



2019

Annual Report



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EX OFFICIO MEMBERS:

Honorable Sharon Keller	Austin, Presiding Judge, Court of Criminal Appeals
Honorable Nathan L. Hecht	Austin, Chief Justice, Supreme Court of Texas
Honorable John Whitmire	Houston, State Senator
Honorable Brandon Creighton	Conroe, State Senator
Honorable Nicole Collier	Fort Worth, State Representative
Honorable Reggie Smith	Sherman, State Representative
Honorable Sherry Radack	Houston, Chief Justice, First Court of Appeals
Honorable Vivian Torres	Medina County

MEMBERS APPOINTED BY THE GOVERNOR:

Mr. Alex Bunin	Houston, Chief Public Defender, Harris County Public Defender Office
Honorable Valerie Covey	Georgetown, Williamson County Commissioner Precinct 3
Honorable Richard Evans	Bandera, Bandera County Judge
Mr. Gonzalo P. Rios, Jr.	San Angelo, Attorney, Gonzalo P. Rios Law Office
Honorable Missy Medary	Corpus Christi, Presiding Judge, 5 th Administrative Judicial Region of Texas

STAFF:

Geoff Burkhart	Executive Director
Lindsay Bellinger	Policy Analyst
Megan Bradburry	Executive Assistant
Claire Buetow	Senior Policy Analyst
Kathleen Casey-Gamez	Senior Policy Analyst
Edwin Colfax	Director of Grant Funding
Scott Ehlers	Director of Public Defense Improvement
Joel Lieurance	Senior Policy Analyst
Wesley Shackelford	Deputy Director
Debra Stewart	Fiscal Monitor
Sharon Whitfield	Budget & Accounting Analyst
Doriana Torres	Grant Specialist

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Chair's Letter

July 22, 2020

Governor Greg Abbott
Lieutenant Governor Dan Patrick
Speaker of the House Dennis Bonnen
Chief Justice Nathan Hecht
Texas Judicial Council

Ladies and Gentlemen:

It is our privilege to submit this report regarding the activities and accomplishments of the Texas Indigent Defense Commission (TIDC) in fiscal year 2019. While COVID-19 delayed this report's release, it has done little to slow TIDC's activities. TIDC not only sustained its work in key areas, but also continued to develop innovative approaches to indigent defense. Texas continues to show how to be more effective and more efficient in the delivery of indigent defense services.

The ongoing support of the Governor and Legislature are critical to our success. We appreciate all you do to support TIDC.

Sincerely,

A handwritten signature in blue ink that reads 'Sharon Keller'.

Sharon Keller
Chair





2019 Key Achievements

Funding

- Awarded \$23.3 million in Formula Grants to 253 counties
- Awarded \$8.1 million in Improvement Grants to 26 counties
- Awarded \$600,000 to 6 Innocence Projects

Oversight

- Conducted 26 policy monitoring and 19 fiscal monitoring reviews
- Analyzed Indigent Defense Expenditure Reports for 254 counties
- Streamlined TIDC's policy monitoring process

Improvement

- Released 2 major publications
- Trained almost 700 judges, lawyers, magistrates, and officials
- Planned 2 public defender offices and 1 managed assigned counsel program
- Conducted 35 technical assistance site visits to 9 different counties
- Launched the Texas Chief Public Defender group
- Created the National Indigent Defense Commissions Work Group

Legislature

Budget Update

The 86th Texas Legislature appropriated TIDC \$94.4 million over the FY20-21 biennium, a 42% increase over the prior biennial budget of \$66.4 million. TIDC is investing new funds in improvements to Texas indigent defense system, including new public defender offices, managed assigned counsel systems, and indigent defense coordinators. Out of the amount budgeted, \$5 million is earmarked for mental health representation through existing public defender offices. The adopted budget also will permit TIDC to hire up to three additional policy analysts to bring its policy monitoring cycle from more than 20 years to 10 years, and one system development director to help local jurisdictions build new public defense systems throughout Texas.

Key Legislation Passed

Although all TIDC board-endorsed bills made significant advances through the legislative process, only one ultimately became law. SB 583 by Sen. Hinojosa makes important changes to the statute that requires judges to give priority to appointing a public defender's office to represent indigent defendants, Article 26.04(f), Code of Criminal Procedure. SB 583 does three main things:

1. Clarifies that the priority appointment statute applies in capital case appointments;
2. Requires a judge to find good cause to not to appoint a public defender office; and
3. Requires local indigent defense plans to include priority appointment for any public defender's office in the county.

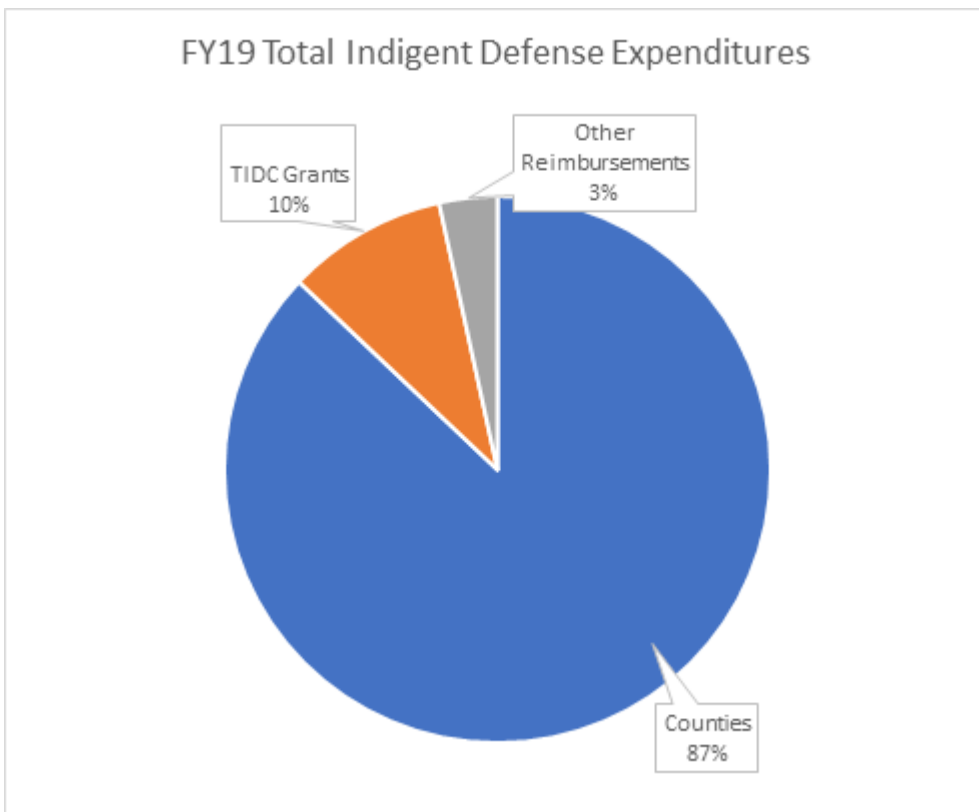
Funding

TIDC funding promotes compliance with the law and encourages more efficient and effective public defense. There are three broad types of TIDC funding:

- A. Formula Grants
- B. Improvement Grants
- C. Innocence Projects

Before taking a closer look at each, this section summarizes current and historical Texas indigent defense expenditures.

