

Bexar County Indigent Defense System Evaluation

Bexar County Indigent Defense System Evaluation

Public Policy Research Institute - Texas A&M University

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The Honorable Nelson W. Wolff
101 W. Nueva, 10th Floor
San Antonio, Texas 78205

September 7, 2020

Dear Judge Wolff,

Please find enclosed the final report titled “Bexar County Indigent Defense System Evaluation,” reviewing the county’s current indigent defense practices. While the report was requested by the Bexar County Commissioners Court in response to Bexar County court judges approving fee increases for court-appointed attorneys to represent indigent defendants in misdemeanor cases (going into effect on September 1, 2018), the initiative further highlights the determination of the county to improve the quality of the indigent defense system in Bexar County and is in line with other recent efforts the county has embarked on.

This report was the product of collaboration with the Texas Indigent Defense Commission (TIDC), which also shared part of the expenses to help fund the study. Prior to reaching out to the Public Policy Research Institute (PPRI) at Texas A&M University, the county with its leaderships across different departments had embarked on a series of collaborative group meetings to develop a detailed scope of work to help direct the focus of the report. The main objective of the report was to ensure quality representation for indigent defendants by evaluating process and procedures associated with Bexar County’s Court Appointed Counsel system. Quantitative and qualitative analysis were to be conducted to analyze measurable metrics to determine the quality of service and representation (in the county and relative to regional and national standards), compare representation across different providers, and to examine judicial evaluation. Further, the report was to identify current educational and professional requirements for court-appointed counsel practicing in Bexar County, and recommend implementation of specific requirements to improve quality of representation for indigent defendants.

The PPRI has been established by the Texas Legislature in 1983 to conduct research to inform policy-making in Texas and beyond. The institute currently has about 36 full time research staff with different levels of expertise from PhDs in economics, political science, public health, to other applied research experience in criminal justice, education, public health, and other areas. Since its inception, the PPRI has secured more than \$150 million in externally funded projects averaging between \$4 and \$6 million a year. The PPRI has conducted research on behalf of federal, state, private, and international clients such as the Department of Justice, National Science Foundation,

National Institutes of Health, Texas Department of Transportation, Texas Education Agency, Office of Court Administration, Texas Indigent Defense Commission, Arnold Ventures, Robert Wood Johnson Foundation, and the United Nations. Policy reports by PPRI have been featured by national news media outlets, and cited by policy makers such as the Attorney General, Secretary of Education, and the President of the United States.

The PPRI at Texas A&M University took the lead evaluating current indigent defense practices starting in the fall of 2019 and ending in the spring of 2020. All study data collection occurred before the world pandemic caused by COVID-19. Quantitative and qualitative methods were both utilized in the current study including case level data from the Bexar County Justice Information System (CJIS), interviews with judges, county staff, attorneys, and defendants. The research team analyzed more than 90,000 criminal cases in the county, interviewed 11 judges, 19 county staff, 43 attorneys, and 197 defendants. The PPRI would like to express its deepest gratitude to all judges, attorneys, defendants, county staff and officials who have graciously given us their time to answer difficult questions and be as open as possible in their responses.

The report highlights current legal requirements to every metric surrounding indigent defense, the American Bar Association (ABA) best practices, the Bexar County Indigent Defense Plan addressing each metric, current practices in the county, and the research team's recommendations. The PPRI deeply appreciated the opportunity to work with Bexar County officials, and we hope you find this report helpful in guiding the county's next steps in improving the quality of the indigent defense system in the county.

Sincerely,



George Naufal, PhD
Public Policy Research Institute
Texas A&M University

Executive Summary

Bexar County court judges increased fee payments to court-appointed attorneys beginning in September 2018. In response, the Bexar County Commissioners Court requested an evaluation to examine quality indigent defense representation in the county. Bexar County is also transitioning to a new data management system, providing an excellent opportunity to evaluate current database measures in the county.

PPRI conducted an evaluation of Bexar County's indigent defense system, utilizing a multi-method approach with quantitative and qualitative data. PPRI evaluated three years of Bexar County criminal case data. In addition, PPRI conducted numerous interviews and surveys with defendants, attorneys, judges, and county officials.

Chapter 3: Quality of Service

Bexar County is meeting statutory timelines for magistration within 48 hours of arrest, but remaining timelines are difficult to analyze due to data limitations. Request for counsel, attorney contact, and complaints are not tracked within the current data management system. Any future data system implemented must incorporate these measures. Almost 40% of defendants surveyed stated they first met their attorney in court, and about 40% of defendants did not feel informed about the appointment process.

Chapter 4: Quality of Representation

All stakeholders viewed communication as a key attribute needed to provide quality representation to defendants. PPRI examined Bexar County's indigent defense system using the American Bar Association's Ten Principles of a Public Defense System. Although Bexar County is following many of these principles, several principles could be incorporated with reforms to the current system.

Several quality indicators are not tracked, such as attorney-client contact, complaints, and request for counsel. These issues must be addressed in the new data management system. Bexar County has made significant progress in addressing mental health issues of defendants, but stakeholders felt that more progress needs to be made.

Chapter 5: Comparison of Representation

Bexar County requested an evaluation of outcomes based on counsel type. PPRI examined outcomes between court-appointed and retained counsel. Due to the types of cases and limited caseload of the Bexar County Public Defender Office, comparisons could not be made between all counsel types. Better defendant outcomes result from retained attorneys, with court-appointed counsel less likely to be associated with dismissals relative to retained counsel. Court-appointed attorneys are more likely to be associated with pleas relative to retained counsel, and court-appointed attorneys are more likely to be associated with incarcerations relative to retained counsel.

Chapter 6: Bexar County Public Defender Office

The Bexar County Public Defender Office has a limited caseload, which includes specialized cases. The caseload of the Public Defender Office makes comparisons between public defenders, court-appointed attorneys, and retained attorneys problematic; therefore, the public defender caseload is examined independently.

