



Planning Study

High Plains

Regional Public Defender Office

January 18, 2023



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Executive Summary

The Texas Indigent Defense Commission (TIDC) funds, oversees, and improves public defense in Texas. TIDC's Improvement Team provides counties with planning studies, like this one, to inform them about the costs, benefits, and decisions that need to be made to establish regional public defender offices.

Research and experience have shown that public defender offices can improve indigent defense quality, constitutional compliance, accountability, and budget predictability. They can also improve efficiency and reduce costs for other parts of the criminal justice system, including jail and court operations.

This planning study includes the following 13 counties in a potential regional public defender office (High Plains Regional Public Defender Office, (HPRPDO)): (1) Bailey; (2) Briscoe; (3) Castro; (4) Cochran; (5) Dickens; (6) Floyd; (7) Hale; (8) Hockley; (9) Motley; (10) Parmer; (11) Swisher; (12) Terry; and (13) Yoakum. The various decision points the counties need to make and assumptions built into the modeling are described on page 5. In the remainder of the report, we make the following recommendations and findings:

- **Scope:** The office represents 85% of indigent misdemeanor, noncapital felony, juvenile, and appellate cases.
- **Staff:** 19 staff are recommended initially (see “Staffing & Salaries,” p. 6).
- **Salaries:** Our model assumes salary parity with the District and County Attorney's Offices, but salary levels may need to be raised to attract and retain attorneys and compete with salary levels in Lubbock, public defender offices in New Mexico, and public defender offices in other parts of Texas (“Staffing & Salaries,” p. 6).
- **Budget:** An annual office budget of approximately \$2 million (“Office Budget,” p. 7).
- **Grants:** In year 1, TIDC could pay 80% of the cost of the office through its Improvement Grant Program; in year 2 and beyond, 66% of the cost of the office could be covered under sustainability funding provided to rural regional public defender offices (“State Funding,” p. 8). Over the first two years, TIDC grants could equal just under \$4.4 million. All grant funding is based on availability and a vote from TIDC's full board.
- **Savings:** Counties collectively save approximately \$265,000 in the first year, based on the office representing 85% of indigent defendants and with the somewhat low salaries for some positions. In year 2, costs are slightly higher than current spending (by approximately \$12,000). In year 3 and beyond, we estimate the counties would collectively save slightly more (approx. \$17,000 per year), compared to current spending. Some counties save compared to current spending, others spend more. (“Costs & Savings,” p. 9).
- **Benefits:** The HPRPDO may not reduce indigent defense costs for all counties, but it can bring other benefits to the courts and criminal justice system that have been seen with other public defender offices: reliable availability of attorneys; improved quality of representation; improved docket management and quicker case dispositions; and reduced jail populations, including persons with mental illness and intellectual disabilities.

Background

In January 2021, the Texas Indigent Defense Commission developed a planning study for a regional public defender office encompassing Cochran, Hockley, Terry, and Yoakum Counties. That study was developed at the request of District Judge Pat Phelan, who expressed an interest in increasing the supply of attorneys who would represent indigent defendants, improve the quality of indigent defense, and reduce jail costs. A grant application to establish that office was not submitted because there were concerns about the office raising costs to the counties.

In March 2022, TIDC developed another planning study that included 11 counties for a High Plains Regional Public Defender Office, (HPRPDO): (1) Bailey; (2) Castro; (3) Cochran; (4) Crosby; (5) Hale; (6) Hockley; (7) Lamb; (8) Parmer; (9) Swisher; (10) Terry; and (11) Yoakum. That was followed up by three planning study revisions with different combinations of counties in the region: one version that included 4 counties, Cochran, Hockley, Terry, and Yoakum Counties; another version included 8 counties, Dawson, Gaines, Garza, Lynn, Cochran, Hockley, Terry, and Yoakum Counties; and a final planning study for Dawson, Gaines, Garza, and Lynn.