INDIGENT DEFENSE EXPENDITURES



In FY19, Texas counties reported spending **\$299.9 million** on indigent defense, a 10% increase over 2018.

TIDC invested **\$28,546,917** in indigent defense grants to counties, offsetting approximately 10% of county costs statewide. Pending FY19 grant award obligations total \$3,351,123. In addition, TIDC invested an additional \$627,360 from FY18 funds during FY19. Pending grant award obligations from FY18 total \$393,398.

In addition to TIDC grants, counties reported receiving the following reimbursements for indigent defense costs:

- Reimbursements collected from defendants: \$9,888,967
- Reimbursements from State Comptroller for writs of habeas corpus in death penalty cases: \$15,424
- Other amounts for indigent defense costs from i or non-TIDC government grants: \$356,535

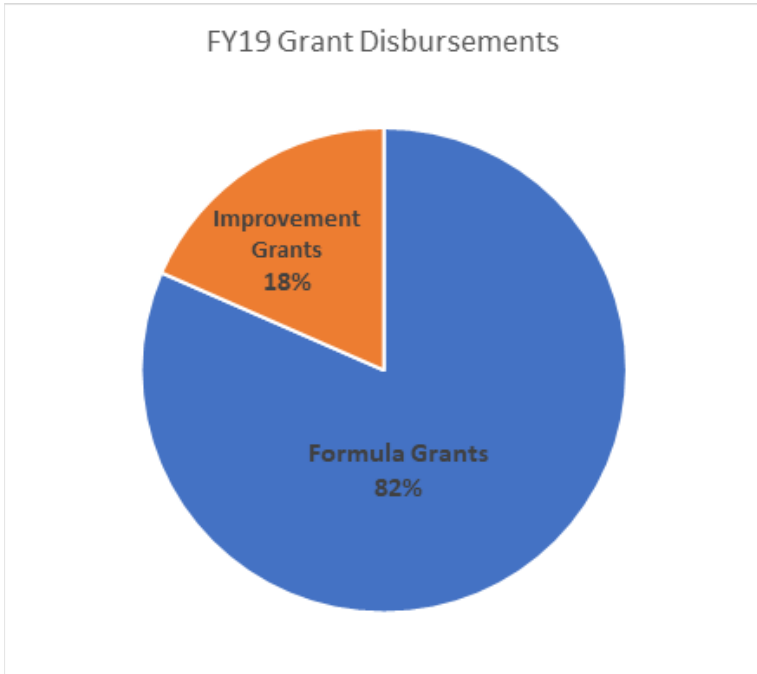
HISTORICAL COUNTY INDIGENT DEFENSE EXPENDITURES AND STATE INVESTMENT

Year	County Expenditures			State Investment	
	Gross Expenditures (millions)	Net Expenditures ¹ (millions)	Annual Increase	Total Grants Disbursed (millions)	Grants as % of County Expenditures
2001	\$91.4	\$91.4	-	\$0.0	0%
2002	\$114.0	\$114.0	25%	\$7.2	6%
2003	\$129.3	\$129.3	13%	\$11.5	9%
2004	\$138.3	\$138.3	7%	\$11.6	8%
2005	\$140.3	\$140.3	1%	\$13.6	10%
2006	\$149.0	\$149.0	6%	\$13.8	9%
2007	\$161.1	\$161.1	8%	\$16.9	10%
2008	\$174.2	\$174.1	8%	\$21.0	12%
2009	\$186.9	\$186.4	7%	\$27.6	15%
2010	\$195.1	\$194.6	4%	\$27.5	14%
2011	\$198.4	\$197.7	2%	\$33.7	17%
2012	\$207.5	\$206.3	4%	\$28.2	14%
2013	\$217.1	\$215.4	4%	\$27.4	13%
2014	\$229.9	\$228.1	6%	\$44.8	20%
2015	\$238.0	\$235.6	3%	\$30.0	13%
2016	\$247.7	\$245.6	4%	\$32.5	13%
2017	\$265.1	\$263.3	7%	\$38.5	15%
2018	\$276.2	\$273.2	4%	\$30.6	11%
2019	\$303.0	\$299.9	10%	\$28.5	10%

¹ After county-to-county reimbursements for regional programs. Does not include reimbursements from defendants or other reimbursements.

A. Formula Grants

TIDC awarded \$23.3 million in formula grants to 251 Texas counties in FY19 to help ensure that all Texans have access to constitutionally required legal defense. Formula grants are awarded annually to all qualifying counties. The amount is based on a county's percentage of state population and percentage of state indigent defense expenses.



In FY19, formula grant disbursements represented **82 percent** of total grants disbursed. This amount includes \$1 million in supplemental formula grant funding for capital defense disbursed to 14 counties not eligible to participate in the Regional Public Defender Office for Capital Cases: Bexar, Cameron, Collin, Dallas, Denton, El Paso, Fort Bend, Harris, Hidalgo, Montgomery, Nueces, Tarrant, Travis, and Williamson. See Appendix A for formula grant disbursement by county.

B. Improvement Grants

Improvement grants develop and sustain effective programs, encourage innovation, remedy noncompliance with the Fair Defense Act, or help counties facing extraordinary indigent defense costs. In FY19, TIDC awarded 28 new or continuing program grants, totaling \$8.7 million. Formula and improvement grant disbursements are detailed in the Expenditure Report below.

Improvement Grants encourage innovation, sustain quality regional programs, promote compliance with the Fair Defense Act, and help counties facing extraordinary indigent defense challenges. Discretionary grants include five grant types, detailed below.

Types of Improvement Grants

- *Competitive Improvement Grants* assist counties in implementing new programs or processes to improve the delivery of indigent defense services.
- *Technical Support Grants* assist counties with improving local indigent defense services through projects that build the knowledge base about indigent defense and establish processes that can be replicated by other jurisdictions.
- *Compliance Assistance Grants* assist counties that have a challenge related to compliance with the Fair Defense Act that may be identified through policy monitoring.
- *Extraordinary Disbursement Grants* reimburse a county for extraordinary indigent defense expenses causing a financial hardship.
- *Sustainability Grants* support regional public defender programs serving rural counties.

