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**BEXAR COUNTY**

**TASK FORCE ON INDIGENT DEFENSE**

**FINAL REPORT**

**MAY, 2011**

## I. Introduction

### A. Purposes of the Task Force

On December 8, 2010, the Bexar County Commissioners Court heard a presentation and discussion about the costs and related matters regarding the provision of appointed counsel to indigents. The data reveals that the cost of indigent defense in recent years is growing at a greater rate than the caseload and the indigent population. For example, while the number of indigent defense felony cases has increased 37% between 2004 and 2010, the defense costs for those cases increased by 46%. Regarding misdemeanor cases, the caseload for the same time period increased by only 6% while the costs increased by 45%. The percentage of people in this County below the poverty level increased by 15% during this time period. The direct costs of indigent defense, **approximately 76% of which are related to criminal defense**, have risen from \$6.2 million in 2002 to \$9.1 million in 2004, and to \$13.3 million in 2010. (Judge Timothy Johnson estimates that indirect administrative costs increase these costs by an additional 33%.)

The Commissioners agreed to form a citizen task force to study the issue, and directed Judge Timothy Johnson to draft a proposed charter. The idea was to create a task force consisting of seven members whose members would be appointed in the same fashion as those which were made to the University Health System Board. That is, County Judge Wolff would appoint three members and each Commissioner would appoint one member.

The Task Force was charged with examining the best practices for the provision of indigent defense services and recommending which method provides the best value and service. It was also asked to identify and review judicial systems and policies which drive up costs, and to recommend changes to those practices. Eliminating these services is not an option; under applicable federal and state law, indigent defendants facing incarceration are entitled to have the costs of their defense paid by the County.

## **B. Process**

The Task Force met on the following dates to consider the following topics:

January 6, 2011: Presentation by Bexar county officials-- overview.

(Presented by Bexar County Judge Nelson Wolff, Judge Tim Johnson, Jim Bethke, Director, Texas Task Force on Indigent Defense, and Hank Reyes, Bexar County Budget Manager)

January 26, 2011: Presentation and discussion of the currently used "wheel" model.

(Presented by Bexar County District Court, Bexar County Court at Law, Bexar County Pre-Trial Services, and the Bexar County Auditor)

February 16, 2011: Presentation and discussion by Criminal Defense Bar regarding practices and policies that add costs to indigent defense. (Presented by Defense Bar attorneys Michael Gross and Philip Bazzo)

February 23, 2011: Presentation by the Judiciary on court processes impacting indigent defense costs. (Presented by District Judge Mary Roman, County Court at Law Judge Liza Rodriguez, and other judges and former judges)

March 9, 2011: Presentation and discussion of public defender model.

(Presented by Bernie Martinez)

March 23, 2011: Presentation of contract model and private defender model.

(Contract model presented by Joseph Hoelscher, Matt Finch, and Blake Mohr. Private defender model presented by Bill Piatt.)

April 7, 2011: Discussion and vote on proposed recommendations, and commendations.

April 26, 2011: Discussion and vote on Final Report.

All meetings were posted as public meetings, and letters of invitation were sent to local judges, the Criminal District Attorney, and others inviting their attendance and participation. Proposed recommendations were submitted by members of the Task Force, by members of the Judiciary and by staff members of Bexar County. Each recommendation was voted upon by the Task Force, the vote was noted on each proposed recommendation, and members of the Task Force were invited to offer concurring or dissenting remarks. Every recommendation, whether approved by a majority of the Task Force or not, and the vote on that proposal, is attached to this report in order to guarantee that every voice on this issue will be heard. The only exception is that the proposed recommendations which were withdrawn by the sponsors of those recommendations, are not included. Some members of the Task Force wished to add additional comments after the vote, either to explain a vote or to clarify or comment on some issue. Those comments are included verbatim in this report following the recommendations to which they refer.

In addition to the recommendations, several commendations were considered by the Task Force. Those commendations follow the recommendations.

### **C. Composition of Task Force**

The Task Force consisted of the following members: Stephanie Boyd, David Christian, Bernie Martinez, John "Bud" Ritenour, Jr., Tom Stolhandske, and Steve Takas, Jr. Charles E. Ebrom was the alternate, and Bill Piatt served as Chair.

#### **D. Purpose of this report**

The Task Force seeks to provide this report and its recommendations in a document which will be understandable to, and accessible by the public as well as by the elected officials to whom it is being presented. This is not the first nationwide, state, or even local attempt to address these issues. In pursuing its charge, the Task Force relied on the substantial body of work previously prepared by the Criminal District Judges of Bexar County in 2008, by the Texas Task Force on Indigent Defense (August 16, 2010), on the extensive data provided by the Judicial Support Services Division, and the many other sources which are referenced and available on the Bexar County website.

## **II. Criteria for Evaluation of Indigent Defense Practices**

As attorneys, the members of the Task Force were keenly aware of the legal requirements involved in the provision of representation to indigents in the criminal justice system. The Task Force agreed that there should be additional criteria beyond the minimum safeguards required in our legal system. Task Force member Bud Ritenour, Jr. gleaned a summary of these criteria from various sources, and the Task Force agrees that these should be applied in evaluating indigent defense practices. These criteria are:

### **Overriding Criteria**

Does the practice provide effective, efficient, high-quality, ethical, conflict-free legal representation for criminal defendants who are unable to afford an attorney?

This overriding objective statement is derived from many sources, including the American Bar Association, the National Legal Aid & Defender Association, the Texas Fair Defense Act, numerous Court decisions at all levels including the United States Supreme

Court, but was perhaps, in the view of B. Ritenour, most succinctly summarized by Supreme Court Chief Justice Berger in his concurrence in *Argersinger v. Hamlin*, 407 US 25 (1972), in which he said:

[S]ociety's goal should be "that the system for providing counsel and facilities for the defense be as good as the system which society provides for the prosecution." (Quoting the American Bar Association Project on Standards for Criminal Justice, Providing Defense Services.)

### Specific Criteria

1. Are the Indigent defense services provided in accordance with a well-defined systematic approach, avoiding ad hoc appointments except in extraordinary circumstances? (This criterion derives from SB7<sup>1</sup> and items 1 and 2 of The Standards.<sup>2</sup>)
2. Does the practice ensure that each attorney appointed to represent a defendant is qualified to handle the associated level and complexity of the case? (This criterion derives from SB7, item 6 of The Standards, and Guideline 1.2 of the Performance Guidelines.<sup>3</sup>)
3. Does the practice ensure appointment of counsel as soon as feasibly possible? (This criterion derives from SB7 and item 3 of The Standards.)

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<sup>1</sup> SB7 is used herein to refer to the Texas Fair Defense Act, codified in Chapter 26 of the Code of Criminal Procedure.

<sup>2</sup> When referring to "The Standards," I am referring to the American Bar Association's Ten Principals of a Public Defense Delivery System (ABA Principals) and the National Legal Aid & Defender Association's Ten Commandments of Public Defense Delivery Systems (NLADA Commandments). Both sets of standards address the same criteria in the same order, although the NLADA Commandments are slightly more detailed. *See also* the Compendium of Standards for Indigent Defense Systems, a Resource Guide for Practitioners and Policymakers, U.S. Department of Justice, Office of Justice Programs, 2000.