All 13 counties in this planning study have populations less than 100,000, making them eligible for TIDC sustainability funding—80% in year one and 66% in year two beyond. Additional information about TIDC grants can be found at:

<http://www.tidc.texas.gov/funding/improvement-grants/>.

Decision Points & Assumptions

Creating a public defender office requires several key decisions. This section explains (1) key decision points, and (2) the assumptions built into the model below. Wherever possible, TIDC cites applicable laws, standards, or studies.

<p>County Participation</p>	<p>Modeling for this regional public defender office is based on the following counties participating: (1) Bailey; (2) Briscoe; (3) Castro; (4) Cochran; (5) Dickens; (6) Floyd; (7) Hale; (8) Hockley; (9) Motley; (10) Parmer; (11) Swisher; (12) Terry; and (13) Yoakum.</p>
<p>Governance and Leadership</p>	<p>Oversight Board: The public defender should have an oversight board charged with selecting a chief defender, setting policy, and developing a budget.</p>
<p>County Dept., Nonprofit Corp., or Local Gov't Corp.</p>	<p>TIDC's modeling and cost estimates assume the office will be a Hale County Department, but the counties need to decide which model best meet their needs and goals.</p>
<p>Caseloads</p>	<p>Maximum Attorney Caseloads: Attorneys will follow TIDC's Caseload Guidelines and handle no more than 138 felony or 239 misdemeanor cases per year.</p>
<p>Case Composition</p>	<p>Proportion and Types of Cases: The office will represent defendants in 85% of noncapital felonies, misdemeanors, juvenile cases, and appeals.</p>
<p>Staffing, Salaries, and Benefits</p>	<p>Pay Levels: Employees will have pay parity with their prosecutorial counterparts, but salary increases may be necessary to attract and retain attorneys and other staff.</p> <p>Staffing Levels: Staffing ratios will follow national and state norms whenever possible.</p>
<p>Operations</p>	<p>Operating Expenses: The model assumes annual fringe benefits of 7.65% FICA/Medicare, 17.88% retirement, and \$6,600 per employee for insurance; ongoing rental costs of \$15/sq. ft. and 150 sq. ft./employee; and one-time start-up expenses of about \$95,000 for office equipment, furniture, supplies, and a case management system. The budget also includes expenses like travel, training, and experts.</p> <p>Office Locations: The model assumes there will be a main office in Plainview, with a second office in Levelland, Muleshoe, or Brownfield. We recommend establishing small satellite offices using existing county office space near other county courthouses with reduced business hours.</p>

Staffing & Salaries

Participating counties need to decide (a) salary levels of employees at a new public defender office, and (b) what positions the office will employ. National standards require pay and resource parity between the prosecution and defense functions.¹ Staffing levels are derived from the number of staff needed to handle 85% of appointed cases while complying with TIDC’s Caseload Guidelines. The model below assumes that public defender staff pay will be comparable to the 286th District Attorney Office and the Hockley County Attorney’s Office:

Proposed Staffing Levels and Salaries of the High Plains Regional Public Defender Office

Staff Position	Staffing Level	Salary	Total
Chief Defender	1.0	\$130,000	\$130,000
Felony Defender	6.0	\$93,142	\$556,147
Misdemeanor Defender	3.0	\$65,961	\$197,883
Juvenile Defender	0.5	\$65,961	\$32,103
Appellate/Research Attorney	0.5	\$93,142	\$44,969
Investigator	2.0	\$62,000	\$124,000
Social Worker/Caseworker/Peer Specialist	2.0	\$50,000	\$100,000
Office Manager	1.0	\$58,386	\$58,386
Information Technology Support	1.0	\$60,000	\$60,000
Support Staff	2.0	\$46,266	\$92,532
Total Staff and Salaries	19.0		\$1,396,019
Fringe Benefits			\$481,602
Total Salaries and Benefits			\$1,877,622

While there is pay parity with the District and County Attorney’s Offices, there are some salaries (juvenile and misdemeanor attorneys) that may be low compared to compensation levels in Lubbock and public defender offices in other parts of Texas and New Mexico. To attract and retain talent, salaries for the office may need to be raised. The investigator pay is much lower than the salary for the District Attorney investigator, but is slightly higher than the investigator salary at the Lubbock Private Defender’s Office and at the Concho Valley Public Defender’s Office.

