Upcoming Commission Meetings

*Policies & Standards Committee* -  
Tuesday, June 20th at 2 p.m. in the Tom C. Clark building, 1st floor conference room

*Full Commission Board* -  
Thursday, June 29th at 10 a.m. in the Tom C. Clark building, 1st floor conference room

Message from Chair

On Monday May 29th, 85th legislature adjourned *Sine Die*, and last week Governor Greg Abbott finalized his actions on the slate of bills passed by the legislature. Throughout the one hundred forty days of the legislative session, our dedicated legislators and their staff worked countless hours and many long days (and nights!) to achieve much on behalf of indigent defense in criminal matters.

To begin, I want to thank our Chief Justice Nathan Hecht and the Texas Judicial Council for their unwavering support and for the Council's Resolution in support of full state funding for indigent defense. I also want to thank all the legislators and staff with whom we worked this session, beginning with Representative Andrew Murr and his Chief of Staff Regan Ellmer who worked tirelessly to improve state funding for indigent defense, as well as Chairman Joe Moody and his Chief of Staff Ellic Sahualla. Representative Moody proved to be an effective chair of the House Committee on Criminal Jurisprudence and worked on several important indigent defense related bills. I also want to thank Senator Royce West, Senator Charles Perry, and Representative John Frullo who authored significant indigent defense bills.
Regarding the budget, a special thank you is owed to Representative Oscar Longoria, Vice Chair of House Committee on Appropriations and Chair of the Subcommittee on Article IV, Senator Juan Hinojosa, Vice Chair of Senate Finance, Senator Joan Huffman, Chair of Subcommittee on Article IV and all their respective staff. Thank you also to the Legislative Budget Board and George Dzuik for all his efforts in preparing thorough but succinct presentations and for serving as a valuable resource for us during this session. The staff of the two budget committees were also critical to our success, and my thanks go to Brady Vaughn with Senate Finance and Malika Te with House Appropriations. In addition, Preston Streufert with the governor’s office was also a great resource as we navigated the session.

Sharon Keller

85th Legislature Appropriations

The General Appropriations Act for FY18/19 passed by the Legislature and signed by Governor Greg Abbott approved the Texas Indigent Defense Commission’s (TIDC) base request of totaling $66.48 million over the FY18/19 biennium. This represents a 6.5% reduction from the $71.13 million appropriated in FY16/17. It was a tough year for the state budget and many agencies suffered larger funding reductions. The efforts of many county officials and others were critical in keeping these funding levels from being reduced further.

The appropriations bill also:

- Includes rider language restricting the use of $5.04 million in grant funds over the biennium to implement cost containment initiatives designed to limit local indigent defense cost increases;
- Requires TIDC to "submit a report to the Legislature no later than December 1, 2018, detailing the effectiveness of various cost containment measures implemented by counties and to propose additional measures to reduce county operating costs with respect to indigent defense"; and
- Allocates $600,000 per year out of the amounts appropriated in each year of the biennium to fund innocence project programs at the six state law schools in the amount of $100,000 per year to each school. The rider provides that the funds are "to support innocence project screening, investigation, and litigation activities regarding claims of actual innocence in non-capital cases in Texas and associated expenses necessary to conduct those activities. Funding shall be used to provide direct assistance to investigate actual innocence cases post-conviction and to pursue relief for defendants with credible claims of actual innocence, and shall not be used for legal clinic expenses, teaching, and student supervision."

Unfortunately, due to the tight budget, none of TIDC’s exceptional item requests were funded.

Indigent Defense Bills

During the 85th Legislature’s Regular Session there were 6,800 bills and joint resolutions filed (up 5% over the 84th Legislature), of which only 1,220 passed (down 8% from the 84th). Sunday marked the last day that Governor Abbott could sign or veto bills passed during the session. In total, Governor Abbott vetoed 50 bills, signed 1,091, and allowed 154 bills to become law without his signature.

The Texas Indigent Defense Commission is grateful to report that two bills it endorsed were passed by the legislature and signed by the Governor:

SB 2053 authored by Sen. West and sponsored by Rep. Murr will provide the single largest increase in funding to the Fair Defense Account ever, about a 50% increase. The bill reallocates certain consolidated court costs and is expected to generate an additional $15 to $17 million per year in revenue for that account. Regrettably, the legislature did not appropriate TIDC any of the expected funding increase for the FY18/19 biennium. This means the new funds may not be spent until further legislative action occurs. SB 2053 was signed by Governor Abbott on June 15, 2017 and became effective immediately.

SB 1214, authored by Sen. Perry and sponsored by Rep. Frullo will provide a statutory framework and succession planning for the Regional Public Defender Office for Capital Cases (RPDO).

TIDC supported bills covering TIDC board member terms, public defender indigency determinations, and the creation of an innocence grant program that did not ultimately pass this
Other Significant Bills of Interest:

**SB 527** authored by Sen. Birdwell and sponsored by Rep. Cook will permit a judge, at any time during a defendant’s sentence of confinement or period of community supervision to order a defendant who, at the time of the sentencing did not have the financial resources to pay for the legal services provided to the defendant, to pay any unpaid portion of the applicable amount if the judge determines that the defendant has the financial resources to pay. Current law only permits a judge to order repayment of these costs if the defendant has the financial resources to repay at the time of sentencing. The bill prohibits the judge from revoking or extending the defendant’s period of community supervision solely to collect the amount the defendant has been ordered to pay under the bill’s provisions.

**HB 34** authored by Reps. Smithee, Moody, and Canales, and sponsored by Sen. Perry would implement the recommendations of the **Timothy Cole Exoneration Review Commission** including requiring the recording of custodial interrogations in certain major felonies, improves standards for eyewitness identification, and requires information about informants’ history of past information sharing and what incentives they were given to be shared with the defense attorney.

**SB 1913** authored by Sens. Zaffirini, Hinojosa, Menendez, and Rodriguez and sponsored by Reps. Senfronia Thompson, Wu, Canales, and White address fines and fees for indigent people and was a key priority of the Texas Judicial Council. Among many provisions, the bill will give judges more flexibility in setting lower fines for people who commit fine-only offenses. Judges will also be required to evaluate a person’s ability to pay fines under the bill, and be given the discretion to allow offenders to pay fines in increments or through community service.

**SB 1849** the **Sandra Bland Act**, authored by Sen. Whitmire with numerous co-authors and sponsored by Rep. Coleman with numerous co-sponsors makes a variety changes to the law surrounding how law enforcement and jails are required to handle people with whom they come into contact who are suffering with a mental health crisis or the effects of substance abuse.

**SB 1124** authored by Sen. Hinojosa and sponsored by Rep. Geren provides for the administrative attachment of the Texas Forensic Science Commission to the Office of Court Administration.

Governor Abbott has announced that he is calling the legislature back to Austin for a 30-day Special Session to begin on July 18, 2017. The call includes 20 items, although none of them should impact indigent defense or the criminal justice system more broadly.
Commission Members

Ex Officio Members:
The Honorable Sharon Keller, Chair
The Honorable Nathan L. Hecht
The Honorable John Whitmire
The Honorable Brandon Creighton
The Honorable Joseph “Joe” Moody
The Honorable Andrew Murr
The Honorable Sherry Radack
The Honorable Linda Rodriguez

Members Appointed by Governor:
Mr. Don Hase
The Honorable Jon Burrows
The Honorable Richard Evans
Mr. Alex Bunin
The Honorable Missy Medary

Mission Statement

The Texas Indigent Defense Commission provides financial and technical support to counties to develop and maintain quality, cost-effective indigent defense systems that meet the needs of local communities and the requirements of the Constitution and state law.