<sup>3</sup> reference to the Performance Guidelines refers to the National Legal Aid and Defense Association's Performance Guidelines for Criminal Defense Representation

4. Does the practice provide reasonable compensation for representation to the extent that it does not encourage a less-than-vigorous defense? (This criterion derives from SB7 and item 8 of The Standards.)
5. Does the practice allow for effective independent factual investigation of the allegations by defense counsel? (This criterion derives from SB7, item 8 of The Standards, and Guideline 4.1 of the Performance Guidelines.)
6. Does the practice provide for early identification and resolution of potential or actual conflicts in representation? (This criterion derives from SB7, item 8 of The Standards, and Rules 1.06, and 1.09 of the Texas Disciplinary Rules of Professional Conduct.)
7. Does the practice ensure the same attorney represents the defendant continuously through case resolution? (This criterion derives from SB7 and item 7 of The Standards.)
8. Does the practice ensure appropriate caseloads per assigned attorney? (This criterion derives from SB7 and item 5 of The Standards.)
9. Does the practice ensure/require attorneys maintain minimum education/competence/training levels? (This criterion derives from SB7 and item 9 of The Standards.)
10. Does the practice provide for progression in levels of appointments as an attorney's competence and experience progresses - in accordance with the attorney's desire? (This criterion derives from SB7 and item 10 of The Standards.)
11. Does the practice allow an attorney to decline representation when the attorney

cannot, in good conscience and within ethical bounds, represent a particular defendant or allegation? (This criterion derives from item 6 of The Standards, and the Texas Disciplinary Rules of Professional Conduct.)

12. Does the practice provide for adequate independent investigatory resources for the defense counsel? (This criterion derives from SB7 and items 1 and 8 of The Standards.)
13. Does the practice provide for timely access to appropriate and necessary expert resources - both consulting and testifying? (This criterion derives from SB7, items 1 and 8 of The Standards.)
14. Does the practice allow for effective representation without obstructive judicial or administrative interference? (This criterion derives from item 1 of The Standards.)
15. Does the practice provide for effective and timely communication between the attorney and the defendant? (This criterion derives from SB7 and items 3 and 4 of The Standards.)
16. Does the practice properly and timely identify indigent defendants? (This criterion derives from SB7 and item 3 of The Standards.)
17. Does the practice provide effective feedback and corrective action to attorneys? (This criterion derives from item 10 of The Standards.)
18. Does the practice provide for timely payment for representation services for the attorney, investigator and experts? (This criterion derives from SB7, and item 8 of The Standards.)

### III. Recommendations

Following are the 20 Recommendations considered by the Task Force, followed by the comments of individual members. These recommendations are presented in the order in which they were submitted. Unless otherwise noted, the recommendations were submitted by Task Force members.

**Recommendation No. 1: Bexar County should experiment with allowing participating courts to utilize contract attorneys for indigent defense.**

**Vote: Yes – 3      No – 4**

The current “wheel system” (Bexar County Criminal District Court Rules Part 5, Section E, subsections 5.19.25) gives Judges discretion to appoint attorneys “off the wheel” where good cause exists for that appointment (5.22.I. 6). Judges have indicated that in some instances it is simply more efficient to appoint an attorney in whom the Judge has confidence based upon the previous performance of that attorney. Some Judges feel that the interest of the clients and the administration of justice are better served in this manner than by a random appointment.

Bexar County should experiment. If a Judge chooses to participate, the County would determine how much was spent in that court in indigent legal defense fees over the past year. The County would reduce that amount by some increment in order to effectuate a cost reduction. The County would then request bids on providing legal services for indigents in that court. With the concurrence of the individual Judge, Bexar County, would enter into a contract with attorneys to provide all indigent representation in that court for one year. The program would be evaluated at the end of the year to determine whether to continue or expand the program.

This recommendation could be implemented without altering the current plan. The “good cause” for the contractual appointments would be the experiment to see if this model might better serve the interests of justice.

Attorneys who enter into a contact to provide legal services would agree not to make campaign contributions to the judges in front of whom they appear. This would prevent even the appearance of impropriety in the selection of appointment of attorneys.

**Comment by B. Ritenour:**

Do not concur; Bexar County should not fracture its approach to providing indigent defense. The approach suggested would clearly violate the principal of conflict-free provisioning since the contract itself provides a biased and built-in conflict in representations. The pressure would be to satisfy the Judge (contract awarding and monitoring authority) by getting pleas and moving the docket not by performing the independent advocacy required both ethically and constitutionally. This also creates a conflict among defendants in different courts, with discussion among the defendants as to who’s getting better representation. This approach casts a shadow of doubt and suspicion on the Bexar County Judicial system.

**Recommendation No. 2: When a judge appoints an attorney “off the wheel” the judge should enter a reason on the record for the appointment.**

**Vote: Yes - 4      No - 3**

Our current plan requires finding of good cause when an appointment is made “off the wheel.” (Bexar County Criminal District Court Rules Part 5, Section E, subsections 5.19.-5.25, particularly 5.22 I.6).

The “off wheel” appointments have led to the perception of bias and favoritism on the part of the courts by some practicing attorneys. (See “Review of Bexar County’s Indigent Defense Systems”, prepared by the Texas Task Force on Indigent Defense, August 16, 2010 at page 27.) They can also lead to bad publicity which could

undermine public confidence in our judicial system. See, for example, Brian Chasnoff, "Review sees apparent Violations in Bexar Courts," San Antonio Express-News, October 10, 2010 page 6A, and another article by the same reporter, "Being a Favorite of Judges Pays" on the front page of the same newspaper of November 3, 2010. Whether or not these perceptions on the part of the responding attorneys or the media are accurate, these perceptions should be addressed. The most effective way would be to stick with the wheel system, or where good cause exists to deviate from it, spell out on the public record the good cause which permits or even require the judges to make a separate appointment.

**Recommendation No. 3: Bexar County should explore the implementation of a private defender program based upon the success of the San Mateo County, California system.**

**Vote: Yes – 5      No - 2**

The San Mateo County Private Defender Program (PDP) began operating in February, 1969. It has been described by the Chair of the Texas Task Force on Indigent Defense as one of the three best indigent defense programs in the country. The PDP is operated by the San Mateo County Bar Association and is housed in their offices. The Board of Directors of that association selects the Chief Defender of the PDP. The Chief Defender selects his staff, which consists of an Assistant Chief Defender, Chief Investigator, and support staff. There are twelve employees in all, and three of those staff members are shared with the Bar Association.

If a judge determines at arraignment that a defendant is eligible for court appointed counsel, the PDP is appointed. The PDP then assigns the case to one of its participating attorneys. All the lawyers to whom cases are assigned are in private practice. Thus, the County does not house the attorneys nor pay for their office overhead. (The PDP's offices are modest, sharing space with the San Mateo Bar Association, in a 4,000 square foot facility.)

Among the advantages this system affords over a traditional public defender program is that the county does not pay the attorney overhead. Also there are no cases where a conflict of interest requires appointment of counsel outside the system.

The PDP conducts a rigorous screening and mentoring program. There is a great deal of cooperation between the judges, the Bar Association, and the prosecutors. Details regarding the program, include salaries, fee schedules, attorney training materials, and other matters, have been made available to Bexar County. Members of the Texas Task Force on Indigent Defense have visited the offices of the PDP and remain in close contact with it.

The per-case cost and salaries paid to PDP employees are more expensive than such cost and salaries would be in Bexar County, reflecting the cost of living in San Mateo County.

Bexar County should initiate a long-term planning discussion involving the judiciary, the San Antonio Bar Association, the District Attorney's office, and criminal defense attorneys. Bexar County should name either a county employee, or contract with someone, to prepare a full-scale feasibility study. The study would include a detailed cost and benefit analysis and a proposed location of such a program. That individual would be responsible for meeting and discussing with members of the various constituencies the details of the operation of the PDP. He or she would seek to enlist their support in attempting to determine whether such a program could be implemented in Bexar County.

**B. Ritenour Concurring:**

I concur with this only if the study is based on quality of representation first, with cost a secondary concern. In no way should Bexar County imply or take action that says defense of indigent criminal defendants is a cost-based activity. The constitutional Fair

Defense Act, and ethical considerations all require a vigorous advocacy in defense, not a cost-analysis defense.

**Recommendation No. 4: Bexar County should increase the use of technology in order to ultimately reduce costs. Vote: Yes - 7 No - 0**

Discussions involving the district attorney's office and defense counsel indicate agreement that a digitized system for creating and maintaining police and investigative reports would save costs. An electronically integrated system would make discovery available earlier.