¹ See ABA Principle 8, American Bar Association, *Ten Principles of a Public Defense Delivery System* (2002) (hereinafter “ABA Ten Principles”). The *Ten Principles* are the leading national standards for designing an indigent defense system that delivers competent, effective representation..

Office Budget

Salaries and Benefits						
	Staff	Total Cost	Misdemeanor	Felony	Juvenile	Appeals
Total Staff	19.0	\$1,396,019	\$369,868	\$900,116	\$60,005	\$66,030
Chief Defender	1	\$130,000	\$41,110	\$82,220	\$6,669	\$0
Felony Defender	6.0	\$556,147	-	\$556,147	-	-
Misdemeanor Defender	3.0	\$197,883	\$197,883	-	-	-
Juvenile Defender	0.5	\$32,103	-	-	\$32,103	-
Appellate/Research Attorney	0.5	\$44,969	-	-	-	\$44,969
Immigration Attorney	0.0	\$0	\$0	\$0	\$0	\$0
Investigator	2.0	\$124,000	\$37,314	\$74,628	\$6,054	\$6,005
Social Worker/Caseworker/ Peer Specialist	2.0	\$100,000	\$30,092	\$60,184	\$4,882	\$4,843
Office Manager	1.0	\$58,386	\$17,569	\$35,139	\$2,850	\$2,827
Information Technology Support	1.0	\$60,000	\$18,055	\$36,110	\$2,929	\$2,906
Support Staff	2.0	\$92,532	\$27,845	\$55,689	\$4,517	\$4,481
Fringe Benefits (7.65% FICA/Medicare, 17.88% retirement, \$6,600/employee for insurance)		\$481,602	\$114,227	\$269,400	\$18,531	\$20,044
Other Expenditures						
	Staff	Total	Misdemeanor	Felony	Juvenile	Appeals
Experts Budget	-	\$10,000	-	-	-	-
Operating Costs, Technology Per Year	-	\$9,485	-	-	-	-
Operating Costs, Supplies Per Year	-	\$6,639	-	-	-	-
Travel for Attorneys, Total	-	\$17,945	\$5,400	\$10,800	\$876	\$869
Travel for Investigators, Total	-	\$17,945	\$5,400	\$10,800	\$876	\$869
Travel for Social Workers, Total	-	\$17,945	\$5,400	\$10,800	\$876	\$869
Training for Attorneys, Total	-	\$10,969	-	-	-	-
Training for Investigators, Total	-	\$1,000	-	-	-	-
Training for Social Workers, Total	-	\$1,000	-	-	-	-
Training for Support Staff, Total	-	\$1,000	-	-	-	-
Total Rent and Utilities	-	\$42,681	-	-	-	-
Case Management System per Year	-	\$7,200	-	-	-	-
Estimated Total PD	-	\$2,021,432	\$500,295	\$1,201,916	\$81,165	\$88,682
Est. cost per case with PD	-	\$1,241	\$713	\$1,459	\$834	\$15,650

Additional Year 1 Expenditures		
Start-Up Costs Total		\$125,170
Computers		\$58,805
Printers (6)		\$4,800
Desks & Chairs		\$15,176
Supplies, Startup		\$6,639
Case Management System Onboarding Costs		\$39,750
Estimated Total PD Cost w/ Year 1 Only Expenditures		\$2,146,602

State Funding

TIDC's Improvement Grant Program helps counties establish public defender offices (PDO) and other programs, like managed assigned counsel programs. Grant funding typically pays for 80% of the PDO costs in the first year, and goes down 20% each year for years two, three, and four. Over those four years, TIDC pays for approximately 50% of the PDO costs.

For counties under 100,000 population that establish a rural regional public defender office, TIDC provides funding at 80% in the first year, and 66% funding in year two and beyond.