TIDC FY19 Improvement Grant Awards (New and Continued) by Program Type		
Statewide/Regional Capital Defense Program		
Lubbock	Regional Public Defender for Capital Cases (185 Counties)	\$2,000,000
Rural Regional Public Defenders		
Bee	Regional Public Defender (5 counties)	\$556,678
Culberson	Regional Public Defender (5 counties)	\$280,831
Goliad	Regional Public Defender	\$91,539
Lavaca	Regional Public Defender	\$170,475
Starr	Regional Public Defender (3 counties)	\$416,700
Texas Tech University	Caprock Regional Public Defender Clinic (8 counties)	\$196,494
Public Defender Programs		
Fort Bend	Public Defender Program	\$165,864
Wichita	Public Defender Appellate/Bond Attorney Expansion	\$74,809
Managed Assigned Counsel Programs		
Harris	Misdemeanor Managed Assigned Counsel Program (Part I)	1,551,971
Specialized Defender Programs		
Bexar	Representation of Mentally Ill Defendants at Magistration	\$58,127
Dallas	Transformational Justice Emerging Adult Alternatives to Incarceration	\$324,170
El Paso	Public Defender Mental Health Advocacy and Litigation Unit	\$623,432
Smith	Misdemeanor Mental Health Defender Program	\$51,000
Travis	Mental Health Public Defender Limited Felony Expansion	\$209,498
Travis	Interdisciplinary Defense Program (Mental Health and Padilla Compliance)	\$118,153

Webb	Integrated Defense: Padilla Compliance and Mental Health Defender	\$155,525
Williamson	Transformational Justice Emerging Adult Alternatives to Incarceration	\$308,728
Technical Support and Process Improvement Programs		
Bexar	Indigent Defense Research and Evaluation	\$76,058
Ellis	Indigent Defense Coordinator + TechShare Implementation	\$56,488
Harris	Statewide Appellate Review & Support Resources for Indigent Defendants Affected by DNA Mixture Analysis Protocol Change	\$74,160
Harris	Statewide Indigent Defense Mentoring Program Round 2	\$496,125
Hays	Regional <i>Padilla</i> Compliance Project (3 rd Judicial Region)	\$342,700
Leon	TechShare Implementation	\$9,488
Lubbock	Texting Reminders	\$36,578
Navarro	Indigent Defense Coordinator	\$35,302
Extraordinary Grants		
Stephens	Extraordinary Capital Defense Expenses	\$50,000
Willacy	Extraordinary Capital Defense Expenses	\$172,603
TOTAL New FY19 Awards		\$8,703,496

The table above details FY19 funds *awarded*. Grant *disbursements* are detailed in the Expenditure Report below.

Improvement Grant Spotlight

Community-Based Alternatives to Incarceration for Emerging Adults

Dallas and Williamson Counties will scientifically evaluate program impact

Young adults 17-24 years old make up only 11% of the population but account for 29% of arrests. Moreover, this group has the highest short-term recidivism rate, often over 75%. As scientists have developed a greater understanding of the psychological development of these “emerging adults” and the neuroscience behind it, significant similarities with juveniles have become more clear. Most importantly, both groups show a significant ability to change behavioral patterns when provided with a broad spectrum of support services and interventions that meet their core needs and identify paths forward through education and employment.

Dallas and Williamson Counties have partnered with the Lone Star Justice Alliance to implement a new approach that diverts clients from incarceration to comprehensive community-based services targeting unmet needs that contribute to criminal justice involvement. Through intensive case management, the program connects clients to community resources including physical and mental healthcare, substance abuse programs, supportive housing, education and employment assistance that eventually lead to independence and stability in the community. In order to test the effectiveness of this new approach, researchers with the Harvard Access to Justice Lab and the Public Policy Research Institute at Texas A&M will conduct a separately funded randomized control trial. The result will be a robust program evaluation to inform other jurisdictions considering more effective interventions for young adults.

C. Innocence Projects

TIDC funds innocence projects at six public law schools in Texas. Each program is eligible to receive up to \$100,000 annually:

- The University of Texas Law School
- Texas Tech University School of Law
- Thurgood Marshall School of Law at Texas Southern University
- University of Houston Law Center
- University of North Texas Dallas College of Law
- Texas A&M University School of Law in Fort Worth

In each project, law students work under attorney supervision to review actual innocence claims from Texas inmates. Semi-annual reports from each innocence project are available on TIDC's website.

Oversight

TIDC oversees indigent defense across Texas. TIDC oversight takes 4 main forms:

- A. Indigent Defense Expenditure Reports (IDER)
- B. Indigent Defense Plans (ID Plans)
- C. Fiscal Monitoring
- D. Policy Monitoring

These 4 types of monitoring help cover the breadth and depth of indigent defense provision in Texas, as well as both fiscal and policy compliance:

TIDC Oversight		
	<u>Fiscal</u>	<u>Policy</u>
<u>Breadth</u>	Indigent Defense Expenditure Reports	Indigent Defense Plans
<u>Depth</u>	Fiscal Monitoring	Policy Monitoring

In addition, TIDC reviews complaints about indigent defense from lawyers, judges, defendants, inmates and their family members, and members of the public.

A. Indigent Defense Expenditure Reports

TIDC conducts desk reviews of all 254 counties' indigent defense expenditure reports (IDERS) each year following their submission by November 1. These IDERS provide Texans with some of the best indigent defense expenditure data in the nation. This data is used to help drive indigent defense policy, funding, and provision decisions throughout the State—and this data is available to the public at tidc.tamu.edu/public.net.

B. Indigent Defense Plans

The Fair Defense Act (FDA) requires criminal court judges and the juvenile board in each county to adopt and publish countywide indigent defense plans (ID Plans) that meet the requirements of the FDA and related rules adopted by TIDC. Counties are required by Texas Government Code §79.036 to submit their indigent defense plans, forms, and procedures to TIDC by November 1 of each odd-numbered year. ID Plans were last due on November 1, 2019. ID Plans set forth how each county provides indigent defense. Like IDERS, ID Plans are available to the public at tidc.tamu.edu/public.net.

Adult Indigent Defense Plan Requirement Overview



Conduct prompt and accurate magistration proceedings.



Determine indigence according to standards directed by the indigent defense plan.



Establish minimum attorney qualifications.



Appoint counsel promptly.



Institute a fair, neutral, and non-discriminatory attorney selection process.



Publish fee and expense payment process.



Publish affidavit of indigence, attorney fee schedule, and attorney fee voucher form.

Common Fiscal Monitoring Findings:

- General court expenditures, (which mostly included competency evaluations), along with civil case expenditures were improperly claimed as an indigent defense expenditure
- No written explanation for variance from requested payment amounts
- Attorneys were not paid in accordance with the county's published fee schedule
- CLE hours were not maintained
- IDER was not supported by financial data
- Contract defender rules were not followed when using a contract system

C. Fiscal Monitoring

TIDC monitors county compliance with Texas statutes and administrative rules. The Uniform Grant Management Standards (UGMS) and grant rules set the monitoring criteria and priorities for counties. Counties are selected for a monitoring visit based on a combination of objective risk assessment scores and geographic distribution.

All Texans have an interest in ensuring that counties use precious state resources wisely and that county expenditure data is accurate. But TIDC strives to make monitoring constructive, not punitive. TIDC fiscal

monitors often provide training and technical assistance to counties to help them accurately track and report indigent defense expenses.

Fiscal monitoring activities in FY19 were performed in the following counties:

FY 2019 Fiscal Monitoring		
On-Site Reviews	Limited Scope	Follow-Up Visits
Collin	Cass	Waller
Fort Bend	Freestone	
Goliad	Hopkins	Desk Reviews
Harrison	Houston	Camp
Jim Wells	Jasper	Lee
Parker		Upton
Rusk		
San Patricio		
Tarrant		
Jefferson		

D. Policy Monitoring

TIDC monitors policy compliance with the FDA. TIDC also provides technical assistance to help counties to improve their indigent defense processes and to meet FDA requirements. In F19, TIDC conducted a detailed review of its policy monitoring process. This included documenting processes through the creation of a manual and checklists. Following the mapping process, staff made changes to streamline the process at each stage of the review. It also began to develop quality metrics to add to the monitoring process, which will be piloted in FY20.