It might also increase the likelihood of swifter plea agreements. This would reduce costs associated with detention and defense as well as the prosecution of these cases. Implementing an electronic filing system with the court clerk's office would also save Bexar County a great deal of expense.

**The Task Force unanimously agreed with this recommendation and in addition the Task Force members submitted nine more technology-related recommendations. The Task Force agreed to include them under this one heading but agreed that implementation of these technological improvements would greatly improve the efficiency of the Indigent Defense system. The Task Force, then unanimously recommends:**

A) Regarding Commissioners Court:

- Commissioners Court provide the necessary resources and emphasis for faster, if not real time, filing of offense reports by law enforcement, and strongly encourage other law enforcement jurisdictions within Bexar County to do the same.

B) Regarding the Courts:

- Bexar County Courts be provided automated access to appointment-wheel information to expedite the in-court appointment process for qualified, unrepresented defendants.

C) Regarding Bexar County Information Services

- Bexar County Information Services provide defense counsel controlled access (read-only) to judicial system case information.
- Bexar County Information Services provide for on-line filing of motions in criminal misdemeanor and felony cases.
- Bexar County Information Services provide for on-line filing of subpoena requests.
- Bexar County Information Services provide for on-line (email) notification of court settings and Court Orders.
- Bexar County Information Services provide on-line filing and processing of vouchers by court-appointed counsel.
- Bexar County Information Services should continue to strive to capture information regarding the indigent defense system and allow the courts to run reports that would be helpful in the administration of the system. In this regard it appears that some of the recommendations in the Texas Task Force on Indigent Defense report released last fall were based on unclear and / or incomplete data. We recommend that Bexar County Information Technology continue to work on ways to gather and provide all of the data needed, and make it readily accessible to the parties who need it. For example, if the courts were able to run reports on attorney caseload, they might be more likely to adopt standard attorney case load limits. If the courts were able to run reports on the expenditures paid out to attorneys who were appointed by the system and compare that to expenditures paid out to attorneys who were appointed in court, they would be able to prove there is no discrepancy in payment related to the means of appointment.

The courts were criticized for appointing attorneys who were not currently on the public appointment list, but the system should be able to recognize if an attorney was on the list at the time of appointment and subsequently dropped off the list. If this information were readily available, the recommendation of the Task Force may have not been necessary. There needs to be a better communication and coordination between the City of San Antonio system at magistration and the County system. Apparently some records regarding defendants who were initially denied a court appointed attorney at magistration are stored off-site somewhere and the task force reviewers were not given access to review these records. All records should be kept electronically and readily available to those who need them.

D) Regarding the District Attorney's office

- The Bexar County Criminal District Attorney's office should implement electronic discovery as soon as possible. Much discussion has been had during our meetings about the length of time a case takes to disposition being one of the driving factors of indigent defense costs. One of the reasons for the delay is the difficulty that defense attorneys encounter when trying to get discovery from the state. The current practices of the DA's office regarding providing access to their files are cumbersome, ineffective, and out of date with current practices in other jurisdictions.

If defense counsel were able to retrieve all discoverable material in a case from a web-based program, as done elsewhere, there would not be the need to draw out the case from the start while waiting to get the information needed to have a meaningful discussion with a client. There is no reason that electronic discovery cannot be implemented in Bexar county if the DA is behind the effort.

**Recommendation No. 5: Bexar County should explore the implementation of a public defender's office to handle misdemeanor indigent defense. Vote: Yes - 5 No - 2**

Public defender offices across the county, including Texas, have provided quality indigent defense for decades, often at a cost lower than a system using only assigned counsel. The public defender's office would work in conjunction with assigned counsel.

A misdemeanor public defender's office has the potential for the following advantages over the present assigned counsel system:

- The group practice of defense allows attorneys to learn from one another, match staff experience to work demands, develop and preserve institutional methods of performing work;
- Public defender offices offer quality controls that assigned counsel systems do not have, including performance standards, caseload monitoring, office policies and in-house training;
- Public defenders serve as a resource for the defense bar, including CLE training, as well as an institutional contact point for other public officials, including judges;
- Public defender programs can attract additional resources such as grants, fellowships and internship programs;
- Public defenders would specialize in criminal law, and would not be distracted by the demands of a private practice;
- Improved access to investigators and paralegals.

Budgeting for a public defender office is simpler and offers more predictability than budgeting for an assigned counsel system. Other cost savings for the County may be achieved by less administrative work in maintaining the wheel system, and approving and processing of payment vouchers for assigned counsel. Pre-trial incarceration costs can also be reduced by aggressive bond reduction practices and earlier disposition of cases.

The Planning and Resource Management Department for Bexar County has prepared the attached budget model for a misdemeanor public defender's office. The

budget assumes that the public defender's office would handle 80% of the misdemeanor caseload. The model provides for two attorneys per County Court at Law, plus two supervisory level attorneys, paid at rates comparable to the DA's office. The model also includes costs for investigators, paralegals and facility costs, including office space, furniture, computers and supplies.

The cost estimate is as accurate as feasibly possible at this stage of the process. If a public defender model is selected, all stakeholders would get together to refine the staffing needs, if necessary. Based on the attached budget model, the proposed public defender's office would cost approximately \$3.6 million compared to the \$3.27 million cost for misdemeanor assigned counsel in fiscal year 2010.

Much of the start-up cost could be offset by discretionary grants from the Texas Task Force on Indigent Defense. In the past, they have provided grants with an overall 50/50 state/county match (80/20 state/county match the first year). Fiscal year 2013 is the next available grant period. Establishing a public defender's office could be contingent upon approval of grant funds.

Bexar County should initiate a long-term planning discussion involving the judiciary, the San Antonio Bar Association, the District Attorney's office, and criminal defense attorneys. Bexar County should name either a county employee, or contract with someone, to prepare a full-scale feasibility study. The study would include a detailed cost and benefit analysis and a proposed location of such a program. That individual would be responsible for meeting and discussing with the members of the various constituencies the details of the operation of the public defender program. He or she would seek to enlist their support in attempting to determine whether such a program could be implemented in Bexar County.

**The following data was obtained by Bernie Martinez with the assistance of Bexar County's Planning and Resource Management Department, and from the Texas Task**

**Force on Indigent Defense. It does not purport to be a determination of all costs - those would be developed in the preparation of the feasibility study which is the subject of this recommendation.**

## Estimated Costs of Public Defender Office w/ OCA Data

### Misdemeanor Coverage

	Quantity	Salary/Benefits	Extended Sal/Ben.	Costs
Overhead Administration				
<b>Chief Defender (same as Assistant DA )</b>	<b>1</b>	<b>\$ 164,573</b>	<b>\$ 164,573</b>	
OAIV	1	\$ 49,523	\$ 49,523	
<b>Overhead Administration Costs</b>				<b>\$ 214,096</b>
	Parameters			
# Misd. Cases in 2010	45728			
% of Indigent Defense	62.63%			
# ID Misdemeanor Cases	28639			
<b>Cost of Paying Appointed Attorneys to Handle Cases in Conflict</b>				
% Conflict Cases	20%			
# Conflict Cases	5728			
Payment per Case (average cost/case in 2010)			\$95	
<b>Cost of Paying Appointed Attorneys for Conflict Cases</b>				<b>\$ 544,149</b>
<b>Costs of Attorney Staff for Remainder of Indigent Misdemeanor Cases</b>				
# of Indigent Defense Misd. Cases	28639			
# ID Cases less Conflict Cases	22912			
Defense Attorney (2/court)	26	\$ 68,665	\$ 1,785,290	
Sr. Defense Attorneys (same as Prosecutor III)	2	\$ 76,221	\$ 152,442	
<b>Cost of Public Defender Attorneys</b>				<b>\$ 1,937,732</b>
<b>Cost of Support Staff</b>				
# of Investigators 1:8 Ratio	3	\$ 72,627	\$ 236,038	
# of Paralegals 1:5 Ratio	5	\$ 51,129	\$ 265,871	
# of OAll 1:8	3	\$ 40,743	\$ 132,415	
<b>Cost of Support Staff</b>				<b>\$ 634,323</b>
<b>Total Staffing</b>	<b>42</b>			
<b>Cost of Salary/Benefits and Payments to Outside Attorneys</b>				<b>\$ 3,330,301</b>
<b>Services/Supplies</b>				<b>\$ 31,817</b>
<b>Cost of Furniture/Computers</b>				<b>\$ 229,350</b>
<b>Office Space (8500 sq. ft. @ \$6/year)</b>				<b>\$ 51,000</b>
<b>Total Estimated Costs of Misdemeanor Coverage</b>				<b>\$ 3,642,468</b>
<b>Current Costs for Misdemeanor Coverage</b>				<b>\$ 3,275,414</b>
<b>Net Additional Cost</b>				<b>\$ 367,054</b>