Grant funding is contingent on recommendation of a grants review committee and a vote of the full TIDC Board. In addition to Improvement Grant funding from TIDC, County will continue to receive formula grant funding for reimbursements of its other indigent defense expenditures.

This planning study is based on the counties receiving 80% funding for the office in year one and 66% funding in years two and beyond.

Estimated Improvement Grant Awards for a High Plains Regional Public Defender Office

Grant Year	Percentage of Office Paid by TIDC Grants	Estimated Grant Amount
Year 1	80%	\$1,717,281.98
Year 2	66%	\$1,334,145.19
Year 3	66%	\$1,334,145.19
Total Over 3 Years		\$4,385,572.36

Costs & Savings

This table estimates county indigent defense costs with a public defender office. The new system is compared to the current indigent defense system to show savings and costs. Some counties do have additional costs in year 2, but that is attributable, in part, to reduced formula grants because of significantly reduced expenses in year 1. Formula grants will increase in years 3 and beyond.

While some counties show an increase in spending in years 2 and 3, they will effectively pay nothing for their indigent defense system if they spend \$15,000 or less. TIDC's base formula grant reimburses counties for 100% of their prior year's indigent defense expenses up to \$15,000. Briscoe, Dickens, and Motley Counties will really pay \$0 for indigent defense thanks to TIDC formula grants. Castro and Floyd will pay very little since their annual indigent defense expenditures aren't much more than \$15,000.

The seventh column of the table below estimates the net change counties will see in their formula grants in the first three years after the HPRPDO is established.

Cost Comparison Between Current Assigned Counsel System and Proposed System with a High Plains Regional Public Defender Office

