

ANNUAL REPORT

Fiscal Year 2002



Task Force on Indigent Defense



INDIGENT DEFENSE, TEXAS TASK FORCE

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Hon. Thomas Phillips	Austin, Chief Justice, Supreme Court
Hon. Robert Duncan	Lubbock, State Senator
Hon. Pete Gallego	Alpine, State Representative
Hon. Ann McClure	El Paso, Justice, 8 th Court of Appeals
Hon. Orlinda Naranjo	Travis County Court at Law #2
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Hon. Olen Underwood	Judge, 284 th Judicial District, Presiding Judge, 2 nd Administrative Judicial Region of Texas
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THE HONORABLE OLEN UNDERWOOD

December 19, 2002

Governor Rick Perry
Lieutenant Governor Bill Ratliff
Speaker James E. "Pete" Laney
Texas Judicial Council

Dear Ladies and Gentlemen:

The Task Force on Indigent Defense is pleased to present its 2002 Annual Report. This report fulfills the statutory requirements of Section 71.061, Government Code.

In 2001, the Texas legislature passed Senate Bill 7 also referred to as the "Fair Defense Act." The *Act* became law on January 1, 2002. Since then, the Task Force and its staff have actively worked to ensure that the provisions of this law are being met.

The Task Force looks forward to its continued work with units of local government, the 78th Legislature, the Executive Branch, the Judiciary, and the public to build upon the improvements concerning the quality and delivery of indigent defense services made by the counties and courts during the last fiscal year.

Sincerely,

Sharon Keller
Chair, Task Force on Indigent Defense
Presiding Judge, Court of Criminal Appeals

The Texas Fair Defense Act (S.B. 7) Was Passed During the Last Legislative Session to Improve Indigent Defense in Texas

First Comprehensive Statewide Mandate for New Local Rules and Standards to Improve Indigent Defense

- Prompt access to appointed counsel
 - Fair and neutral methods for selecting attorneys
 - Qualifications for appointed counsel
 - Financial standards and procedures for determining whether a person is indigent
 - Procedures for fees and schedule for expenses for attorneys, experts and investigators
-

First State Body to Administer Statewide Indigent Defense Policies

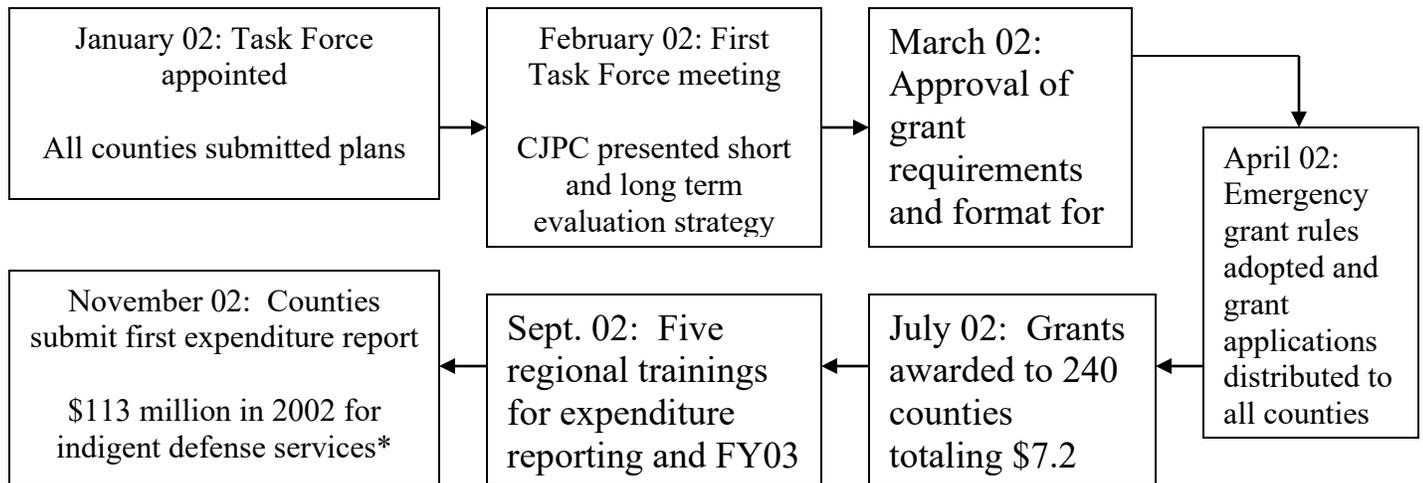
- Task Force on Indigent Defense as standing committee of the Texas Judicial Council with administrative support by Office of Court Administration
 - Task Force to develop policies and standards related to indigent defense for the approval of the Texas Judicial Council
-

First State Funding Dedicated to Assist Counties in Improving Indigent Defense

- Task Force to distribute grants to counties to improve indigent defense systems based on a county's compliance with certain legal requirements under S.B. 7 and policies developed by the Task Force.
 - Task Force was appropriated \$19.8 million for the 2002-2003 biennium for administration and grants.
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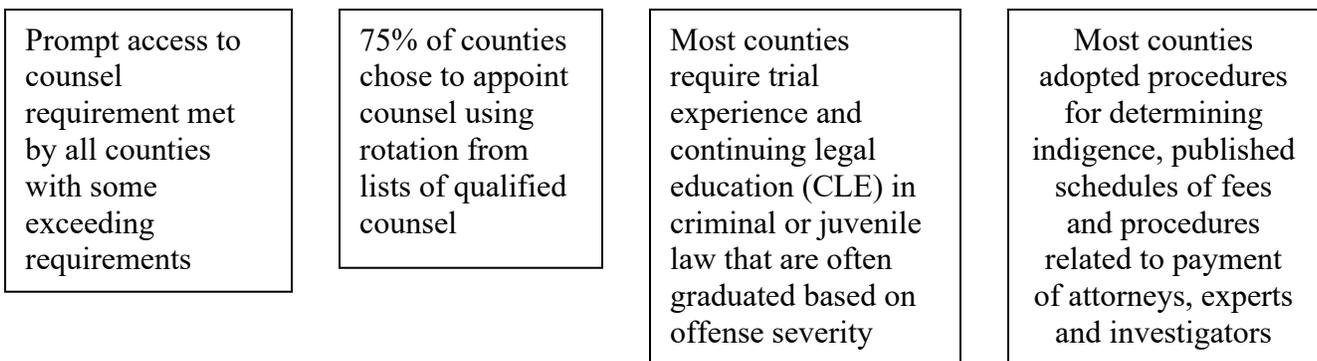
Administrative Implementation of Texas Fair Defense Act Has Been Successful and All Counties Have Submitted Plans to Meet the New Requirements

Task Force Established Basic Administrative and Reporting Infrastructure in a Short Time



* Based upon information reported to the OCA through December 3, 2002.

Counties Have Submitted Local Plans Stating How They Will Meet Fair Defense Act Requirements



Indigent Defense Policies Should Continue to Improve Next Biennium as New Standards Are Promulgated and Evaluation Information Begins to Be Generated

<p>Task Force beings issuing policy and standards to improve the quality of indigent defense services</p>	<p>October 2002 minimum attorney CLE rules proposed/model forms for magistrate's warning and attorney fee voucher were adopted</p> <hr style="width: 50%; margin: 10px auto;"/> <p>Will consider standards for determining indigence, operations of public defender and contract defender systems</p>	<p>Have the standards facilitated the implementation of the act?</p> <p>Have the standards increased costs for the counties?</p>
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<p>Task Force will start reviewing indigent defense expenditures</p> <p>Local expenditures increased from \$93 million in 2001 to \$ 113 million in 2002 *</p>	<p>LAR by Task Force for 2004-2005: \$20 million</p> <hr style="width: 50%; margin: 10px auto;"/> <p>\$19 million dedicated for grants to counties/ \$3.3 million exceptional item for additional grants making up for delay start-up first year revenue</p>	<p>What has been the impact of state funding?</p> <p>What additional areas should the state consider funding to enhance services?</p>
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<p>Task Force will start prioritizing areas to evaluate impact of policy and standards</p>	<p>Evaluation strategy should be implemented to start producing performance information in key areas</p>	<p>How well did counties perform in meeting prompt appointment requirement, how is the rotation system working, do attorney qualifications match type of cases?</p>
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* Based upon information reported to the OCA through December 3, 2002.

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Executive Summary

The *Texas Fair Defense Act* (the Act) was enacted by the 77th Legislature and now is codified in Chapter 71 of the Government Code. It created the blueprint for interaction between state and local governments in providing legal representation and services for indigent defendants. It contains the following requirements for indigent defense representation: 1) prompt access to appointed counsel; 2) fair and neutral methods for selecting appointed counsel; 3) qualifications for appointed counsel; 4) financial standards and procedures for determining when a person is indigent; and, 5) procedures and fee schedules for appointed counsel, experts, and investigators.

The Act required the judges of county and district courts who handle criminal cases in each county and the county juvenile boards to prepare countywide procedures for timely and fairly appointing counsel to indigent defendants in criminal and juvenile cases, and to submit their countywide plans to the Office of Court Administration (OCA) by January 1, 2002. Each countywide plan was required to meet the statewide standards for indigent defense procedures specified in the Act.

The Act also created the Task Force on Indigent Defense (Task Force) to assist local governments in improving the delivery of indigent defense services. The Task Force is a standing committee of the Texas Judicial Council and is composed of eight ex officio members and five members appointed by the Governor. It is administratively attached to OCA but has fiscal independence. The Task Force's mission is advanced through state funding to counties and through development of uniform indigent defense policies and standards. In addition, the Task Force is monitoring county compliance through the collection of state-mandated indigent defense reports concerning county procedures and expenditures.

The Act became law on January 1, 2002, and the Governor made appointments to the Task Force on January 23rd. The Task Force met for the first time in February, and Chief Justice Tom Phillips appointed Sharon Keller, presiding judge of the Court of Criminal Appeals, to serve as chair. Judge Keller appointed as vice chair Olen Underwood, judge of the 284th District Court and presiding judge of the 2nd Administrative Judicial Region of Texas. To focus the efforts of the Task Force, the chair appointed two committees: the Grants and Reporting Committee and the Policy and Standards Committee. The director of the Task Force, Jim Bethke, was hired in March of 2002, and four other staff members were hired by the end of May.

In March 2002, the Task Force began the process of awarding approximately \$7 million in grant funds to all qualifying counties to improve indigent defense services. The Task Force adopted emergency grant administration rules and sent out grant application kits in April. The Task Force decided that Fiscal Year 2002 grant funding would be based on a population formula with a \$5,000 minimum funding level to qualifying counties. Eligibility for grants was conditioned on fiscal and plan requirements. Counties fiscally qualified for funding if their FY 2002 annualized expenses were greater than their

baseline expenses in FY 2001. Counties could alternatively qualify by providing commitments to use grant funds to improve their indigent defense systems. The county plans also were required to provide for the prompt access to counsel required by the Act.

Grant applications were due by May 31st. Only 68 counties qualified on both fiscal and plan requirements at the time the original grant applications were submitted. Task Force staff contacted each of the counties that did not initially qualify for the grants, as well as those counties that did not apply, to assist them in meeting the requirements of the grant program. These phone calls resulted in numerous grant application addenda and plan supplements being submitted, and helped many more counties demonstrate their eligibility for grant funding. On July 22, 2002, after this process was completed, the Task Force approved grant awards totaling \$7,298,124 to 238 counties. Ten counties did not apply for grant funding and six counties did not qualify fiscally for funding. In late July, after submission of additional documentation, two of the six counties that originally did not qualify fiscally for the grant were awarded direct disbursements. Distribution of 238 grant awards and two direct disbursements was completed by September 3, 2002.

Simultaneous with the grant process, the Task Force began a preliminary analysis of the county plans for compliance with the Act. Professor Robert Dawson, of the University of Texas School of Law, graciously provided four law students to assist the Task Force in its analysis. This review indicated that 135 counties addressed each of the main requirements of the law.

This initial review of county plans was followed with a more in-depth review of county processes that focused on procedures for determining indigence and on minimum annual continuing legal education and experience requirements for attorneys handling appointments in criminal and juvenile cases. This more detailed review was completed at the direction of the Policies and Standards Committee, following its first meeting in May of 2002.

The Task Force accomplished much in FY 2002. It collected the local indigent defense plans totaling more than 8,000 pages, examined the plans for content and posted them on the Internet, distributed approximately \$7 million in grant funds, and began a statewide dialogue with many stakeholders concerning indigent defense. These accomplishments were consolidated into only eight months of activity. Furthermore, in what may be its greatest achievement, the Task Force has created an efficient and collaborative infrastructure for continuing implementation of the Act and for future improvements to indigent defense procedures statewide.

The Texas Fair Defense Act Was Passed During the Last Legislative Session to Improve Indigent Defense in Texas

First Comprehensive State Mandate on Indigent Defense

Forty years ago, in the landmark case of *Gideon v. Wainwright*, the U.S. Supreme Court declared that "any person haled into court, who is too poor to hire a lawyer, cannot be assured a fair trial unless counsel is provided for him." With the passage of the *Texas Fair Defense Act*, the State of Texas established uniform standards that counties must meet in the course of providing counsel for indigent criminal defendants, and made a commitment to shoulder some of the responsibility for performing this constitutional duty. Prior to the Act, Texas was one of only six states that provided no state funding and no state oversight for the delivery of indigent defense services, at the trial level, to those too poor to retain hired counsel.

During the late 1990s, the procedures used in Texas to provide defense counsel to indigent criminal defendants became the subject of increased attention from the judiciary, the bar, the media, researchers, and the general public. In part, this attention was driven by court decisions and media reports that spotlighted severe examples of inadequate indigent defense counsel being appointed to represent certain defendants in Texas trial proceedings. The Act was passed in response to concerns that the patchwork system of indigent representation it replaced could be, in at least isolated instances, unfair and vulnerable to constitutional attack. In addition to anecdotal evidence, several reports from the State Bar of Texas, the House Research Organization, and Texas Appleseed raised questions about the overall quality of indigent defense procedures. To address these concerns, the Legislature included in the Act statewide standards that build on existing models in many Texas counties, which aim to ensure that all Texas courts promptly provide competent counsel for indigent criminal defendants.

Specifically, the Act sets forth five major legal requirements that counties must satisfy. In order to comply with the Act, counties must establish: (1) procedures for providing prompt access to appointed counsel; (2) fair and neutral methods for selecting appointed counsel; (3) qualifications for appointed counsel; (4) financial standards and procedures for determining when a person is indigent; and, (5) procedures and fee schedules for appointed counsel, experts, and investigators.

(1) Prompt Access to Appointed Counsel

A county is required to address in its countywide indigent defense plan the issue of prompt access to appointed counsel. Ensuring prompt access to appointed counsel requires coordination among various criminal justice officials at the local level. What follows are the five key steps to ensure compliance with the prompt access requirement:

- *Police take each person arrested before a magistrate --* Anyone with custody of an arrested person must take the person before a magistrate for an Article 15.17 hearing without unnecessary delay, and no later than 48 hours after arrest.
- *The magistrate informs the arrested person of the right to request counsel and how the request may be made --* A magistrate must also provide reasonable assistance in completing counsel request forms at the time of the Article 15.17 hearing. A “record” must be made showing (i) that the magistrate informed the accused person of the right to request appointed counsel, (ii) that the magistrate asked the person whether he or she wanted to request counsel, and (iii) whether the person requested counsel. A “record” may consist of a written document, an electronic recording, or other documentation as authorized by the procedures adopted in the county under Article 26.04(a), Code of Criminal Procedure.
- *The magistrate either appoints counsel or transmits the request (i.e., a completed application form) to the appointing authority designated by the judges --* The local countywide plan may designate certain magistrates (e.g. a jail magistrate or a designated judge acting as magistrate for all the courts) to appoint counsel. Otherwise the magistrate must transmit the defendant’s request for counsel to the authorized appointing authority within 24 hours. The local plan should specify who is the authorized appointing authority to whom requests for counsel should be transmitted.
- *The judge or judges’ designee appoints counsel --* Article 1.051, Code of Criminal Procedure, requires judges, or the appointing authority authorized by the judges, to appoint counsel “as soon as possible” after receiving a request, but always within the first working day after the request is received in counties with over 250,000 residents, and always within the third working day after the request is received in counties with under 250,000 residents. If the defendant is released from custody prior to appointment of counsel, appointment is not required until the defendant’s first court appearance or when adversarial judicial proceedings are initiated, whichever comes first.
- *Appointed attorneys contact their clients --* After the appointment of counsel, the appointed attorney must make every reasonable effort to contact their clients by the end of the first working day after the date on which the attorney is appointed and to interview the defendant as soon as practicable.

(2) Fair and Neutral Methods for Selecting an Attorney

Each county is required to adopt in its plan a fair and neutral method for selecting appointed counsel in criminal and juvenile cases. The choice of one or more attorney appointment methods is left to the discretion of the local jurisdiction. The Act specifies a “rotation” system as the default method for appointing counsel. With certain restrictions, the Act also permits the use of “public defenders” and “alternative programs” to appoint counsel. Any combination of these choices is allowable in any county.

Rotation System

The Code of Criminal Procedure specifies that counties may use a rotation system (also known as a “wheel” system) for appointing counsel. The law is structured to make this the default method for selecting appointed counsel. This means that unless officials take the extra steps required to establish a public defender system or an alternative system, they must appoint counsel in accordance with the Code of Criminal Procedure’s rotation specifications. Under a rotation system, as outlined in Article 26.04, Code of Criminal Procedure, attorneys are appointed to cases in rotating order from one or more countywide qualified appointment lists that are created by the district judges and/or the statutory county court judges in the county.

The creation of the appointment list may be a collaborative effort between the district and county court judges, or may be done separately at the district and county court level. Whether the development of the appointment list is a collaborative or separate undertaking, it may be done in three steps.

First, the judges must decide how many appointment lists to create. Lists graduated according to the seriousness of the charged offense, special needs of the defendant (e.g., language or mental disabilities), or any other criteria that the judges deem appropriate are permitted. At a minimum, a separate list for attorneys qualified to defend death penalty prosecutions should be created. After the judges have decided how many appointment lists to create, they must establish objective minimum qualifications for each list, and then screen attorneys who apply for admission to the lists.

Once the appointment lists are published, attorneys are appointed to cases in the order in which their names appear on the appropriate list. Article 26.04, Code of Criminal Procedure, provides in part that “[t]he court shall appoint attorneys from among the next five names on the appointment list in the order in which the attorneys’ names appear on the list, unless the court makes a finding of good cause on the record for appointing an attorney out of order. An attorney who is not appointed in the order in which the attorney’s name appears on the list shall remain next in order on the list.”