## Felony Coverage

	Quantity	Salary/Benefits	Extended Sal/Ben.	Costs
Overhead Administration				
Assistant Chief Defender (same as DA Division Chief)	1	\$ 123,707	\$ 123,707	
Chief Investigator (same as DA Chief Investigator)	1	\$ 91,895	\$ 91,895	
<b>Overhead Administration Costs</b>				<b>\$ 215,602</b>
		Parameters		
# Felony Cases in 2010		17474		
% of Indigent Defense		68.62%		
# ID Felony Cases		11991		
<b>Cost of Paying Appointed Attorneys to Handle Cases in Conflict</b>				
% Conflict Cases		20%		
# Conflict Cases	2398			
Payment per Case (average cost/case in 2010)		\$845		
<b>Cost of Paying Appointed Attorneys for Conflict Cases</b>				<b>\$ 2,026,421</b>
<b>Costs of Attorney Staff for Remainder of Indigent Misdemeanor Cases</b>				
# of Indigent Defense Cases		11991		
# ID Cases less Conflict Cases		9593		
Defense Attorney (250 cases/atty) (Same as Pros III)	38	\$ 76,318	\$ 2,928,330	
Sr. Defense Attorneys (same as Prosecutor IV)	5	\$ 93,303	\$ 466,515	
Sr. Defense Attorneys (same as Prosecutor V)	2	\$ 117,449	\$ 234,898	
<b>Cost of Public Defender Attorneys</b>				<b>\$ 3,629,743</b>
<b>Cost of Support Staff</b>				
# of Investigators 1:4	11	\$ 72,627	\$ 823,774	
# of Paralegals 1:4	11	\$ 51,129	\$ 554,368	
# of OAI 1:6	8	\$ 40,743	\$ 308,086	
# Accounting Clerk	2	\$ 45,841	\$ 91,682	
<b>Cost of Support Staff</b>				<b>\$ 1,777,909</b>
<b>Total Staffing</b>	<b>79</b>			
<b>Cost of Salary/Benefits and Payments to Outside Attorneys</b>				<b>\$ 7,649,675</b>
<b>Services/Supplies</b>				<b>\$ 60,366</b>
<b>Cost of Furniture/Computers</b>				<b>\$ 435,143</b>
<b>Office Space (16,000 sq. ft. @ \$6/year)</b>				<b>\$ 96,000</b>
				<b>Total Estimated Costs of Felony Coverage = \$ 8,241,184</b>
				<b>Current Costs for Felony Coverage = \$ 7,681,204</b>
				<b>Net Additional Costs = \$ 559,980</b>

**Dissent regarding data: D. Christian, S. Boyd, B. Ritenour, S. Takas:**

The above committee members of the Bexar County Task Force on Indigent Defense respectfully dissent to the inclusion of the document entitled “cost of Public Defender Office” in the final report to the Commissioners Court of Bexar County. This document contains misleading and incomplete information, and in no way should be used as support for pursuing the implementation of a public defender’s office here. Even the initial proponent of this recommendation, Mr. Bernie Martinez, was extremely uncomfortable including any costs estimates at all in this proposal. He recognized that they don’t reflect the actual costs, which is assumed to be at least 30 to 40% higher than reflected in the proposal. We do not want our names associated with this document and its statistical inadequacies.

**Recommendation No. 6: The County should consider establishing audit and accounting procedures that would permit identifying and effectively managing all criminal justice system resources associated with indigent defense, rather than using the misleading focus solely on court appointed attorney costs. This would include verification of attorney billings. Vote: Yes – 7 No - 0**

**Recommendation No. 7: Bexar County Courts at Law judges should review the current fee structure for misdemeanor appointments to assure compliance with the Fair Defense Act’s (SB7, Code of Criminal Procedure article 26.05) requirement that the said compensation be reasonable and take into consideration reasonable and necessary overhead costs. (Note: this was done by the District Court Judges when SB7 took effect, but not by the County Courts at Law judges.) Vote: Yes – 6 No - 1**

**Recommendation No. 8: County Courts at Law judges should consider establishing a systemic attorney performance evaluation system that would terminate or temporarily**

**suspend an attorney's participation in the appointment system, with appropriate criteria and notification procures (similar to that done by the District Court judges).**

**Vote: Yes - 5                      No - 2**

**Recommendation No. 9: Bexar County Information Services/Pretrial Services should improve the appointment system by providing, at a minimum, the identifying numbers(s) of the police reports(s) associated with the offense(s) for which the attorney is being appointed.   Vote: Yes - 7   No - 0**

**Recommendation No. 10: The Bexar County Sheriff/Adult Detention System establish a process which would permit (at least court appointed) defense counsel to pre-schedule visits with clients incarcerated at the Bexar County Jail and Annex.   Vote: Yes – 7  
No – 0**

**Recommendation No. 11: The Bexar County District Attorney establish a process by which defense counsel can at least review available cases files/evidence early – in time to allow productive preliminary negotiations to occur at the initial court appearance (pre-indictment in case of a felony).   Vote: Yes – 6   No – 1**

**B. Piatt concurring:**

**By my “yes” vote I do not wish to imply that the D.A. is not already making these files available as possible.**

**Recommendation No. 12: The Bexar County District Attorney should allow law enforcement agencies to issue summons to persons for class B Misdemeanors for which the Legislature has authorized a summons vice immediate incarceration pending a court appearance.   Vote: Yes - 2   No - 5**

**Recommendation No. 13: The Judges of Bexar County should keep the current assigned counsel system of indigent defense, and continue to modify it as needed.**

**Vote: Yes – 3      No – 4**

Last October the Texas Task Force on Indigent Defense released their review of the Bexar County indigent defense system, and overall it was positive with many commendations to Bexar County. The report did contain a few recommendations of areas that needed improvement, and since that time, the Judges for both the County Courts at Law and the District Courts agreed upon changes to their “plans” in response to the report.

Both court systems modified their in-court appointment procedures. In the District Courts as many of those appointments as possible are now made by Pre-trial Services using the automated system. Pre-trial Services has worked with Bexar County Information Services to grant them access to the system to make the appointments in most situations. The County Courts at Law agreed that all in-court appointments would be to attorneys on the misdemeanor wheel.

The District Court Judges also agreed to appoint attorneys who are qualified on the wheel to all MTR cases, and to comply with the recommendation that all felony appointments are made from a public appointment list. The County Courts at Law instructed Pre-trial Services to interview all misdemeanor MTRs for a court appointed attorney.

The Courts should continue to make improvements to the current system, as pointed out in the task force report, and as needed. The indigent defense system we currently have is efficient, cost-effective, and statutorily compliant.

**Statement of S. Takas, D. Christian, S. Boyd, B. Ritenour:**

Mr. Steve Takas, one of the committee members was not present for the vote on this and many other recommendations due to an unavoidable conflict with court. Mr. Takas gave a written proxy to another committee member, Stephanie Boyd, who was not allowed by the chair to cast Mr. Takas' vote in this absence. Instead, the alternate committee member, Mr. Charles Ebrom, was allowed to vote.