Chapter 7: Judicial Evaluation

Certain courts appoint from the bench more often than others. Reasons for appointment from the bench are not tracked within the current data system. PPRI also examined if attorneys were appointed from the bench without being on the appointment wheel. County courts appeared to appoint attorneys not on the appointment list more than district courts. PPRI also examined requests for investigators and experts. These requests are codes within the current data system, but they are not utilized. PPRI also interviewed county officials concerning voucher reimbursements. Several indicators are not tracked, such as reasons for reducing voucher payments.

Chapter 8: Recommendations

PPRI made policy and data recommendations based on quantitative and qualitative data gathered from Bexar County. Data recommendations include: implement quality metrics in the new data management system, including *TIDC Recommended Functionality & Data Guidelines for Indigent Defense Technology Projects*. Policy recommendations include: inform attorneys about how the different specialty courts function, employ an Indigent Defense Coordinator to assist defendants with the appointment process, and implement a Managed Assigned Counsel Office in conjunction with the current Public Defender Office to increase accountability and supervision of court-appointed counsel.

Introduction

Bexar County Court judges approved fee increases for court-appointed attorneys to represent indigent defendants. In their joint order revising the county-wide fee schedule, the judges noted that misdemeanor payment guidelines were constructed to “assure quality representation for indigent persons charged with misdemeanor crimes in Bexar County. The fees set forth by this order take into consideration the time and labor required, the complexity of the cases, and the experience and ability of appointed counsel.”¹ As of September 1, 2018, these amended payments went into effect. Across the board, payments to attorneys taking misdemeanor cases increased by \$40, going from \$140 to \$180. To this end, Bexar County officials appreciate that payments to court-appointed attorneys must be sufficient to ensure that attorneys have the necessary resources to find and interview witnesses, obtain and analyze witness testimony, consult with experts, understand relevant case law, and keep close contact with their client.² While it is possible that increased payments should allow attorneys the resources necessary to pursue the various components of quality representation, it is not clear that these changes will generate better dispositions (dismissals and charge reductions) for clients. Since no performance measures or standards are in place, there is concern that this fee increase will not result in improved outcomes for indigent defendants.

In response, the Bexar County Commissioners Court requested an evaluation to be conducted to assess the effect of these changes on defendant outcomes. Bexar County officials have also expressed interest in contextualizing this analysis with a review of the county’s indigent defense practices. Because they anticipate system-wide information technology updates in the immediate future, assessing the availability of data and system efficiencies is vital to that development process. Further, given Texas Indigent Defense Commission (TIDC) monitoring concerns about wheel appointments,³ an evaluation of the fairness of indigent defense delivery and the quality of indigent defense representation is needed. In October 2018, Bexar County officials approached the Public Policy Research Institute (PPRI) at Texas A&M University to partner on a study to evaluate current indigent defense practices. The study began in the fall of 2019 and ended in the spring of 2020. All study data collection occurred before the world pandemic caused by COVID-19. Prior to examining Bexar County’s indigent defense system, a review of the effects of fee increases and quality defense representation literature is needed.

Quality Representation

In 2002, the Spangenberg Group conducted a state by state analysis of compensation for court-appointed counsel.⁴ At that time, 12 states left the compensation rates to court-appointed attorneys to be determined at the local level. In Texas today, compensation rates are still left to local jurisdictions. While the research literature on the impacts of fee increases for court-appointed attorneys is fairly small, Roach (2017) found that increases in the fees paid to court-appointed attorneys resulted in better

¹ Joint order revising fee schedule, 2018.

² H. Russell Cort; Jack L. Sammons, *The Search for Good Lawyering: A Concept and Model of Lawyering Competencies*, 29 Clev. St. L. Rev. 397 (1980.)

³ Task Force on Indigent Defense, *Review of Bexar County’s Indigent Defense Systems*, 2010.

⁴ The Spangenberg Group, *Rates of Compensation Paid to Court-Appointed Counsel in Non-Capital Felony Cases at Trial: A State-by-State Overview*, Prepared for the American Bar Association, 2002.

outcomes for defendants in New York, including reductions in guilty pleas and convictions.⁵ Schwall (2017) found that court-appointed attorneys expended less effort on their cases when compared to a flat fee versus an hourly rate.⁶

Most research literature regarding quality defense focuses on systems of representation including public defender offices and managed assigned counsel systems (MAC). Since the Texas State Legislature passed the Fair Defense Act of 2001 (FDA)⁷, more attention has focused on improving the quality of indigent defense services while also containing costs. The use of public defender and managed assigned counsel systems is considered a strategy to meet these dual objectives. TIDC has priority program areas including managed assigned counsel systems and public defender offices that put in place mechanisms to ensure quality representation. Prior to the FDA, only five Texas counties operated public defender offices serving adult defendants. Currently, there are 20 public defender offices and three managed assigned counsel programs (shown in Tables 1 and 2).⁸

⁵ Michael A. Roach (2017). Does raising indigent defender pay rates improve defendant outcomes? Evidence from New York, *Applied Economics Letters*, 24:14, 1025-1030, doi: 10.1080/13504851.2016.1248281

⁶ Benjamin Schwall, *More Bang for Your Buck: How to Improve the Incentive Structure for Indigent Defense Counsel*, 14 Ohio St. J. Crim. L. 553 (2017).

⁷ Fair Defense Act 2001 (SB 7).

