: 1 Improve Indigent Defense Practices and Procedures

STRATEGY: 1 Improve Indigent Defense Practices and Procedures

Service Categories:

Service: 07 Income: NA Age: NA

CODE DESCRIPTION	Exp 2020	Exp 2021
-------------------------	-----------------	-----------------

OUTPUT MEASURES:

1 Number of Site Visits, Trainings, and Reports Issued	25.00	25.00
---	-------	-------

OBJECTS OF EXPENSE:

1001 SALARIES AND WAGES	295,000	295,000
1002 OTHER PERSONNEL COSTS	1,440	1,440
2003 CONSUMABLE SUPPLIES	1,600	1,600
2004 UTILITIES	1,400	1,400
2005 TRAVEL	24,000	24,000
2009 OTHER OPERATING EXPENSE	508,000	508,000
4000 GRANTS	40,534,424	14,168,560
Total, Objects of Expense	\$41,365,864	\$15,000,000

METHOD OF FINANCING:

5073 Fair Defense	41,365,864	15,000,000
Total, Method of Finance	\$41,365,864	\$15,000,000

FULL-TIME EQUIVALENT POSITIONS (FTE):

4.0	4.0
-----	-----

EXCEPTIONAL ITEM(S) INCLUDED IN STRATEGY:

Restore Estimated Appropriation Authority

6.E. Estimated Revenue Collections Supporting Schedule
86th Regular Session, Agency Submission, Version 1
Automated Budget and Evaluation System of Texas (ABEST)

Agency Code: **212** Agency name: **Office of Court Administration, Texas Judicial Council**

FUND/ACCOUNT	Act 2017	Exp 2018	Exp 2019	Bud 2020	Est 2021
5073 Fair Defense					
Beginning Balance (Unencumbered):	\$3,044,234	\$0	\$12,956,371	\$26,365,864	\$38,825,443
Estimated Revenue:					
3195 Additional Legal Services Fee	2,402,594	2,402,594	2,402,594	2,402,594	2,402,594
3704 Court Costs	23,840,536	34,329,808	33,865,893	33,413,112	32,971,198
3858 Bail Bond Surety Fees	2,103,340	1,923,507	1,896,578	1,870,026	1,834,846
3972 Other Cash Transfers Between Funds	6,127,585	6,100,000	6,100,000	6,100,000	6,100,000
Subtotal: Actual/Estimated Revenue	34,474,055	44,755,909	44,265,065	43,785,732	43,308,638
Total Available	\$37,518,289	\$44,755,909	\$57,221,436	\$70,151,596	\$82,134,081
DEDUCTIONS:					
Expended/Budgeted/Requested - Baseline TIDC	(35,561,343)	(29,938,438)	(28,997,274)	(29,467,856)	(29,467,856)
Expended/Budgeted/Requested - Baseline OCFW	(1,437,590)	(1,337,585)	(1,337,586)	(1,337,585)	(1,337,585)
Transfer - Employee Benefits - TIDC	(228,251)	(268,930)	(268,930)	(268,930)	(268,930)
Transfer - Employee OCFW	(291,105)	(254,585)	(251,782)	(251,782)	(251,782)
Total, Deductions	\$(37,518,289)	\$(31,799,538)	\$(30,855,572)	\$(31,326,153)	\$(31,326,153)
Ending Fund/Account Balance	\$0	\$12,956,371	\$26,365,864	\$38,825,443	\$50,807,928

REVENUE ASSUMPTIONS:

Local Government Code Section 133.102 allocates collected court costs to several accounts, including the Fair Defense Account (Fund 5073). Two recent events affect the revenue TIDC receives from court costs. First, the court costs collected and allocated under Local Government Code § 133.102 are declining at a rate of approximately 2% per year. Second, the percentage of court costs allocated to the Fair Defense Account has increased from 8.0143% to 17.8448%. The increased percentage is the result of two things: (1) the Court of Criminal Appeals' decision in *Salinas v. State*; and (2) SB2053, a bill passed by the 85th Legislature. In *Salinas v. State*, the Texas Court of Criminal Appeals held that part of Local Government Code § 133.102 was unconstitutional, where it allocated a portion of the collected court costs for non-criminal justice purposes. Following the *Salinas* decision, in SB2053, the Legislature reallocated that portion of the court costs to the Fair Defense Account. TIDC's appropriation was capped last session, but these funds continue to accumulate in the Fair Defense Account. TIDC shares the Fair Defense Account with the Office of Capital and Forensic Writs (OCFW), which receives a sum certain from Fund 5073. TIDC supports OCFW's LAR. Restoring TIDC's estimated appropriation authority will not affect OCFW's sum certain appropriation.

6.I. Percent Biennial Base Reduction Options

10 % REDUCTION

86th Regular Session, Agency Submission, Version 1
Automated Budget and Evaluation System of Texas (ABEST)

Date: 8/3/2018
Time: 11:23:42AM

Agency code: 212 Agency name: Office of Court Administration, Texas Judicial Council

Item Priority and Name/ <u>Method of Financing</u>	REVENUE LOSS			REDUCTION AMOUNT			PROGRAM AMOUNT		TARGET
	2020	2021	Biennial Total	2020	2021	Biennial Total	2020	2021	Biennial Total
1 2.5% Reduction in TIDC Grant Awards									
Category: Programs - Service Reductions (Contracted)									
Item Comment: TIDC will make a proportionate reduction in formula grant and discretionary grant awards across all counties.									
Strategy: 4-1-1 Improve Indigent Defense Practices and Procedures									
<u>General Revenue Funds</u>									
1 General Revenue Fund	\$0	\$0	\$0	\$212,500	\$212,500	\$425,000	\$7,500,000	\$7,500,000	\$15,000,000
General Revenue Funds Total	\$0	\$0	\$0	\$212,500	\$212,500	\$425,000	\$7,500,000	\$7,500,000	\$15,000,000
<u>Gr Dedicated</u>									
5073 Fair Defense	\$0	\$0	\$0	\$737,572	\$737,572	\$1,475,144	\$29,502,856	\$29,502,856	\$59,005,712
Gr Dedicated Total	\$0	\$0	\$0	\$737,572	\$737,572	\$1,475,144	\$29,502,856	\$29,502,856	\$59,005,712
Item Total	\$0	\$0	\$0	\$950,072	\$950,072	\$1,900,144	\$37,002,856	\$37,002,856	\$74,005,712

FTE Reductions (From FY 2020 and FY 2021 Base Request)

2 2.5% Reduction in TIDC Grant Awards

Category: Programs - Service Reductions (Contracted)

Item Comment: TIDC will make a proportionate reduction in formula grant and discretionary grant awards across all counties.

Strategy: 4-1-1 Improve Indigent Defense Practices and Procedures

6.I. Percent Biennial Base Reduction Options

10 % REDUCTION

86th Regular Session, Agency Submission, Version 1
Automated Budget and Evaluation System of Texas (ABEST)

Date: 8/3/2018
Time: 11:23:42AM

Agency code: 212 Agency name: Office of Court Administration, Texas Judicial Council

Item Priority and Name/ Method of Financing	REVENUE LOSS			REDUCTION AMOUNT			PROGRAM AMOUNT		TARGET
	2020	2021	Biennial Total	2020	2021	Biennial Total	2020	2021	Biennial Total
<u>General Revenue Funds</u>									
1 General Revenue Fund	\$0	\$0	\$0	\$212,500	\$212,500	\$425,000			
General Revenue Funds Total	\$0	\$0	\$0	\$212,500	\$212,500	\$425,000			
<u>Gr Dedicated</u>									
5073 Fair Defense	\$0	\$0	\$0	\$737,571	\$737,571	\$1,475,142			
Gr Dedicated Total	\$0	\$0	\$0	\$737,571	\$737,571	\$1,475,142			
Item Total	\$0	\$0	\$0	\$950,071	\$950,071	\$1,900,142			

FTE Reductions (From FY 2020 and FY 2021 Base Request)

3 2.5% Reduction in TIDC Grant Awards

Category: Programs - Service Reductions (Contracted)

Item Comment: TIDC will make a proportionate reduction in formula grant and discretionary grant awards across all counties.