Had Mr. Takas been able to cast his vote on this issue, or had Ms. Boyd been allowed to cast his vote for him by proxy, a majority would have voted for this recommendation to be included in the final report to the Commissioners. We strongly believe that our current system of indigent defense is the most cost-effective system, and we have been shown no evidence to the contrary. Our system is efficient, and with the Judges' commitment to continually review it and modify it as needed, will continue to improve.

**Response from the Chair:**

The Bexar County Commissioners Court named a seven member Task Force and also named an alternate, Mr. Charles Ebrom. Mr. Ebrom was named as an alternate in order to participate and vote in the absence of a Task Force Member. Mr. Ebrom attended the proceedings, and at several meetings, cast votes in the absence of a Task Force member. There was no challenge to this process by any Task Force Member. Mr. Ebrom's participation was similar to that of an alternate juror, who listens to the evidence and then casts a vote if a regular juror cannot be present during deliberations. \* See attached "Agenda Coordination Form" approved by the Bexar County Commissioners Court on January 25, 2011.

Steve Takas was unable to attend the meeting of the Task Force on March 30, 2011. At that meeting, Task Force members began the process of discussing, debating,

modifying and voting on the recommendations. As had been the practice over the entire cause of proceedings, Mr. Ebrom participated in the discussions and voted. Ms. Boyd proffered proxy votes by Mr. Takas (identical to Ms. Boyd's).

The Chair ruled that the process in place up to that point would be followed and Mr. Ebrom would vote, particularly given the fact that the ultimate resolutions and rationale were being modified as a result of the discussions at that March 30, 2011 meeting, which Mr. Ebrom attended and Mr. Takas did not.

In any event, every recommendation including this one is being forwarded in this report and that was the process which had been announced from the outset by the chair, both verbally and in writing.

**Recommendation No. 14: Submitted by District Court Judges and Bud Ritenour. Bexar County should invest in a full-time attorney position split between Criminal District Courts Administration and County Courts at Law Administration to review all itemized vouchers. Vote: Yes - 7 No - 0**

Under the current system, each one of the ten Criminal District Court Judges and the thirteen criminal County Courts at Law Judges review vouchers submitted on cases in their respective courts by court appointed attorneys. Other than the fee schedule and written guidelines that all of the Courts are supposed to follow, these Judges have no way of knowing if the other Judges routinely cut expenses in certain areas, or what they are usually willing to pay for certain cases that are itemized.

There needs to be a mechanism in place for consistent review and approval or reduction of itemized vouchers. Although the District Courts have highly successful Voucher Recommendation Committee, not all Judges refer vouchers to the committee. One Judge may routinely approve request for payment that are routinely denied in another court. If the County approved a position for an attorney who is familiar with the

from review of all itemized vouchers by one qualified individual should save the County a considerable amount of money.

If a full-time attorney position is not considered possible to recommend at this time, a part-time position would be acceptable.

The purpose of this position would be to make recommendations regarding whether the attorneys work was reasonable and necessary.

**Recommendation No. 15: Submitted by Judge Timothy Johnson. All courts and Bexar County should require reimbursement of court appointed attorney fees, where appropriate to include those on parole. The Courts should make a greater effort to increase the collection of the assessed fees.**

**Vote: Yes - 5      No - 1      Abstain - 1**

Currently all of the District and County courts, save one, assess and collect reimbursement for court appointed attorney fees. On average, this amounts to over \$40,000 per court. The reimbursement is authorized by the law when the court makes a finding. The lone court not assessing the fees should be encouraged to make the assessments and collections.

**Recommendation No. 16: Submitted by Bexar County staff. The Court Administration Offices should capture data showing what appointments are made "off the wheel", who they go to and what they cost. Data collected and maintained by the Court Administration Offices should always be available and transparency a high priority.**

**Vote: Yes – 4    No – 3**

Under the current system manual appointments are sometimes made from the wheel by court coordinators and are sometimes made without involving the wheel. This creates a number of problems. The system does not get credit for the appointments made from the wheel. Consequently the number of "off wheel" appointments is artificially inflated. Also, the wheel does not move when the manual appointment is made. This means the attorney next in line stays in line and gets a double appointment. When asked about this data, the Task Force was told that the data is collected and that the court administration office did not know which appointments were "off wheel" and which were manual.

**Recommendation No. 17: Submitted by Bexar County staff. Bexar County should implement an electronic vouchering system, where by the appointed attorney could submit a payment voucher on-line. The voucher could also be reviewed and payment authorized on-line and forwarded for payment. The attorney could be able to access the system to determine the voucher status and if a payment has been made and if so, identify the check number.**

**Vote: Yes – 6      No - 0      Abstain - 1**

The current process of using hand written vouchers is cumbersome, not efficient and error prone. There does appear to be a method of validating whether a payment has already been made on a case or what type of defense is being paid for. An electronic voucher could capture data that currently is not being collected or monitored and could be easier for the attorneys to complete and submit for payment. It could also offer a method for the attorneys to monitor the review and payment of the voucher and decrease the number of phone inquiries as to the status of the voucher.

**Recommendation No. 18: Submitted by Bexar County staff. The Court system should devise and implement a process that**

- 1) Surveys defendants about the court appointed attorney and the process, and**
- 2) Provides a review of defendant's complaints about attorneys.**

**Vote: Yes – 0      No - 7**

Currently we know our expenditures have doubled over the last six years, but we have no idea if the level of service rendered has improved. We also have no process in place, other than the San Antonio Bar grievance, by which defendants can bring forward a complaint about the handing of their case. Hardly anybody involved in the criminal justice process is happy with their results and most attorneys spend their time dealing with people who refuse to believe anything is actually their fault. Even so, there are times where defendants have valid concerns about how their case is being handled (or not handled) and they have no avenue to voice those concerns other than to the judge. A formal process would help to keep the attorneys out of the grievance process and would help the courts identify those attorneys who need remedial help or who should not be appointed at all.

**Recommendation No. 19: Submitted by Judge Timothy Johnson. The Courts should develop a system whereby the defendant, once qualified, is allowed to choose their own lawyer.    Vote: Yes - 0      No – 7**

Ethics opinions over the last 15 years have made clear that when a choice needs to be made among competing programs, that choice should be made by the defendant not the court. The rationale should be applied to this most important choice. A system could be devised where defendants could be given an authorization number and directed to a website (probably maintained by either SABA or SACDLA, or jointly). If properly designed the website would notify both attorney and court of the selection, notify the defendant and attorney of setting, set up appointment with attorney and

defendant and do who knows what else. Why do we feel empowered to make this most important choice for people and do it arbitrarily?

**Recommendation No. 20: Submitted by Bexar County staff. The county courts should review and consider the current voucher and review process similar to that used in the District Court. Vote: Yes - 7 No - 0**

### III. Commendations

Following are the 4 Commendations voted upon by the Task Force, with the vote on each, followed by any comments of Task Force members:

**Commendation No. 1: Criminal District Attorney Susan D. Reed should be commended for determining not to charge defendants in certain misdemeanor cases where a felony is charged. Vote: Yes – 6 No – 0 Abstain - 1**

On February 3, 2011 the Honorable Susan D. Reed advised the law enforcement officials and Bexar County officials of a new policy. The policy is that "... when felony and misdemeanor cases on the same offender are presented to the prosecutor for review at the magistrate's office, the prosecutor will reject certain misdemeanors, noting on the rejection that the misdemeanor cases is to be used for punishment on the associated felony case. The will result in substantial cost savings for the county, because no defense counsel will be appointed for indigent defense on these rejected cases."

This policy will reduce the number of new filings. It will reduce cost for the County, and will also assist in reducing the backlog of misdemeanor cases.

**Abstention of S. Boyd:** I do not believe we should commend individuals or entities in this process for doing their jobs.

**Commendation No. 2: Both the Bexar County District Court Judges and the Bexar County Court at Law Judges should be commended for their obvious commitment to ensuring timely and effective representation of the indigent criminally accused.**

**Vote: Yes - 6          No – 0          Abstain - 1**

**Abstention of S. Boyd:** I do not believe we should commend individuals or entities in this process for doing their jobs.

