



Report from the Texas Indigent Defense Commission for February 17, 2017 Texas Judicial Council Meeting

Chair:

The Honorable Sharon Keller
Presiding Judge, Court of Criminal Appeals

Ex Officio Members:

The Honorable Nathan Hecht
The Honorable Sherry Radack
The Honorable Linda Rodriguez
The Honorable Brandon Creighton
The Honorable John Whitmire
The Honorable Andrew Murr
The Honorable Abel Herrero

Members Appointed by Governor:

The Honorable Missy Medary
The Honorable Jon Burrows
The Honorable Richard Evans
Mr. Don Hase
Mr. Alex Bunin

Executive Director:

James D. Bethke

Since the Texas Indigent Defense Commission's last report to the Texas Judicial Council on October 28, 2016, the Commission had a Policies and Standards Committee meeting on December 1st and a full board meeting on December 13, 2016. At its December meeting, the Commission awarded \$24 million in formula grants to Texas' 254 counties to help improve attorney representation systems for the poor. The Commission also awarded \$1.1 million in grants to the 14 largest counties that are not eligible to participate in the rural Regional Public Defender Office for Capital Cases (RPDO). A \$44,000 discretionary grant was awarded to Kleberg County to hire an indigent defense coordinator. The next Commission meeting is scheduled for March 9, 2017.

New Members

On December 15th, **Governor Greg Abbott** announced these new [appointments to the Commission](#):



The Honorable Missy Medary of Corpus Christi is the presiding judge of the Fifth Administrative Judicial Region and judge of the 347th District Court. She is a former board member of the Corpus Christi Bar Association Board of Directors and a lifetime member of the Texas Bar Foundation. Judge Medary earned a Bachelor of Arts from the University of Missouri-Columbia and a Juris Doctor from California Western School of Law.



The Honorable Richard Evans of Bandera is the county judge of Bandera County. He is chair of the Alamo Workforce Development Corporation, former chair and current member of the Committee of Six and of the Alamo Area Council of Governments, and an Eagle Scout. Judge Evans earned a Bachelor of Business Administration from Southwest Texas State University.



Mr. Alex Bunin of Houston is the chief public defender of Harris County. He has assisted in the creation of indigent defense programs in both Alabama, New York, and Vermont. He is board certified in Criminal Law and Criminal Appellate Law by the Texas Board of Legal Specialization. Mr. Bunin earned a Bachelor of Arts from Bowdoin College and a Juris Doctor from South Texas College of Law.

Governor Abbott also announced these reappointments of current Commission members:

The Honorable Jon Burrows of Temple is the county judge of Bell County. He is board chairman of the Hill Country Transit District and a board member of the Central Texas Council of Governments and the Hill Country Community Action Association, Inc. Judge Burrows earned a Bachelor of Music Education and Master of Music Education from the University of Oklahoma and a Juris Doctor from The University of Texas School of Law.



Mr. Don Hase of Arlington is an attorney and partner at Ball & Hase, P.C. and is a former assistant district attorney for Tarrant County. He is board certified in Criminal Law by the Texas Board of Legal Specialization, past president of the Tarrant County Criminal Defense Lawyers Association, and a member of the Texas Criminal Defense Lawyers Association and the State Bar of Texas. Mr. Hase earned a Bachelor of Arts and a Juris Doctor from Texas Tech University.



Legislative Update

On February 9th, **Chair Sharon Keller** and **Executive Director Jim Bethke** presented the TIDC [budget request](#) to the Senate Finance Committee. The presentation materials are available [here](#).

Our first bill of the 85th Legislative Session -- [HB 978](#) -- was filed by Representative Andy Murr. The bill would allow staggered terms of six years for board members, with one or two members' terms expiring February 1st of each odd-numbered year.

The Commission approved the following legislative proposals at its August and December meetings:

- **Statutory framework for the operation of the Regional Public Defender Office for Capital Cases (RPDO)**
 - This statute would provide a statutory basis for the RPDO program and a process for succession to assure appropriate administrative support.
- **Change the terms of TIDC board members to six years from two years (now filed as HB 978)**
 - This proposal was suggested by the Office of the Governor as a means to provide greater stability and to alleviate the need to make appointments so frequently.
- **Repeal the requirement that public defender attorneys must inform the court of the results of any investigation into a defendant's financial circumstances**
- **Create an innocence project grant program at the Texas Indigent Defense Commission**
 - This proposal would provide a framework to manage the funds allocated by the legislature for innocence projects through a formal grant program to promote coordinated strategies for screening requests for assistance and effective investigation and litigation activities. If a revised rider is also adopted, the bill would permit both public and private law schools based in Texas to apply for grant funds, as well as nonprofit organizations based in Texas that operate innocence projects. It would also permit the Commission to adopt rules to implement the program.