Year	Counties	PD Office Costs by County	TIDC Grants for PD Office	County Portion of PD Office	Assigned Counsel + RPDO Costs	Net Change in TIDC Formula Grants (assume \$0 change in Y1)	Total Est. Cost for New ID System to the Counties	3 Year Average Cost of Current Indigent Defense System	New PD System Cost Compared to 3 Yr Avg Spending
Year 1		\$2,146,602	\$1,717,282	\$429,320	\$128,143	\$0	\$557,463	\$822,371	-\$264,908
	Bailey	\$121,236	\$96,989	\$24,247	\$23,848	\$0	\$48,095	\$86,967	-\$38,872
	Briscoe	\$21,455	\$17,164	\$4,291	\$1,881	\$0	\$6,172	\$2,540	\$3,632
	Castro	\$48,450	\$38,760	\$9,690	\$3,269	\$0	\$12,958	\$34,792	-\$21,834
	Cochran	\$74,725	\$59,780	\$14,945	\$3,673	\$0	\$18,618	\$22,358	-\$3,740
	Dickens	\$22,954	\$18,364	\$4,591	\$1,877	\$0	\$6,468	\$7,393	-\$925
	Floyd	\$51,368	\$41,094	\$10,274	\$3,707	\$0	\$13,980	\$16,192	-\$2,211
	Hale	\$585,251	\$468,201	\$117,050	\$49,615	\$0	\$166,665	\$251,141	-\$84,476
	Hockley	\$512,428	\$409,942	\$102,486	\$29,709	\$0	\$132,194	\$140,410	-\$8,216
	Motley	\$9,889	\$7,911	\$1,978	\$1,646	\$0	\$3,624	\$5,318	-\$1,694
	Parmer	\$100,613	\$80,491	\$20,123	\$8,918	\$0	\$29,041	\$34,115	-\$5,074
	Swisher	\$73,440	\$58,752	\$14,688	\$10,328	\$0	\$25,016	\$39,002	-\$13,986
	Terry	\$403,403	\$322,722	\$80,681	\$24,750	\$0	\$105,431	\$145,594	-\$40,163
	Yoakum	\$121,391	\$97,112	\$24,278	\$6,707	\$0	\$30,985	\$36,548	-\$5,563
Year 2	13 Counties	\$2,021,432	\$1,334,145	\$687,287	\$128,143	-\$18,604	\$834,034	\$822,371	\$11,663
	Bailey	\$114,166	\$75,350	\$38,817	\$23,848	-\$3,338	\$66,003	\$86,967	-\$20,964
	Briscoe	\$20,204	\$13,335	\$6,869	\$1,881	\$2,188	\$6,562	\$2,540	\$4,022
	Castro	\$45,624	\$30,112	\$15,512	\$3,269	-\$2,011	\$20,792	\$34,792	-\$14,000
	Cochran	\$70,368	\$46,443	\$23,925	\$3,673	-\$875	\$28,473	\$22,358	\$6,115
	Dickens	\$21,616	\$14,267	\$7,349	\$1,877	-\$488	\$9,715	\$7,393	\$2,321
	Floyd	\$48,373	\$31,926	\$16,447	\$3,707	-\$782	\$20,935	\$16,192	\$4,743
	Hale	\$551,124	\$363,742	\$187,382	\$49,615	-\$5,285	\$242,282	\$251,141	-\$8,859
	Hockley	\$482,548	\$318,482	\$164,066	\$29,709	-\$685	\$194,460	\$140,410	\$54,050
	Motley	\$9,312	\$6,146	\$3,166	\$1,646	-\$555	\$5,368	\$5,318	\$50
	Parmer	\$94,746	\$62,533	\$32,214	\$8,918	-\$947	\$42,079	\$34,115	\$7,964
	Swisher	\$69,158	\$45,644	\$23,514	\$10,328	-\$2,275	\$36,117	\$39,002	-\$2,885
	Terry	\$379,880	\$250,721	\$129,159	\$24,750	-\$2,513	\$156,423	\$145,594	\$10,829
	Yoakum	\$114,312	\$75,446	\$38,866	\$6,707	-\$1,037	\$46,610	\$36,548	\$10,062
Year 3	13 Counties	\$2,021,432	\$1,334,145	\$687,287	\$128,143	\$9,846	\$805,584	\$822,371	-\$16,787
	Bailey	\$114,166	\$75,350	\$38,817	\$23,848	-\$2,087	\$64,752	\$86,967	-\$22,215
	Briscoe	\$20,204	\$13,335	\$6,869	\$1,881	\$3,742	\$5,009	\$2,540	\$2,469
	Castro	\$45,624	\$30,112	\$15,512	\$3,269	-\$1,475	\$20,256	\$34,792	-\$14,536
	Cochran	\$70,368	\$46,443	\$23,925	\$3,673	\$1,226	\$26,372	\$22,358	\$4,014
	Dickens	\$21,616	\$14,267	\$7,349	\$1,877	\$967	\$8,260	\$7,393	\$866
	Floyd	\$48,373	\$31,926	\$16,447	\$3,707	\$1,400	\$18,753	\$16,192	\$2,561
	Hale	\$551,124	\$363,742	\$187,382	\$49,615	-\$885	\$237,882	\$251,141	-\$13,259
	Hockley	\$482,548	\$318,482	\$164,066	\$29,709	\$4,450	\$189,324	\$140,410	\$48,914
	Motley	\$9,312	\$6,146	\$3,166	\$1,646	-\$166	\$4,978	\$5,318	-\$340
	Parmer	\$94,746	\$62,533	\$32,214	\$8,918	\$1,310	\$39,822	\$34,115	\$5,707
	Swisher	\$69,158	\$45,644	\$23,514	\$10,328	-\$839	\$34,681	\$39,002	-\$4,321
	Terry	\$379,880	\$250,721	\$129,159	\$24,750	\$520	\$153,389	\$145,594	\$7,795
	Yoakum	\$114,312	\$75,446	\$38,866	\$6,707	\$1,682	\$43,892	\$36,548	\$7,343

The following table shows the estimated share of expenses for operating the HPRPDO for each of the counties based on their relative share of indigent defense cases. For all counties, we assumed the felony appointment rate would remain the same as today. We assumed the misdemeanor appointment rate would be at least equal to the misdemeanor appointment rate for the region today (32%). If a county has a misdemeanor appointment rate below 32% today, we raised it to 32% for purposes of estimating the number of cases originating from the county and the percentage share of HPRPDO expenses the county would be responsible for. If a county has a higher misdemeanor appointment rate than 32% today, we assumed the misdemeanor appointment rate would remain the same.