**Concurring, B. Piatt:** I agree with this commendation and I would also commend the Bexar County Commissioners in this endeavor.

**Commendation No. 3: The District Court Administration and Bexar County Judicial Support Services (and everyone else involved) including Bexar County Information Services should be commended for establishing the Remote Attorney Visitation System and program.**

**Vote: Yes - 6          No - 0          Abstain - 1**

**Abstention of S. Boyd:** I do not believe we should commend individuals or entities in this process for doing their jobs.

**Concurring, B. Piatt:** I agree with this commendation and I would also commend the Bexar County Commissioners in this endeavor.

**Commendation No. 4: The Bexar County District and County Court at Law judges should be commended for quickly and effectively responding to the issues raised by the Texas Task Force on Indigent Defense review of Bexar County Procedures.**

**Vote: Yes – 6          No – 0          Abstain - 1**

**Abstention of S. Boyd:** I do not believe we should commend individuals or entities in this process for doing their jobs.

**Concurring, B. Piatt:** I agree with this commendation and I would also commend the Bexar County Commissioners in this endeavor.

#### IV. Conclusion

The Task Force members understood from the beginning that we could not direct any elected official to do anything. Rather, as a group of independent, private citizens who have examined these issues, we have attempted to fulfill the charge given to us at the beginning of our undertaking, and we offer our perspectives in this Final Report. However, we also recognize the complexities of these matters, and understand clearly that there will never be a completely “final” resolution of these issues. Indeed, several of our recommendations specifically call for the further, ongoing study that will be necessary for Bexar County to continue to comply with applicable laws and standards. Our efforts appear to have stimulated a discussion. Continuing discussions involving the bench, the defense bar, the prosecutors, and the Bexar County Commission will be essential in this process.

Our efforts have also drawn the interest of law students at St. Mary’s University School of Law, who represent the next generation of Texas attorneys. Several of them attended our sessions, and undertook a semester-long research and writing project concerning these topics. Although these papers were not concluded at the time of the deliberations of the Task Force and form no part of its Recommendations, with student consent, those papers are attached as addendums to assist in any further study by the County.

The students and their papers are:

Briseida Bethancourt, *The Wheel of the Court Goes Round and Round: A Deeper Look Into the Wheel System*

Loren M. Collins, *Indigent Defense In Bexar County: Past and Present*

Micah C. Mason, *Texas' History of Indigent Defense*

John J. Middleton, II, *The Public Defender Model*

Michael L. Parsons, *Bexar County Indigent Defense: The Wheel Model*

Amanda L. Schneider, *A Public defender Office for Bexar County?*

Ruben Tijerina, *The Right to counsel in the United States of America*

We thank the Commissioners of Bexar County, the judiciary, and members of the bar, including the District Attorney's office, for their cooperation and assistance in these endeavors. We stand ready to discuss these matters with you.

A Task Force Member's Observations and Dissent to the  
Final Report of the Bexar County Indigent Defense Task Force  
(John "Bud" Ritenour)

The Bexar County Indigent Defense Task Force was charged to "examine the best practices for the provision of indigent defense services and recommend which method provides the best value and service," and "identify and review judicial system practices and policies which drive up costs and recommend changes to those practices." The Task Force did attempt to diligently discharge that tasking within the time allotted. However, it is important to recognize the limits within which that effort was undertaken.

First, not all indigent defense practices were examined. The Task Force examined those practices related to indigent defense of cases filed in the Bexar County District Courts, and County Courts at Law involving adult criminally-charged defendants. It did not examine any of the practices related to juvenile criminal cases, civil cases involving parties receiving indigent defense services, or children's court. While the Task Force is aware that there is a plan for the provisioning of indigent defense services to juvenile "criminal" defendants, it did not examine that plan. The Task Force is unaware of the existence of any plans for provisioning any of the other indigent defense services. According to figures provided by the Bexar County Planning and Resource Management, the Task Force examined processes affecting 76% of the court appointed attorney "assignments." This related to 73% of the total court appointed attorney costs. We did not look at the whole picture.

Second, with regard to "best practices," the Task Force did not identify or recommend specific best practices, but rather reviewed the potential impact of alternative indigent defense delivery "systems." The District and County Court at Law Judges are statutorily assigned the task and responsibility of meeting the requirements of indigent defense support within the confines of the Texas Fair Defense Act as codified in the Code of Criminal Procedure. There was no suggestion that the Fair Defense Act does not define the minimally acceptable best practices.

Third, the Task Force did not examine or identify any external cost drivers associated with criminal indigent defense. The possible impact of changes in the law (especially with regard to misdemeanor DWI) was raised by one presentation, but the Task Force did not pursue any attempt to quantify what impact, if any, such changes had on the Bexar County budget.

Fourth, much of the discussion of delivery systems focused on the potential cost as related to the current and forecast cost of the current system. The latter were as defined by Bexar County Planning and Resource Management (PRM). However, it became abundantly clear that the PRM costs are not only incomplete, but include significant costs not addressed by the Task Force (see First, above). The Texas Indigent Defense Task Force report of August 2010 reported a statistical breakdown of costs related to criminal defense, based upon information gathered from Bexar County sources. As I note in my discussion below, those statistics show that from 2006 through 2009, the average cost per paid misdemeanor indigent defense case in Bexar County increased 19.5 % (\$92.10 to \$110.08), while the felony cost per case rose from only 3.2% (\$535.99 to \$552.91). This suggests

that the cost driver for indigent defense of criminal cases is not the delivery system.

Finally, while there was some antidotal, but undocumented, discussion about poor representation of indigent defendants, there was no indication of a current systemic problem in that regard. Indeed, both the District Court Judges and the County Court at Law Judges responded swiftly and effectively to findings in the Texas Task Force report - and from the presentations to the Task Force, they continue to modify the existing system where needed. The bottom line is that the existing system is not broken.

With the foregoing in mind, I offer the following dissent and objections to the subject report:

1. Do not concur that the case load percentages or cost figures presented in the first paragraph of the report reflect any findings of the Task Force. I particularly disagree with the statement that "data reveals that the cost of indigent defense in recent years is growing at a greater rate than the caseload and the indigent population."

I would agree with a statement that in December 2010 the Bexar County Commissioners Court heard a presentation concerning the costs of indigent defense, and decided to take action to further investigate the issue. Beyond that, I present the following discussion, based on information the Task Force received, in dissent:

The figures presented in this paragraph not only do not reflect any findings of the Task Force, but are presented in an alarmist way, to which I seriously object. It is true that the Commissioners Court apparently became alarmed by a presentation they received concerning the rise of indigent defense costs in Bexar County. However, as the Task Force discovered, that presentation lumped the costs for indigent defense in criminal cases, civil cases, children's court, and juvenile cases into one figure, labeled "indigent defense." The presentation followed with a discussion limited to criminal cases. This Task Force also discovered that the accounting/auditing process of Bexar County is actually unable to account for the actual total costs of "indigent defense," regardless of how that term is defined. It is thus irresponsible for a report of this Task Force to propound those figures as though they were findings of the task force.

The Task Force was charged to examine the provisioning of indigent defense services in Bexar County. In fact, we only examined the criminal defense portion of those services. The cost figures (\$6.2 million in 2002, \$9.1 million in 2004, \$13.3 million in 2010) presented in the first paragraph of the initial section (Purposes of the Task Force) do not reflect the problem we examined, and are misleading.

The Bexar County Planning and Resource Management Report contained at tab III of our Task Force notebook, indicates the FY 2009-2010 costs for criminal appointments were \$9,727,320, including the \$537,765 costs for capital cases. I do not recall being presented

a similar breakout of costs for past years. The August 2010 report by the Texas Task Force on Indigent Defense (page 45) indicates a 2009 cost for both felony and misdemeanor appointments of \$10,428,179. In any event, the \$13.3 million figure is both inaccurate and misleading with regard to the services the Task Force examined. Neither the Commissioners Court nor the public should be misled in this regard.