Strategy: 4-1-1 Improve Indigent Defense Practices and Procedures

General Revenue Funds

1 General Revenue Fund	\$0	\$0	\$0	\$212,500	\$212,500	\$425,000			
------------------------	-----	-----	-----	-----------	-----------	-----------	--	--	--

6.I. Percent Biennial Base Reduction Options

10 % REDUCTION

86th Regular Session, Agency Submission, Version 1
Automated Budget and Evaluation System of Texas (ABEST)

Date: 8/3/2018
Time: 11:23:42AM

Agency code: 212 Agency name: Office of Court Administration, Texas Judicial Council

Item Priority and Name/ Method of Financing	REVENUE LOSS			REDUCTION AMOUNT			PROGRAM AMOUNT		TARGET
	2020	2021	Biennial Total	2020	2021	Biennial Total	2020	2021	Biennial Total
General Revenue Funds Total	\$0	\$0	\$0	\$212,500	\$212,500	\$425,000			
<u>Gr Dedicated</u>									
5073 Fair Defense	\$0	\$0	\$0	\$737,571	\$737,571	\$1,475,142			
Gr Dedicated Total	\$0	\$0	\$0	\$737,571	\$737,571	\$1,475,142			
Item Total	\$0	\$0	\$0	\$950,071	\$950,071	\$1,900,142			

FTE Reductions (From FY 2020 and FY 2021 Base Request)

4 2.5% Reduction in TIDC Grant Awards

Category: Programs - Service Reductions (Contracted)

Item Comment: TIDC will make a proportionate reduction in formula grant and discretionary grant awards across all counties.

Strategy: 4-1-1 Improve Indigent Defense Practices and Procedures

General Revenue Funds

1 General Revenue Fund	\$0	\$0	\$0	\$212,500	\$212,500	\$425,000			
General Revenue Funds Total	\$0	\$0	\$0	\$212,500	\$212,500	\$425,000			
<u>Gr Dedicated</u>									

Agency code: 212

Agency name: Office of Court Administration, Texas Judicial Council

Strategy	Exp 2017	Est 2018	Bud 2019	BL 2020	BL 2021
4-1-1	Improve Indigent Defense Practices and Procedures				
OBJECTS OF EXPENSE:					
1001 SALARIES AND WAGES	\$847,642	\$875,535	\$875,535	\$875,535	\$875,535
1002 OTHER PERSONNEL COSTS	41,452	17,688	17,688	17,688	17,688
2001 PROFESSIONAL FEES AND SERVICES	209	50,447	447	447	447
2003 CONSUMABLE SUPPLIES	1,555	1,500	2,500	2,500	2,500
2004 UTILITIES	2,520	2,312	3,380	3,380	3,380
2005 TRAVEL	33,746	39,000	38,000	38,000	38,000
2006 RENT - BUILDING	320	1,020	620	620	620
2007 RENT - MACHINE AND OTHER	1,673	2,929	2,929	2,929	2,929
2009 OTHER OPERATING EXPENSE	223,876	144,979	253,467	223,889	223,889
Total, Objects of Expense	\$1,152,993	\$1,135,410	\$1,194,566	\$1,164,988	\$1,164,988
METHOD OF FINANCING:					
5073 Fair Defense	1,152,993	1,135,410	1,194,566	1,164,988	1,164,988
Total, Method of Financing	\$1,152,993	\$1,135,410	\$1,194,566	\$1,164,988	\$1,164,988
FULL-TIME-EQUIVALENT POSITIONS (FTE):	11.0	11.0	11.0	11.0	11.0
DESCRIPTION					

Amounts represent the administrative allocation of the Fair Defense Act, as required by Rider 8.