Public Defender Program

Article 26.04 also allows indigent defense services to be delivered through a public defender in any county. A public defender can be either a governmental entity created by the county itself, or a non-profit corporation operating under a written agreement with the county. Judges and commissioners together decide what the duties of the public defender will be and what criteria will be used to select the public defender.

A public defender office can be established by the commissioners court and one or more judges who wish to utilize the public defender program in their courts. The commissioners court may either solicit bids from non-profit organizations that comply with their requirements, or it may create the public defender as a county office staffed by county employees. The public defender may only represent defendants in courts where the judge has approved using the public defender. Commissioners and judges may opt to create a countywide public defender, and two or more counties may create a regional public defender program. Also, counties may adopt one or more appointment methods, combining a public defender program and a system that rotates appointments among private attorneys.¹ Normally a county which utilizes a public defender program would at least need to maintain a separate rotation system for appointing private defense counsel when necessary to avoid conflicts of interest in multi-defendant prosecutions.

Alternative Program

In addition to a rotation system or a public defender program, the Code of Criminal Procedure allows judges to develop an “alternative program” for appointing defense counsel, as long as the program meets several basic requirements. An alternative program must be approved by two-thirds of the county or district judges, and by the presiding administrative regional judge. The alternative program may use a single method for appointing counsel or a combination of methods, but it must cover all appointments made in the county. Like the rotation system, the alternative program must ensure that all appointed attorneys meet specified objective qualifications for misdemeanor and felony cases, and each attorney qualified for misdemeanors and felonies must be approved by a majority of the county or district judges. Also like the rotation system, the qualified misdemeanor and felony lists may include additional subcategories with attorney qualifications graduated according to the seriousness of the offense. Procedures for appointment of attorneys in death penalty cases must comply with the requirements of Article 26.052, Code of Criminal Procedure. The alternative program must be structured to allocate appointments among qualified attorneys “reasonably and impartially,” and in a manner which is “fair, neutral and

¹ In Dallas and El Paso Counties, for example, the public defenders handle roughly half the indigent defense cases, with private appointed counsel handling the other half. The Webb County Public Defender handles approximately 75% of the cases filed against indigent defendants, with private appointed counsel representing the remaining 25% of indigent defendants.

nondiscriminatory.” Finally, the alternative program must be approved by the commissioners court if it obligates the county by contract or by the creation of new positions that cause an increase in expenditure of county funds.

“Ad Hoc Assigned Counsel Program” or by “Contract Defender Program”

No reference to an “ad hoc assigned counsel program” or to a “contract defender program” appears in the Code of Criminal Procedure. Definition of these two delivery mechanisms for indigent defense services is contained in the Texas Government Code.

Section 71.001(1) of the Government Code defines an “ad hoc assigned counsel program” as “a system under which private attorneys, acting as independent contractors and compensated with public funds, are individually appointed to provide legal representation and services to a particular indigent defendant accused of a crime or juvenile offense.” Section 71.060 (a)(5) of the Government Code states that the policies and standards to be developed by the Task Force may include “policies and standards governing the organization and operation of an ad hoc assigned counsel program.”

Section 71.001(3) of the Government Code defines the “contract defender program” as “a system under which private attorneys, acting as independent contractors and compensated with public funds, are engaged to provide legal representation and services to a group of unspecified indigent defendants who appear before a particular court or group of courts.” Section 71.060(a)(7) of the Government Code states that the policies and standards adopted by the Task Force may include “standards for providing indigent defense services under a contract defender program consistent with recognized national policies and standards.”

Juveniles

Family Code Section 51.101 requires that every juvenile board in Texas adopt a plan for the appointment of counsel for respondents in juvenile court whose families are unable to afford counsel.

There are several statutes that are relevant to the juvenile board’s responsibility: (1) Section 51.10 of the Family Code establishes the right to counsel in juvenile cases and provides some of the procedures needed to implement that right; (2) Section 51.101 of the Family Code, *as added by HB 1118 in 2001*, provides details as to timeliness of appointments and the continuing obligations of appointed counsel to represent a juvenile client; (3) Section 51.101 of the Family Code, *as added by the Act in 2001*, sets out the basic requirements that a juvenile board’s appointment of counsel plan must meet; (4) Article 26.04 of the Code of Criminal Procedure sets out plan requirements in criminal cases and to which a juvenile’s board’s plan must adhere “to the extent practicable;” (5) Article 26.05 of the Code of Criminal Procedure establishes the systems to be used for payment of indigent defense costs; and (6) Section 71.0351 of the Government Code sets out the plan reporting requirements.

In summary, a county's juvenile plan must: (1) specify qualifications attorneys must meet in order to be included on the appointment list, with differences in qualifications in accordance with the five levels of juvenile offense recognized by law; (2) specify the procedures for including attorneys on the list; (3) specify the procedures for removing attorneys from the list; (4) specify the procedures for appointing attorneys on the list to cases and for payment; (5) comply, to the extent feasible, with the requirements for criminal court plans set forth in Code of Criminal Procedure Article 26.04.

(3) Qualifications for Appointed Counsel

Judges are required to develop objective minimum qualifications that attorneys must meet in order to apply for a particular appointment list. These qualifications could include years of experience in criminal practice, number of trials completed, training requirements, competency tests, maximum caseloads, or other qualifications that the judges deem appropriate. The judges then screen applicants who meet the objective qualifications and approve, by majority vote, those attorneys whom they consider competent to handle cases corresponding to that list.

A separate list for attorneys qualified to defend death penalty prosecutions must be created pursuant to Article 26.052, Code of Criminal Procedure.

(4) Financial Standards and Procedures for Determining When a Person is Indigent

Article 26.04 (l) and (m), Code of Criminal Procedure, requires each county to adopt in its plan procedures and financial standards for determining whether a defendant is indigent. These procedures and standards must apply to each defendant in the county equally, regardless of whether the defendant is in custody or has been released on bail. Indigence determinations may be made by the court or by the court's designee, such as a court administrator, a pretrial services agency or a public defender. The financial standards may take into account (a) the defendant's income; (b) the source of the defendant's income; (c) the assets and property owned by the defendant; (d) the defendant's outstanding obligations and necessary expenses; (e) the number and age of the defendant's dependents, and (f) income of the defendant's spouse that is available to the defendant. The court or its designee may not consider whether the defendant has posted or is capable of posting bail, except to the extent that it reflects the defendant's financial circumstances as measured by these listed factors.

(5) Procedures and Fee Schedules for Appointed Counsel, Experts, and Investigators

Article 26.05, Code of Criminal Procedure, details the requirements for fees and compensation paid to private counsel appointed to represent indigent defendants. This provision provides that the judge who presides over the case in which the representation was provided must approve the fees paid to private counsel. Those fees must be determined according to a fee schedule that is published as part of the

countywide plan. Compensation of counsel is to be based upon the time and labor required, the complexity of the case, and the experience and ability of counsel. Appointed counsel shall be paid a reasonable attorney's fee for performing the following services: (1) time spent in court making an appearance on behalf of the defendant as evidenced by a docket entry, time spent in trial, and time spent in a proceeding in which sworn oral testimony is elicited; (2) reasonable and necessary time spent out of court on the case, supported by any documentation that the court requires; (3) preparation of an appellate brief and preparation and presentation of oral argument to a court of appeals or the Court of Criminal Appeals; and (4) preparation of a motion for rehearing. Each county's fee schedule may state reasonable fixed rates or minimum and maximum hourly rates. The rates should take into consideration reasonable and necessary overhead costs and the availability of qualified attorneys willing to accept the stated rates.

First Statewide Reporting Requirements – Preliminary Review of Plans

The Act requires that each county submit to the Office of Court Administration (OCA) “a copy of all formal and informal rules and forms that describe the procedures used in the county to provide indigent defendants with counsel.” These forms and procedures are commonly referred to as indigent defense plans. The first sets of plans were due to be submitted by January 1, 2002, prior to the creation of the Task Force. OCA provided guidance to counties and courts on plan requirements and the resources available to assist them in developing their plans. The initial plan submission by the counties totaled nearly 7,000 pages of material. With subsequent amendments submitted by the counties throughout 2002, the total number of pages now exceeds 8,000. Updated versions of each county plan can be viewed on the Task Force web site at www.courts.state.tx.us/tfid. For a more thorough discussion of the preliminary review of the plans see Appendix B.

First State Body to Administer Statewide Policies

In addition to providing the first comprehensive state mandate on indigent defense, the Act also created the first state body to administer statewide indigent defense policies. The Task Force on Indigent Defense is a standing committee of the Texas Judicial Council and is composed of eight ex officio members and five members appointed by the Governor.

Mission

The mission of the Task Force on Indigent Defense (Task Force) is to provide technical, fiscal, and professional support to counties and judges in order to improve the delivery of indigent defense services and to promote justice and fairness to all indigent persons

accused of criminal conduct, including juvenile respondents, as provided by the laws and constitutions of the United States and Texas.

The Task Force will provide technical, fiscal, and professional support to counties and improve the delivery of indigent defense services by:

- *Establishing a solid administrative and fiscal infrastructure to distribute and account for \$20 million in grants to counties this biennium;*
- *Providing technical support to counties relating to indigent defense services;*
- *Developing policies and standards for providing legal representation and other defense services to indigent defendants;*
- *Setting up a statewide county reporting plan for indigent defense information;*
- *Promoting stakeholder involvement in the implementation of the Fair Defense Act; and,*
- *Educating county officials, the courts, the criminal defense bar, the public, and other stakeholders about the Fair Defense Act.*

Philosophy

Commitment to Public Service and the Fair Defense Act

The Task Force is committed to responsive, quality service and to professional practices that exemplify the highest standards of moral and ethical behavior. The Task Force seeks to promote justice and fairness within the criminal justice system by working with counties to ensure that competent, highly-trained, and effective counsel represent criminal defendants and juvenile respondents throughout all levels of their cases, regardless of a defendant's or juvenile's financial circumstances.

Committees of the Task Force

To focus the efforts of the Task Force, the Chairperson appointed two committees in February 2002, the Grants and Reporting Committee and the Policies and Standards Committee.

- **Grants and Reporting Committee – Members/Charge**

This committee, appointed in February 2002, is comprised of a chair and four other members of the Task Force.

- Commissioner Glen Whitley – Chair
- Mr. Knox Fitzpatrick – member
- Senator Robert Duncan – member
- Judge Jon Burrows – member
- Representative Juan Hinojosa - member

The committee is charged with the following:

1. Prepare a recommendation to the Task Force on Indigent Defense on the grant process and necessary rules to distribute state monies to counties for this biennium to provide indigent defense services in the county.
2. Develop policies to monitor each county that receives a grant and enforce compliance by the county with the conditions of the grant.
3. Develop policies to monitor the efforts of each county that receives a grant to determine the effectiveness of the delivery of the indigent defense services in the respective county and recommend improvements in the grant process where applicable.
4. Prepare a plan for the consideration of the Task Force on Indigent Defense that establishes statewide requirements for counties relating to reporting indigent defense information. The plan must include provisions to reduce redundant reporting by counties and provisions that take into consideration the costs to counties to implement the plan statewide.

○ **Policies and Standards Committee – Members/Charge**

This committee, formed in February 2002, is comprised of a chair and four other members of the Task Force.

- Mr. Knox Fitzpatrick – chair
- Mr. Eduardo Arredondo – member
- Senator Kenneth Armbrister – member
- Judge Orlinda Naranjo – member
- Judge Olen Underwood - member

The committee is charged with the following:

1. Prepare a preliminary strategic plan for the consideration of the full Task Force that addresses the provisions enumerated in Section 71.060, Government Code concerning policies and standards for providing legal representation and other defense services to indigent defendants at trial, on appeal, and in postconviction proceedings.
2. Implement a plan to examine county plan procedures and forms pertaining to indigent defense services submitted to the Office of Court Administration and Task Force pursuant to Section 71.0351, Government Code.
3. Develop or recommend the development of some model/uniform forms pertaining to the core functions of the Fair Defense Act. This may include "magistrate warnings" and "attorney fee vouchers."

Grants and Reporting Committee

Purpose

The Grants and Reporting Committee steers the Task Force policy on provision of funds to counties and on monitoring county compliance with the Act requirements for reporting indigent defense procedures and expenditures. The information processed through this committee is voluminous. The work is accomplished through meetings that occur between and before regular Task Force meetings.

Activities

The committee at its first meeting established the direction and tone for the Task Force work involving grant distribution. The Task Force adopted a collegial and collaborative model for working with counties on issues involving indigent defense funding. The Texas Association of Counties, the County Judges & Commissioners Association of Texas, and the Conference of Urban Counties provided valuable input and guidance. The most significant issue the Task Force addressed was its decision to fund counties based on the grant model. Emergency grant rules were posted and adopted for the first funding cycle. The committee established the current population-based formula for distributing funds in FY02 and FY03. Other factors considered and rejected were poverty statistics and case filings. The Task Force will revisit the funding formulas after two data collection periods, as lack of solid historical data on indigent defense expenditures frustrated long-term decision-making. Another major decision was to set a minimum funding level to qualifying counties of \$5,000. The Task Force considered and rejected \$2,500 as a possible alternative.

The lack of historical expenditure data also frustrated county officials in the grant application process. Upon approval of grant process and formula, the Task Force sent grant applications to all Texas counties in April 2002. The original applications required the counties to submit the applications to the Task Force by May 31, 2002. OCA staff provided technical assistance until the Task Force was fully staffed. County officials sorted through records dating back to September 2000 to provide qualifying financial information. The process involved collecting FY 2001 data as a benchmark and baseline for comparison purposes. Counties qualified for funding if FY02 annualized expenses were greater than their baseline expenses, and the plan submitted to OCA met the legal and financial factors outlined under the Fair Defense Act. Counties meeting plan legal requirements alternatively could qualify for grant funding by providing formal commitments to use grant funds to improve their indigent defense systems, even if they otherwise failed to meet the financial requirements of the grant program. At the time initial grant applications were submitted to the Task Force, only 68 counties qualified for funding on both plan/legal content and fiscal requirements (see Table 1).

Task Force staff provided technical assistance to counties in order to help more counties establish eligibility for grant funding. Numerous phone calls from district and county judges, auditors, treasurers, and other officials proved to be a valuable learning

Table 1	Counties Qualified for Full Funding on Both Plan Content and Estimated Expenses as of June 18 2002				
Andrews	Clay	Gregg	Kimble	Potter	Ward
Archer	Cochran	Grimes	Kinney	Reagan	Washington
Atascosa	Coke	Hale	Lampasas	Reeves	Wichita
Bastrop	Comal	Hamilton	Lavaca	Runnels	Willacy
Bell	Comanche	Hartley	Lee	Smith	Williamson
Bexar	Crockett	Hayes	Leon	Sutton	Winkler
Brazoria	Dallam	Hidalgo	Lipscomb	Tarrant	Yoakum
Brooks	Dallas	Hockley	Madison	Tom Green	Young
Burleson	Deaf Smith	Howard	Marion	Val Verde	
Burnet	Ellis	Irion	McLennan	Van Zandt	
Cameron	Fannin	Kaufman	Oldham	Victoria	
Castro	Gaines	Kendall	Parmer	Walker	
Total number: 68					

mechanism for both callers and Task Force staff. Staff provided their knowledge to county officials in specific program areas, while county officials provided staff with information on local processes. The benefits of this exchange were enormous. One example of learning and revelation was staff's discovery that county officials had traditionally attributed all attorney appointments to their criminal appointment accounts. Once this issue had been identified, many county officials realized that the budget line item for attorney appointments included appointments in civil cases (Child Protective Services, battered women, probate, etc...), as well as criminal and juvenile cases. As part of this ongoing education process the Director and staff provided information to county associations to disseminate to their members. The collaborative model followed by staff appears to have increased overall good will to the Task Force's program.

Another collaborative project undertaken by the Director and staff was the Direct Disbursement Pilot Project. After the Task Force released the grant funds, two counties that did not receive grants requested financial assistance from the Task Force. Procedures were developed and implemented that allowed the Director, upon recommendation of the Grant Administrator, to provide administrative funds to the county up to the amount of their potential grant allocation under the population-based funding formula. The Task Force staff issued \$4,731 to those two counties. The counties could not justify these expenses during the application period. Reimbursements submitted and paid were for direct costs related to providing or improving Indigent Defense. Once the counties provided documentation of actual increased costs over the baseline period the presence of administrative funds justified these payments. Task Force staff see potential in this model as a method of funding for future non-qualifying counties that have increased costs after the award period.

First Grant Awards

The Task Force approved Grant award amounts on July 22, 2002. The Statements of Grant Award were faxed to qualifying counties and returned. The Task Force awarded \$7,298,124 in grant funding to 238 counties, as well as direct disbursements to two counties. Ten counties (Bailey, Crosby, Culberson, Dickens, Hudspeth, Kenedy, King, Lynn, Waller, Wheeler) did not apply for grant funding this year. Four counties (Borden, Cochran, Dimmitt, McMullen) fiscally did not qualify for funding. The four counties that

did not qualify for the grants were notified by mail. Distribution of grant awards was completed by September 3, 2002.

Grants and Reporting Technical Assistance

The Task Force on Indigent Defense staff provided training regarding the FY03 Formula and Discretionary Indigent Defense Grant Applications and the Indigent Defense Expenditure Report. This training provided useful information county officials needed to complete the grant applications issued by the Task Force. Task Force staff provided procedures in completing formula and discretionary grant applications and addressed other questions and concerns related to the grants for indigent defense services. The six regional trainings conducted were: Austin, September 4, Huntsville, September 5, Lubbock September 10, Laredo September 24, Tyler September 26, and Decatur, October 8. Other presentations were conducted in Dallas, San Antonio, Corpus Christi and Wichita Falls before county officials, court administrators, and auditors, respectfully. Additionally, Task Force staff logged almost 500 significant technical assistance calls. Many calls were received on the toll-free line instituted to assist counties maintain low costs.

Statutorily Required Expenditure Reporting – County Responsibility

Due to requirements of the Act, counties that applied and qualified for grant funding must submit a final expenditure report at the end of the grant period. The Amended Indigent Defense Expenditure Report was promulgated in order to merge the statutory report required in the Texas Government Code 71.0351 and the year-end formula grant report. The Task Force authorized staff to develop a single report. There were several obstacles to accomplishing the objective of a single report. First, the law went into effect January 1, 2002, but the grant application allowed counties to report expenses as far back as October 1, 2001. Second, by statute, auditors must report litigation expenses and case information by court whereas the grant accounts for total county expenses, including administrative, equipment, and indirect expenses. Last, the statutory report requires case information by court but the grant report does not require any case information. After this first year, the aggregate of the court reports plus the administrative sheet will be the grant report. Each county is responsible for submitting the Amended Indigent Defense Expenditure Report detailing the total amount expended for indigent defense services. The Amended Indigent Defense Expenditure Report should be completed by either the County Auditor or County Treasurer, and is due to the Task Force staff on November 1, 2002.