A county is selected for on-site monitoring review based on a combination of objective risk assessment scores and geographic distribution. A monitoring review may also be conducted at the request of an elected state or local official or triggered by a complaint from the public.



Debra Stewart and Claire Buetow traveled to Waller County in February 2019 for a policy and fiscal monitoring visit.

In FY19, TIDC staff conducted full scope reviews in five counties, limited scope reviews in three counties, follow-up reviews to prior visits in twelve counties, and informal drop-in reviews in six counties.

FY19 Policy Monitoring		
Full-Scope Reviews (cover the six core requirements of the FDA)		
Hays	Jim Wells	Kendall
Rusk	Travis	
Limited-Scope Reviews (cover specific FDA topics)		
Chambers	Fisher	Scurry
Follow-up Reviews (attempt to resolve issues identified in a previous monitoring review)		
Childress	Collin	Dallas
Deaf Smith	Fort Bend	Goliad
Jefferson	Kleberg	Liberty
Randall	Smith	Waller
Drop-in Reviews (informal and involve an examination of records; items covered may vary, but misdemeanor appointment processes are often reviewed)		
Briscoe	Donley	Hall
Sabine	San Augustine	Somervell

Common Policy Monitoring Findings Received:

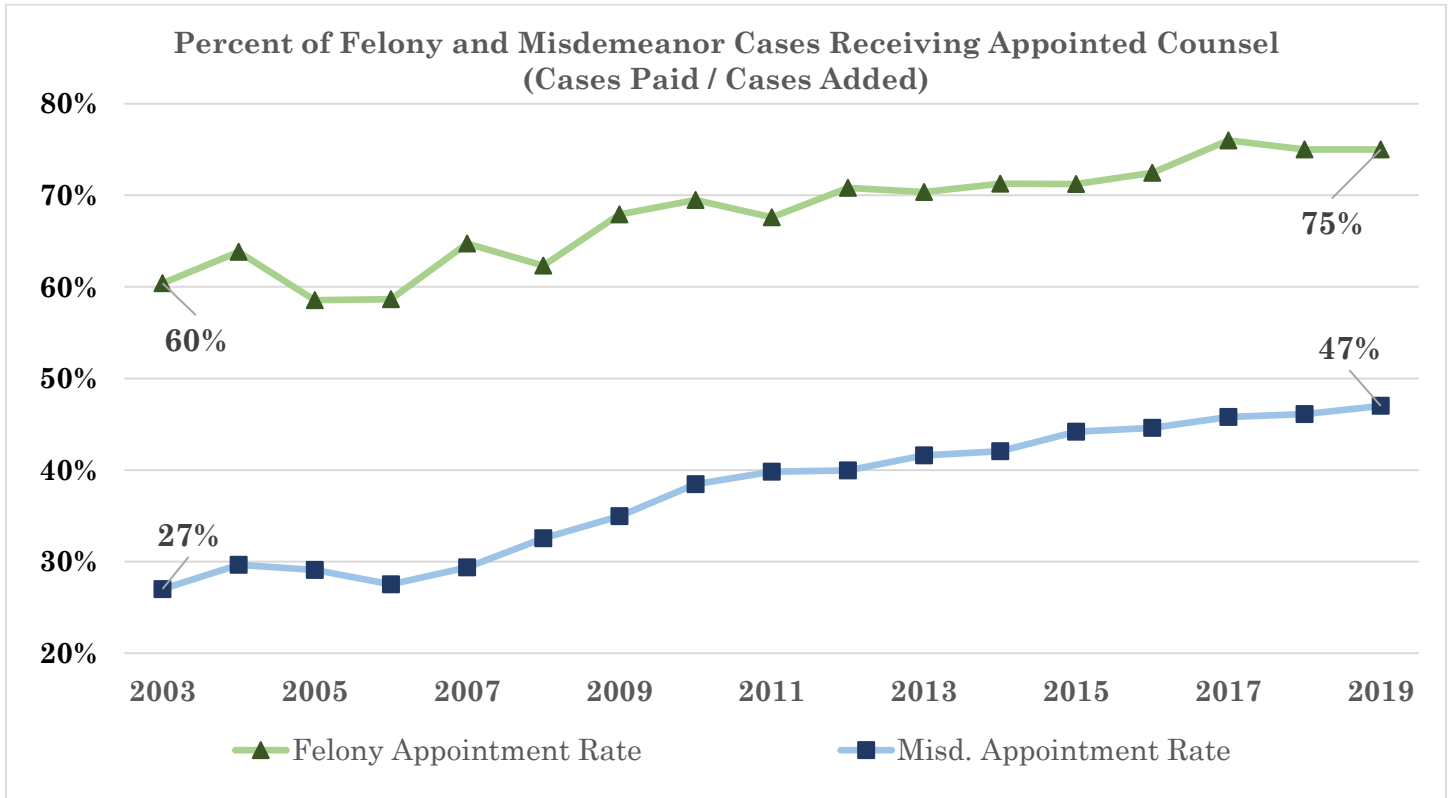
- Requests for counsel are not ruled upon or not promptly transmitted to the appointing authority
- Appointing authority does not rule upon requests in a timely manner
- Magistrates do not always mark whether an arrestee requested appointment of counsel
- Indigence determinations do not follow the local financial standard set in the indigent defense plan.
- Defense attorneys are not communicating with their clients

E. Data

TIDC makes indigent defense data readily available to the public. TIDC has long posted the indigent defense data on its website. In the past several years, TIDC has expanded its data collection and reporting efforts.

Attorney Appointment Rates

Below is a chart showing the approximate percentage of cases in which an attorney was appointed to represent an indigent defendant. The rates have risen steadily over the years.



Estimate of Pro Se Misdemeanor Cases Since 2011, when OCA began tracking the number of retained cases, the percentage of pro se misdemeanor cases has decreased.

Estimated Percentage of Pro Se Misdemeanor Dispositions				
	Statewide	Counties Under 50k Pop.	Counties Between 50k & 250k Pop.	Counties Over 250k Pop.
FY 11	33.2%	68.7%	56.9%	19.6%
FY 12	28.8%	66.3%	50.8%	15.2%
FY 13	27.5%	66.4%	48.4%	13.3%
FY14	25.4%	63.5%	46.6%	11.6%
FY15	23.8%	61.7%	42.5%	11.3%
FY16	24.1%	58.3%	39.4%	13.0%
FY17	21.3%	56.7%	41.7%	8.8%
FY18	21.6%	55.7%	39.5%	9.6%
FY19	23.1%	53.6%	36.2%	13.1%

Formula for calculation is Pro Se Dispositions = Total Dispositions – Total Retained Cases – Total Cases in Which Attorneys were Paid. Figures are based on data reported by court clerks and county auditors / treasurers.

Appointed Attorney Caseloads

The 83rd Legislative Session directed TIDC to conduct and publish a study to determine guidelines for establishing a maximum allowable caseload for a criminal defense attorney. In 2015, TIDC published the Weighted Caseload Guidelines (WCG) in partnership with the Public Policy Research Institute at Texas A&M University. The Weighted Caseload Guidelines found the maximum number of cases an attorney could reasonably expect to proficiently handle within one year was: 128 felony cases, 226 misdemeanor cases, or 31.2 appeals.

