

## A Landmark Study in Indigent Defense and a Professional Opportunity!



The members of TCDLA have an opportunity to participate in a landmark study that will impact justice in Texas for a generation. The legislature has ordered the Texas Indigent Defense Commission (“TIDC”) to conduct a Weighted Caseload Study *“for the purpose of determining guidelines for establishing a maximum allowable caseload for a criminal defense attorney that . . . allow the attorney to give each indigent defendant the time and effort necessary to ensure effective representation.”*

In this issue of the *Voice for the Defense*, Jim Bethke, the Executive Director of TIDC, has written “Improving Indigent Defense Through Research & Data,” which explains the project and requests the help of all TCDLA members. This project is the most important indigent defense effort in Texas since the Fair Defense Act was enacted 12 years ago. It is common knowledge that indigent defense is one of the most politically unpopular and chronically under-funded parts of the entire criminal justice system. The Constitution and the law demand that indigent defendants be provided defense counsel and that they be effectively represented. However, hard data does not exist that policy makers can rely upon or that appointed counsel can urge to obtain proper funding. The legislature has directed that this project be undertaken to generate data to form the basis for rational decisions about indigent defense funding of resources. With the data generated by this study, a strong case can then be made to officials that adequate resources should be made available to defense counsel.

The TIDC has partnered with the Public Policy Research Institute (“PPRI”) at Texas A&M University to conduct the study. This fall, PPRI in coordination with TCDLA will begin recruiting attorneys to participate in this study. The PPRI and TCDLA will seek 500 attorneys who are willing to volunteer and to participate in the study. Those who volunteer will be trained in the use of timekeeping software, then asked to record the time spent on cases for 12 weeks. The final report will be issued in December 2014.

I realize that timekeeping and hourly billing is one of the reasons that we in the criminal defense business prefer to use flat fees. However, those of us who are CJA panel attorneys in the Federal courts keep our time on a one-tenth hourly basis. Those of us who accept criminal appointments also keep time on an hourly basis, and all capital defense time is reported on an hourly basis as required by most indigent defense plans in Texas. The software that will be provided will have the incidental effect of providing volunteers with an opportunity to evaluate their practices to see if they are spending time in the most efficient manner possible.

I urge you to accept this challenge to assist the TIDC, TCDLA, and the PPRI in this landmark study. Your work and data will be used as a benchmark for years by policy makers. In early November representatives of Texas A&M University’s PPRI will begin contacting attorneys to participate in the study. This is an important opportunity to make a valuable contribution to the criminal defense profession that will have a lasting effect on justice in Texas.

This is a very worthwhile project, and I call on TCDLA members to participate and volunteer. If you are willing to be part of this project, visit <http://texaswcl.tamu.edu>, or just send an email to the project director, Dr. Dottie Carmichael, at [dottie@ppri.tamu.edu](mailto:dottie@ppri.tamu.edu). Those who volunteer will be recognized for their contribution in the final report to the Legislature—and will know that they have been a part of this important landmark study to benefit the criminal justice system in Texas.

Bobby Mims  
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