



## **Policy Monitor Report – Review of Bexar County Indigent Defense Systems**

**Dates of Initial Review Visits:** February 9, February 17 – February 19, March 1 – March 5, March 11 – March 12, March 22, March 30 – April 1, April 29, 2010

**Dates of Follow-up Review Visits:** April 10 - April 14, April 25 – April 26, 2012

### **Summary of Findings**

#### **Timely Appointment of Counsel – Adults**

**2010 Recommendation:** Bexar County must examine the appointment process to ensure persons requesting counsel receive application assistance and timely assignments. **(Resolved)**

**2012 Commendation:** TIDC staff commend Bexar County for creating processes that ensure timely appointments of counsel in adult cases.

#### **Timely Appointment of Counsel – Juveniles**

**2010 Recommendation:** Bexar County must set up a process to appoint an attorney for unrepresented juveniles regardless of the meeting status between parents and Pre-Trial Services. Under Texas Family Code § 51.101(b), the attorney appointed for the detention hearing continues to represent the child until the case is terminated, the family retains new counsel, or the court appoints new counsel. **(Resolved)**

**2010 Recommendation:** If no parent or guardian appears for the juvenile’s detention hearing, the court must appoint a guardian ad litem per Texas Family Code § 54.01(d). An attorney appointed for the detention hearing may act as a guardian ad litem. **(Resolved)**

**2010 Recommendation:** Bexar County must ensure that there is proper documentation regarding attorney appointments for detention hearings. Ideally, detention hearing forms would always list when attorneys appeared on behalf of juveniles. **(Resolved)**

**2012 Commendation:** TIDC staff commend Bexar County for creating processes that ensure timely appointments of counsel in juvenile cases. The County’s processes also ensure that all juveniles have a parent, guardian, or guardian ad litem present for juvenile detention hearings.

#### **Fair, Neutral, and Non-Discriminatory Selection**

##### **Distribution of Misdemeanor Cases**

**2010 Recommendation:** The statutory county courts must review their misdemeanor appointment procedures to ensure that appointments are made in a fair, neutral, and non-discriminatory manner. **(Resolved)**

**2010 Recommendation:** The county courts must follow the standard method for appointing counsel as set in the local indigent defense plan. **(Resolved)**

**2010 Recommendation:** Article 26.04(a) of the Code of Criminal Procedure requires the courts to appoint attorneys from a public appointment list. The misdemeanor courts must ensure that all misdemeanor appointments are made from a public appointment list. **(Resolved)**

**2012 Commendation:** The statutory county courts have adopted procedures for making in-court appointments from the appointment list in a consistent manner across all courts.

**2012 Commendation:** Data showing the distribution of misdemeanor cases paid for FY2011 were within the Commission's threshold for presuming that the jurisdiction's appointment processes are fair, neutral, and non-discriminatory.

#### **Distribution of Felony Cases**

**2010 Recommendation:** Bexar County must review its felony appointment procedures to ensure that appointments are made in a fair, neutral, and non-discriminatory manner. Specifically, standard operating procedures for making in-court appointments should be reviewed, or created, to ensure that courts coordinate to provide a fair method of allocating appointments that is consistent with its indigent defense plan. **(Resolved)**

**2010 Recommendation:** Article 26.04(a) of the Code of Criminal Procedure requires the courts to appoint attorneys from a public appointment list. The felony courts must ensure all felony appointments are made from a public appointment list. **(Resolved)**

**2012 Commendation:** The felony courts have adopted procedures for making in-court appointments from the appointment list in a consistent manner across all courts.

**2012 Commendation:** Data showing the distribution of felony cases paid for FY2011 were within the Commission's threshold for presuming that the jurisdiction's appointment processes are fair, neutral, and non-discriminatory.

#### **Distribution of Juvenile Cases**

**2010 Recommendation:** Bexar County must review its juvenile appointment procedures to ensure that appointments are made in a fair, neutral, and non-discriminatory manner that is consistent with its indigent defense plan. **(Resolved)**

**2012 Commendation:** Data showing the distribution of juvenile cases paid for FY2011 were within the Commission's threshold for presuming that the jurisdiction's appointment processes are fair, neutral, and non-discriminatory.

#### **Fee Schedules and Payment Processes**

**2010 Recommendation:** When considering attorney requests for expense reimbursements, the judges must comply with Article 26.05(d) that states attorneys shall be reimbursed for reasonable and necessary expenses. **(Resolved)**

**2010 Recommendation:** If a judge reduces a request for payment, the judge must make written findings as to why the request is being reduced. **(Resolved)**

**2012 Commendation:** TIDC staff commend Bexar County for creating processes that ensure that when fee vouchers are cut that the reason for the reduction is listed according to Article 26.05(c) of the Code of Criminal Procedure.