Staff Update

On December 1st, staff welcomed our newest policy analyst **Scott Ehlers**. Prior to joining the Commission staff, Scott was in private practice, primarily representing indigent misdemeanor defendants in Travis County and conducting case reviews for the Texas DNA Mixture Review Project. He was appointed to serve on the Legal Services to the Poor in Criminal Matters Committee of the State Bar of Texas from 2015 to 2017. From 2011 to 2015, Scott was the legal and policy advisor for the Harris County Public Defender's Office (HCPDO). Prior to joining the HCPDO, Scott was the senior policy advisor on criminal justice matters to state Senator Rodney Ellis from 2008 to 2011. He joined Sen. Ellis' office after serving as the State Legislative Affairs director for the National Association of Criminal Defense Lawyers (NACDL) from 2004 to 2008. Scott has authored numerous published reports and articles for the Justice Policy Institute in Washington, D.C., for NACDL, and on behalf of the HCPDO. Scott earned his J.D. from the University of Houston Law Center, his Master's degree in Justice, Law, & Society from American University in Washington, and his Bachelor's degree in Government and Economics from the University of Texas at Austin.



On January 17th, **Morgan Shell** joined the Commission as our third legal extern from the Texas Tech University School of Law [Regional Externship Program](#). Morgan is a J.D. candidate graduating in May 2017. She grew up in Marble Falls and plans to remain in Texas after graduation. Morgan earned her Bachelor of Arts degree from the University of Denver in International Studies with a concentration in Security and Conflict Resolution and a minor in Spanish. She was also a member of the Denver Women's Basketball Team. Before law school, Morgan was an English tutor in Madrid, Spain. She later worked for Richardson + Burgess LLP and Shell & Shell Attorneys at Law. She is currently an articles editor for Volume 49 of the *Texas Tech Law Review*.



Commission Publications

[FY 2016 Annual Report](#), commemorating the 15th anniversary of the Fair Defense Act (October 2016)
[Fall-Winter Edition Newsletter](#) (December 2016)
[FY 2018 Discretionary Grant Request for Applications \(RFA\)](#) (December 2016)
[Juvenile Addendum](#) and [Appellate Addendum: Guidelines for Indigent Defense Caseloads](#) (December 2016)
[FY 2016 Annual Expenditure Report](#) (January 2017)
[Fair Defense Law: A Primer for Texas Legislators and Staff](#) (January 2017)
[Fair Defense Law: A Primer for Texas County Officials](#) (January 2017)
[RPDO Making a Difference in Texas](#), published with the National Association for Public Defense (NAPD) (January 2017)

Indigent Defense Trainings and Events

[Doug Tinker Criminal Law Seminar](#), Corpus Christi Bar Association (November 2016)
 National Legal Aid & Defender Association (NLADA) 2016 Annual Conference
[Advocacy at a Crossroads – Equality, Justice, and Human Rights](#) (November 2016)
[Understanding Client Choice: Does It Make Sense in Your Jurisdiction?](#)
[Texas Smart Defense Presentation](#)
 Texas Smart Defense National Advisory Committee Webinar (November 2016)
[Strategies for Operating Effective Mental Health Defender Programs,](#)
[Texas Roundtable on Representation of Defendants with Mental Illness](#) (December 2016)
[Meeting Materials](#)
[Best Approaches to Working with Counties and Structuring Grant Programs](#), webinar presentation to

Indigent Defense Commission Staff in Idaho and Utah (December 2016)
Effective Indigent Defense Practices presented in the Highland Lakes and South Texas areas,
co-sponsored by Texas Justice Courts Training Center (January 2017)
[Presiding Judges' Planning Retreat](#) (January 2017)

Recent Articles and Media

Across the State:

[Judge Accuses Harris County Public Defender of Flouting Rules](#) (October 2016)
[Videotapes reveal flaws in Harris County bail bond hearings](#) (November 2016)
[Waller County not ready to launch public defender's office](#) (November 2016)
[Waller County indigent defense unchanged](#) (November 2016)
[Ex-lawyer, on probation for forgery-fraud scheme, found dead in San Antonio](#) (November, 2016)
[Collin County officials have new plan to avoid paying for Ken Paxton case](#) (November 2016)
[Senator files judicial complaints over county bail system](#) (December 2016)
[State should pick up more local indigent defense costs, but not all of it](#) (December 2016)
[Abbott appoints Burrows to Indigent Defense Commission](#) (December 2016)
[Medary appointed to Governing Board of Texas Indigent Defense Commission](#) (December 2016)
[Judge Evans receives appointment from Governor](#) (January 2017)

Around the Nation:

[Moving Beyond Money: A Primer on Bail Reform](#) (October 2016)
[DOJ Sally Yates on right to counsel](#) (October 2016)
NACDL released [Gideon at 50, Part III](#) (October 2016)
[Indiana's public defender system flawed, study says](#) (October 2016)
[Indiana fails the Sixth Amendment](#) (October 2016)
[The Sixth Amendment Center report on the right to counsel in Indiana](#) (October 2016)
[New York Catholic bishops call for state to pay for underfunded local legal aid services](#) (November 2016)
Bureau of Justice Statistics: [State-Administered Indigent Defense Systems, 2013 report](#)
and [summary document](#) (November 2016)
[Charged a Fee for Getting Arrested, Whether Guilty or Not](#) (December 2016)
[New York Governor Andrew Cuomo Veto #306 - Senate Bill 8114](#) (December 2016)
[Citing Cost, Cuomo Vetoes Indigent Legal Defense Bill](#) (December 2016)
[Supporters of Indigent Defense Bill Vetoed by Cuomo Consider Lawsuit](#) (January 2017)