

Resolution Spotlight

The Resolutions adopted by the members of the County Judges and Commissioners Association of Texas (CJCAT) at the Annual Conference originate among members of Commissioners Courts and serve as the CJCAT Legislative Platform.

Indigent Defense Funding County Judge or Commissioner → CJCAT → Legislature

The Texas Fair Defense Act of 2001 requires all Texas courts to establish procedures to provide court-appointed lawyers for indigent defendants. This legislation also established the Task Force on Indigent Defense, now the Texas Indigent Defense Commission (TIDC or Commission) to oversee indigent defense services and provide state grants to counties.

Half of all criminal defendants in Texas are deemed indigent, and this number is growing, according to “*Justice Beyond the Cities: The State of Rural Public Defense in Texas*,” a study conducted between September 2023 and May 2024 by the Public Policy Research Institute at Texas A&M University.

The TIDC maintains statistics on the amount each county receives in state funding for indigent defense and how much each county spends on indigent defense, with data available at <https://tidc.tamu.edu/public.net/default.aspx>. Generally speaking, state funding covers 10 percent to 12 percent of the cost, meaning the county taxpayers absorb 88 percent to 90 percent of the cost.

During the 88th Legislative Session, approximately \$155 million was appropriated for indigent defense. The TIDC asked lawmakers for approximately \$248.6 million during the 89th Legislative Session. Lawmakers appropriated approximately \$170.3 million. No funding was included for legal representation for indigent parents in Child Protective Services (CPS) cases, meaning counties continue to fund 100 percent of these costs.

County Impact Examples

The TIDC is led by 15 Commission members and 20 staff. Bandera County Judge Richard Evans and Williamson County Commissioner Valerie Covey serve on the Commission.

In 2024, Williamson County reported the following:

Indigent Defense Expenses

County Court at Law:	\$1,442,063
District Court:	<u>\$2,159,001</u>
Total:	\$3,601,064

Funding Received from the State of Texas: \$277,490 – approx. 7.7 percent of total cost

Cost to the Williamson County Taxpayers: \$3,323,574 – approx. 92.3 percent of total cost

"As the county grows, the cost of providing services to residents continues to increase, particularly for indigent criminal defense," Covey stated. "We are continually seeking additional sources of funding, especially to help cover the costs of unfunded state mandates."

According to the latest data available, in 2024 Bandera County spent \$139,496 on indigent defense and received \$22,807 in state formula grant funding, not including TIDC's indirect

support for Bandera County through its two-thirds sustainability funding of the Hill Country Regional Public Defender Office (PDO), which provides representation in Bandera County.

“We do not have enough attorneys to go around in rural Texas, and the cost is eating up our ad valorem tax,” Bandera County Judge Richard Evans emphasized. “Without the PDO, we would only have two attorneys to draw from.”

On a related note, Bandera County spent \$118,343 on family law and CPS cases but received no state support, Evans said, as the Texas Legislature does not include these cases as part of indigent defense.

Crisis Point

“The escalating, unfunded/underfunded statutory and constitutional mandates regarding indigent legal representation have led to an increasingly unsustainable crisis facing the local judiciary and county budgets across the State of Texas,” said CJCAT Legislative Director Rick Thompson. “While our counties remain deeply committed to upholding the constitutional right to counsel, the financial burden imposed on county taxpayers by the state has reached a breaking point.”

The financial disparity under the current funding model is severe, Thompson emphasized. For fiscal year 2023, Texas counties bore the brunt of these mandates by spending a combined \$410.4 million on criminal indigent defense alone. Meanwhile, state support through TIDC-administered grants totaled \$39.9 million, covering less than 10 percent of the actual costs.

Over the past decade, county expenditures surged by \$195.4 million, contrasted against an incremental state increase of only \$12.5 million, Thompson continued. Additionally, Texas counties spent approximately \$63 million a year providing indigent representation in CPS cases.

Nationally, over two-thirds of the states provide at least 50 percent of the funding for this constitutional mandate. In Texas, the state-imposed funding obligations of counties for indigent representation are not under the control of County Commissioners Courts, are not limited in any way, and are not subject to exact forecasting, Thompson specified. Yet, counties are called upon to budget sufficient funds each fiscal year to pay counsel as ordered by the judiciary, without regard to the 3.5 percent revenue cap counties operate under.

Members of Commissioners Courts worked with the CJCAT to develop the following resolution:

State Funds for Indigent Criminal Defense and Magistration Costs

WHEREAS, the right to assistance by legal counsel is guaranteed by the U.S. Constitution; and

WHEREAS, the State of Texas is required to implement this right and provide legal counsel to indigent criminal defendants; and

WHEREAS, the Texas Fair Defense Act, adopted by the Texas Legislature in 2001, implements this right and requires certain procedures and attorney appointments; and

WHEREAS, the Texas Legislature has failed to provide sufficient funding to offset the additional costs of the Fair Defense Act and has shifted this cost to county taxpayers; and

WHEREAS, county expenditures for indigent criminal defense have increased over 200 percent since the adoption of the Fair Defense Act; and

WHEREAS, the state funding is totally inadequate, providing approximately 10 percent of the indigent defense costs and none of the costs for criminal magistration and bail proceedings; and

WHEREAS, indigent criminal defense and criminal magistration are state responsibilities that should be adequately funded on a statewide basis, not a burden overwhelmingly borne by local property taxpayers; and

WHEREAS, the recent passage of legislation to require additional bail bond proceedings has increased the costs to local taxpayers without state funding;

NOW, THEREFORE, BE IT RESOLVED that the County Judges and Commissioners Association of Texas does hereby request that the Texas Legislature fully fund the cost of indigent criminal defense, which has cost local taxpayers over \$4.2 billion from 2001 through 2025, and fully fund the additional cost for criminal magistration imposed by the Special Session of the 87th Texas Legislature.