I also do not recall a source provided to the Task Force that would substantiate the caseload percentages indicated in the draft report. Of the 53,212 "assignments" for FY 2009-2010 identified by the Bexar County Planning and Resource Management Report (page 5, tab III), 40,515 or 76% were related to criminal defense. That figure is comparable with the total of 40,037 reported by the Texas Task Force Report (page 45). That report only reflects figures for 2006 to 2009. It reported that the number of indigent criminal defense cases paid was 28,669 (7,281 felony and 21,389 misdemeanor) in 2006, 42,280 (9,717 felony and 32,563 misdemeanor) in 2007, 39,191 (9,902 felony and 29,289 misdemeanor) in 2008, and 40,037 (11,712 felony and 28,325 misdemeanor) in 2009. That is a total increase of 11,368, or 28.4% from 2006 through 2009. The felonies increased by 4,431, or 61% over that time, while the misdemeanors increased by 6,937 or 32.4%. That report indicated that over that same period, the associated felony costs increased by \$2,548,959 (\$4,649,652 in 2006, \$7,198,612 in 2009), or 54.8%, and the misdemeanor costs increased by \$1,192,551 (\$2,037,016 in 2006, \$3,229,567 in 2009), or 58.5%. Thus, a 61% increase in felony cases paid resulted in a 55% increase in costs. A 32% increase in misdemeanor cases resulted in a 59% increase in costs. Significantly, the Texas Task Force report also provides the average attorney fee paid for each type of case from 2006 through 2009. The misdemeanor cost per case rose from \$92.10 in 2006 to \$110.08 (19.5% increase) in 2009. The felony cost per case rose from \$535.99 in 2006 to \$552.91 (3.2%) in 2009.

Thus, a 61% increase in indigent felony cases paid from 2006 to 2009 resulted in a 3.2% increase in costs per case. A 32% increase in indigent misdemeanor cases paid from 2006 to 2009 resulted in a 19.5% increase in cost per case. This is a far cry from the alarmist situation presented in the draft report - and in fact would indicate that on a cost basis, the current Bexar County indigent defense delivery system provides high value for the cost.

2. Do not concur with the inclusion, at the end of the first paragraph, of the unsubstantiated contention that indirect costs increase indigent defense costs by 33%. While I agree that this figure was presented by Judge Johnson as his best estimate, I do not agree that it was accepted as a finding by the Task Force. In fact, the Task Force found that such costs are not properly accounted for currently, and should be.

**Response of the Chair to the Dissent of B. Ritenour:**

I respond briefly to Mr. Ritenour's concerns in the order in which he presents them.

Our Task Force focused on indigent criminal defense. No member of our Task Force asked to expand our inquiry into other areas, including juvenile or civil matters. The Bexar County Commission might want to separately examine these issues.

Our Final Report is replete with discussion of best practices, ranging from alternatives to the wheel system, to improving it through the use of technology and other mechanisms.

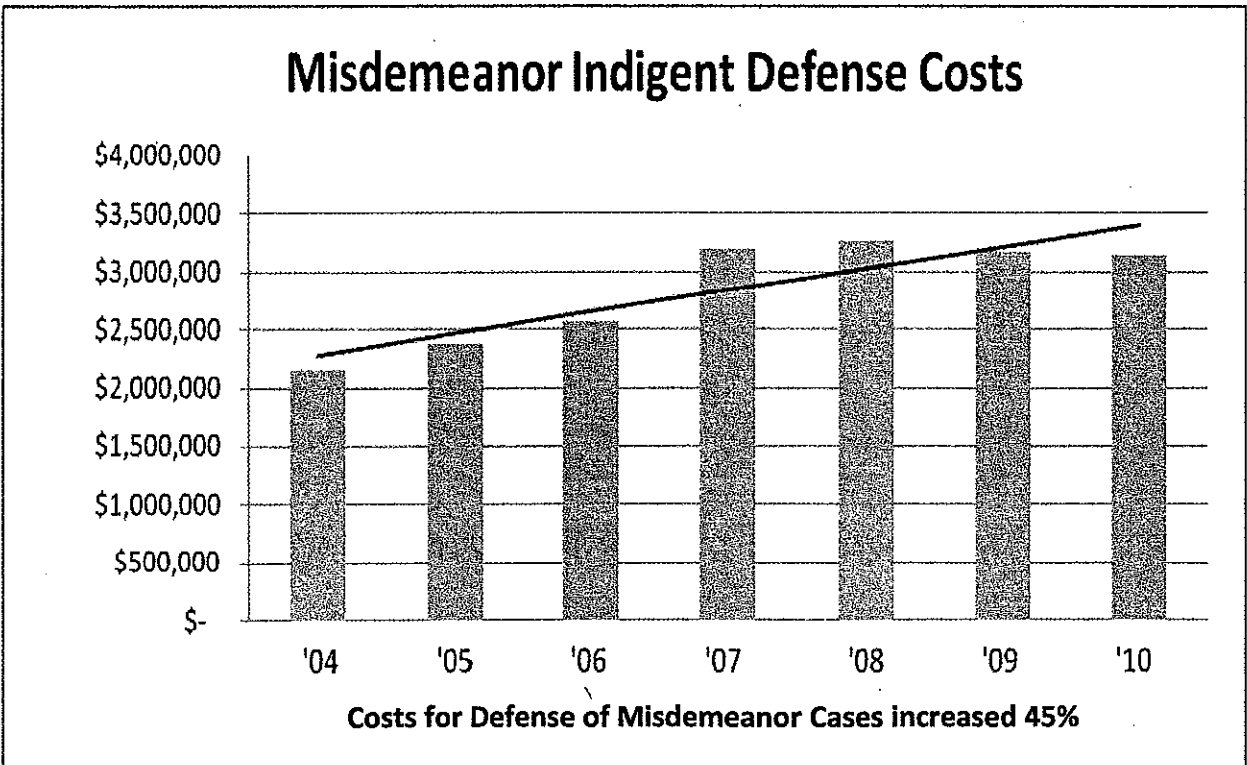
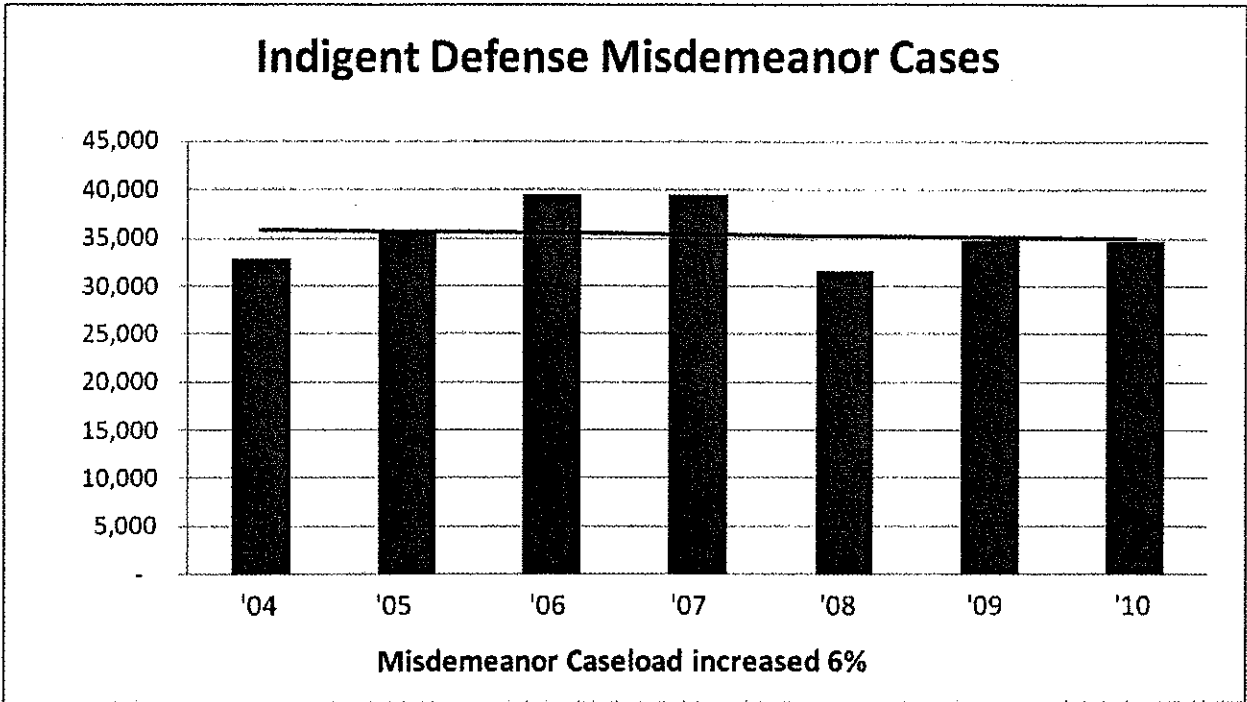
Our Task Force considered all aspects of costs and potential costs associated with criminal defense, that were available to us. We were denied access to some information by the Courts, under a claim of judicial privilege. However, this information is available to the Commission.