In FY19:

- A total of 5,610 attorneys were reported to have received payment for indigent defense services during FY19.
- The median indigent defense caseload was 30% of the WCG.
- This analysis excluded juvenile cases and did not factor retained or civil case work.
- 837 of these attorneys had caseloads in excess of the WCG.
 - These attorneys handled appointed cases in **218 counties** (86% of counties)
 - **Half** of all indigent defendants are represented by attorneys with appointed caseloads more than TIDC guidelines.
- As to extreme caseloads:
 - Seven attorneys had caseloads **greater than 5 times** recommended by the WCG.
 - 45 attorneys had caseloads **greater than 3 times** recommended by the WCG.

F. Complaint Process

In FY19, TIDC received 56 complaints related to local indigent defense practices, one of which led to limited-scope monitoring reviews. TIDC follows up on complaints pursuant to § 79.037, Government Code, to assist counties in improving their indigent defense systems and promote compliance and accountability with the FDA. TIDC implemented a new web-based intake process at the beginning of the year creating a streamlined complaint process that assists in collecting data accurately and efficiently.

Improvement

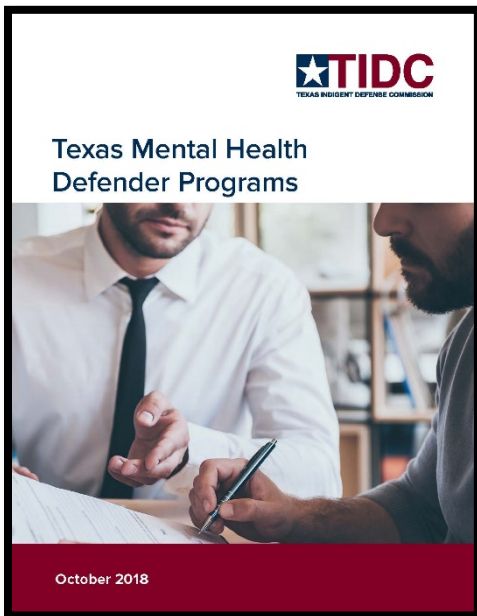
TIDC works to improve public defense in the State of Texas. This work took several forms in FY2019:

- A. Publications
- B. Trainings and Presentations
- C. Mentorship
- D. Technical Assistance
- E. Events

TIDC has formalized its work to improve indigent defense systems in Texas through the establishment of its Improvement Team. Scott Ehlers, Director of Public Defense Improvement, and Kathleen Casey-Gamez, Senior Policy Analyst, will be focusing on creating public defender offices and managed assigned counsel programs, providing trainings, operating a statewide mentorship program, and providing technical assistance to judges and county officials.

A. Publications

TIDC released 2 major publications in FY2019:



- *Texas Mental Health Defender Programs* (October 2018)

Describes the operations of public defender and managed assigned counsel programs in Texas that specialize in representing persons with mental illness. The publication also describes the intersection between mental health and the criminal justice system in Texas, and how mental health defender programs can improve defendant outcomes, reduce jail populations, and save counties money.

http://www.tidc.texas.gov/media/58014/tidc_mhdefenders_2018.pdf

- *Indigent Defense Innovation* (Fall 2018)

Describes various innovations that public defender offices and counties can implement to improve representation and the provision of indigent defense services. The publication explores such innovations as new forms of digital communication, attorney checklists, automation technologies, participatory defense, workload studies, and early representation. A single publication that compiles all innovations was developed, as well as individual factsheets for each innovation.

<http://www.tidc.texas.gov/innovation/>



B. Trainings and Presentations

In FY19, TIDC staff trained almost 700 judges, county officials, pretrial services officers, and attorneys at 14 different events. A detailed list is included in Appendix A.

C. Mentorship

TIDC, in collaboration with the Texas Criminal Defense Lawyers Association

(TCDLA), Gideon’s Promise, and the Harris County Public Defender’s Office, has established the Future Indigent Defense Leaders Program (FIDL).



Mentors and mentees at the Future Indigent Defense Leaders (FIDL) kickoff event at TCDLA’s Rusty Duncan Conference in June 2019.

FIDL aims to create the next generation of highly skilled, client-centered Texas attorneys to represent persons who cannot afford counsel. The program offers unparalleled indigent defense training, mentoring, and leadership opportunities. Selected through a competitive process, FIDL mentees become part of an exclusive statewide team dedicated to zealous representation.

As part of FIDL, young lawyers are not only paired with a Texas-based mentor, they are also sent to Gideon’s Promise Core 101 Training in Atlanta, Georgia. This world-class training provides unparalleled teaching in how to become a client-centered defense attorney. This training is reinforced through the mentorship with their Texas-based mentor and Texas-centric trainings provided by TCDLA.

FIDL had a successful first class of 23 young lawyers and accepted a second class of young lawyers in June of 2020.

D. Technical Assistance

TIDC improves indigent defense practices in counties by providing technical assistance, including developing planning studies for public defender offices and managed assigned counsel programs, conducting site visits to observe indigent defense processes and procedures, and advising county officials on how to improve their system.

In FY2019, TIDC staff conducted 35 technical assistance site visits to 9 counties, including Bexar, Brazos, Brooks, Burnet, Dallas, Harris, Hays, Lubbock, and Travis Counties.

Three feasibility or planning studies were conducted for counties interested in establishing a public defender office or managed assigned counsel program. Public defender planning studies were conducted for Travis County and for a Hill Country Public Defender Office for Kerr, Gillespie, and Bandera Counties. Travis County relied heavily on the TIDC planning study in developing its grant proposal to TIDC for a public defender office. One planning study for a managed assigned counsel was conducted. In July 2019, TIDC issued its report, *Recommendations for a Unified Harris County Managed Assigned Counsel Program*.

E. Events

Gideon Day

On March 18, 1963, the Supreme Court decided *Gideon v. Wainwright*, establishing that the Sixth Amendment’s right to counsel in criminal cases extends to felony defendants in state courts. March 18th is now celebrated around the United States as Gideon Day or Public Defense Day. TIDC and friends in the indigent defense community gathered for cake, a trivia game, t-shirts, and a video about the groundbreaking case.



TIDC Staff, Gideon Day 2019.



TIDC Director Geoff Burkhart leads a trivia game about public defense for Gideon Day 2019.

Appendix A – TIDC Trainings

Indigent Defense Expenditure Report Training, TIDC (Webinar, October 23, 2018)—Debra Stewart

Indigent Defense Expenditure Report Training, TIDC (Hill County, October 25, 2018)—Debra Stewart

Indigent Defense Expenditure Report Training, TIDC (Midland County, October 29, 2018)—Debra Stewart

National Legal Aid and Defender Association 2018 Annual Conference (Houston, November 1-2, 2018)

- TIDC proposed and presented on 3 panels for NLADA’s Annual Conference in Houston.
- Panel topics included: *Innovative Public Defense in America*; *Building Rural Defense*; and *The State of Indigent Defense in Texas*.