The Amended Indigent Defense Expenditure Report is comprised of three parts. Part C reports expenses and case information by court from January 1, 2002 through September 30, 2002. Part D is total expense information by county from October 1, 2001 through September 30, 2002. Part E is total administrative expense information by county from October 1, 2001 through September 30, 2002. The Amended Indigent Defense Expenditure Report is the year-end grant report for FY 2002 and will be used to qualify a county for FY 2003 grant funds. Total expenditures reported on Part D and

E will be compared to the baseline year submitted to the Task Force. If the difference between total expended in FY 2001 and FY 2002 is equal or greater than the FY 2002 grant award, then the county has fulfilled its obligation to expend FY 2002 funds and qualifies fiscally for the FY 2003 Formula Grant Program. Counties where the difference between FY 2001 and FY 2002 expenditures is less than the FY 2002 grant award will have to document any additional expenses (e.g. projects, computers, new SB7 related positions, training, etc.) they claim to have incurred above the amount spent on indigent defense services.

What Counties spent on Indigent Defense

Task Force staff is preparing a supplemental report to be published by mid-January that will summarize the data reported by the counties required by the expenditures and grant reporting form.

Policies and Standards Committee

Purpose

The Policies and Standards Committee purpose is to develop policies and standards that will guide Texas counties in providing more effective indigent defense services. The committee reviews standards, procedures, and forms and makes recommendations to the full Task Force. Ultimately, according to Section 71.060, Government Codes, the Texas Judicial Council must ratify standards promulgated by the Task Force before they become effective.

Activities

The committee has accomplished its primary objectives this year through development of two model forms, and analysis of county plans to determine the minimum annual continuing legal education (CLE) and experience levels required of appointed attorneys statewide and the procedures used to determine whether a defendant is indigent.

Model Forms

The committee directed staff to develop the following front-end model forms for use by courts on a voluntary basis: magistrate's warning form and attorney fee voucher. Staff reviewed numerous forms in use across the state to develop draft forms. These draft forms were then sent to judges across the state for their review and comment. They were also scrutinized by a workgroup comprised of judges, court personnel, defense attorneys, and an auditor. Based on the feedback from these groups, significant revisions were made to the forms. Following the end of FY 2002, the committee recommended these model forms be adopted. The Task Force then adopted the forms for use by courts and counties on a voluntary basis. The magistrate's warning form meets all of the requirements for hearings conducted under Article 15.17, Code of Criminal Procedure. The attorney fee voucher meets the requirements of Article 26.05,

Code of Criminal Procedure to itemize the services performed. The data elements were structured to also allow county auditors/treasurers to easily collect the information needed to be included in the indigent defense expenditure report submitted to the Task Force on November 1 each year.

Continuing Legal Education and Experience Requirements

Continuing legal education and experience requirements also were among the first issues considered by the Policies and Standards Committee. Qualifications required for attorneys to be included on the appointment list are one of the key requirements of the Act. Although the statute does not specify particular qualification requirements for attorneys, it does provide a framework for counties to use in developing attorney qualifications for indigent defense plans. This statutory structure contains both an objective and subjective component. Under the Act, attorneys must meet objective qualification standards set by the county in order to be appointed to represent indigent defendants. Attorneys who meet the objective qualifications required by a plan must also be approved by a majority of the judges who try cases at the relevant offense level.

Analysis of Texas Plans

An analysis of the continuing legal education and experience requirements contained in the initial county plans was integral to the Committee's consideration of statewide guidelines in this area. The county plans show a broad range of requirements for attorneys seeking to be placed on attorney appointment lists. Variation among the counties is prevalent with some requiring no juvenile or criminal specific continuing legal education (CLE) while others require 20 hours. The plans submitted typically mandate attorneys to have some combination of minimum annual CLE in criminal or juvenile law annually, a specific number of years experience, or a specific amount of trial experience. As a general rule, counties had greater requirements for attorneys to represent people in more serious cases, with lesser requirements for less serious cases.

Qualifications in Criminal Cases

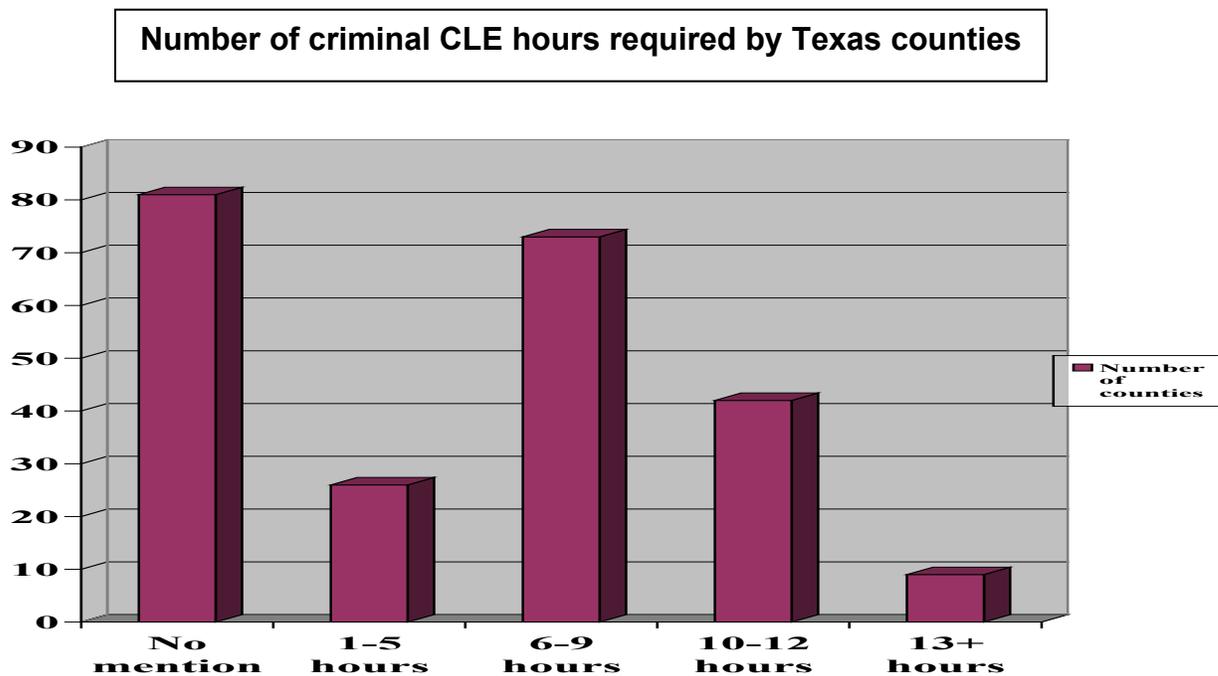
Most Texas counties have enacted some kind of standard governing the type of CLE training for attorneys wishing to represent indigent defendants, although some do not. Of the counties that do specify requirements for attorneys applying to represent indigent defendants, many (115) require somewhere in the range of between six and twelve hours of a particular attorney's continuing training to be in criminal law. A small number of counties (26) specify between one and five hours be in criminal law, while a few counties (nine) require 13 or more criminal CLE hours. However, 81 of the plans submitted either make no mention of a CLE requirement or simply state that they require the minimum required by the Texas State Bar Association.

A few counties have implemented a range of different CLE requirements based upon the level of trial category for which the attorney wishes to qualify. For example, in

Somervell County, the amount of criminal CLE required varies from five hours for state jail felonies and motions to revoke up to 15 hours for appeals and post-judgment writs involving the death penalty.

In addition, some counties allow attorneys who are board-certified in criminal law to forego CLE requirements. For example, Grimes County allows attorney to forego the required 10 criminal CLE hours per year if they are board-certified.

County size does not seem to play a role in determining the number of criminal CLE hours required by the different counties. There are both large and small counties that require a high number of criminal CLE hours, as well as counties of all sizes that make no mention of criminal CLE in their county plans at all. The following chart illustrates the range of criminal CLE hours required by Texas counties:

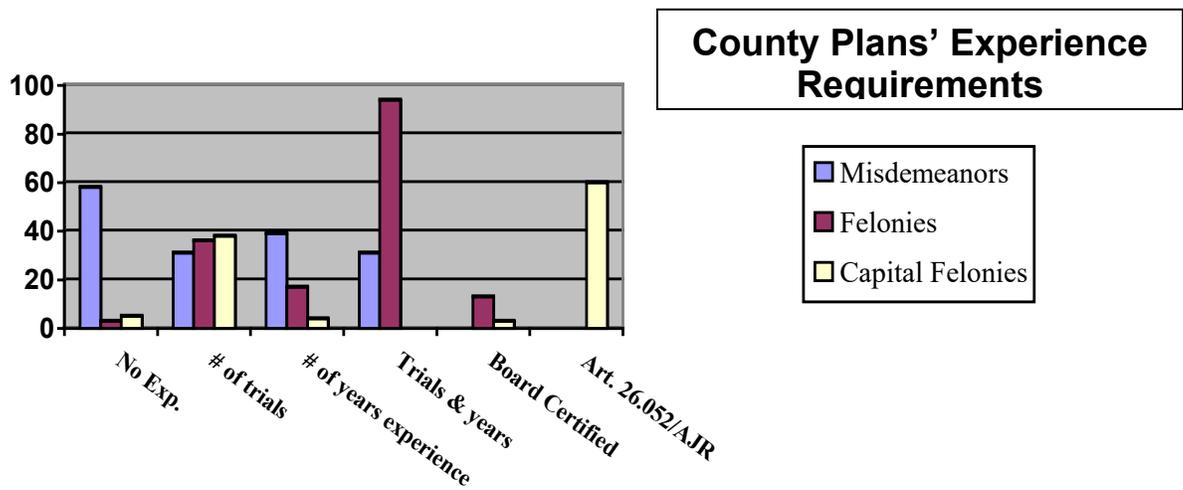


“No mention” – the county either made no mention of specific CLE requirements, or it simply stated that applying attorneys must complete the number of CLE hours required by the Texas Bar Association.

In addition to minimum CLE requirements, many county plans specified some level of experience required of attorneys applying to represent indigent defendants. These requirements varied widely and showed a lot of creativity on the parts of the counties. Only 52 counties either made no mention of any experience requirement or failed to specify any requirement beyond a statement that attorneys should be experienced to handle cases of the kind they wished to try. The majority of submitted plans did, however, detail at least some level of experience that attorneys were required to have. These plans exhibited an extremely broad and diverse array of experience requirements. Many counties broke their experience requirements down based on the

level of case the attorney wished to try. The following categorizations are based on what each county required for misdemeanors, felonies and capital felonies:

1. No experience required at all
2. No experience required for certain levels of cases (i.e., no experience requirement for misdemeanors, in a plan that includes specifics for felonies)
3. A specified number of trials
4. A specified number of years of experience
5. A combination of number of trials tried and number of years in practice
6. A few counties allow attorneys the option of being board certified in lieu of their specific experience requirements



A few broad trends can be noticed from the above chart. First of all, counties are least likely to have separate experience requirements for misdemeanor cases. The counties want the most experienced attorneys to be trying the most serious offenses. Also, by allowing inexperienced attorneys to handle misdemeanor cases, those attorneys get more experience for the future. Second, counties tend to require both trial experience and a specified length of time in practice for the more serious offenses, such as felonies and capital felonies. Third, there are many counties that chose not to include detailed requirements for capital offenses, but instead stated only that attorneys wishing to represent defendants in capital cases must comply with the requirements in Article 26.052, Code of Criminal Procedure or the standards set by the administrative judicial region. Finally, a few counties (13 for felonies and three for capital felonies) allowed attorneys the option of being board certified instead of having to meet certain experience requirements.

Qualifications in Juvenile Cases

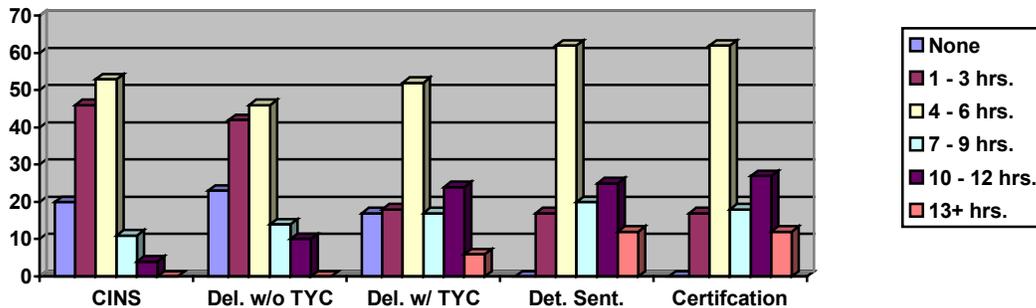
Like the plans for adult criminal defendants, the variation among the counties' juvenile plans is great as it relates to CLE requirements for attorneys. Thirty-four (34) counties included no juvenile plan at all and an additional 84 counties submitted plans that did not contain any specific CLE requirements.

Most counties (136), however, did specify some kind of CLE requirement in their juvenile plans. One interesting observation is that most of these counties (81) allowed attorneys to obtain their CLE in either criminal or juvenile law. Forty-five (45) counties required specifically juvenile CLE hours, whereas ten counties only mentioned criminal CLE.

Almost all of the counties broke down their CLE requirements based on five categories: Child in Need of Supervision (CINS), Delinquent Conduct without the possibility of TYC (Del. w/o TYC), Delinquent Conduct with the possibility of TYC (Del. w/ TYC), Determinate Sentence (Det. Sent.) and Certification/Discretionary Transfer to an Adult Court (Certification).

On the whole, the counties increased their CLE requirement as the difficulty of the case increased. A few counties did mandate the same amount of CLE across the different categories, but most counties increased the number of required hours as the category became more difficult.

County CLE Requirements



As illustrated in the chart above, the most common CLE requirement that the counties have implemented was somewhere between four and six hours. Very few counties specified more than thirteen hours. Additionally, once a case reaches the level of determinate sentence or certification, each county included on the chart required at least some level of CLE.

Following the analysis above and after the conclusion of FY 2002, the Task Force promulgated proposed rules setting minimum standards for attorney qualifications as authorized by Section 71.060(a)(2), Government Code. The proposed rules establish minimum continuing legal education training requirements for attorneys to be eligible for appointment in criminal and juvenile cases. It requires attorneys to complete six hours of criminal law CLE each year to be eligible for appointments in criminal cases and six hours of juvenile law CLE each year to be eligible for appointments in juvenile cases. The CLE need not be in an accredited CLE program, but may be met through self-study. This flexibility was needed to allow rural jurisdictions to continue to attract qualified attorneys who might not be able to attend costly CLE programs in distant locations. As an alternative to meeting the continuing legal education requirements, the rules allow an attorney to be currently certified in criminal or juvenile law by the Texas Board of Legal Specialization. In addition, in emergency situations the rule also allows another attorney to be appointed if no attorney who meets the continuing legal education or board certification requirements is available by the time an attorney must be appointed in the case. If finally adopted the rules will then be forwarded to the Texas Judicial Council for ratification before becoming effective.

Standards for Determining Indigence

The Task Force also has reviewed in detail the varying procedures adopted by Texas counties for determining whether a criminal defendant is indigent and cannot afford to hire an attorney. An analysis of the county plans shows that the most common method employed for determining indigence is consideration of the general statutory factors set forth in Article 26.04, Code of Criminal Procedure, which include a defendant's income, source of income, assets, property owned, outstanding obligations, necessary expenses, number and ages of dependents, and spousal income that is available to the defendant. Counties relying on this method usually list the statutory factors in the body

of the plan, and do not specify an objective indigence threshold, but instead allow the presiding judge to exercise guided discretion in evaluating the statutory factors and making a determination of indigence. Courts in 161 counties base their indigence findings upon consideration of the statutory factors.

The next most common method used for determining indigence relies upon the federal poverty guidelines issued each year by the United States Department of Health and Human Services. The counties using the poverty guidelines as a determining factor generally pick a certain percentage of the poverty level below which the defendant is deemed to be indigent. Each county lists this percentage in its plan as a requirement for indigent status. Some counties have created a “partial indigence” standard, whereby a defendant who falls within a range specified by higher multiplier of the poverty guidelines is deemed partially indigent, and typically is required to pay a flat fee to the county as partial payment for appointed counsel. In all counties that tailor their indigence standards to the federal poverty guideline, defendants are deemed indigent if their income falls below 100%-175% of the poverty guidelines, as specified below:

- 26 counties set indigence at or below the then-current poverty guidelines (100% of the guidelines);
- 17 counties set indigence at or below 125% of the guidelines;
- 27 counties plans set indigence at or below 125%, while also allowing a defendant to be found partially indigent to qualify for appointment of counsel if his income is between 125%-175% of the guidelines (partially indigent defendants are typically required to pay a portion of the cost of appointed counsel); and
- 3 plans set indigence at or below 150% of the guidelines.

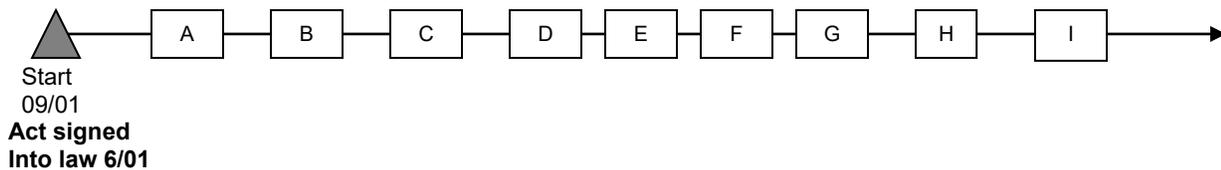
Twenty counties entirely failed to mention standards for determining indigence or to make note of the statutory factors. A full analysis of the indigence standards adopted in county plans for adult criminal defendants is contained in the chart at Appendix G, and an analysis of the indigence standards found in county juvenile plans is contained in the chart at Appendix H.

Following the end of FY 2002, the committee instructed staff to form a workgroup to examine the potential for developing a standard(s) for determining whether a criminal defendant/juvenile respondent is indigent and therefore eligible for the appointment of counsel. The Act sets out indigence as an area for the Task Force to consider for development of standards.

Task Force Program Timeline

The Task Force has accomplished much in a relatively short period of time. Staff was hired in May 2002, and immediately began working to get the FY02 grant program initiated.

The picture below illustrates the existing program timeline.