⁸ Texas Indigent Defense Commission, Indigent Defense Data for Texas, Available at <http://www.tidc.texas.gov/media/46142/direct-client-services-chart-2018.pdf>

Table 1: Texas Public Defender Offices - 2018

Program Name	Services Offered	Year Established	Participating Counties
Travis County PDO	Juvenile	1971	Travis
Dallas County PDO	Capital, DNA Exoneration, Felony, Misdemeanor, Juvenile, Padilla Consultation & referrals, CPS & Family Law, Appeals, Mental Health	1983	Dallas
Colorado County Public Defender	Felony, Misdemeanor, Juvenile	1987	Colorado
El Paso County PDO	Capital, Felony, Misdemeanor, Juvenile	1987	El Paso
Webb County PDO	Felony, Misdemeanor, Juvenile	1988	Webb
Wichita County PDO	Felony, Misdemeanor	1989	Wichita
Cameron County Juvenile PDO	Juvenile	1999	Cameron
Bexar County Public Defender	Felony Appellate, Misdemeanor Appellate, Juvenile Appellate, Misdemeanor Mental Health, Felony Mental Health	2005	Bexar
Hidalgo County PDO	Felony, Misdemeanor, Juvenile	2005	Hidalgo
Kaufman County	Felony, Misdemeanor	2007	Kaufman
Travis County Mental Health PDO	Misdemeanor Mental Health	2007	Travis
Bowie County PDO	Felony, Misdemeanor	2008	Bowie
Regional Public Defender Office for Capital Cases	Capital	2008	177 counties
Bee County Regional PDO	Felony, Misdemeanor, Juvenile, Appellate	2009	Bee, Live Oak, McMullen, Refugio, Willacy
Fort Bend County PDO	Felony, Misdemeanor, Felony Mental Health, Misdemeanor Mental Health	2010	Fort Bend
Caprock Regional PDO	Felony, Misdemeanor, Juvenile, Appellate	2011	Briscoe, Cochran, Dickens, Floyd, Hockley, Kent, Motley, Stonewall, Swisher
Harris County PDO	Felony, Juvenile, Felony Appellate, Misdemeanor Appellate, Misdemeanor Mental Health	2011	Harris
Burnet County PDO	Felony, Misdemeanor, Juvenile	2012	Burnet
Starr County Regional PDO	Felony, Misdemeanor, Juvenile, Appellate	2016	Starr, Duval, Jim Hogg
Far West Texas Regional PDO	Felony, Misdemeanor	2018	Brewster, Culberson, Hudspeth, Jeff Davis, Presidio

Table 2: Managed Assigned Counsel Programs - 2018

Program Name	Services Offered	Year Established	Participating Counties
Lubbock Private Defender Office	Felony, Misdemeanor, Felony Mental Health, Misdemeanor Mental Health	2009	Lubbock
Collin County Mental Health Managed Counsel Program	Felony Mental Health, Misdemeanor Mental Health	2013	Collin
Capital Area Private Defender Service	Felony, Misdemeanor, Felony Mental Health, Misdemeanor Mental Health	2014	Travis

It is difficult to establish direct and causal evidence on the impact on quality of indigent defense and the cost-effectiveness of public defender and managed assigned counsel offices because of missing counterfactual. The missing counterfactual is the inability to observe counties operating a public defender (or managed assigned counsel) office without the existence of such services. Nevertheless, it is possible to examine the experience of current standing offices. Every Texas county submits data on the number and costs of indigent representation through an annual Indigent Defense Expenditure Report collected by the Texas Indigent Defense Commission. This database, combined with self-reported information about local policies and practices from established public defender and managed counsel offices, provide useful resources for exploring the efficacy of such systems relative to other forms of assigned counsel.

Public defender offices provide budget predictability, uniform representation, and institutional infrastructure. The infrastructure provided by public defender offices include ongoing professional development, established quality standards, improved access to investigators, and close monitoring of attorneys. In public defender offices, caseload criteria and other quality assurance measures are developed and refined over time, creating established performance standards. Clear guidelines help ensure both consistency and quality of legal defense. The chief public defender also provides oversight and guidance for attorneys and can monitor performance to ensure compliance with standards. With a critical mass of criminal defense attorneys operating in a single office, continuing legal education workshops can be offered in-house on topics pertinent to local priorities. Other training opportunities include mentoring for junior defenders in the office and the courtroom, as well as informal group planning and brainstorming exercises to improve departmental operations. Finally, the larger volume of cases processed in public defender offices makes it more feasible to provide in-house access to key resources, such as investigators and professional experts.

A recent type of counsel system is the MAC. The MAC is fairly similar to the public defender model, but the attorneys are not employees of the county and are private contractors. The MAC employs a managing attorney to monitor attorneys and a review committee can also be used to select attorneys to participate in the MAC. Overall benefits of the MAC system include independence, oversight, efficiency,

reliability, compliance, and training.⁹ The MAC can also provide accountability for attorneys by monitoring caseloads and complaints to ensure quality representation.

American Bar Association's Ten Principles of a Public Defense Delivery System

The American Bar Association (ABA) published the Ten Principles of a Public Defense Delivery System in 2002.¹⁰ These principles were established in order to provide guidance to government officials to create an effective and quality system to deliver representation to indigent defendants. The ABA principles include:

1. The public defense function, including the selection, funding, and payment of defense counsel, is independent.
2. Where the caseload is sufficiently high, the public defense delivery systems consists of both a defender office and the active participation of the private bar.
3. Clients are screened for eligibility, and defense counsel is assigned and notified of appointment, as soon as feasible after clients' arrest, detention, or request for counsel.
4. Defense counsel is provided sufficient time and a confidential space within which to meet with the client.
5. Defense counsel's workload is controlled to permit the rendering of quality representation.
6. Defense counsel's ability, training, and experience match the complexity of the case.
7. The same attorney continuously represents the client until completion of the case.
8. There is parity between defense counsel and the prosecution with respect to resources and defense counsel is included as an equal partner in the justice system.
9. Defense counsel is provided with and required to attend continuing legal education.
10. Defense counsel is supervised and systematically reviewed for quality and efficiency according to nationally and locally adopted standards.

Indigent defense overall is a topic relevant to many states due to lawsuits being filed to create change in indigent defense systems. Class action lawsuits have focused on specific issues established in the ABA Ten Principles, such as excessive attorney caseloads, insufficient attorney compensation, a lack of attorney hiring, training standards, pretrial bond practices, or the absence of oversight mechanisms. Texas counties have already been sued, including Gillespie, Williamson, Dallas, Galveston, and Harris. These lawsuits have been used to achieve reform in indigent defense systems and are becoming more common across the United States. Given these events, it is important to examine quality representation within Bexar County's indigent defense system.