Our Task Force considered and relied on extensive data provided by the County, the Texas Task Force, and others, including the San Mateo Plan. All of this underlying data will be available through the County, and should be considered in reviewing our Final Report.

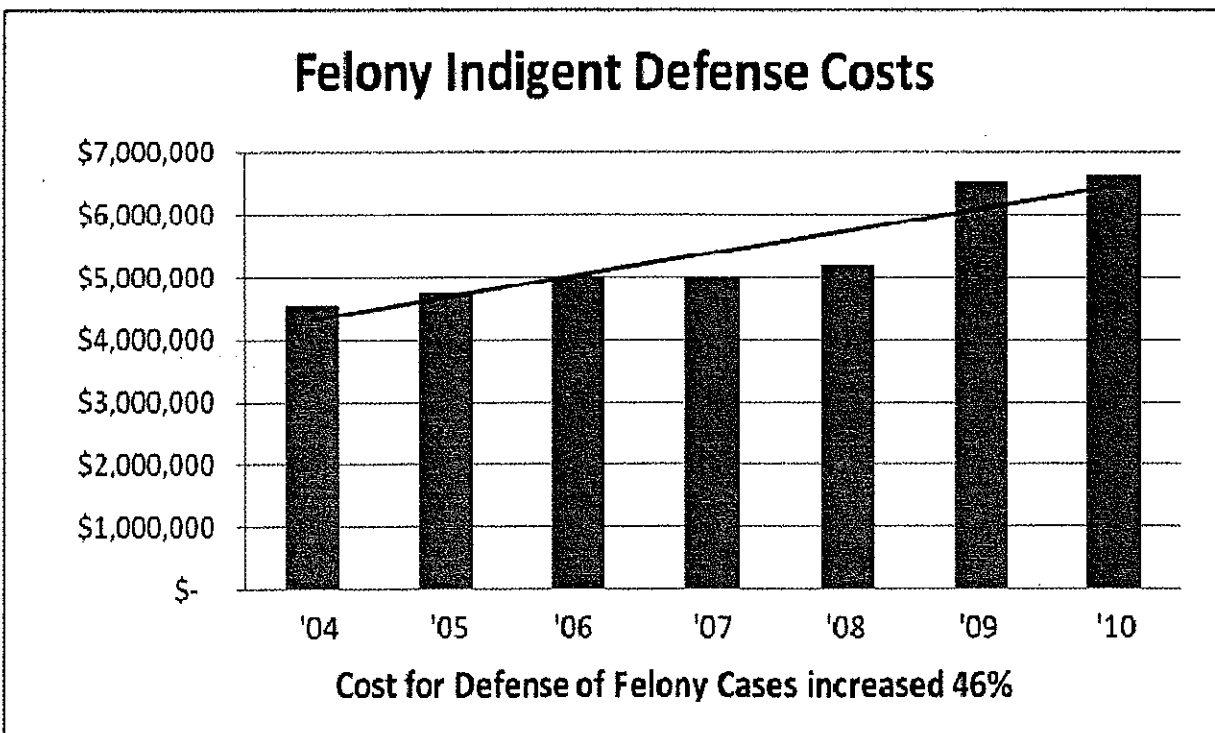
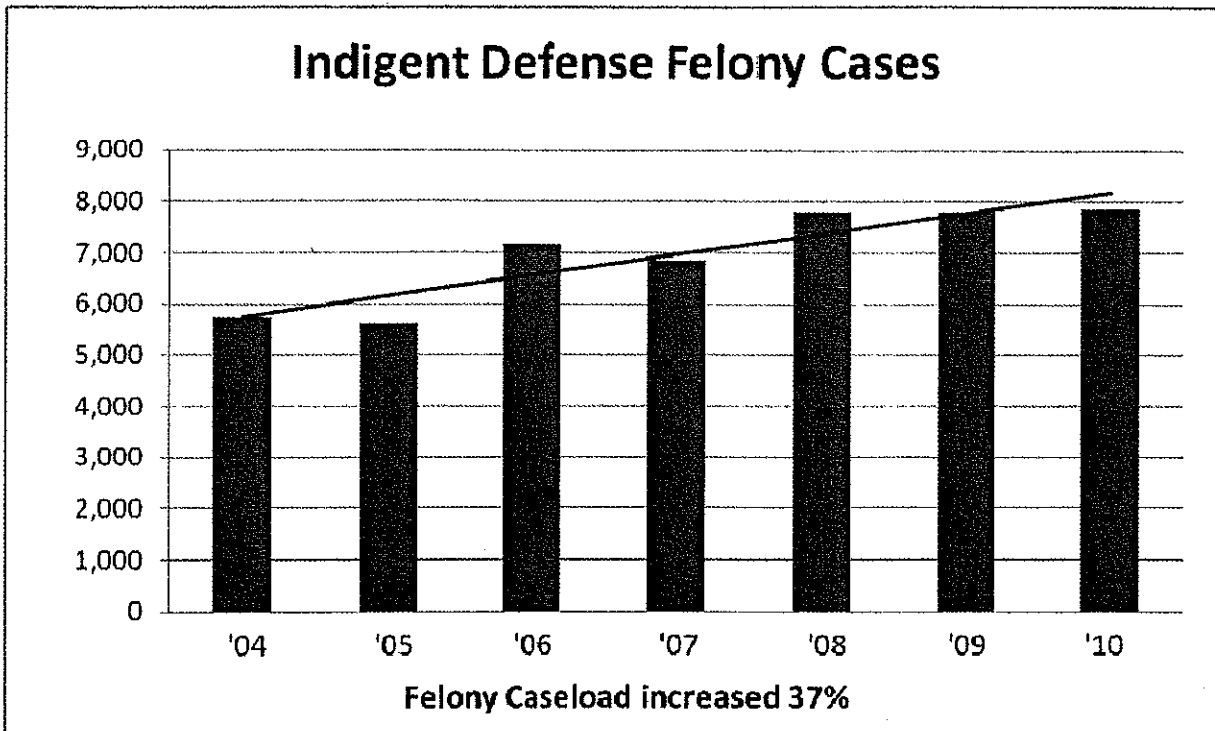
Our current system of providing indigent criminal defense can be improved in the manner described in our Report.

Regarding Mr. Ritenour's specific objection in paragraph 1 of his dissent, I attach the three data graphs, furnished to our Task Force upon request of one of our members, substantiating the data in the Introduction regarding the relative increase in defense costs of both misdemeanor and felonies, and population growth. Regarding paragraph 2, we have no reason to doubt the approximation furnished by Judge Johnson.

## Increase Cost of Misdemeanor Defense vs. Misdemeanor Caseload



## Increase Cost of Felony Defense vs. Felony Caseload



## Comparison of Misdemeanor and Felony Cases to Poverty Level