Legend:	
A	November 2001 - Request for Indigent Defense Plans sent mailed to counties
B	January 1, 2002 - Fair Defense Act (SB7) becomes effective, 254 County Plans received, Task Force is established
C	February 2002 - First Task Force meeting conducted, committees established
D	March 2002 - Second Task Force meeting conducted, emergency grant rules approved for publication
E	April 2002 – Emergency Grant Rules published in Texas Register, FY02 Grant Application Kits sent out to counties
F	May 2002 – Task Force staff employed, Policy and Standards Committee meets, deadline for FY02 Grant Applications to be submitted
G	June 2002 - Grants and Reporting Committee meets and review grant applications
H	July 2002 - Grants and Reporting meets a second time, full Task Force meets for third time and \$7.2 million in appropriated grant funding committed to counties
I	August 2002 - FY03 Formula Grant Application Kits sent out to all counties, amended Indigent Defense Expenditure Reporting form sent to counties, FY03 Discretionary Application Kits sent to all counties, statewide grant application training offered to all counties; grant awards processed and distributed to 238 counties; direct disbursements processed and distributed to 2 counties

First Statewide Funding to Counties on Indigent Defense — Grant Awards

The final achievement of the Act is appropriation of the first statewide funding to assist counties with the financial burden involved in meeting the constitutional obligation to provide counsel to indigent defendants. In August 2002, the Task Force awarded 240 out of 254 counties \$7,298,124 in grant money. This award directed funding to 94% of Texas counties. In January 2003, the Task Force will award another round of grants totaling approximately \$12.8 million.

Grant applications distributed to all counties in early August 2002 must be completed and turned in to the Task Force by December 2, 2002.

See Appendix A for a complete Annual Expenditure Report and a complete listing of the FY 2002 Grant Awards to Texas counties.

Administrative Implementation of the Texas Fair Defense Act Has Been Successful

Administrative Infrastructure

Task Force Staff

The Task Force has employed five full-time employees (FTEs). The staff consists of a director, an attorney, a grants administrator, an accounting and budget analyst and an executive assistant. The director was hired in March 2002. The remaining 4 staff members started in May 2002. The director and staff carry out the initiatives and directives of the Task Force. They provide, as appropriate, recommendations and/or information to the Task Force, state officials, agencies, counties, interest groups, associations, and the public. They also coordinate activities related to indigent defense with interested parties. A major focus is to gather vast amounts of information, input, and feedback from persons and entities involved in indigent defense processes and forge it into accurate and usable data.

Task Force Staff Conduct

The individual conduct of Task Force staff employees is governed by the principle that each employee is placed in a position of public trust and performs a public service. Each employee has an important role and responsibility in providing a level of service characterized by quality, equity and accountability, and that is consistent with the Task Force's dedication to promoting fairness and justice.

Office of Court Administration (OCA)

The Office of Court Administration provides administrative support and guidance to the staff of Task Force. OCA is responsible for providing administrative assistance to the Task Force, and provided OCA staff to assist the Task Force until the Task Force finished hiring its own staff in the spring of 2002.

Outsourcing Agreements

To provide the level of service needed by the counties in connection with the new indigent defense requirements, the Task Force determined it necessary to outsource certain functions.

- **Contract with Texas A&M University Public Policy Research Institute (PPRI) for business services**

Preliminary analysis by the staff identified the need for an automated grant administration program that would allow the Task Force to minimize overhead costs and maximize grant fund delivery to Texas' 254 counties. The Task Force, upon recommendation of staff, authorized the Director to enter into a contract with Public Policy Research Institute (PPRI) at Texas A&M University. PPRI assists the Governor's Office Criminal Justice Division with grants data business services. PPRI now also provides business services to the Task Force on Indigent Defense. Specifically, PPRI assists in sending county officials grant applications, coordinating corrections and requests for missing documentation directly with county officials, providing on-line tracking of indigent defense plan information to counties and Task Force staff, and serving counties with on-line submission of plan information.

- **Contract with University of Texas Law School for legal intern research assistance**

Four law students from the University of Texas assisted Task Force staff with its analysis of the initial county plans that were required to be submitted to OCA by January 1, 2002. Over 8000 pages, including amendments, are still being evaluated, requiring many hours of analysis. The Task Force authorized the Director to enter into a contract with the UT Law School for continued legal research by law school students.

Website

Task Force staff developed a web site for Texas counties to use as a resource regarding the Texas Fair Defense Act, and which also serves as a clearinghouse of information concerning the activities of the Task Force and the Fair Defense Act. The web site is a valuable tool for communication with the counties, and contains downloadable grant forms, expenditure forms, model forms promulgated by the Task Force, deadline information, training presentations, contact information, and access to all county plans and amendments. The website address is: www.courts.state.tx.us/tfid.

Training

Providing technical assistance and training on indigent defense issues meets both statutory requirements and service goals of the Task Force. The Director of the Task Force, as an OCA attorney, began writing instructions for indigent information and conducting presentations in the fall of 2001. Formal presentations were made to judges, clerks, and prosecutors on the Act in the fall and winter of 2001. Five workgroups made up of various stakeholders were sponsored by the OCA to present information and identify during this time frame. In January 2002, Task Force was established. Numerous presentations across the state were conducted by the Director of the Task Force in collaboration with multiple training organizations including: the Texas Center For the Judiciary, Texas Association of Counties, Constitutional County

Judges and Commissioners Association, Texas Justice Courts Training Center, Texas District and County Attorney's Association, and local bar associations. In addition to the trainings conducted by staff of the Task Force, these organizations and others offered educational classes on the provisions of the Act concerning administrative issues, magistration issues, court processes, attorney appointments, and fiscal concerns. The audiences included judges, defense attorneys, county elected officials, prosecutors, court administrators, and other key stakeholders. A comprehensive chart of training initiatives is at Appendix I.

Indigent Defense Policies Should Continue to Improve Next Biennium as New Standards are Promulgated and Evaluation Information Begins to be Generated

Promulgation of Policies and Standards

In addition to assessing the adoption of indigence standards and final adoption of continuing legal education requirements for attorneys, the policies and standards committee will also assess other areas where the Task Force should consider adoption of additional standards within the authority granted to it by Government Code Section 71.060. This assessment will include a review of model standards for the provision of indigent defense services, including those developed by the American Bar Association, the National Association of Legal Aid and Defender Association, and State Bar of Texas. The Task Force will focus its standards development on areas where a national consensus exists. Improvement in the quality of representation and the possible fiscal impact a standard will have on local indigent defense systems are also key considerations. Areas that will be considered include standards governing the operation of a contract defender program, an area where few guidelines currently exist.

Evaluation Strategy

The Task Force also will continue to develop its strategy for evaluating the impact of the Act and the standards developed by the Task Force. This strategy will focus on gathering information to determine whether the requirements of the Act and Task Force standards are being met. Analysis of county indigent defense plans submitted to OCA will continue to be a key strategy for evaluating compliance with the law. Following submission of plans by January 1, 2003, the Task Force plans to issue a report with a basic analysis of each plan's compliance with the Act. This analysis will give local policymakers additional information upon which they may implement changes to improve the provision of indigent defense services.

The Task Force also will evaluate each county's expenditures for indigent defense. This evaluation will focus on counties that experienced significant increases in expenditures, in order to identify cost drivers in their systems. Allowances will be made for increases in expenditures unrelated to the Act, such as increases in crime or in the number of cases handled in a jurisdiction. Identifying the changes in a system that resulted in increased costs will be a top priority. This analysis should enable the Task Force to present findings to the counties that will assist them in improving the efficiency of their systems. From this analysis, the Task Force also will develop model practices for specific areas of indigent defense services.

In addition to this general review of how the Act is being implemented in all counties, the Task Force also will begin to conduct more in-depth studies. Initially this will involve carrying out an evaluation of one key area where meeting performance measures is critical to determining the early success of the Act. The Task Force will select a sample of counties from which more detailed, case specific data will be collected for evaluation. Compliance with prompt appointment of counsel requirements, appointment processes, and attorney qualifications are areas that may be selected for initial study. The Task Force will continue its collaborative coordination with the Criminal Justice Policy Council in developing its evaluation strategy and others in conducting studies on how to improve indigent defense services in Texas.

APPENDIX A

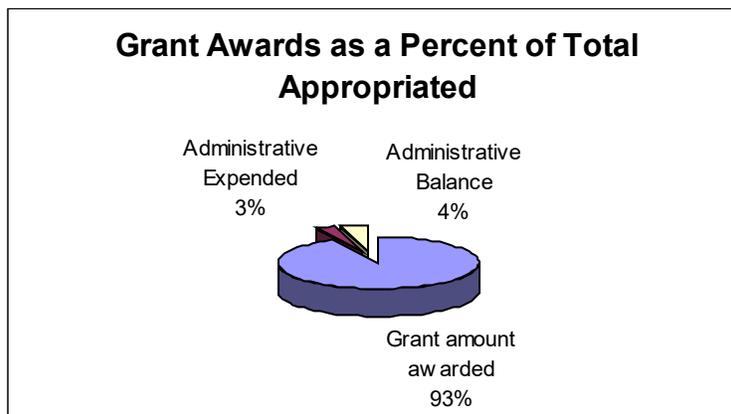
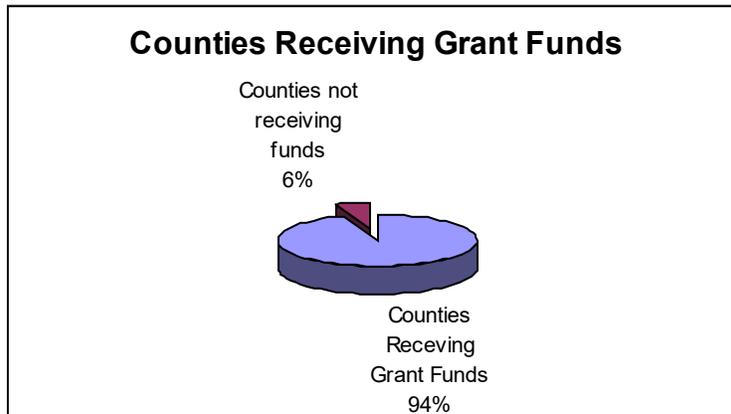
**Annual Expenditure Report and FY02 Formula Grant Awards to
Counties**

APPENDIX A

Annual Expenditure Report Texas Task Force on Indigent Defense Fiscal Year 2002

Pursuant to Texas Government Code Chapter 71, the Texas Legislature has delegated authority to the Task Force on Indigent Defense (TFID) to direct the Comptroller of Public Accounts to distribute funds, including grants, to counties for indigent defense services and to monitor counties to ensure compliance with the conditions of the grant. The purpose of these grants is to improve indigent defense systems in Texas.

For Fiscal Year 2002, the Texas Legislature appropriated TFID with a budget of \$7,889,000 for grants and administrative costs. Grants were awarded to 240 counties out of a total of 254 counties. This represents 94% of total counties receiving funding. Grant funding awarded to the 240 counties totaled \$7,298,124, which is 93% of the amount appropriated to TFID by the Legislature.



*** FY 2002 Formula Grant Award List**
Adopted by Task Force on Indigent Defense July 22, 2002

240 Counties received grant funding in FY 2002 for a total of \$7,298,124.

County	Total Grant Award
Anderson	21,302
Andrews	8,916
Angelina	28,663
Aransas	11,710
Archer	7,696
Armstrong	5,723
Atascosa	16,454
Austin	12,030
Bailey	Did Not Apply
Bandera	10,282
Bastrop	22,074
Baylor	6,295
Bee	14,610
Bell	75,094
Bexar	414,837
Blanco	7,568
Borden	Did Not Qualify - Fiscal
Bosque	5,787
Bowie	31,362
Brazoria	76,209
Brazos	49,926
Brewster	7,700
Briscoe	212
Brooks	7,438
Brown	16,174
Burleson	9,937
Burnet	15,136
Caldwell	14,562
Calhoun	11,165
Callahan	5,494
Cameron	103,702
Camp	2,077
Carson	7,008
Cass	14,046
Castro	7,528
Chambers	12,748
Cherokee	18,817
Childress	7,353
Clay	8,329
Cochran	Did Not Qualify - Fiscal
Coke	5,866
Coleman	7,809

APPENDIX A

County	Total Grant Award
Comal	28,043
Comanche	9,218
Concho	2,539
Cooke	15,788
Coryell	27,148
Cottle	5,652
Crane	6,267
Crockett	6,297
Crosby	Did Not Apply
Culberson	Did Not Apply
Dallam	6,922
Dallas	657,803
Dawson	9,500
Deaf Smith	10,552
Delta	6,659
Denton	132,455
DeWitt	10,979
Dickens	Did Not Apply
Dimmit	Did Not Qualify - Fiscal
Donley	6,218
Duval	8,951
Eastland	10,473
Ector	40,731
Edwards	5,728
El Paso	205,009
Ellis	37,849
Erath	14,799
Falls	10,556
Fannin	14,282
Fayette	11,505
Fisher	6,370
Floyd	7,378
Foard	5,569
Fort Bend	109,357
Franklin	7,874
Freestone	10,347
Frio	9,873
Gaines	9,347
Galveston	78,678
Garza	6,524
Gillespie	11,214
Glasscock	5,505
Goliad	7,129
Gonzales	10,571
Gray	11,782
Grayson	37,624
Gregg	37,855
Grimes	12,019
Guadalupe	31,279
Hale	15,858

APPENDIX A

County	Total Grant Award
Hall	6,204
Hamilton	7,512
Hansford	2,231
Hardeman	6,482
Hardin	19,233
Harris	1,005,406
Harrison	23,362
Hartley	6,720
Haskell	6,884
Hays	33,798
Hemphill	6,077
Henderson	26,646
Hidalgo	172,605
Hill	14,599
Hockley	11,774
Hood	17,181
Hopkins	14,493
Houston	11,911
Howard	14,984
Hudspeth	Did Not Apply
Hunt	27,623
Hutchinson	12,109
Irion	5,613
Jack	7,669
Jackson	9,325
Jasper	15,565
Jeff Davis	5,741
Jefferson	79,235
Jim Hogg	5,926
Jim Wells	16,660
Johnson	42,394
Jones	11,206
Karnes	9,635
Kaufman	26,069
Kendall	12,076
Kenedy	Did Not Apply
Kent	5,344
Kerr	17,933
Kimble	6,406
King	Did Not Apply
Kinney	6,086
Kleberg	14,372
Knox	6,343
LaSalle	5,703
Lamar	19,358
Lamb	9,418
Lampasas	10,317
Lavaca	10,742
Lee	9,698
Leon	9,603
Liberty	25,728

APPENDIX A

County	Total Grant Award
Limestone	11,578
Lipscomb	5,991
Live Oak	8,713
Llano	8,914
Loving	4,519
Lubbock	76,463
Lynn	Did Not Apply
Madison	8,898
Marion	8,310
Martin	6,488
Mason	6,191
Matagorda	16,258
Maverick	19,005
McCulloch	7,505
McLennan	67,900
McMullen	Did Not Qualify - Fiscal
Medina	16,654
Menard	5,786
Midland	39,217
Milam	12,222
Mills	6,607
Mitchell	7,944
Montague	10,715
Montgomery	91,507
Moore	11,010
Morris	8,930
Motley	5,511
Nacogdoches	22,507
Navarro	18,365
Newton	8,183
Nolan	9,740
Nueces	97,354
Ochiltree	7,741
Oldham	5,734
Orange	30,085
Palo Pinto	13,042
Panola	11,785
Parker	31,123
Parmer	8,038
Pecos	10,037
Polk	17,191
Potter	38,493
Presidio	7,240
Rains	7,780
Randall	35,776
Reagan	6,070
Real	5,988
Red River	9,302
Reeves	8,956
Refugio	7,394
Roberts	5,352

APPENDIX A

County	Total Grant Award
Robertson	9,798
Rockwall	17,764
Runnels	8,473
Rusk	19,026
Sabine	8,171
San Augustine	7,723
San Jacinto	11,635
San Patricio	24,841
San Saba	6,911
Schleicher	5,955
Scurry	9,904
Shackelford	6,063
Shelby	12,511
Sherman	6,028
Smith	56,483
Somervell	7,095
Starr	20,857
Stephens	7,937
Sterling	5,501
Stonewall	5,590
Sutton	6,291
Swisher	7,556
Tarrant	430,512
Taylor	42,320
Terrell	5,409
Terry	8,845
Throckmorton	5,635
Titus	13,362
Tom Green	35,687
Travis	244,032
Trinity	9,145
Tyler	11,231
Upshur	15,472
Upton	6,093
Uvalde	12,718
Val Verde	18,286
Van Zandt	19,252
Victoria	29,827
Walker	23,259
Waller	Did Not Apply
Ward	8,300
Washington	14,026
Webb	61,899
Wharton	17,208
Wheeler	Did Not Apply
Wichita	43,822
Wilbarger	9,408
Willacy	10,999
Williamson	78,622
Wilson	14,625
Winkler	7,202

APPENDIX A

County	Total Grant Award
Wise	19,445
Wood	15,902
Yoakum	7,245
Young	10,370
Zapata	8,675
Zavala	8,504
Totals	7,298,124

APPENDIX B

**Preliminary Review of Plans and Chart illustrating Attorney Selection
Methods**

Appendix B

Preliminary Review of Plans and Chart illustrating Attorney Selection Methods

After receiving the plans, OCA worked with Professor Robert Dawson, University of Texas School of Law, in conducting a preliminary analysis of the county plans. Professor Dawson graciously paid four law students to assist OCA staff in reviewing the plans under the direction of the Task Force in order to determine whether the plans addressed the main requirements the Act. After this initial review, the Task Force determined that 135 counties addressed each of the main requirements of the law, and that 119 counties fell short with respect to one or more of the Act's requirements.

Most of the counties submitted a single plan to address appointment of counsel in both the county and district courts, rather than separate plans for each level of court. Another pattern was the joint submission of plans on behalf of multiple counties. This practice was common in rural counties served by the same district court.

The initial county plans also were reviewed by Texas Appleseed and the Equal Justice Center, two non-profit public interest organizations whose respective missions include working to improve indigent defense services in Texas. Texas Appleseed and the Equal Justice Center evaluated 95 county plans from 80 counties for compliance with the five core the Act's requirements previously discussed in this report, as well as for countywide consistency. Texas Appleseed and Equal Justice Center published the results of their county plan review in March 2002, and reached overall conclusions that the groups characterized as being very positive. In their view, a vast majority of county plans appeared to be the product of substantial thought and collaboration. They considered approximately one-third of the county plans to be good or very good examples of how officials in counties of widely varying demographics can successfully implement the Act. Another third of the plans would have qualified as good or very good but for significant shortcomings in only one or two of the Act's core requirements. Finally, Texas Appleseed and the Equal Justice Center found that the remaining third of the initial county plans fell substantially short of what the Act requires, and would benefit from Task Force attention. Texas Appleseed and Equal Justice Center are planning to review all amendments to the initial county plans filed through October 2002, and will issue an updated report on their review of county plans in December 2002.