Judicial Orientation for New County Judges, Texas Association of Counties (Lubbock, Jan. 31, 2019)—Wesley Shackelford

Chief Public Defenders Meeting (Dallas, Jan. 31, 2019)—Geoff Burkhart

- TIDC, the Texas Criminal Defense Lawyers Association, and the Dallas County Public Defenders Office brought together chief public defenders and managed assigned counsel directors from across Texas.
- Derwyn Bunton, Chief District Defender for New Orleans, presented to the chiefs.



Derwyn Bunton, Chief District Defender for New Orleans, presented at the Chief Public Defenders Meeting in Dallas.

Central Texas Indigent Defense Coordinator Workshop, TIDC (McClennan County, Feb. 1, 2019)



Joel Lieurance, TIDC Senior Policy Monitor, presented at TIDC's Central Texas Indigent Defense Coordinator Workshop in McLennan County.

- Approximately 25 indigent defense coordinators, court coordinators, and judges attended this TIDC workshop.
- Topics covered included: The Many Important Functions of the Indigent Defense Coordinator, Indigence Screening Exercise, and Role of Technology and Grant Opportunities.
- Materials from the training available here: <http://www.tidc.texas.gov/resources/trainings/central-texas-indigent-defense-coordinator-workshop/>.

Magistration and Indigent Defense, V.G. Young Institute for County Government, Texas Association of Counties (College Station, Feb. 20, 2019)—Scott Ehlers

Texas Criminal Defense Lawyers Association CLE (Houston, Feb. 21, 2019)—Geoff Burkhart

National Association for Public Defense (Kentucky, Mar. 29, 2019)—Geoff Burkhart

The State of Indigent Defense, Texas Association of Pretrial Services, 6th Annual Conference & Training Institute (Lakeway, May 10, 2019)—Scott Ehlers

Update on Travis County Public Defender/CAPDS Grant and Indigent Defense Legislation, Austin Criminal Defense Lawyers Association (Austin, August 30, 2019)—Scott Ehlers and Geoff Burkhart

Appendix B –Improvement Grant Disbursements

TIDC invested \$1,343,313 in FY19 Competitive Improvement Grants, which represents 4.7 percent of total FY19 grants disbursed. Competitive Discretionary Grants assist counties in implementing new programs or processes to improve the delivery of indigent defense services.

Table 1: FY19 Competitive Improvement Grant Investments

County	Program	Amount Disbursed	Pending FY19 Award Obligation
Bexar	Representation of Mentally Ill Defendants at Magistration	\$58,127	--
Dallas	Transformational Justice Emerging Adults Alternatives to Incarceration Program	0	\$324,170
Ellis	Indigent Defense Coordinator & TechShare Implementation	\$45,637	\$10,851
El Paso	Public Defender Mental Health Unit	\$623,137	--
Fort Bend	Public Defender Office	\$165,864	--
Leon	Techshare Implementation	\$9,488	
Harris	Misdemeanor Managed Assigned Counsel Program (part 1)	0	\$1,551,971
Navarro	Indigent Defense Coordinator	\$25,711	\$9,591
Smith	Misdemeanor Mental Health Defender Program	\$3,750	--
Travis	Mental Health Public Defender Limited Felony Expansion	93,842	\$115,656
Travis	Holistic Defense Program	\$109,634	--
Webb	Integrated Defense Mental Health/ <i>Padilla</i> Compliance	\$141,595	
Wichita	Public Defender Appellate/Bond Attorney	\$66,528	
Williamson	Transformational Justice Emerging Adults Alternatives to Incarceration Program		\$308,728
	TOTAL	\$1,343,313	\$2,320,967

Sustainability Grants

TIDC invested \$3,694,610 in FY19 Sustainability Grants, which represents 12.9 percent of total FY19 grants disbursed. Sustainability Grants provide ongoing support for regional public defender programs serving small counties.

Table 2: FY19 Sustainability Grant Investments

County	Program	Amount Disbursed
Lubbock	Regional Public Defender for Capital Cases (181 Counties)	\$2,000,000
Bee	Regional Public Defender (5 counties)	\$556,678
Culberson	Far West Texas Regional Public Defender Office (5 counties)	\$280,831
Goliad	Regional Public Defender	\$91,102
Lavaca	Regional Public Defender	\$170,475
Starr	Regional Public Defender (3 counties)	\$416,700

Texas Tech University	Caprock Regional Public Defender (9 counties)	\$178,824
	TOTAL	\$3,694,610

Extraordinary Grants

TIDC invested \$186,603 in FY19 Extraordinary Grants, which represents .7 percent of total FY19 grants disbursed. Extraordinary Grants reimburse a county for extraordinary indigent defense expenses causing a financial hardship.

Table 3: FY19 Extraordinary Grant Investments

County	Program	Amount Disbursed	Pending FY19 Award Obligation
Stephens	Extraordinary Capital Defense Expenses	\$14,000	\$36,000
Willacy	Extraordinary Capital Defense Expenses	\$172,603	--
	TOTAL	\$186,603	\$36,000

Technical Support Grant Investments

TIDC invested \$31,485 for FY19 Technical Support Grants, which represents .1 percent of total FY19 grants disbursed. Technical Support Grants assist counties with improving local indigent defense services through projects that build the knowledge base about indigent defense and establish processes that can be replicated by other jurisdictions.

Table 4: FY19 Technical Support Grant Investments

County	Program	Amount Disbursed	Pending FY19 Award Obligation
Bexar	Indigent Defense System Research and Evaluation	0	\$76,058
Harris	DNA Mixture Review Statewide Assistance Project	\$31,485	\$42,675
Harris	Statewide Indigent Defense Mentoring and Leadership Development Program Cohort 2	0	\$496,125
Hays	Regional Padilla Compliance Pilot Project	0	\$342,720
Lubbock	Automatic Text Reminder System Pilot	0	\$36,578
	TOTAL	\$31,485	\$994,156

Compliance Assistance Grant Investments

TIDC did not award Compliance Assistance Grants for FY19.

Discretionary Grant Investments for Prior Budget Year Award Obligations

TIDC also invested an additional \$627,360 in FY18 funds toward grant awards from previous budget years.

Table 6: Disbursements for Grant Award Obligations from Previous Budget Years

County	Grant Award Fiscal Year	Program	Amount Disbursed	Pending Award Obligation
Dallas	FY18	TechShare Indigent Defense Implementation	\$137,863	--
El Paso	FY18	Indigent Defense System Evaluation	0	70,000
Harris	FY18	DNA Mixture Review Statewide Assistance Project (Year 3)	\$124,486	--
Harris		Statewide Indigent Defense Mentoring and Leadership Development Program	\$257,727	\$323,398
Lubbock		Private Defender Office Research and Evaluation	\$45,000	--
Nueces	FY18	Pretrial Assessment Initiative	\$48,596	
Travis	FY18	Travis County DNA Mixture Review Project	13,688	--
		TOTAL New FY18 Budget Year Disbursements	\$627,360	\$393,398

INNOCENCE PROGRAM

TIDC also administers legislatively directed funds to Texas public law schools to operate innocence projects. For the FY18-19 biennium, the Texas Legislature appropriated \$1,200,000, or \$200,000 per law school per biennium.