Share of Expenses and PD Cost (Based on County's Relative Share of Indigent Defense Cases)	
County	% of Cases
Bailey	5.65%
Briscoe	1.00%
Castro	2.25%
Cochran	3.48%
Dickens	1.07%
Floyd	2.39%
Hale	27.26%
Hockley	23.88%
Motley	0.46%
Parmer	4.68%
Swisher	3.42%
Terry	18.79%
Yoakum	5.66%

Staffing & Cases

The following table shows the estimated number (and type) of appointed cases that will originate and be disposed from each county, the estimated number (and type) of cases that will be handled by the HPRPDO, and the estimated number of staff needed to handle the cases. Staffing estimates are based on the office following TIDC's Caseload Guidelines, which is a grant requirement.

It should be noted that our modelling formula resulted in partial employees for the attorney, investigator, social worker/caseworker/peer specialist, and office support positions. For all these positions, we rounded up the number of positions because we anticipate the large number of counties and large geographic area covered by the HPRPDO will result in additional burdens (like travel) for staff.

Model: 85% of Cases Assigned to High Plains Regional Public Defender Office					
Case Calculations	Total	Misdemeanors Disposed	Non-Cap Felonies Disposed	Juvenile Paid	Appeals Paid
Total New Cases Added	3414	2135	1177	97	6
Bailey	205	122	80	2	1
Briscoe	29	14	15	0	0
Castro	178	174	0	4	0
Cochran	76	31	43	2	0
Dickens	36	24	11	1	0
Floyd	94	48	43	3	0
Hale	994	688	265	40	1
Hockley	753	424	316	12	1
Motley	11	5	6	0	0
Parmer	273	193	79	0	0
Swisher	157	102	48	7	0
Terry	487	244	217	25	0
Yoakum	122	65	53	2	2
% of Total Cases Added that are Indigent (Est. County Avg.)		40.15%	81.00%	100.00%	100.00%
Est. Total Indigent Defense Cases	1,897.4	825	969	97	6
Bailey	94	39	52	2	1
Briscoe	17	4	13	0	0
Castro	60	56	0	4	0
Cochran	58	17	39	2	0
Dickens	21	10	11	1	0
Floyd	45	15	26	3	0
Hale	536	241	254	40	1
Hockley	444	178	253	12	1
Motley	9	3	5	0	0
Parmer	102	62	40	0	0

Swisher	71	33	31	7	0
Terry	363	147	191	25	0
Yoakum	77	21	53	2	2
% Going to Public Defender		85%	85%	100%	100%
Public Defender Cases	1628	701	824	97	6
Cases to Assigned Counsel	269	124	145	0	0
Bailey	14	6	8	0	0
Briscoe	3	1	2	0	0
Castro	8	8	0	0	0
Cochran	8	2	6	0	0
Dickens	3	1	2	0	0
Floyd	6	2	4	0	0
Hale	74	36	38	0	0
Hockley	65	27	38	0	0
Motley	1	1	1	0	0
Parmer	15	9	6	0	0
Swisher	10	5	5	0	0
Terry	51	22	29	0	0
Yoakum	11	3	8	0	0
Staffing Calculations					
Public Defender Cases	1,628	701	824	97	6
Attorney Caseloads based on the Weighted Caseload Study	-	239	138	200	31
Number of Attorneys Needed	9.6	2.93	5.97	0.49	0.18
Number of Investigators	1.4	0.42	0.85	0.07	0.03
Number of Social Workers/Caseworkers/Peer Specialists	1.4	0.42	0.85	0.07	0.03
Number of Office Support Staff	1.9	0.59	1.19	0.10	0.04