Review of Prompt Appointment of Counsel

In order to review initial county plans as effectively as possible within the relatively short period of time between staffing of the Task Force in the spring of 2002 and the close of the fiscal year, the Task Force has focused much of its attention on a limited number of THE ACT specific requirements. For example, in order to ensure that persons too poor to hire counsel were not forgotten about in Texas jails, the Task Force chose to focus its initial plan review efforts on the following prompt appoint requirements:

- Appearance before a magistrate within 48 hours of arrest
- Transmittal of request for appointment of counsel to appointing authority within 24 hours after the person arrested requests appointment of counsel
- Appointment of counsel to eligible defendant not later than the end of the first working day (counties with population of 250,000 or greater) or third working

day (counties with population of less than 250,000) after the date on which the appointing authority receives the request for counsel.

Counties that did not meet these prompt access requirements were not eligible for the initial FY 2002 formula grant program, which is discussed in more detail below.

When the 244 initial grant applications were received by the Task Force, 75 counties were not in compliance with one or more of the three prompt access requirements. Task Force staff, in collaboration with Task Force members, the Texas Association of Counties, the Conference of Urban Counties, and the Constitutional County Judges and Commissioner's Association, contacted all non-compliant counties and offered assistance in achieving grant eligibility. A plan supplement was provided to each non-compliant county with sample language tailored to bring the county's plan into compliance. A sample of this supplement is contained in Appendix C. At the conclusion of this process, all of the counties that applied for grant funding brought their plans into compliance with the prompt access to counsel requirements.

The Task Force also received a number of plan amendments and supplements pertaining to other areas addressed by the Act, indicating that the counties have continued to refine their indigent defense procedures. A total of 98 counties submitted changes to their plans, covering the full range of indigent defense processes.

Review of Attorney Selection processes

In addition to prompt access issues, the Task Force also has reviewed the attorney selection methods specified in the county plans. This is one of the key policy decisions that courts were required to address in developing their indigent defense procedures. The Act provides courts great flexibility in selecting the method of appointment, although the rotation system is the default method. The Act also specifically authorizes the creation of a public defender office. An alternative system, which may consist of a single appointment method or a combination of methods, is the third option provided by the act. .

Nearly 75% of the counties use some form of the rotation system. Counties of widely varying population selected this system. This represents a dramatic change from the prior methods used by most courts, whereby judges exercised sole discretion to appoint any attorney the judge considered appropriate in each case.

The public defender system is used in 2% of Texas counties. This system is specifically authorized by Code of Criminal Procedure Article 26.044, and entails the creation of a governmental entity or nonprofit corporation that employs attorneys to represent indigent defendants. Although no new public defender offices have been created since the passage of the Act, the following five counties currently operate public defender offices: Colorado, Dallas, El Paso, Webb, Wichita. Travis County has a juvenile public defender office. The public defender office in each of these counties handles some, but not all, of the cases filed in the county, while each county also has another appointment method that is used for the remaining cases. The rotation system is the other appointment method used in most of the counties with public defender offices.

The remaining method of attorney selection authorized by the Act is an alternative program. An alternative program may consist of a single appointment method or a

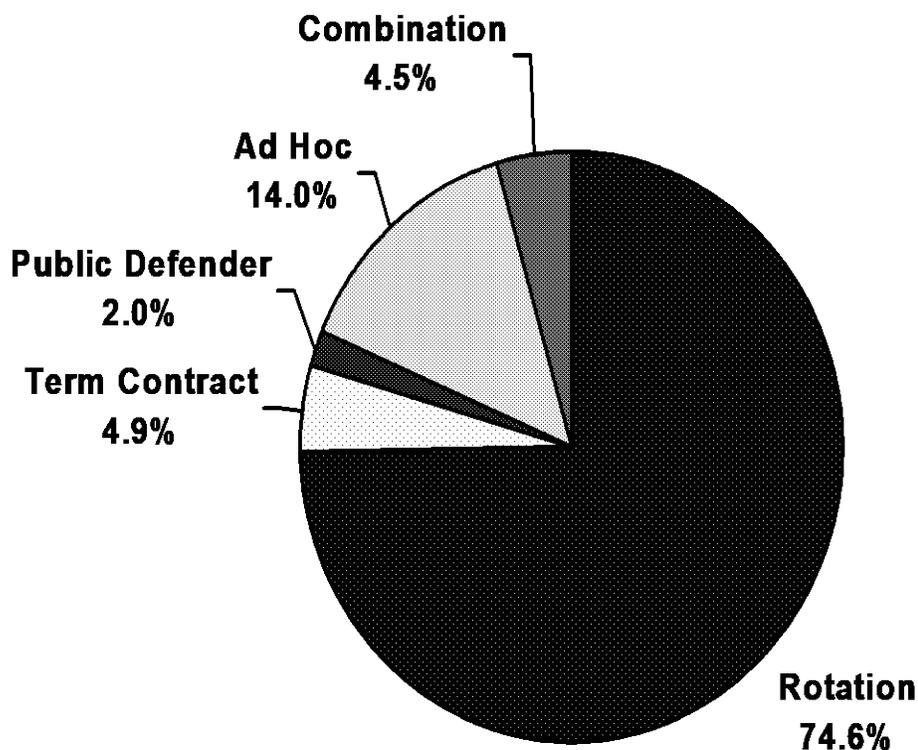
APPENDIX B

combination of methods that is approved by two-thirds of the judges in the county and by the presiding judge of the administrative judicial region. Any alternative program must meet the Act requirement that appointments must be made in an impartial manner among qualified attorneys.

Of the counties that chose to enact an alternative program, about five percent selected a term contract system for providing indigent defense services. This is a system where an attorney or group of attorneys in private practice enters into a contract with a county to provide representation to indigent defendants in new cases filed during a specified period of time.

The ad hoc appointment system, also known as a discretionary system, is the other type of attorney appointment method selected by those counties that adopted an alternative program. In an ad hoc system, individual judges appoint attorneys in individual cases based upon the judge's determination regarding whom is the most appropriate attorney for that case. Some version of this system was selected in 14% of the county plans. Plans adopting the ad hoc appointment method generally do not specify an objective system for attorney selection, though some plans in this category specify factors judges should use in assigning attorneys to cases. Questions have been raised as to whether and/or the extent to which an ad hoc method can comply with the the Act's requirement that attorney appointments be made in a fair, neutral, and nondiscriminatory manner, and the Task Force will review this issue in the next biennium.

Finally, a few counties, fewer than five percent, use some combination of appointment methods for selecting attorneys. See the following chart that illustrates the various appointment methods used in Texas counties.



System/Description	No./% of District/County Courts Using Method	Details and Notes
Rotation System: Attorneys are selected based on the order that their names appear on lists of qualified attorneys	189.5 74.6%	Anderson, Andrews, Angelina, Aransas, Archer, Armstrong, Bailey, Bastrop, Bee, Bell, Bexar, Borden, Bosque, Bowie, Brazoria, Brazos, Briscoe, Brooks, Callahan, Calhoun, Cameron, Camp, Carson, Cass, Castro, Chambers, Cherokee, Childress, Clay, Cochran, Coke, Coleman, Collin, Collingsworth, Comal *, Comanche, Concho, Cooke, Coryell, Crane, Crockett, Crosby, Deaf Smith, Delta, DeWitt, Dickens, Dimmit, Donley, Duval, Eastland, Edwards, Ellis, Erath, Falls, Fannin, Fisher, Floyd, Foard, Fort Bend, Franklin, Freestone, Galveston, Glasscock, Goliad, Gray, Grayson, Gregg, Grimes, Guadalupe *, Hale, Hall, Hamilton, Hansford, Hardeman, Hardin, Harris *, Harrison, Hays *, Hemphill, Henderson, Hidalgo, Hill, Hockley, Hood, Hopkins, Houston, Howard, Hudspeth, Hunt, Hutchinson, Irion, Jack, Jackson, Jasper, Jefferson +, Jim Hogg, Jim Wells, Johnson, Jones, Kaufman, Kenedy, Kinney, Kleberg, Lamar, Lamb, Lampasas, Leon, Liberty, Limestone, Lipscomb, Live Oak, Loving, Lubbock, Madison, Marion, Martin, Matagorda, Maverick, McLennan, McMullen, Midland, Milam, Mitchell, Montague, Montgomery, Morris, Motley, Nacogdoches, Navarro, Newton, Nolan, Nueces, Ochiltree, Oldham, Orange, Palo Pinto, Panola, Parker, Parmer, Pecos, Polk, Potter, Rains, Reagan, Red River, Reeves, Refugio, Roberts, Robertson, Rockwall, Runnels, Rusk, Sabine, San Augustine, San Jacinto, San Patricio +, Schleicher, Scurry, Shackelford, Shelby, Smith, Somervell, Starr, Stephens, Sterling, Sutton, Swisher, Tarrant, Taylor, Terrell, Titus, Tom Green, Travis, Trinity, Tyler, Upshur, Upton, Val Verde, Van Zandt, Victoria, Walker, Waller *, Ward, Wharton, Wheeler, Wilbarger, Williamson, Winkler, Wise, Wood, Young, Zapata, Zavala
Term Contract: Attorney or group of attorneys in private practice enters into a contract with a county for a specified period of time to provide representation to defendants.	12.5 4.9%	Austin, Burnet, Dallam, Dawson, Gaines, Garza, Lynn, Hartley, Moore, Fayette, Sherman, Waller+, Willacy
Public Defender: Governmental entity or nonprofit corporation employs attorneys to represent indigent defendants	5 2%	Colorado, Dallas, El Paso, Webb, Wichita (Note: These counties rely in part on a public defender office, however they each have another system that is used for some cases. The rotation system is the other system used for appointment in each county except in the county courts in Dallas where an ad hoc system is used.)
Ad Hoc System: Individual judges appoint attorneys in individual cases based on who the judge feels is most appropriate for a case without specifying an objective system of selection. Some plans in this category specify factors judges should use in assigning attorneys to cases. This system is also sometimes also called a Discretionary System.	35.5 14%	Atascosa, Bandera, Baylor, Brewster, Caldwell, Comal+, Cottle, Culberson, Frio, Gillespie, Gonzales, Guadalupe+, Haskell, Hays+, Jeff Davis, Jefferson*, Karnes, Kendall, Kent, Kerr, Kimble, King, Knox, La Salle, Lavaca, Mason, McCulloch, Medina, Menard, Presidio, Real, San Patricio*, Stonewall, Terry, Throckmorton, Uvalde, Wilson, Yoakum

Mixed Systems (Counties with Combinations): A number of counties employ a combination of systems. Below the following list is another list showing the combinations of systems in use and the counties employing each combination

	Rotation	Term Contract	Ad Hoc
Burleson		[[
Ector		[[
Washington		[[
Blanco	[[[
Llano	[[[
San Saba	[[[
Brown	[[
Mills	[[
Denton	[[
Randall	[[
Lee		[[
Harris +	[[
11.5 Counties 4.5%			

APPENDIX C

County Supplement to Plan re: prompt access to counsel requirement

Appendix C

_____ County's Supplemental Plan for Appointment of Counsel

Two-thirds of the judges hearing both misdemeanor and felony cases having approved it, this Supplemental Plan is added to and is now a part of the County's Plan for Appointment of Counsel is hereby supplemented as follows:

1) *Prompt Appearance before a Magistrate.* The law enforcement officer making the arrest and any officer who later has custody of an accused person shall ensure that the person is taken before a magistrate without unnecessary delay, but not later than 48 hours after the person is arrested, for proceedings under Article 15.17 of the Code of Criminal Procedure.

Article 14.06, Code of Criminal Procedure, Subsection (a)

2) *Transmittal of Request for Appointed Counsel.* If an arrested person requests appointment of counsel and has completed the necessary forms, the magistrate shall transmit or cause to be transmitted to the appointing judge or person(s) designated by the judges to appoint counsel the forms requesting appointment of counsel. The forms requesting appointment of counsel shall be transmitted without unnecessary delay, but not later than 24 hours after the person arrested requests appointment of counsel.

Article 15.17, Code of Criminal Procedure, Subsection (a)

3) *Prompt Appointment of Counsel.*

Counties with population of 250,000 or greater

Counsel shall be appointed as soon as possible, but not later than the end of the third working day after the date on which the appointing judge or person(s) designated by the judges to appoint counsel receives an eligible defendant's request for counsel.

Article 1.051, Code of Criminal Procedure, (c)

Counties with population of less than 250,000

Counsel shall be appointed as soon as possible, but not later than the end of the first working day after the date on which the appointing judge or person(s) designated by the judges to appoint counsel receives an eligible defendant's request for counsel.

Article 1.051, Code of Criminal Procedure, (c)

Judge

Date

APPENDIX D

Grant Rules

APPENDIX D

TITLE 1 ADMINISTRATION PART 8 TEXAS JUDICIAL COUNCIL CHAPTER 173 INDIGENT DEFENSE

SUBCHAPTER A GENERAL GRANT PROGRAM PROVISIONS

RULE § 173.1 Applicability

(a) The Texas Legislature authorized the Task Force on Indigent Defense (Task Force) to direct the Comptroller to distribute Fair Defense Account funds, including grants, to counties for indigent defense services. It further authorized the Task Force to monitor grants and enforce compliance with grant terms. Subchapters A through E of this chapter apply to Indigent Defense grants to counties awarded by the Task Force. Subchapter A covers the general provisions for grant funding. Subchapter B addresses eligibility, grant funding, and expenditure reporting. Subchapter C provides rules detailing the conditions the Task Force on Indigent Defense may place on grants. Subchapter D sets out the rules related to administering grants. Subchapter E specifies rules regarding program monitoring and audits.

(b) All counties in Texas are eligible to participate in this program.

RULE § 173.2 Definitions

The following words and terms, when used in this chapter, will have the following meanings, unless otherwise indicated:

- (1) (1) "Ad hoc assigned counsel program" means a system under which private attorneys, acting as independent contractors and compensated with public funds, are individually appointed to provide legal representation and services to a particular indigent defendant accused of a crime or juvenile offense.
- (2) "Applicant" is a county that has submitted a grant application or grant renewal documentation.
- (3) "Contract defender program" means a system under which private attorneys, acting as independent contractors and compensated with public funds, are engaged to provide legal representation and services to a group of unspecified indigent defendants who appear before a particular court or group of courts.
- (4) "Counsel appointed to defend" means a lawyer, other than an attorney with a public defender, appointed to represent a defendant in a criminal proceeding, including a habeas corpus hearing.
- (5) "Crime" means:
 - (A) a misdemeanor punishable by confinement; or
 - (B) a felony.
- (6) "Defendant" means a person accused of a crime or a juvenile offense.
- (7) "Fair Defense Account" is an account in the general revenue fund that may be appropriated only to the Task Force on Indigent Defense for the purpose of implementing the Texas Fair Defense Act.
- (8) "Indigent defense support services" means criminal defense services that:

APPENDIX D

- (A) are provided by licensed investigators, experts, or other similar specialists, including forensic experts and mental health experts; and
- (B) are reasonable and necessary for appointed counsel to provide adequate representation to indigent defendants.

(9) "Juvenile offense" means conduct committed by a person while younger than 17 years of age that constitutes:

- (A) a misdemeanor punishable by confinement; or
- (B) a felony.

(10) "Public defender" has the meaning assigned by Article 26.044(a), Code of Criminal Procedure.

(11) "Schedule of fees" means a list of the fees adopted by formal action of the judges of the county courts, statutory county courts, and district courts trying criminal cases in each county.¹ Each fee schedule adopted will state reasonable fixed rates or minimum and maximum hourly rates, taking into consideration reasonable and necessary overhead costs and the availability of qualified attorneys willing to accept the stated rates, and will provide a form for the appointed counsel to itemize the types of services performed.. An attorney appointed to represent the interests of a child in a juvenile proceeding will be paid in accordance with the same schedule.²

(12) "Special condition" means a condition placed on a grant because of a need for information, clarification, or submission of an outstanding requirement of the grant.

(13) "Task Force on Indigent Defense" (Task Force) is the governmental entity charged with developing policies and standards for providing legal representation and other defense services to indigent defendants at trial, on appeal, and in post-conviction proceedings. The Task Force will:

- (1) provide technical support to:
 - (i) assist counties in improving their indigent defense systems; and
 - (ii) promote compliance by counties with the requirements of state law relating to indigent defense;
- (2) direct the Comptroller to distribute funds, including grants, to counties to provide indigent defense services in the county; and
- (3) monitor each county that receives a grant and enforce compliance by the county with the conditions of the grant, including enforcement by directing the Comptroller to:
 - (i) withdraw grant funds; or
 - (ii) require reimbursement of grant funds by the county.

(14) "UGMS" is the Uniform Grant Management Standards promulgated by the Governor's Office of Budget and Planning at 1 TAC, §5.141 - 5.167.

(15) "Fiscal Year" means the fiscal year for the State of Texas, beginning September 1 and ending August 31.

¹Article 26.05, Texas Code of Criminal Procedure

²Family Code §51.10(i)

RULE § 173.3 Grant Submission Process

Requests for applications. The Task Force or its designees will publish Requests for Applications (RFA) in the Texas Register for all Indigent Defense grants. Applicants must submit their applications according to the requirements provided in the RFA. The RFA will provide the following:

APPENDIX D

- (1) information regarding deadlines for the submission of applications;
- (2) the maximum and minimum amounts of funding available for a grant, if applicable;
- (3) the start dates for grants, and the length of grant periods;
- (4) information regarding how applicants may obtain application kits; and
- (5) information regarding where applicants must submit applications.

RULE §173.4 Selection Process

(a) The Task Force or its designees will review grant applications and shall make grant awards from the Texas Fair Defense Act.

(1) Formula grants. The Task Force or its designees may allocate funding to counties through a formula based upon population figures or other criteria approved by the Task Force.

(2) Discretionary grants. Discretionary grants will not be available for Fiscal Year 2002.

(b) During the staff review of an application, the staff may request that the applicant submit additional information necessary to complete grant review. The staff may request the applicant to provide any outstanding forms and documents to clarify or justify any part of the application. The applicant must provide a response by the established deadline. Such requests for information, including the issuance of a preliminary review report, do not mean that the Task Force will fund an application.

(c) The Task Force will inform applicants of funding decisions on their grant applications through either a Statement of Grant Award or a notification of denial.

(d) All grant funding decisions made by the Task Force or its designees are final and are not subject to appeal.