Table 7: Disbursements for Innocence Project Contracts

Texas Public Law School	FY18 Amount Disbursed	FY19 Carryforward Obligation	FY19 Disbursed
Texas A&M University	\$89,500	\$110,500	\$94,117
Texas Southern University	0	\$200,000	\$168,259
Texas Tech University	\$64,232	\$135,768	\$106,884
The University of Houston	\$88,571	\$111,429	\$79,641
The University of North Texas - Dallas	\$8,070	\$191,930	\$44,032
The University of Texas	\$84,179	\$115,821	\$114,394
TOTAL	\$334,552	\$865,448	\$607,327

Appendix C – FY19 Formula Grant Disbursements by County

County	FY19 Formula Grants Disbursed
Anderson	\$53,442
Andrews	\$17,766
Angelina	\$53,822
Aransas	\$23,326
Archer	\$9,686
Armstrong	\$6,114
Atascosa	\$44,245
Austin	\$21,664
Bailey	\$11,517
Bandera	\$17,946
Bastrop	\$70,646
Baylor	\$8,472
Bee	\$27,255
Bell	\$258,424
Bexar	\$1,319,780
Blanco	\$11,947
Borden	\$2,600
Bosque	\$16,912
Bowie	\$65,731
Brazoria	\$236,868
Brazos	\$192,219
Brewster	\$11,265
Briscoe	\$2,720
Brooks	\$9,373
Brown	\$37,388
Burleson	\$25,991
Burnet	\$47,234
Caldwell	0
Calhoun	\$20,866
Callahan	\$12,384
Cameron	\$264,171
Camp	\$14,022
Carson	\$10,838
Cass	\$27,455
Castro	\$9,895
Chambers	\$36,371

County	FY19 Formula Grants Disbursed
Cherokee	\$36,242
Childress	\$11,366
Clay	\$10,768
Cochran	\$7,138
Coke	\$7,044
Coleman	\$10,461
Collin	\$685,996
Collingsworth	\$6,789
Colorado	\$21,187
Comal	\$99,822
Comanche	\$13,311
Concho	\$7,599
Cooke	\$36,009
Coryell	\$51,601
Cottle	\$5,836
Crane	\$7,522
Crockett	\$10,300
Crosby	\$8,024
Culberson	\$6,322
Dallam	\$10,028
Dallas	\$2,454,309
Dawson	\$12,523
Deaf Smith	\$19,170
Delta	\$7,820
Denton	\$495,490
DeWitt	\$19,615
Dickens	\$6,080
Dimmit	\$10,239
Donley	\$7,303
Duval	\$13,881
Eastland	\$20,209
Ector	\$124,011
Edwards	\$6,621
Ellis	\$140,217
El Paso	\$899,868
Erath	\$27,163

County	FY19 Formula Grants Disbursed
Falls	\$19,521
Fannin	\$35,278
Fayette	\$21,104
Fisher	\$7,076
Floyd	\$8,025
Foard	\$5,835
Fort Bend	\$623,007
Franklin	\$10,845
Freestone	\$21,078
Frio	\$17,555
Gaines	\$22,506
Galveston	\$234,623
Garza	\$9,005
Gillespie	\$25,602
Glasscock	\$3,600
Goliad	\$11,174
Gonzales	\$22,450
Gray	\$22,508
Grayson	\$91,255
Gregg	\$105,445
Grimes	\$24,831
Guadalupe	\$92,412
Hale	\$28,824
Hall	\$7,961
Hamilton	\$10,430
Hansford	\$8,210
Hardeman	\$8,805
Hardin	\$46,116
Harris	\$3,891,238
Harrison	\$57,705
Hartley	\$9,960
Haskell	\$9,110
Hays	\$127,288
Hemphill	\$8,156
Henderson	\$68,888
Hidalgo	\$674,911

County	FY19 Formula Grants Disbursed
Hill	\$33,913
Hockley	\$19,207
Hood	\$44,048
Hopkins	\$26,445
Houston	\$24,662
Howard	\$29,389
Hudspeth	\$7,707
Hunt	\$100,119
Hutchinson	0
Irion	\$6,497
Jack	\$12,024
Jackson	\$17,462
Jasper	\$27,911
Jeff Davis	\$6,309
Jefferson	\$169,944
Jim Hogg	\$8,286
Jim Wells	\$27,308
Johnson	\$109,059
Jones	\$17,370
Karnes	\$16,069
Kaufman	\$96,219
Kendall	\$29,594
Kenedy	\$5,948
Kent	\$1,000
Kerr	\$54,001
Kimble	\$10,360
King	\$1,000
Kinney	\$7,169
Kleberg	\$27,804
Knox	\$7,003
Lamar	\$40,001
Lamb	\$13,906
Lampasas	\$18,962
La Salle	\$11,335
Lavaca	\$17,433
Lee	\$18,656
Leon	\$16,665
Liberty	\$61,196
Limestone	\$22,813
Lipscomb	\$6,769
Live Oak	\$14,487
Llano	\$18,608

County	FY19 Formula Grants Disbursed
Loving	\$5,248
Lubbock	\$279,038
Lynn	\$7,827
McCulloch	\$10,247
McLennan	\$242,253
McMullen	\$6,046
Madison	\$16,393
Marion	\$12,597
Martin	\$8,039
Mason	\$8,045
Matagorda	\$27,511
Maverick	\$28,177
Medina	\$39,823
Menard	\$6,664
Midland	\$141,413
Milam	\$21,108
Mills	\$8,641
Mitchell	\$10,964
Montague	\$17,502
Montgomery	\$463,551
Moore	\$26,851
Morris	\$14,028
Motley	\$4,579
Nacogdoches	\$42,377
Navarro	\$53,840
Newton	0
Nolan	\$20,455
Nueces	\$262,195
Ochiltree	\$13,652
Oldham	\$7,215
Orange	\$52,954
Palo Pinto	\$25,411
Panola	\$23,009
Parker	\$84,564
Parmer	\$7,350
Pecos	\$20,714
Polk	\$44,855
Potter	\$119,328
Presidio	\$8,354
Rains	\$11,461
Randall	\$102,919
Reagan	\$9,937

County	FY19 Formula Grants Disbursed
Real	\$7,119
Red River	\$13,848
Reeves	\$16,061
Refugio	\$10,873
Roberts	\$1,500
Robertson	\$20,716
Rockwall	\$73,263
Runnels	\$12,503
Rusk	\$32,846
Sabine	\$11,664
San Augustine	\$9,163
San Jacinto	\$22,414
San Patricio	\$52,880
San Saba	\$8,395
Schleicher	\$6,794
Scurry	\$15,205
Shackelford	\$7,675
Shelby	\$18,462
Sherman	\$7,358
Smith	\$146,535
Somervell	\$9,998
Starr	\$41,385
Stephens	\$12,515
Sterling	\$6,309
Stonewall	\$5,380
Sutton	\$7,949
Swisher	\$9,594
Tarrant	\$1,677,595
Taylor	\$123,867
Terrell	\$6,014
Terry	\$14,918
Throckmorton	\$5,891
Titus	\$23,990
Tom Green	\$143,391
Travis	\$1,059,455
Trinity	\$13,837
Tyler	\$17,760
Upshur	\$29,578
Upton	\$10,482
Uvalde	\$27,981
Val Verde	\$36,179
Van Zandt	\$45,238

County	FY19 Formula Grants Disbursed
Victoria	\$76,751
Walker	\$49,069
Waller	\$49,720
Ward	\$13,620
Washington	\$32,310
Webb	\$253,767
Wharton	\$30,539
Wheeler	\$12,369
Wichita	\$150,811
Wilbarger	\$14,026
Willacy	\$42,014
Williamson	\$329,589
Wilson	\$33,908
Winkler	\$10,109
Wise	\$52,003
Wood	\$32,105
Yoakum	\$9,824
Young	\$18,938
Zapata	\$11,504
Zavala	\$10,981

Appendix D – FY19 Operating Budget

This fiscal year the Commission expended a total of \$30,267,917. Of these funds, \$1,175,586 was for administrative costs. Administrative costs represents 3.9 percent of the total amount expended. These expenses include salaries, operating expenses for 11 full-time staff, and travel for board members and staff as shown in the chart below.

