



Ana Yáñez-Correa
Executive Director
tel 512.441.8123
cell 512.587.7010
info@criminaljusticecoalition.org
www.criminaljusticecoalition.org

FACT SHEET

MAINTAIN FUNDING FOR INDIGENT DEFENSE DELIVERY MODELS

The Issue:

The 78th Texas State Legislature amended Section 81.054 of the Government Code to require attorneys to pay the previously voluntary \$65 annual Legal Services Fee to fund effective indigent defense delivery models. The funding generated by the Legal Services Fee has allowed Texas to improve the quality of indigent defense services by establishing new indigent defense delivery models. With the resources created by the legal services fee, the Task Force on Indigent Defense¹ approved funding for adult public defender offices in Kaufman, Willacy and Hidalgo Counties. Also, the Task Force approved funding to establish several model programs that target special populations. For example, the regional public defender office centered in Val Verde County will provide indigent defense services for defendants in Edwards, Terrell, and Kinney Counties. The Val Verde Model will allow indigent defendants in small, rural counties to access their right to a lawyer, despite the lack of qualified defense lawyers in their communities. Additionally, Travis County will establish the nation's first stand-alone public defender office exclusively representing defendants who are mentally ill. Each new public defender office established because of resources made available through the legal services fee represents a model that county leaders can look to as they consider solutions to meet the demand for improved indigent defense systems. While performance data produced by the state's long-standing public defender programs demonstrate cost and quality benefits for counties that use public defenders¹, these newest public defender offices will need continued support in order to ensure long-term success. Furthermore, the continued availability of legal services fee resources is a significant factor for counties that may be considering a public defender office.

Unless legislators remove the sunset provision for the legal services fee, it will expire on September 1, 2007. Allowing this vital funding source to expire will curtail the state's recent advancements to establish effective indigent defense delivery models.

Facts:

- In 2002, Texas ranked 44th in the nation for state spending on indigent defense¹, contributing less than 9 cents for every dollar needed.
- Individual counties shoulder over 90% of the costs related to meeting the constitutional requirement to provide indigent defense services. In 2005 alone, individual Texas counties spent over \$140 million on indigent defense, while the State of Texas provided less than \$13 million to defray the cost to counties.¹
- In contrast, 25 other states provide 100% funding for indigent defense.¹
- Florida, for example, spent \$180 million--\$144,800,000 by the state and \$35,875,000 by counties.¹
- Before the 78th Legislature mandated that the Legal Services Fee fund effective delivery models, Texas only had 5 adult public defender offices. Following the mandate, Texas has established adult public defender offices in 5 additional counties.
- A recent Task Force on Indigent Defense study demonstrates that Texas' public defender offices provide a more cost-effective model than the assigned counsel delivery model still used by most Texas counties, projecting a cost savings of \$13.7 million if mature public defender offices were available in all Texas counties.¹

- The Task Force study also shows that public defender offices in Texas have demonstrated a higher degree of control over case quality to ensure the effective and efficient delivery of legal services to indigent clients.

Recommendation:

Enact legislation to make the Legal Services Fee permanent by amending Section 81.054, Government Code. Making the legal services fee permanent is vital to continue Task Force funding for effective indigent defense delivery models, particularly public defender offices, which represent a cost effective solution for the state despite initial start-up expenses.