RULE §173.5 Grant Funding Decisions

(a) The Task Force or its designees will render decisions on applications for funding through the use of objective tools and comparative analysis. The Task Force or its designees will first determine whether the grantee is eligible for funds in accordance with RULE §173.1 of this title (relating to "Applicability") and RULE §173.101 of this title (relating to "Eligibility").

(b) All decisions to fund grant requests rest completely within the discretionary authority of the Task Force or its designees. The receipt of an application for grant funding does not obligate the Task Force to fund the grant.

(c) The Task Force makes no commitment that a grant, once funded, will receive priority consideration for subsequent funding.

RULE §173.6 Grant Acceptance

Each applicant must accept or reject a grant award within 30 days of the date upon which the Task Force issues a Statement of Grant Award. The Task Force may alter this deadline upon request from the applicant. The authorized official designated under RULE §173.301 of this chapter (relating to "Grant Officials") must formally accept the grant in writing before the grantee may receive any grant funds.

RULE §173.7 Adoptions by Reference

(a) Grantees must comply with all applicable state statutes, rules, regulations, and guidelines.

(b) The Task Force adopts by reference the rules, documents, and forms listed below that relate to the administration of grants.

(1) Uniform Grant Management Standards (UGMS) adopted pursuant to the Uniform Grant and Contract Management Act of 1981, Chapter 783, Texas Government Code. See 1 TAC §5.141 - 5.167.

(2) The Task Force forms, including the statement of grant award; grantee acceptance notice; grant adjustment notice; grantee's progress report; financial expenditure report; and property inventory report.

RULE §173.8 Use of the Internet

The Task Force may provide for submission of grant applications, progress reports, financial reports, and other information via the Internet. Completion and submission of a progress report or financial report via the Internet meets the relevant requirements contained within this chapter for submitting reports in writing. If a grant application is submitted via the Internet, the Task Force will not consider it complete until the grantee provides an Internet Submission Form that is signed by the applicant's authorized official and that meets all relevant deadlines for applications. This form certifies that the information submitted via the Internet is true and correct and that, if a grant is awarded, the grantee will abide by all relevant rules, policies, and procedures.

SUBCHAPTER B ELIGIBILITY AND GRANT FUNDING REQUIREMENTS

RULE §173.101 Eligibility

The Task Force may provide grants from the Fair Defense Account to counties providing legal representation and defense support services in accordance with the Code of Criminal Procedure and Family Code to indigents accused of crimes or juvenile offenses.

RULE §173.102 Grant Funding

(a) The Task Force will make decisions regarding funding in accordance with RULE §173.4 of this chapter (relating to "Monitoring"), subject to the availability of funds.

(b) The applicant may not reduce the amount of funds expended for indigent defense services in the county because of funds provided for by the Texas Force on Indigent Defense under this grant.

RULE §173.103 Expenditure Reporting

(a) Allowable expenditure categories and any necessary definitions will be provided to the applicant as part of the grant application kit.

(b) Grantees must ensure that all expenditures for which reimbursement is requested are adequately documented. Documentation may include, but is not limited to, travel records, time sheets or other payroll documentation, invoices, contracts, mileage records, telephone bills and other documentation that verifies the expenditure amount and appropriateness to the grant.

(c) Expenditures may be allocated to the grant in accordance with the Uniform Grant Management Standards.

RULE §173.104 Program Income

APPENDIX D

(a) Rules governing the use of program income are included in the provisions of the Uniform Grant Management Standards adopted by reference in RULE §173.7 of this chapter (relating to "Adoptions by Reference").

(b) Grantees must use program income to supplement program costs or reduce program costs. Program income may only be used for allowable program costs.

SUBCHAPTER C CONDITIONS OF GRANT FUNDING

RULE §173.201 Grant Conditions

(a) Applicants must apply for funds using the procedures, forms, and certifications prescribed by the Task Force. When the Task Force determines that a grantee has failed to submit the necessary information or has failed to comply with any Task Force rule or other relevant statute, rule, or requirement, the Task Force may place a special condition on the grant. The special condition allows the Task Force to place a grantee's funds on hold until the grantee has satisfied the requirements of the special condition. If a special condition is not corrected or removed within 45 days, the Task Force may reject the application and deny the grant.

(b) Grantees must comply with the applicable grant management standards adopted under RULE §173.7 of this chapter (relating to "Adoptions by Reference").

RULE §173.202 Resolutions

Each application must include a resolution from the county commissioners' court that contains the following:

- (1) authorization for the submission of the application to the Task Force;
- (2) provision giving the authorized official the power to accept, reject, or alter a grant; and
- (3) a written assurance that, in the event of loss or misuse of Fair Defense Account funds, the governing body will return all funds to the Task Force.

SUBCHAPTER D ADMINISTERING GRANTS

RULE §173.301 Grant Officials

(a) Each grant must have the following designated to serve as grant officials:

- (1) the program director. This person must be an officer or an employee responsible for program operation or monitoring and who will serve as the point-of-contact regarding the program's day-to-day operations.
- (2) the financial officer. This person must be the county auditor or county treasurer if the county does not have a county auditor.
- (3) the authorized official. This person must be authorized to apply for, accept, decline, or cancel the grant for the applicant county. A county judge or a designee authorized by the governing body in its resolution may serve as the authorized official.

(b) The program director and the authorized official may be the same person. The financial officer may not serve as the project director or the authorized official.

RULE §173.302 Obligating Funds

The grantee may not obligate grant funds before the beginning or after the end of the grant period.

RULE §173.303 Retention of Records

(a) Grantees must maintain all financial records, supporting documents, statistical records, and all other records pertinent to the award for at least three years following the closure of the most recent audit report or submission of the final expenditure report. Records retention is required for the purposes of state examination and audit. Grantees may retain records in an electronic format. All records are subject to audit or monitoring during the entire retention period.

(b) Grantees must retain records for equipment, non-expendable personal property, and real property for a period of three years from the date of the item's disposition, replacement, or transfer.

(c) If any litigation, claim, or audit is started before the expiration of the three-year records retention period, the grantee must retain the records under review until the resolution of all litigation, claims, or audit findings.

RULE §173.304 Expenditure Reports

Each grantee county must submit a Grant Expenditure Report to the Task Force within 60 days after the end of the grant period. The Task Force will provide the appropriate forms and instructions for the reports along with deadlines for their submission. The grantee's financial officer must sign and submit the expenditure report. The Task Force may place a financial hold on a grantee's future funds if the grantee fails to submit timely expenditure reports.

RULE §173.305 Inventory Reports

The Task Force requires each grantee to maintain an inventory report of all equipment purchased with grant funds. This report must comport with the final financial expenditure report. At least every year, grantees must complete a physical inventory of all grantee property and the grantee must reconcile the results with the existing property records.

RULE §173.306 Provision of Funds

After a grant has been accepted and if there are no outstanding special conditions or other deficiencies, the Task Force will forward funds to the grantee.

RULE §173.307 Remedies for Noncompliance

If a grantee fails to comply with any term or condition of a grant, the Task Force may take one or more of the following actions:

- (1) disallow all or part of the cost of the activity or action that is not in compliance and seek a return of the cost;
- (2) impose administrative sanctions, other than fines, on the grantee;
- (3) withhold further grants from the program or grantee; or
- (4) terminate the grant in whole or in part.

RULE §173.308 Grant Termination

- (a) The grant will terminate at the end of the date specified in the grant award, unless an extension is granted.
- (b) If a grantee wishes to terminate a grant in whole or in part before the end of the grant period, the grantee must notify the Task Force in writing. The Task Force or its designee will make arrangements with the grantee for the early termination of the grant.
- (c) The Task Force may terminate any grant, in whole or in part, when:
- (1) a grantee fails to comply with any term or condition of the grant or the grantee has failed to comply with any applicable rule;
 - (2) the grantee and the Task Force agree to do so;
 - (3) grant funds are no longer available; or
 - (4) conditions exist that make it unlikely that grant or program objectives will be accomplished.

RULE §173.309 Violations of Laws

If the grantee has a reasonable belief that a criminal violation may have occurred in connection with Fair Defense Account grant funds, including the misappropriation of funds, fraud, theft, embezzlement, forgery, or any other serious irregularities indicating noncompliance with grant requirements, the grantee must immediately notify the Task Force in writing of the suspected violation or irregularity. The grantee may also notify the local prosecutor's office of any possible criminal violations. Grantees whose programs or personnel become involved in any litigation arising from the grant, whether civil or criminal, must immediately notify the Task Force and forward a copy of any demand notices, lawsuits, or indictments to the Task Force.

RULE §173.310 Grantee Reports

Each grantee must submit reports regarding grant information, performance, and progress towards goals and objectives in accordance with the instructions provided by the Task Force. To remain eligible for funding, the grantee must be able to show the scope of services provided and the impact and quality of those services.

RULE §173.311 Grant Management

The Task Force has oversight responsibility for the grants it awards. The Task Force may review the grantee's management and administration of grant funds at any time, and may also request records in accordance with record retention requirements found in RULE §173.303 of this chapter (relating to "Retention of Records"). Grantees must respond to all Task Force inquiries or requests and must make all requested records available to the Task Force or its designees within the time frame established by the Task Force.

SUBCHAPTER E PROGRAM MONITORING AND AUDITS

RULE §173.401 Monitoring

- (a) The Task Force or its designees will monitor the activities of grantees as necessary to ensure that grant funds are used for authorized purposes in compliance with laws, regulations, and the provisions of grant agreements.
- (b) The monitoring program may consist of formal audits, monitoring reviews, and technical assistance. The Task Force or its designees may implement monitoring through on-site review at the grantee location

or through a desk review based on grantee reports. In addition, the Task Force or its designees may request grantees to submit relevant information to the Task Force, pursuant to RULE §173.311 of this chapter (relating to "Grant Management"), to support any monitoring review. The monitoring program may include work performed by the Task Force staff, Task Force contractors, or other external reviewers.

(c) Grantees must make available to the Task Force, its designees, agents, or contractors all requested records relevant to a monitoring review. The Task Force, its designees, agents, or contractors may make unannounced monitoring visits at any time. Failure to provide adequate documentation upon request may result in disallowed costs or other remedies for noncompliance as detailed under RULE §173.307 of this chapter (relating to "Remedies for Noncompliance").

(d) After a monitoring review, the grantee will be notified in writing of any noncompliance identified by the Task Force, its designees, agents, or contractors in the form of a draft report.

(e) The grantee will respond to the draft report and the deficiencies, if any, and submit a plan of corrective action, if necessary, to the Task Force within a time frame specified by the Task Force.

(f) The corrective action plan will include:

(1) the titles of the persons responsible for implementing the corrective action plan;

(2) the corrective action to be taken; and

(3) the anticipated completion date.

(g) If the grantee believes corrective action is not required for a noted deficiency, the response will include an explanation and specific reasons.

(h) The Task Force or its designees will approve the corrective action plan and may require modifications prior to approval. The grantee's replies and the approved corrective action plan, if any, will become part of the final report.

(i) The grantee will correct deficiencies identified in the final report within the time frame specified in the corrective action plan.

RULE §173.402 Audits Not Performed by The Task Force on Indigent Defense

(a) Grantees must submit to the Task Force copies of the results of any single audit conducted in accordance with the State Single Audit Circular issued under the Uniform Grant Management Standards. Grantees must ensure that single audit results, including the grantee's response and corrective action plan, if applicable, are submitted to the Task Force within 30 days after grantee receipt of the audit results or nine months after the end of the audit period, whichever is earlier.

(b) All other audits performed by auditors independent of the Task Force must be maintained at the grantee's administrative offices pursuant to RULE §173.303 of this chapter (relating to "Retention of Records") and be made available upon request by the Task Force or its representatives. Grantees must notify the Task Force of any audit results which may adversely impact the Task Force grant funds.

(c) Nothing in this section should be construed so as to require a special or program-specific audit of a grantee's Indigent Defense grant program.

APPENDIX E

FY02 Formula Grant Application Kit

APPENDIX E
Task Force on Indigent Defense
Application Package for Indigent Defense Grants Program

Pursuant to Texas Government Code Section 71, the Texas Legislature has delegated authority to the Task Force on Indigent Defense (TFID) to direct the Comptroller of Public Accounts to distribute funds, including grants, to counties for indigent defense services and to monitor counties to ensure compliance with the conditions of the grant. The purpose of these grants is to provide indigent defense systems in Texas.

General Information

- Total Grant Appropriation – FY 2002: \$7,239,400
- Grant Period – FY 2002: October 1, 2001 to March 31, 2002
- Funding – Funds will be distributed in one disbursement for this fiscal year.
- Funding Amounts – Determined by a formula based on \$5,000 base with remainder based on population (2000 Census).
- Application deadline – Completed applications must be received at the Task Force or postmarked by May 31, 2002. Submit applications to:

Task Force on Indigent Defense
c/o Texas Judicial Council
P.O. Box 12066
Austin, Texas 78711-2066

Application Process

There are a variety of steps in the grant application process. This application kit is designed to guide the applicant through the process. If, at any time, you wish to speak to a TFID staff member, you may do so by calling at (512) 463-1625.

STEPS IN APPLYING FOR A GRANT

- 1** **Determine Eligibility – See pages 1-2**
- 2** **Complete the Grant Application Form – See pages 3-4**
- 3** **Sign the Certification –See pages 5**
- 4** **Complete the Grant Expenditure Report and Funding Worksheet Pages –See pages 6 -9**
- 5** **Submit the County Commissioners Resolution –See page 10**

Indigent Defense Grants Program

Eligibility and Reporting

Eligibility Requirements

In general, applicants are eligible for grant funding for Fiscal Year 2002 if they comply with all of the statements in the following checklist:

- Only counties are eligible to apply for grant funds.
- The County Commissioners' Court must issue a resolution that authorizes the grant request and takes responsibility for the appropriate expenditure of the funds. (See sample resolution, page 10).
- Funds are to be used to pay for the increased cost of providing indigent defense for the county and the cost of implementing and reporting under the Fair Defense Act.
- A county may not reduce the amount of funds expended for indigent defense services in the county because of funds provided by this grant.
- Any grant awarded under this program must be administered in accordance with rules for the Fair Defense Act (FDA) in Chapter 173 of the Texas Administrative Code and the general grant rules found in the Uniform Grant Management Standards.

Reporting Requirements

- Counties must report expenditures on or before May 31, 2002.
- The official designated as Program Director by the grantee county is responsible for the reporting requirements of the grant.
- The grantee may not report funds expended before October 1, 2001 or after March 31, 2002. If using the period beginning January 1, 2002 and ending March 31, 2002, the grantee may not report funds expended before January 1, 2002 or after March 31, 2002.

Detailed Guide to the Grant Application Form

Box 1—Name of County

Name of the county applying for the grant.

Box 2—State Payee ID#

All entities that receive funds from the state have been issued a state payee identification number. If unknown, first check with the chief financial officer for your county. If still unknown, use your employer identification number as assigned by the Internal Revenue Service.

Box 3—Division or Unit

Identify the division or unit within the county to administer the grant.

Box 4—Official Mailing Address

General mailing address of the county.

Box 5 — Contact Person

Choose a person who is responsible to coordinate with the Task Force or its staff as the contact person and enter that person's name, title, address, telephone number, fax number, and e-mail address, if available. This will be the person Task Force staff members will contact with questions about the application.

Box 6—Program Director

Name, title, address, telephone number, fax number, and e-mail address (if available) for the program director. The program director should be the official or employee of the county that will be responsible for program operation or monitoring and who will serve as the point-of-contact regarding the program's day-to-day operations.

Box 7 — Financial Officer

The county auditor or county treasurer, if the county does not have an auditor. Include the name, title, phone number, and fax number for the county financial officer.

INDIGENT DEFENSE GRANT PROGRAM (IDGP)

Application Form

APPLICATION FOR THE GRANT PERIOD: OCTOBER 1, 2002 TO MARCH 31, 2002	Date Received: (for Task Force use only)
1. NAME OF COUNTY:	2. State payee identification number:
3. Division or unit within the county to administer the grant.	Grant Officials
4. Official county mailing address.	<u>6. Program Director</u>
	Title:
	Address:
5. Person who can answer specific questions about this application:	Telephone:
Contact:	Fax:
Title:	E-mail:
Address:	<u>7. Financial Officer</u>
	Title:
	Address:
Telephone:	
Fax:	
E-mail:	Telephone:
	Fax:
	E-mail:
To the best of my knowledge, all information in this application is true and correct. The application has been duly authorized by the governing body of the grantee county and county agrees to comply with all Task Force rules, including the attached assurances, if awarded.	
Signature of Authorized Official:	Date:
Printed Name:	Title:

Indigent Defense Grants Program

CERTIFICATION

The undersigned have reviewed the current indigent defense plan(s), pursuant to Texas Government Code Section 71, covering adult and juvenile defendants in the district and county court of _____ County. We hereby certify that the plan(s) comply with each of the following requirements of the Fair Defense Act, Texas Government Code Section 71.0351.

- The plan(s) specify that each accused person will be brought before a magistrate within 48 hours of arrest for proceedings under Article 15.17 of the Code of Criminal Procedure.

- The plan(s) specify that when an eligible defendant submits the required documents for the appointment of counsel, the request and documents required will be transmitted to the appointing authority within 24 hours of the request.

- The plan(s) specify that the appointing authority will appoint counsel for eligible defendants within one working day of receiving the request (counties with population of 250,000 and above) or within three working days of receiving the request (counties with population under 250,000).*

- The applicant county also acknowledges compliance with all relevant state statutes, regulations, policies, guidelines, and requirements including the Title 1, Chapter 173, of the Texas Administrative Code, and the Uniform Grant Management Standards (UGMS), as they relate to the application, acceptance and use of funds for this program.

[Attach any amended interim indigent defense plan as necessary]

We propose to use the grant to pay for the following improvements in this county's indigent defense services:

Certified and Approved:

Applicant's County

Indigent Defense Grant Program

Program Title

Printed Name and Title of Authorized Official

Signature of Authorized Official

Date

* This requirement does not necessarily need to apply to defendants who are released on bond prior to appointment of counsel so long as the plan appoints counsel at least by the first court appearance or the initiation of adversarial judicial proceedings, whichever occurs first.

Indigent Defense Grant Program Grant Expenditure Report

Please refer to grant reporting definitions.

EXPENDITURE CATEGORY	BASELINE YEAR	EXPENDITURE REPORTING PERIOD ¹ (SELECT ONE)		
Litigation Expenditures:	10/1/00 – 9/30/01	10/1/01 – 3/31/02	1/1/02 – 3/31/02	
Attorney Fees				
Other Litigation Expenditures (i.e. investigation, expert witnesses, other litigation expenditures).				
Total Litigation Expenditures				
Administrative/Indirect Expenditures:				
Personnel				
Travel and Training				
Equipment ²				
Other Direct Expenditures				
Indirect Expenditures				
Total Administrative/Indirect Expenditures				
Public Defender Overhead				
Grand Total				

¹ Some counties began implementation efforts prior to January 1, 2002. A county may include expenditures, and encumbrances, for implementing the indigent defense system for either the period of October 1, 2001 to March 31, 2002 or the period of January 1, 2002 to March 31, 2002. The amounts reported will be annualized for comparison to the baseline year expenditures.