⁹ Texas Indigent Defense Commission, *Primer on Managed Assigned Counsel Programs*, 2017.

¹⁰ American Bar Association, "Ten Principles of a Public Defense Delivery System," February 2002. The State Bar of Texas also has comprehensive guidelines. See State Bar of Texas, "Performance Guidelines for Non-Capital Criminal Defense Representation," January 2011, https://www.texasbar.com/AM/Template.cfm?Section=Texas_Bar_Journal&Template=/CM/ContentDisplay.cfm&ContentID=14703

Bexar County Indigent Defense System

Bexar County is the 4th largest county in Texas, with a 2018 population estimate of 1,932,383.¹¹ Bexar County has 10 criminal district courts and 15 county courts. The county has a district court and county court indigent defense plan.¹² Bexar County also has several specialty courts. Bexar County currently has a court-appointed attorney wheel system and a Public Defender Office to represent indigent clients. The Public Defender Office is made up of the following divisions: appellate, misdemeanor and felony mental health, mental health civil, misdemeanor trial (only operates in courts where judges elect to have the Public Defender) and magistration. The current study focused on Bexar County's adult indigent defense system.

In August 2010, the Task Force on Indigent Defense, now known as the Texas Indigent Defense Commission, published a "Review of Bexar County's Indigent Defense Systems," a full assessment of the indigent defense system in the county. This report found issues with timely appointment of counsel and appointment procedures deviating from the approved indigent defense plan.¹³ A follow-up visit to Bexar County in 2012 showed many of the issues found in 2010 had been resolved and were in compliance with TIDC recommendations from the 2010 review.

Bexar County is one of the leaders in the state by providing counsel at magistration. Only four (Bexar, Cameron, Fort Bend, and Harris) counties out of 254 offer counsel at magistration (also known as first appearance). The Bexar County Public Defender Office represents defendants at magistration. According to the Texas Indigent Defense Commission's innovation brief¹⁴, a 150% increase occurred in defendants released on personal bonds. Additionally, mental health personal bonds increased 20% in clients represented by the Bexar County Public Defender Office.

Comparison of the Bexar County Indigent Defense System to Peer Counties

The largest counties in Texas are leaders in innovative practices for indigent defense systems. As previously mentioned, Bexar County is currently one of the leaders in the state by providing counsel at magistration and having multiple specialty courts. The county also has a Public Defender Office, but it is currently limited to representing defendants at magistration and mental health (civil and criminal) cases. The county has a Remote Attorney Visitation (RAV) and a voucher recommendation committee, which are both innovative and promising practices. Each of these innovations will be discussed in later chapters.

Harris County is a leader in the state by also providing counsel at magistration. Harris County is in the process of implementing a MAC office with support from a TIDC grant and has a public defender office which handles misdemeanor, felony, and juvenile cases. Travis County is also in the process of

¹¹ See Texas Indigent Defense Commission, Indigent Defense Data for Texas, available at <http://tidc.tamu.edu/public.net/Reports/ExpenditureReportResults.aspx>

¹² Not later than November 1 of each odd-numbered year, every county is mandated by the Texas Legislature to submit to the Texas Indigent Defense Commission (TIDC): (1) a copy of its countywide indigent plan(s) and procedures and any revisions to the plan or forms previously submitted; or (2) a verification that the plan and forms previously submitted still remain in effect. These instructions govern the submission of the plans due to be submitted to the TIDC, pursuant to Section 79.036 of the Texas Government Code. Bexar County's indigent defense plans are shown in Appendix A.

¹³ *Supra* note 3.

¹⁴ Texas Indigent Defense Commission, *Indigent Defense Innovation*, 2018.

implementing a county-wide public defender office with support from a TIDC grant. Dallas County also has a public defender office, which represents misdemeanor, felony, and juvenile cases. Tarrant County has an appointment wheel, but the county currently utilizes TechShare as a data management software. This system has been implemented by several counties in Texas. Specifically, this system has an indigent defense application, which was developed in cooperation with TIDC. The largest counties in Texas with the exception of Bexar have indigent defense coordinators. Indigent defense coordinators, one of the first innovations recommended after the Commission was established, now ensure prompt appointment of qualified counsel in 97 counties. Eighty-three percent of counties with population exceeding 300,000 have created this position.¹⁵ All of the large counties in Texas have developed and are utilizing innovative practices, and Bexar County has several promising practices that other counties could benefit from utilizing.

Per-Case Spending

TIDC tracks indigent defense expenditures and the number of cases each county reports. In terms of per-case spending, Table 3 and Table 4 displays Bexar County indigent defense spending in comparison with other large counties in Texas. In Fiscal Year 2019, Bexar County spent \$15,088,968 on 42,376 indigent defense cases.¹⁶ Bexar County spends the least amount of money per case at \$356, while Dallas County spends the highest amount per case at \$689. For indigent defense support services (investigation and expert expenditures), Travis County spends the least amount of money compared to other large counties.