Budget Category	FY 2019 Expended	FY 2018 Expended
Salaries & Wages	\$897,977	\$869,775
Other Personnel Costs	\$86,245	\$25,468
Benefit Replacement Pay	\$2,054	\$2,054
Professional Fees and Services	\$2,488	\$50,953
Consumables	\$942	\$1,559
Utilities	\$1,723	\$1,757
Travel	\$41,398	\$42,189
Rent-Building	\$757	\$996
Rent-Machine and Other	\$2,341	\$2,619
Other Operating Expenses *	\$232,989	\$191,223
Innocence Project	\$500,216	\$345,849
Grants	\$28,498,787	\$30,632,533
Total Expended	\$30,267,917	\$32,166,975
Method of Finance Category	FY 2019 Method of Finance	FY 2018 Method of Finance
Fund 5073, Fair Defense Account, Court Costs	\$34,354,656	\$34,864,319
Surety Bond Fee	\$1,929,558	\$1,959,345
State Bar Fee	\$2,394,568	\$2,434,770
Juror Pay Fee	\$5,947,699	\$6,634,193
Total Fund 5073, Fair Defense Account	\$44,626,481	\$45,892,627
Fund 0001, General Revenue	\$3,750,071	\$3,749,929
State Grant	\$0	\$0
Total Revenue	\$48,376,552	\$49,642,556
FY 2017 Carryforward		\$116,711
FY 2018 Carryforward	\$1,177,394	
FY2018 Appropriated Carryforward		(\$22,122)
FY18 Grant Obligations		(\$453,491)
FY19 Grant/IP Obligations	(\$3,351,123)	
Revenue above Appropriation Cap	(\$14,087,070)	(\$15,266,038)
Office of Capital and Forensic Writs **	(\$1,615,134)	(\$1,629,271)
TIDC Benefits	(\$232,702)	(\$221,370)
Total Method of Finance	\$30,267,917	\$32,166,975

* PPRI - Grants & Reporting Maintenance System and Special Projects expenses in the amount of \$194,082 are captured under this budget category.

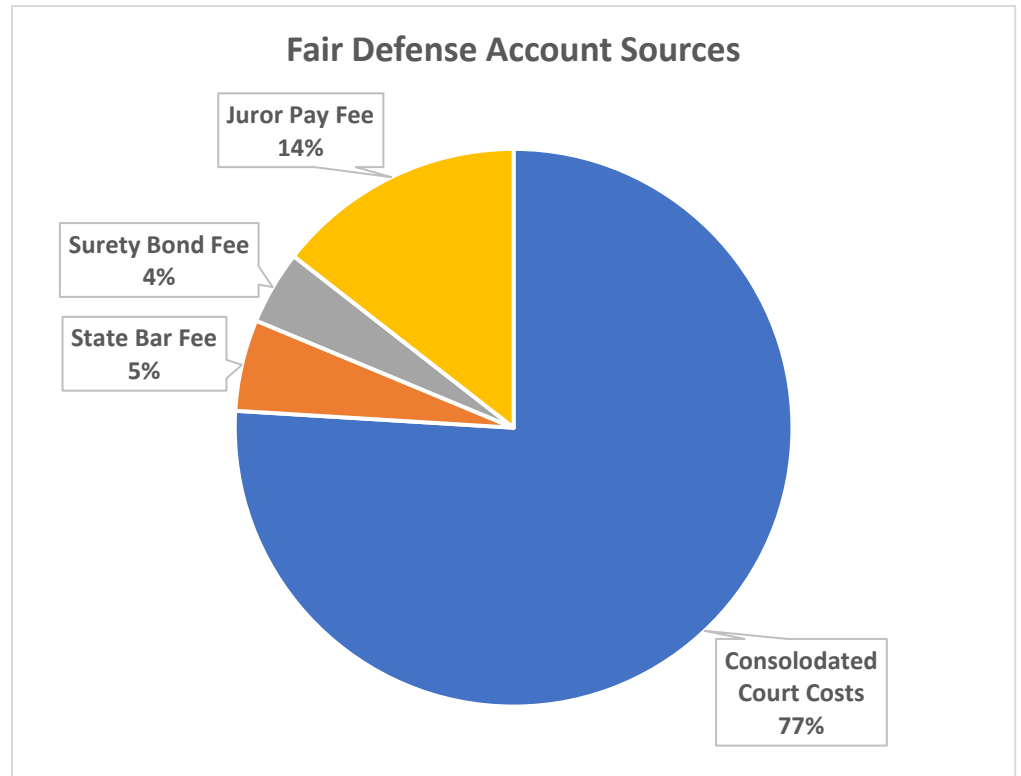
** Fund 5073 is also the method of finance for the Office of Capital and Forensic Writs (OCFW).

Appendix E – Method of Finance

In FY 2019 TIDC was funded primarily from the GR-Dedicated Fair Defense Account (Fund 5073). In addition, the Legislature appropriated \$3.75 million in General Revenue. (The General Revenue appropriation was eliminated in the FY2020/2021 budget.)

Except for two biennia (2012-2013 and 2018-2019), TIDC has had estimated appropriation authority for the balance of the Fair Defense Account, less amounts appropriated to the Office of Capital and Forensic Writs (OCFW). In the FY18-2019 biennium, the Legislature capped TIDC’s appropriation below projected collections in the Fair Defense Account. As a result, the account had an **unappropriated balance of approximately \$30 million** at the end of FY 2019.

Funds accrue to the Fair Defense Account from the following sources:



- Consolidated Court Costs: Defendants pay Consolidated Court Costs upon conviction for a range of offenses from fine-only misdemeanors to felonies.
- Juror Pay Court Costs: Defendants pay a \$4 court cost to fund juror pay upon conviction in most offenses. After reimbursing counties for juror pay, remaining funds in excess of \$10 million are transferred to the Fair Defense Account at year’s end.
- State Bar Fees: The State Bar of Texas assesses a \$65 fee as part of each attorney’s annual bar dues. Half of the proceeds are allocated to the Fair Defense Account.
- Surety Bond Fees: Defendants pay a \$15 fee when posting a surety bond. One-third of the fee goes to the Fair Defense Account.