² Include list of equipment purchased, including the description and cost for each item.

Note: Please complete the Funding Worksheet after you have completed the Grant Expenditure Report to make a preliminary determination concerning your county's eligibility for Fair Defense Act grant funds.

**Funding Worksheet
Indigent Defense Grant Program**

Complete this worksheet after you have completed the Grant Expenditure Report to make a preliminary determination concerning your county's eligibility for Fair Defense Act grant funds.

		EXPENDITURE REPORTING PERIOD	
		10/1/01 - 3/31/02 <i>(6-month period)</i>	1/1/01 - 3/31/02 <i>(3-month period)</i>
EXPENDITURE REPORTING PERIOD			
(a)	Grand Total		
(b)	If reporting 6-month period, multiply by 2 If reporting 3-month period, multiply by 4	x 2	x 4
(c)	Annualized Expenditures (a) * (b)	\$ -	\$ -
BASELINE YEAR			
(d)	Grand Total		
(e)	DIFFERENCE (c) - (d)	\$ -	\$ -

If the amount on line (e) is a negative number, you may still be eligible for grant funds. To assist in making this determination, please explain any circumstances that would have caused your expenditures for indigent defense to decrease during the grant reporting period. Also, please note any unusual items which may be reflected in your Baseline Year (i.e. SB 7 expenditures prior to October 1st, extraordinary items in base period, etc...). You may also detail expenditures made as a direct result of implementing the Fair Defense Act. **THIS BOX SHOULD BE COMPLETED REGARDLESS OF WHETHER (e) IS POSITIVE OR NEGATIVE SINCE FUTURE GRANTS MAY USE THE BASELINE AMOUNT !**

EXPLANATION:

INSTRUCTIONS FOR COMPLETING FORM:

This form should be completed using amounts recorded on the Grant Expenditure Report.

Enter the Grand Total amount from the last line of the EXPENDITURE REPORTING PERIOD column. You should only (a) have amounts entered in one column or the other, not both.

(b) No entry required.

(c) Multiply the amount on line (a) by 2 or 4, as shown, to calculate expenditures on an annualized basis.

(d) Enter the Grand Total amount from the last line of the BASELINE YEAR column.

(e) Subtract the BASELINE YEAR amount (d) from the EXPENDITURE REPORTING PERIOD amount.

Grant Program Reporting Definitions

Expenditures: Includes amounts expended and encumbered or otherwise legally obligated during the reporting period.

Baseline Year: Expenditures for the period of October 1, 2000 to September 30, 2001 will establish costs incurred to provide indigent defense services in the county during the period identified as a baseline period. The amounts reported for the period will be compared to the (annualized) amounts reported for the Expenditure Reporting Period to determine excess costs associated with the implementation of the Fair Defense Act.

Expenditure Reporting Period: A county may select either the period of October 1, 2001 to March 31, 2002 or January 1, 2002 to March 31, 2002 as the reporting period. Include all expenditures incurred by the county to provide indigent defense services for the selected period.

Funding Worksheet: The purpose of the funding worksheet is to make a preliminary determination regarding the county's eligibility for grant funds. It also provides the county the opportunity to explain any reduction of indigent defense expenditures from the baseline year.

Litigation Expenditures:

Attorney Fees: Reasonable attorney's fees for time spent in accordance with an adopted schedule of fees. The county's adopted schedule of fees may be a set hourly rate for separate types of services on which an attorney spends time and/or a flat rate for types of service. It is assumed that the billing rate includes an allocation for the attorney's or firm's overhead such as utilities and rent. No non-labor items such as car rental or hotel expense are shown in this account.

Other Litigation Expenditures: Includes expenditures for:

Investigation - Costs expended for research and investigation of the crime or evidence, such as investigators' costs, lab fees, medical exams, and psychological/psychiatric examination.

Expert Witnesses - Costs expended for payment to expert witnesses used in a case, such as travel.

Other Litigation Expenditures - Expenses not included in the previous categories, such as interpreter services and transcription services.

Amounts paid for indigent defense support services must be approved by the judge presiding over proceedings. Legal fees must be approved by the judge presiding over proceedings and paid in accordance with a schedule of fees adopted by formal action of the judges of the county courts, statutory courts, and district courts trying criminal and juvenile cases in the county.

Administrative/Indirect Expenses:

Personnel: Salaries and wages, including fringe benefits. Fringe benefits include, but are not limited to, the costs of leave, employee insurance, retirement, and unemployment benefits.

Travel and Training: Travel costs include transportation, meals and lodging and related, incidental costs. This category may include travel for contracted personnel. Grant funds used for travel expenses must be expended in accordance with state travel guidelines. Training (for county employees only) includes registration fees or tuition if the course taken directly relates to the administration of the county's indigent defense program.

Equipment: Tangible, non-expendable personal property with a useful life of more than one year and an acquisition cost of \$1,000 or more per unit, and any other item, regardless of cost, that the county chooses to capitalize in its own accounting records. Equipment must be used in direct support of the investigation and defense of crimes allegedly committed by indigent defendants or in meeting the requirements of the Fair Defense Act.

Applicants must submit with their grant applications a list of all proposed equipment purchases for approval. The Task Force or its designees may refuse any request for equipment. Decisions regarding equipment will be made based on whether the grantee has demonstrated that the requested equipment is necessary and reasonable in cost.

The Task Force will not approve grant funds for general agency use of vehicles or other equipment.

Other Direct Expenditures: Costs directly related to the operation of the county's indigent defense program that are not included in other expenditure category. These costs may include office rent, utilities, office supplies, shared usage costs of office equipment, vehicle operating expenses, paper, printing, postage, and educational resource materials. This category may also include development costs for software and software upgrades to comply with the requirements of the Fair Defense Act.

Any professional or contractual service must be in direct support of the investigation and defense of an eligible offense or in meeting the requirements of the Fair Defense Act. Any contract or agreement entered into by a grantee that obligates grant funds must be in writing and consistent with Texas contract law.

Indirect Expenditures: Costs incurred for a common or joint purpose benefiting more than one cost objective and not readily assignable to the cost objectives specifically benefited. Examples would include financial services, human resources and other functions that support multiple county programs. The Task Force may approve indirect costs in an amount not to exceed ten percent of the approved direct costs in the grant award, unless the grantee has an approved cost-allocation plan. If the applicant has a cost-allocation plan, the applicant should indicate the indirect cost rate in the allocation plan as part of the application. The Task Force may request documentation to verify approval of the grantee's indirect cost rate and may reject any approved cost-allocation plan it believes is excessive.

Public Defender Overhead: Indirect expenditures allocated to the public defender's office. This section is not applicable if the county does not have a public defender's office.

Sample Resolution
Indigent Defense Grant Program

WHEREAS, under the provisions of the Fair Defense Act, 77th Regular Session, counties are eligible to receive financial assistance from the Task Force on Indigent Defense to provide indigent defense services in the county; and

WHEREAS, this grant program will assist the county in the implementation of the provisions of the Fair Defense Act and the improvement of the indigent criminal defense services in this county; and

WHEREAS, _____ County Commissioners Court has agreed that in the event of loss or misuse of the funds, _____ County Commissioners assures that the funds will be returned in full to the Task Force on Indigent Defense.

NOW THEREFORE, BE IT RESOLVED and ordered that the County Judge of this county is designated as the Authorized Official to execute the grant application for the Indigent Defense Expense Program and all other necessary documents to accept said grant; and

BE IT FURTHER RESOLVED that the County Judge is designated as the Program Director and Contact Person for this grant and the County Auditor/County Treasurer is designated as the Financial Officer for this grant.

Adopted this _____ day of _____, 2002.

County Judge

Attest:

County Clerk

Applicant's County

Program Title

Printed Name and Title of Authorized Official

Signature of Authorized Official

Date: _____

INSTRUCTIONS:

Please fax this form back to the Task Force on Indigent Defense, attention: Bryan Wilson, Grants Administrator, fax number: (512) 475-3450.

APPENDIX F

Expenditure Report

APPENDIX F



Office of Court Administration - Task Force on Indigent Defense Amended Indigent Defense Expenditure Report

This amended Indigent Defense Expenditure Report is promulgated in order to merge the reporting processes of the statutory report required in the Texas Government Code §71.0351 and the formula grant report.

The first reporting period for all court reports (Part C) is from January 1, 2002 through September 30, 2002. The grant report summaries (Part D and Part E) are from October 1, 2001 through September 30, 2002. The Office of Court Administration must receive all reports no later than November 1, 2002.

ALL COUNTIES MUST COMPLETE PART B AND PART C FOR EACH COUNTY, STATUTORY, AND DISTRICT COURT IN THEIR COUNTY THAT HEARS CRIMINAL OR JUVINILE CASES, REGARDLESS OF WHETHER THEY RECEIVED GRANT FUNDING.

All counties will be contacted in the future regarding electronic submission of this report. You can find the form on line at <http://www.courts.state.tx.us/tfid>. County auditors or treasurers are required to submit this report to OCA. Mail the entire report and cover page to:

Office of Court Administration

Attn: Task Force on Indigent Defense
P.O. Box 12066
205 W. 14th Street, Suite 600
Austin, Texas 78711

Direct questions to TFID staff toll free at: **866-499-0656**.

Part A: Indigent Defense Expenditure Reporting Form -- Definitions

- **County:** Name of the county.
- **County Fiscal Year:** The accounting fiscal year used by the county.
- **Reporting Period:** October 1, 2001 through September 30, 2002
- **Report Date:** The date the report is prepared.
- **Public Defender Indirect Rate:** The percentage used to allocate indirect costs for the public defenders office. This is not applicable if the county does not have a public defenders office.
- **Name of Court:** The name of the court for which information is being reported (i.e. 77th District Court, County Court-at-law #2).
- **Expenditures:** Includes amounts expended and encumbered or otherwise legally obligated during the reporting period.
- **Category of Services:**
 - **Assigned Counsel:** Under this system, a list is developed of qualified private bar members who are willing to accept indigent defense cases.
 - **Contract Counsel:** Under this system, contracts with non-salaried, individual private attorneys, bar association(s), or law firm(s) are used to provide representation to indigent defendants in the jurisdiction (this does not include public defenders primarily funded by an awarded contract).
 - **Public Defender:** Under this system, a salaried staff of full-time or part-time attorneys provides criminal defense services through a public or private non-profit organization (this includes public defender programs primarily funded by an awarded contract).
- **Litigation Expenditures:**
 - **Attorney Fees:** Reasonable attorney's fees for time spent in accordance with an adopted schedule of fees. The county's adopted schedule of fees may be a set hourly rate for separate types of services on which an attorney spends time and/or a flat rate for types of service. It is assumed that the billing rate includes an allocation for the attorney or firm's overhead such as utilities and rent. No non-labor items such as car rental or hotel expense are to be shown in this account.
 - **Investigation Expenditures:** Costs expended for research and investigation of the crime or evidence, such as investigators costs, laboratory fees, medical examinations, and psychological/psychiatric examination.
 - **Expert Witness Expenditures:** Costs expended for payment to witnesses used in a case, including travel.
 - **Other Litigation Expenditures:** Expenses not included in the previous categories, such as interpreter services, transcription services for the defense and travel expenses for appointed attorneys.
- **Number of Cases:** The number of cases to which counsel has been assigned. For filed cases use the case definitions provided in the district and county clerk monthly case management reports to the Office of Court Administration. (If a single indictment names more than one defendant, there is more than one case; if the same defendant is charged in more than one indictment, there is more than one case; if an indictment has more than one count, report this as one case under the most serious offense). If charges were not filed but an attorney was appointed, count the number of appointments that were paid. Enter that number in the "No Charges Filed" box. The sum of the numbers entered in the four (4) boxes should be entered in the "Total Cases" box.

Counties should make a good faith attempt to provide this information, unless it is cost prohibitive to do so. Counties must report this information beginning October 1, 2002 and should take steps to capture this data beginning October 1, 2002 if it is not currently available.



Office of Court Administration - Task Force on Indigent Defense

1) *Indigent Defense Expenditure Report*

(6) Part B: Cover Sheet

COUNTY: _____

MAILING ADDRESS: _____

E-MAIL ADDRESS: _____

CITY: _____, TEXAS ZIP CODE: _____

- Fiscal year used by county (check):** **October 1 – September 30**
- January 1 – December 31**
- March 1 – February 28**
- Other (specify) _____**

Reporting period: January 1, 2002 through September 30, 2002

(7) Report Date: _____

Public Defender Indirect Rate: _____ (if county has a public defender office)

Prepared by: _____

Position/Title: _____

Contact
E-mail address: _____

Date: _____ Telephone Number: () _____

(After you complete all the applicable report forms place one completed Cover Sheet on top of all of the forms submitted by your county.)

Part C: Court Report

Complete one chart of expenditures for each court (i.e., constitutional county court, statutory court, district court and/or appellate court) in the county that hears criminal cases and criminal juvenile matters. (You may make as many copies as needed in order to provide one chart of expenditures for each court, or counties may choose to reproduce this form using their electronic systems.)

NAME OF COURT:				
CATEGORY OF SERVICES	OF	EXPENDITURES		
		JANUARY 1, 2002 THROUGH SEPTEMBER 30, 2002		
Juvenile	Attorney Fees	Investigation Expenditures	Expert Witness Expenditures	Other Litigation Expenditures
Assigned Counsel				
Contract Counsel				
Public Defender				
Adult				
Assigned Counsel				
Contract Counsel				
Public Defender				
Total				

Provide the total number of cases assigned indigent defense counsel in this court. If this information is not available in these categories, provide a total number of cases. If the county is unable to report the number of cases, be advised that this information must be reported beginning October 1, 2002.

Felony Cases Misdemeanor Cases

No Charges Filed Adult Appellant/ Post conviction Cases Adult

Juvenile Cases

No Charges Filed Juvenile Appellant/ Post conviction Cases Juvenile

Total Cases

For counties that received formula grant funds in FY02 please complete Part D and Part E as your year-end formula grant report.

Part D: Combined County Report

Complete the chart for expenditures for combined expenses of all courts hearing criminal and juvenile cases in the county. This section is used as a single annual report for counties that received for FY02 formula grants.

NAME OF COUNTY:				
NUMBER OF COURTS:				
CATEGORY OF SERVICES		EXPENDITURES OCTOBER 1, 2001 THROUGH SEPTEMBER 30, 2002		
	Attorney Fees	Investigation Expenditures	Expert Witness Expenditures	Other Litigation Expenditures
Juvenile				
Assigned Counsel				
Contract Counsel				
Public Defender				
Adult				
Assigned Counsel				
Contract Counsel				
Public Defender				
Total				

Report the Following for the Whole County Not By Court: Provide the average cost per case assigned indigent defense counsel in the county. If this information is not available in these categories, provide an overall average cost per case. If the county is unable to report the number of cases, be advised that this information may be required beginning

Average Cost
Per Felony Case
Appointed and Paid
In FY02

Average Cost
Per Juvenile Case
Appointed and Paid
In FY02

Average Cost
Per Appeal/
Post
Conviction Case
Appointed and Paid
In FY02

Average Cost
Per Misd. Case
Appointed and Paid
In FY02

Part E: If a county included administrative/indirect costs in its FY02 grant application *Grant Expenditure Report*, complete this chart for combined administrative/indirect expenditures.

A county that reported only *Litigation Expenditures* in its grant application DOES NOT NEED TO COMPLETE THIS FORM.

Indigent Defense Administrative/Indirect Expenditure Report Addendum

Please refer to Grant Program Reporting
Definitions section in FY02 Grant Application for definitions (pp 8-9).

Expenditure Category	Expenditure Reporting Period 10/1/01 - 9/30/02
Administrative Expenditures:	
Personnel	
Travel and Training	
Equipment	
Other Direct Expenditures	
Total - Administrative Expenditures	
Indirect Expenditures:	
Indirect Costs	
Total - Indirect Expenditures *	
Public Defender Indirect Rate	
Grand Total	

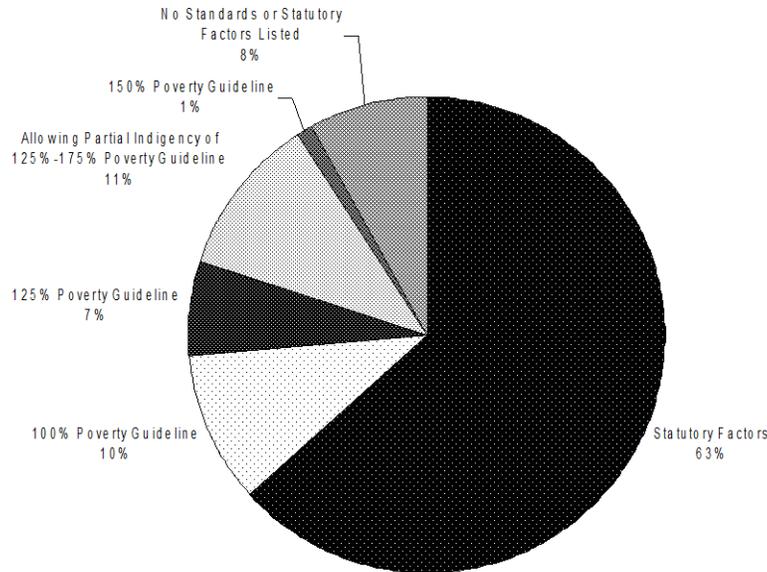
Program Income Total (if applicable)	
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* For future grant years, indirect expenditures will not be reported for Formula Grants.