Table 3: Largest Texas Counties' Expenditures & Indigent Defense Cases in FY 2019¹⁷

County	Current Year Population Estimate (2018)	Total Indigent Defense Expenditures	Total Count of Indigent Defense Cases	Average Cost of Indigent Defense Case	Juvenile Trial-Level Cases Paid	Misdemeanor Trial-Level Cases Paid	Non-Capital Felony Trial-Level Cases Paid	Capital Murder Cases Paid
Bexar	1,932,383	\$15,088,968	42,376	\$356	2,186	22,194	17,751	79
Dallas	2,615,995	\$37,533,215	54,467	\$689	7,307	24,294	22,568	74
Harris	4,582,398	\$55,299,196	111,173	\$497	6,139	19,658	35,842	134
Tarrant	1,995,921	\$21,602,871	33,009	\$654	1,640	15,333	15,644	116
Travis	1,206,427	\$14,555,636	29,474	\$494	2,662	14,950	11,710	26

¹⁵ See <http://tidc.tamu.edu/Public.Net/>

¹⁶ Texas Indigent Defense Commission Expenditure Reports, Bexar County FY 2019, available at <http://tidc.tamu.edu/public.net/Reports/ExpenditureReportResults.aspx>

¹⁷ Texas Indigent Defense Commission Expenditure Reports, available at <http://tidc.tamu.edu/public.net/Reports/ExpenditureReportResults.aspx>

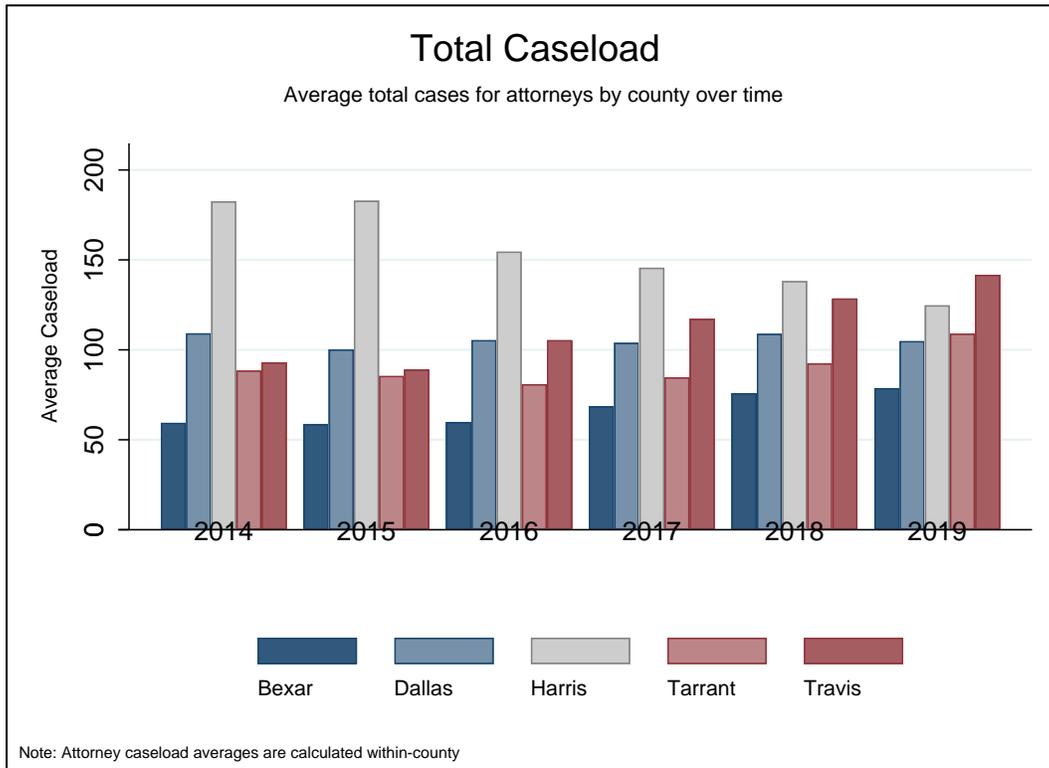
Table 4: Largest Texas Counties' Investigative & Expert Expenditures in FY 2019

County	Total Investigative Expenditures	Total Expert Expenditures
Bexar	\$496,033	\$474,658
Dallas	\$984,019	\$1,099,095
Harris	\$2,031,332	\$1,067,764
Tarrant	\$472,526	\$995,202
Travis	\$220,749	\$578,610

Caseload Comparison

TIDC also collects data concerning attorney caseloads, allowing comparisons of appointed attorney workloads across counties. Figure 1 presents the average attorney caseload by the largest counties over years. Attorneys in Bexar County represent the least amount of cases, on average, compared to attorneys in Harris, Travis, Dallas, and Tarrant across all years.

Figure 1



Cases are broken down into juvenile cases, felony cases, and misdemeanor cases. The average attorney juvenile, misdemeanor, and felony caseloads by county over years is represented in Figures 2, 3, and 4, respectively. Attorneys in Bexar County represent the least amount of juvenile, misdemeanor, and felony cases, on average, across all years. Juvenile caseloads in Bexar County most closely resemble those in Tarrant County. The average juvenile caseload for attorneys over the six years is 4.3 for Bexar County and 5.6 for Tarrant County. Misdemeanor caseloads in Tarrant and Dallas County are similar to those in Bexar County. The average misdemeanor caseload for attorneys over the six years for Bexar County, Tarrant County, and Dallas County is 38.6, 42.1, and 45.3, respectively. Felony caseloads in Bexar County are significantly lower than caseloads in all other counties each year.

Figure 2

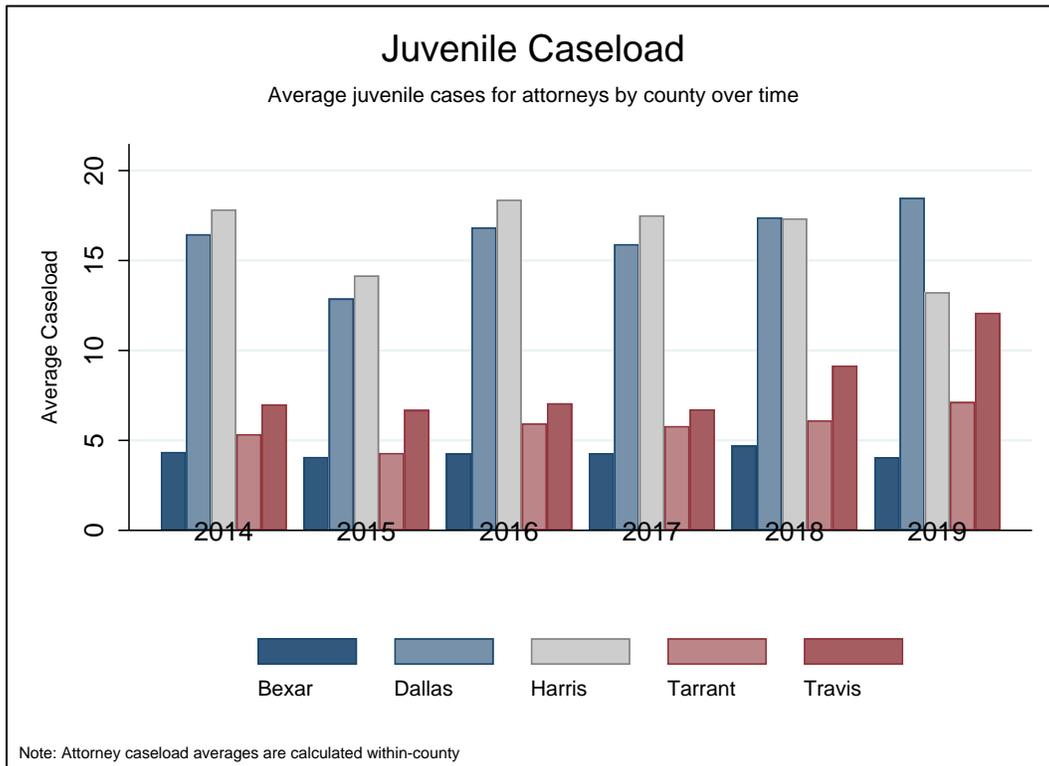


Figure 3

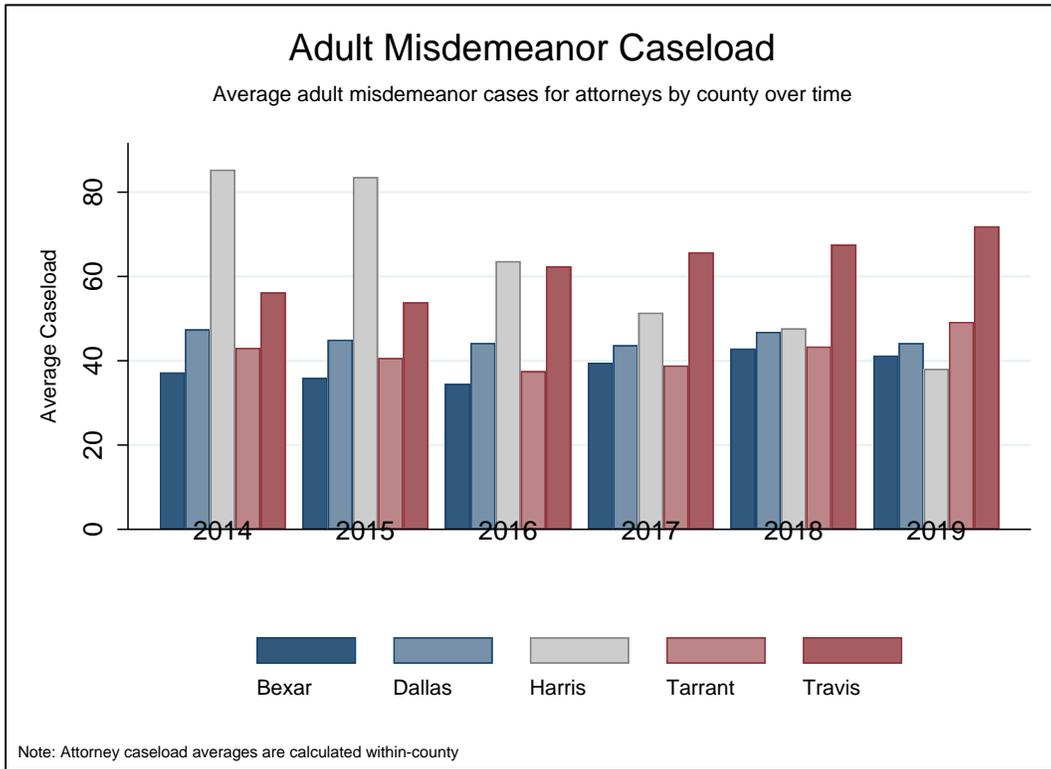


Figure 4

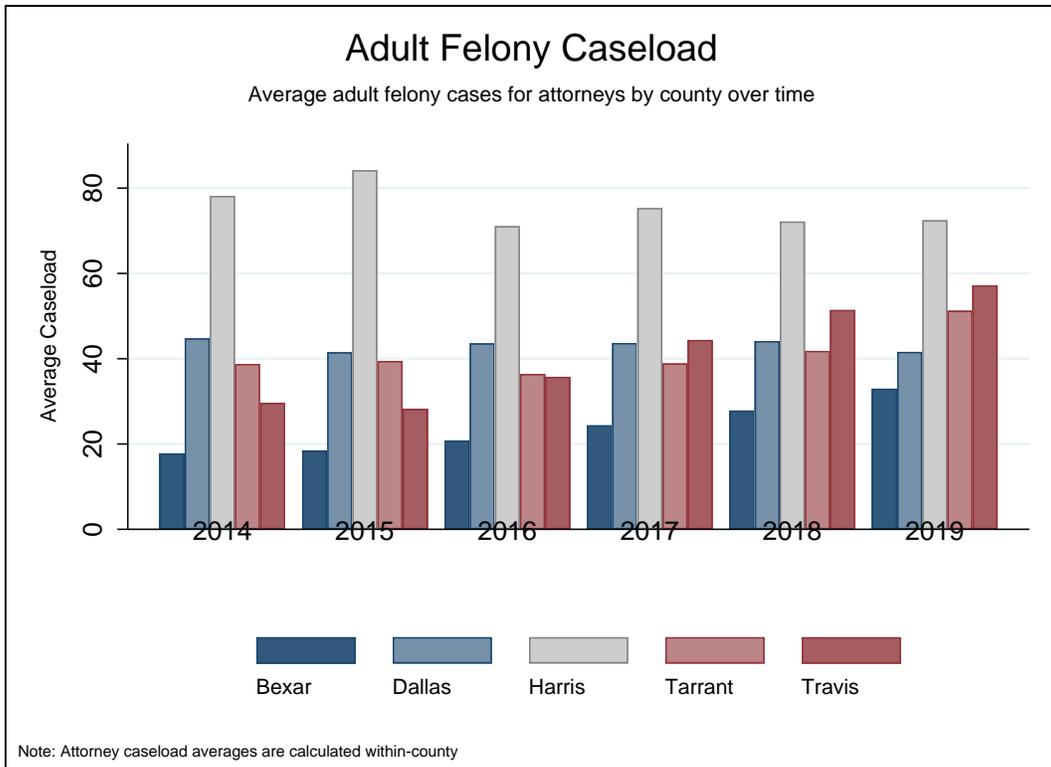


Figure 5 displays the average attorney total caseload payment.

Figure 5

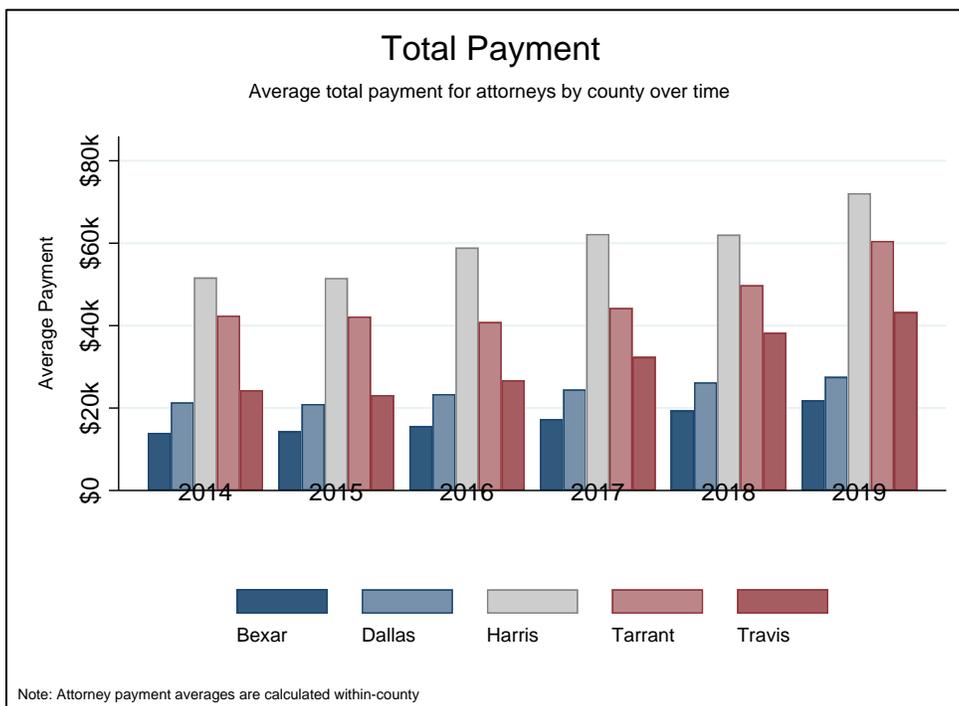


Figure 6 displays the percentage of overburdened attorneys by county, across years.¹⁸ Overburdened represents an above one ratio of all cases (felony, misdemeanor, and appellate) to the suggested case guidelines (as highlighted by Carmichael et al., 2015) assigned to a specific attorney.¹⁹ Texas’ Weighted Caseload Study²⁰ found that for the delivery of reasonably competent and effective representation, attorneys should carry an annual full-time equivalent caseload of no more than the following:

- 236 Class B Misdemeanors
- 216 Class A Misdemeanors
- 174 State Jail Felonies
- 144 Third Degree Felonies
- 105 Second Degree Felonies
- 77 First Degree Felonies

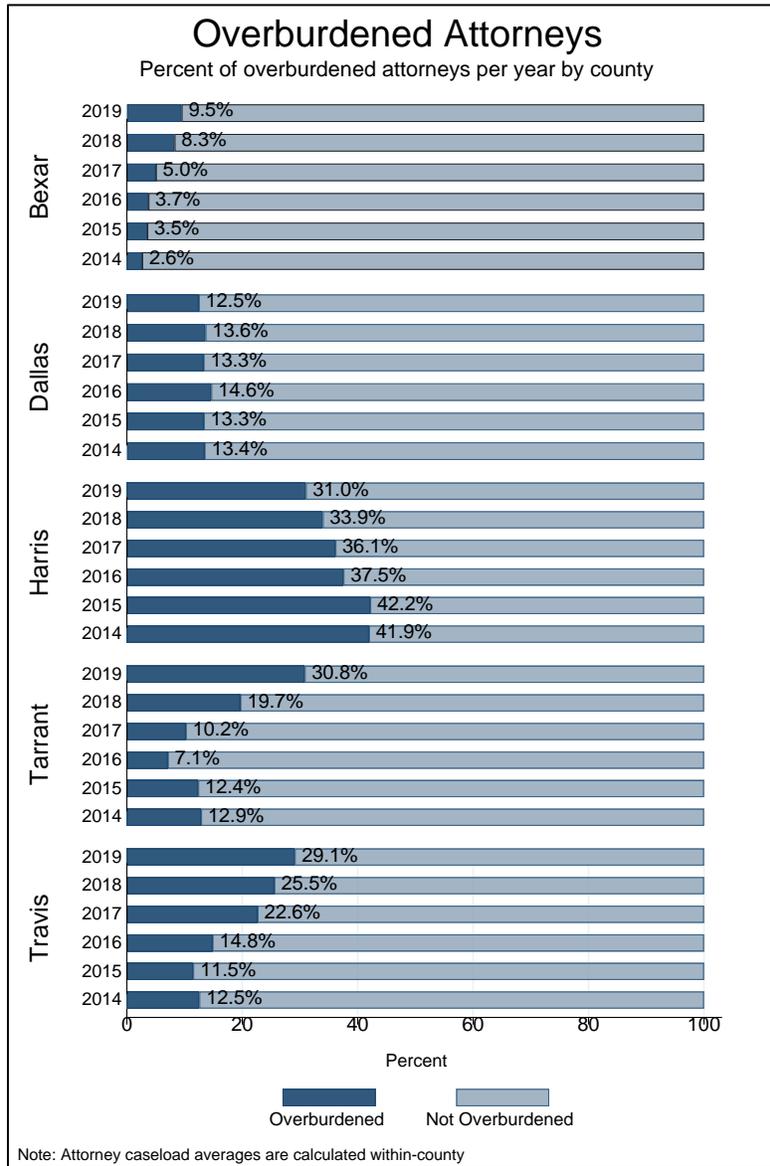
The number of overburdened attorneys in Bexar County is less than the number of overburdened attorneys in all other counties, across years. However, the percentage of overburdened attorneys in Bexar County has increased over time, from 2.6% in 2014 to 9.5% in 2019. This steady increase should be monitored closely to ensure attorneys do not become further overburdened.