APPENDIX G

**Chart: Analysis of County Plans re Indigence Standards in
Criminal Cases**

APPENDIX G Indigence Standards in Criminal Cases



Standard	No./% of District/County Courts Using Method	Details and Notes
Statutory Factors for determining indigence ϕ	161 63.37%	Anderson, Andrews, Aransas, Archer, Atascosa, Austin, Bandera, Bastrop*, Baylor, Bee, Bosque, Bowie, Brazoria, Brazos, Brewster, Briscoe, Brooks, Brown, Caldwell, Calhoun, Callahan, Cameron, Camp, Carson, Cass, Chambers, Cherokee, Childress, Clay, Coleman, Collingsworth, Colorado, Comal, Comanche, Cooke, Coryell, Cottle, Crane, Culberson, Dallam, Dallas*, Dawson, Denton \square , DeWitt, Dickens, Donley, Ector, Ellis, Erath, Falls, Fisher, Floyd, Foard, Frio, Gaines \square , Galveston, Garza \square , Gillespie, Glasscock, Goliad, Gonzales, Gray, Grimes, Guadalupe, Hall, Hamilton, Hansford, Hardeman, Hardin, Harris, Harrison, Hartley, Haskell, Hays \square , Henderson, Hill, Hood, Houston, Howard, Hudspeth, Hunt, Hutchinson, Jackson, Jasper, Jefferson, Jeff Davis, Jim Wells, Johnson, Jones, Karnes, Kaufman, Kendall, Kent, Kerr, Kimble, King, Knox, La Salle, Lavaca, Leon, Liberty, Live Oak, Loving, Lynn, Madison, Marion, Martin, Mason, Matagorda, McCulloch, McMullen, Medina, Menard, Midland, Milam, Mills, Mitchell, Montague, Montgomery, Moore, Morris, Motley, Nacogdoches, Newton, Nolan, Ochiltree, Orange, Panola, Parker, Polk, Presidio, Randall, Real, Reeves, Refugio, Robertson, Rockwall, Rusk, Sabine, San Augustine, San Jacinto, San Patricio, Shackelford, Shelby, Sherman, Stonewall, Taylor, Terry, Throckmorton, Titus, Trinity, Tyler, Upshur, Uvalde, Van Zandt, Victoria, Walker, Ward, Wichita, Wilbarger, Wilson, Winkler, Wood, Young
100% Poverty Guideline 6	26 10.25%	Bailey, Bexar, Borden, Castro, Crockett, Deaf Smith, Denton*, Edwards, Hale, Kinney, Lubbock, McLennan, Navarro, Nueces*, Oldham, Parmer, Pecos, Reagan, Scurry, Somervell, Stephens, Sutton, Swisher, Terrell, Upton, Val Verde, Wharton
125% Poverty Guideline 6	16.5 6.5%	Angelina, Bastrop \square , Burleson, Coke, Collin \square , Concho, Fort Bend, Irion, Jack, Lee, Runnels, Schleicher, Sterling, Tarrant, Tom Green, Washington \square , Williamson, Wise
Allowing Partial Indigence of 125%-175% Poverty Guideline !	27 10.63%	Armstrong, Bell, Blanco, Burnet, Cochran, Collin*, Crosby, Dimmit, Duval, Eastland, Garza*, Hays*, Hemphill, Hidalgo, Hockley, Jim Hogg, Lampasas, Lipscomb, Llano, Maverick, Potter, Roberts, San Saba, Smith, Starr, Washington*, Wheeler, Zapata, Zavala
150% Poverty Guideline 6	3 1.18%	El Paso, Travis, Webb
No Standards or Statutory Factors Listed ϕ	20.5 8.07%	Dallas \square , Delta, Fannin, Fayette, Franklin, Freestone, Gaines*, Grayson, Gregg, Hopkins, Kenedy, Kleberg, Lamar, Lamb, Limestone, Nueces \square , Palo Pinto, Rains, Red River, Waller, Willacy, Yoakum

- \square District court only
- * County court only

Note: Plans without symbols indicate either combined district and county court plans or where both the district and county court plan are in the same category.

6 Poverty Guidelines are established annually by the United States Department of Health and Human Services. Defendant is deemed indigent if the net household income falls below the respective percentage of the poverty guidelines.

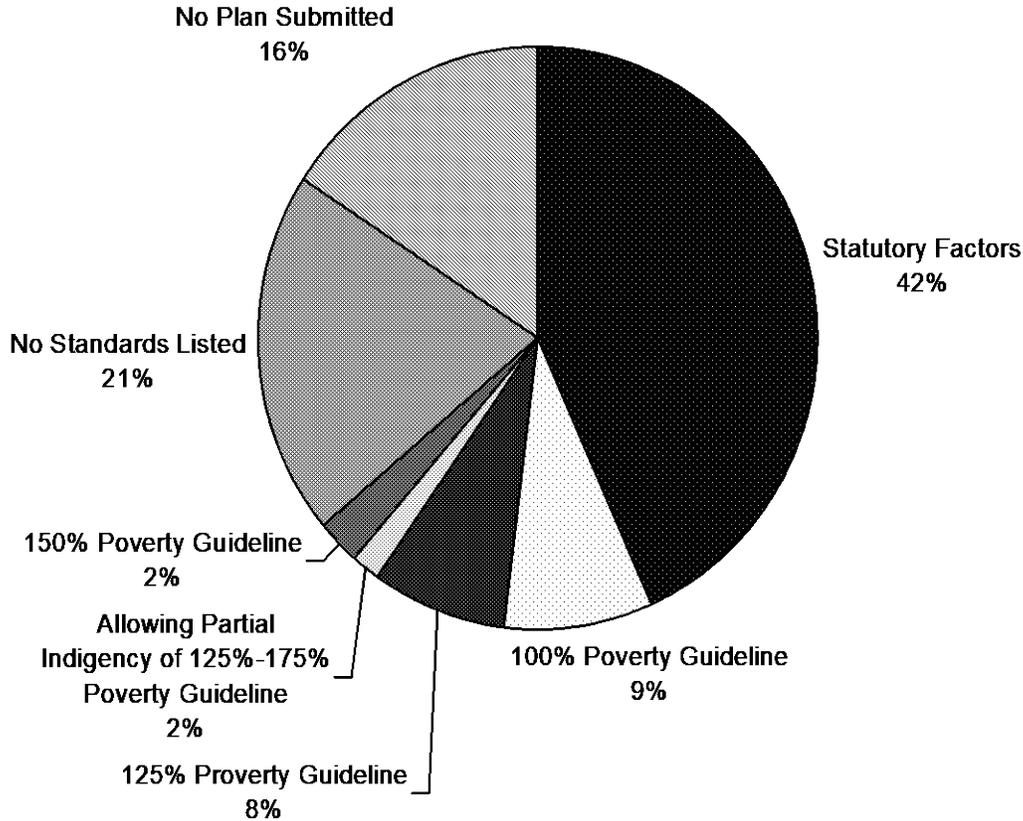
! Defendant is deemed to be indigent if net household income falls below 125% of the Poverty Guideline. Defendant is deemed to be partially indigent if net household income falls between 125-175% of the Poverty Guidelines. Partially indigent defendants are typically required to pay a flat fee to the county, which represents a portion of the cost of appointed counsel in the case.

ϕ Statutory factors means the plan states the financial evidence that will be considered in determining whether a defendant is indigent. The factors include items such as defendant's income and assets, outstanding obligations, and necessary expenses [Code of Criminal Procedure Article 26.04(m)].

APPENDIX H

Chart: Analysis of County Plans re: Indigence Standards in Juvenile Cases

APPENDIX H: Juvenile Indigence Standards Chart



Standard	No./% of Juvenile Boards Using Method	Details and Notes
Statutory Factors (SF)	110 43.3%	Anderson, Archer, Atascosa, Austin, Bandera, Bastrop, Baylor, Bosque, Bowie, Brazoria, Brewster, Briscoe, Brooks, Brown, Burleson, Callahan, Cass, Castro, Clay, Coleman, Colorado, Comal, Comanche, Cooke, Coryell, Cottle, Crane, Culberson, Dallas, Delta, Dickens, Eastland, Ellis, Fayette, Floyd, Franklin, Freestone, Frio, Galveston, Gillespie, Grayson, Grimes, Guadalupe, Hamilton, Hansford, Hardin, Harrison, Hays, Hood, Hopkins, Houston, Hudspeth, Hunt, Hutchinson, Jeff Davis, Jim Wells, Jones, Karnes, Kendall, Kerr, Kimble, King, Kleberg, Knox, LaSalle, Lamb, Lampasas, Lee, Leon, Limestone, Loving, Madison, Mason, Matagorda, McCulloch, Medina, Menard, Milam, Mills, Montague, Morris, Motley, Nueces, Ochiltree, Orange, Palo Pinto, Panola, Parker, Polk, Presidio, Rains, Randall*, Real, Reeves, Rockwall, San Jacinto, Shackelford, Smith, Somervell, Taylor, Trinity, Tyler, Uvalde, Walker, Waller, Ward, Washington, Wichita, Wilson, Winkler
100% Poverty Guideline (PG) -	22 8.6%	Andrews, Bexar, Borden, Cochran, Deaf Smith, Denton, Ector, Fisher, Foard, Hale, Hardeman, Hockley, Johnson, Kaufman, Mitchell, Nolan, Scurry, Swisher, Van Zandt, Wharton, Wilbarger, Williamson
125% Poverty Guideline	20 7.9%	Angelina, Blanco, Burnet, Coke, Collin, Concho, Crosby, Irion, Llano, Lubbock, McLennan, Runnels, San Saba, Schleicher, Stephens, Sterling, Tarrant, Tom Green, Webb, Young
Allowing Partial Indigency of 125%-175% PG	4 1.6%	Hemphill, Lipscomb, Roberts, Wheeler
150% PG	6 2.4%	Camp, El Paso, Jefferson, Marion, Titus, Upshur
No Standards or Statutory Factors Listed	52 20.5%	Aransas, Bee, Bell, Caldwell, Calhoun, Carson, Chambers, Childress, Collingsworth, Crockett, Dawson, DeWitt, Donley, Erath, Falls, Fannin, Gaines, Garza, Goliad, Gray, Hall, Haskell, Henderson, Hill, Jackson, Jasper, Kent, Live Oak, Lynn, McMullen, Midland, Montgomery, Moore, Nacogdoches, Newton, Pecos, Potter, Reagan, Refugio, Sabine, San Augustine, San Patricio, Shelby, Stonewall, Sutton, Terry, Throckmorton, Travis, Upton, Victoria, Wood, Yoakum
No Juvenile Plans Outlined/Submitted	40 15.7%	Armstrong, Bailey, Brazos, Cameron, Cherokee, Dallam, Dimmit, Duval, Edwards, Fort Bend, Glasscock, Gonzales, Gregg, Harris, Hartley, Hidalgo, Howard, Jack, Jim Hogg, Kenedy, Kinney, Lamar, Lavaca, Liberty, Martin, Maverick, Navarro, Oldham, Parmer, Red River, Robertson, Rusk, Sherman, Starr, Terrell, Val Verde, Willacy, Wise, Zapata, Zavala

* Indigence based on whether child qualified for food stamps and school lunch program.

APPENDIX I

Table: Summary of Statewide SB7 Training by Various Training Centers

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Training Centers – SB 7 Programs and Publications

Sponsor	Program Name	Date/Location	Audience/how many?	Length of program
Texas Association of Counties (TAC)	Texas Judicial Academy 2002 Spring Session	4/17/02 Corpus Christi	100 (County Judges)	1.5 hrs.
	Court Assistants Training Conference	2/1/02 Austin	95 (Assistants to County Judges)	1.5 hrs.
	Fall Judicial Education Session	11/22/02 Lubbock	100 (County Judges)	1.5 hrs.
TAC: West Texas Judges & Commissioners Association and VG Young Institute of County Government	Judicial Education	3/21/02 Abilene	50 (West Texas County Judges)	1 hr.
TAC: North and East County Judges' & Commissioners' Association and VG Young Institute of County Government	"What Every Coordinator Should Know about the Texas Fair Defense Act"; 2002 Educational Conference and Annual Business Meeting	6/4/02 Killeen	40 (County Judges)	1 hr.
TAC: South Texas Judges & Commissioners Association and VG Young Institute of County Government	68 th Annual South Texas County Judges' and Commissioners' Association Conference	6/19/02 Corpus Christi	70 (County Judges)	1 hr.
TAC Texas County Judges & Commissioners Association	80 th Annual County Judges and Commissioners Association of Texas Conference	9/16/02 Odessa	80 (County Judges)	1 hr.
TAC: Far West Texas County Judges and Commissioners Association	Annual Conference	10/3/02 Lajitas	60 (County Judges and Commissioners)	1 hr.
State Bar of Texas Continuing Legal Education	Advanced Criminal Law Course – included presentation on SB7; presentation also available online	7/22-25/02 Houston	400+ attorneys	.5 hr.
State Bar's Legal Services to the Poor in Criminal Matters Committee; also, Equal Justice Center and National Legal Aid and Defenders Association, the Texas Criminal Defense Lawyers Association	Forum on Cost Effective Indigent Defense Systems in Texas; the forum brought together indigent defense leaders from around Texas and similar jurisdictions in the U.S. to discuss innovations and best practices in emerging indigent defense systems in Texas; it provided a very successful exchange of ideas about assigned counsel systems, public defender systems and contract defender systems; the success of this forum has generated an eagerness to conduct other similar forums throughout the state	9/17/02 Austin	140 (judges, defense lawyers, public defenders, court administrators, policy makers, county representatives, bar leaders and other indigent defense leaders)	6.5 hrs.
State Bar of Texas, Juvenile Law Section	Annual Juvenile Law Conference – presentation on SB7 by Professor Dawson, UT Law Professor	02/02 Austin	400+ (attorneys, judges and prosecutors)	1 hr.

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Texas Center for the Judiciary	2002 Judicial Section Annual Conference – presentation on SB7 by Jim Bethke, Sharon Keller	08/25/02-08/28/02 San Antonio	295	1.5 hrs.
Texas Center for the Judiciary	2001 Judicial Section Annual Conference – presentation on Indigent Defense by Diane DeVasto, Karen Crouch, Deborah Selden, Marshall Shelsy	09/23/02-09/26/01 Houston	149	1.5 hrs.
Texas Center for the Judiciary	Winter Regional Conference – Indigent Defense/SB 7 by Jim Bethke, Diane DeVasto, Marshall Shelsy	1/13/02-1/14/02 Fort Worth	78	1.5 hrs.
“Texas Center for the Judiciary	Winter Regional Conference – Indigent Defense/SB7 by Jim Bethke, Diane DeVasto, Marshall Shelsy	02/24/02-02/26/02 Galveston	176	1.5 hrs.
Texas Center for the Judiciary	Court Administrators and Clerks – SB7 update by Jim Bethke	6/10/02 Huntsville	100	1 hr.
Rural Association for Court Administration	SB7 Update by Eddie Arrendondo and Jim Bethke	April 2002 Salado	50	1.5 hrs.
The University of Texas at Austin, School of Law: Journal of Civil Rights and Liberties	Presentation on SB7 – moderated by Professor Dawson	05/02 Austin	100	4 hr.s
Office of Court Administration (OCA)	Conference of Regional Judges	8/26/02 San Antonio	Presiding judges	.5 hr.
OCA	Conference of Regional Judges	6/27/02 Austin	Presiding judges	.5 hr.
OCA	Conference of Regional Judges	4/5/02 Austin	Presiding judges	.5 hr.
OCA	Conference of Regional Judges	1/18/02 Austin	Presiding judges	.5 hr.
Task Force on Indigent Defense	Technical assistance to Wichita Falls county re SB7 by Jim Bethke, Director, Task Force	8/5/02 and 9/30/03 Wichita Falls	County officials	6 hours
Task Force	Meet with Texas Center for Judiciary Committee on Appointment of Counsel for Indigent Defendants and meet with Harris County Court Administrators	7/23/02 Houston	10	1 hr.
VG Young Institute of County Government	30 th Annual County and District Clerk Training	1/14/02 College Station	100 (clerks)	1 hr.
Texas Criminal Defense Lawyer Assn (TDCLA)	15 th Annual Rusty Duncan Advanced Criminal Law Short Course – SB7 update by Randy Wilson	6/6-8/02 San Antonio	500	1 hr.
Texas Independent Legal Studies(TILS)	Regional Fair Defense Act Seminar	5/30/02 Midland	90 (lawyers who accept court appointments in criminal cases)	12 hours (including 3 hours of ethics)
TILS	Regional Fair Defense Act Seminar	9/19/02 Tyler	114 (lawyers who accept court appointments in criminal matters)	12 hours (including 3 hours of ethics)
TILS	Regional Fair Defense Act Seminar	10/3/02 Kerrville	40 (same as above)	Same as above
TILS	Regional Fair Defense Act Seminar	11/15/02 South Padre	61 (same as above)	Same as above

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Texas District and County Attorney Association (TDCAA)	2001 Legislative Updates – legislative update including SB7	07/19/01-09/06/02 (18 different cities)	2,200 (prosecutors, support staff, police officers)	3 hrs.
TDCAA	2001 Annual Criminal & Civil Law Update – update on SB7 at Rural Prosecutors Forum	09/25/01 South Padre Island	150 (rural prosecutors)	1 hr.
TDCAA	2001 Elected Prosecutor Conference – The Texas Fair Defense Act – Panel Discussion: Melissa Barlow, Bexar County Criminal District Courts Administrator, John Dahill, General Counsel, Conference of Urban Counties, Jim Bethke, Special Counsel, OCA	12/06/02 San Antonio	140 (elected district and county attorneys)	1 hr.
TDCAA	2002 Annual Criminal and Civil Law Update – Update on SB7 and the State Task Force on Indigent Defense: Jim Bethke, Director of Task Force, Sharon Keller, Presiding Judge, Court of Criminal Appeals	09/25/02 South Padre Island	150 (rural prosecutors)	1 hr.
Conference of Urban Counties (CUC)	Regular, ongoing presentations to CUC membership and Policy Committee	12+ CUC meetings	County judges and commissioners	
Texas Municipal Courts Education Center (TMCEC)	9 regional programs offered re SB7 – Jim Bethke, Wesley Shackelford presenting	9/2002 and 3/2002	Municipal judges	1 hr.
Texas Equal Justice Center (EJC)	Bill Beardall conducts training session for Texas Association of Court Administrators about requirements of SB7 and how to achieve the innovations called for in the Act	10/2001	100 (court administrators)	4 hrs.
EJC	EJC and Texas Appleseed consult with a number of local court officials about the plans, providing suggestions, materials, helpful contacts, knowledgeable experts	11/2001-12/2001	Dozens	1 day
EJC	Series of on-site visits to cross-section of counties, listening to judges, administrators, defense lawyers, county officials about their experience with SB7 reforms so far. From these consultations, EJC is producing analyses of those new procedures that have worked well, those that have not, and ways to improve local indigent defense programs further	10/2002-12/2002, ongoing	Lubbock County, Wood County, Dallas County	Several days each
Court Officials of Uvalde County, 38 th Judicial District, Uvalde Bar Assn.	Update and technical assistance re SB7 and Task Force on Indigent Defense – presented by Jim Allison, Jim Bethke, Bryan Wilson	11/15/02 Uvalde	70 (county judges, court officials, defense attorneys, prosecutors))	4 hrs
San Antonio Bar Association John Convery 210/227-8822 www.sanantoniobar.org	39 th Annual Criminal Law Institute	04/5-6/02 San Antonio		

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