¹⁸ Attorney caseloads were calculated within counties. Across county results were similar.

¹⁹ Dottie Carmichael, Austin Clemens, Heather Caspers, Miner Marchbanks, III, Steve Wood, “Guidelines for Indigent Defense Caseloads,” A Report for the Texas Indigent Defense Commission, January 2015.

²⁰ *Supra* note 19.

Figure 6



Court-Appointed Attorney Requirements

All counties in Texas have minimum attorney qualifications specified in their indigent defense plans in order for attorneys to apply to represent court-appointed cases. Appendix B provides the minimum attorney requirements section (as specified in indigent defense plans) of the largest counties to apply and remain on the court appointment wheel. Comparing requirements for applying to be on the appointment wheel across the largest counties, only Harris County utilizes a certification test. Bexar County’s requirements for applying to the court appointment wheel are slightly lower with less trial experience required. Bexar County could increase the trial experience required for attorneys to apply for the appointment wheel. Tarrant County specifies that attorneys taking State Jail Felony cases are required to be licensed for one year and participate in five jury trials prior to applying for court appointments. Bexar County requires one-year prior experience in criminal litigation and participation in at least three criminal jury trials for State Jail Felony cases. For misdemeanor appointments, the largest

counties with the exception of Bexar County require attorneys to be licensed for one year prior to applying to represent court-appointed cases. Bexar County is only behind Tarrant County in their continuing legal education requirements for attorneys to remain on the court appointment wheel. Tarrant County requires 15 hours of CLEs annually for felony cases, and Bexar County requires 12 hours annually.

In terms of financial implications for new appointment and continuing education and testing requirements, more stringent requirements could reduce the number of attorneys who cannot complete these additional requirements, which could lead to less overburdened and better quality attorneys taking court-appointed cases in the county. Given this context, PPRI conducted a comprehensive evaluation of Bexar County's indigent defense system.

Organization of the Report

The report is organized with Chapter 2 explaining the methodology of the study and Chapters 3 and 4 covering quality of service and representation, respectively. Chapter 5 covers outcome measures by different types of representation. Chapter 6 examines the Bexar County Public Defender Office. Chapter 7 contains an evaluation of judicial practices. Chapter 8 presents study recommendations.

Methodology

The Public Policy Research Institute at Texas A&M University used a multi-method approach to examine Bexar County's indigent defense system. Quantitative and qualitative methods were both utilized in the current study. Several data sources were used and analyzed to provide a comprehensive evaluation.

Quantitative Data

The Bexar County Office of Criminal Justice Policy, Planning, and Programs provided a data download of disposed adult criminal cases from the Criminal Justice Information Systems (CJIS) Database from January 2016 to April 2019. The sample included 90,049 unique judicial numbers (54,936 as misdemeanors and 35,113 as felonies) of all disposed cases during that time frame. For the purpose of this report, the data was trimmed to include cases with a first related booking no earlier than January 1, 1990. A defendant can get booked on one judicial number or multiple judicial numbers. In this report, a judicial number is a unique case. Hence, a booking with three judicial numbers on the same day for the same defendant is considered a booking with three different cases. This brought a level of complexity in identifying specific parameters for the study. For instance, while the majority of single bookings with multiple cases are bundled together under the highest charge, many cases take unique paths including different attorneys, dispositions, and overall timeline. Throughout the report, a different analysis sample was created to best examine the specific outcome in question. The data from the CJIS Database allows the research team to analyze type of attorney, timelines, outcomes, and other important case related information. The database included all court events associated with each case. While court events are based on event qualifiers represented by specific code events, many events use the same code and are in text form making it extremely difficult to disentangle accurate case information.

PPRI also utilized indigent defense expenditure report data and attorney caseload data from the TIDC.²¹ The expenditure report and attorney caseload data are yearly county level data. Finally, the research team also collected data on attorney demographics from the State Bar of Texas.

Qualitative Data

PPRI attempted to gather perspectives of stakeholders who are involved in the indigent defense system in Bexar County. Qualitative methods included:

- In-depth interviews with county officials, judges, and attorneys
- Survey of defendants with disposed cases

Interviews

PPRI emailed and called judges and attorneys to inform them about the study and ask for their participation. PPRI received contact information for judges and county officials from the Bexar County Office of Criminal Justice Policy, Planning, and Programs and attorneys from the district and county court administration. PPRI contacted 27 judges and 234 attorneys with request for interviews. Interviews were conducted both in-person and over the telephone. PPRI interviewed 19 county officials, 11 judges, and 43 attorneys. Open-ended interview questions across all interviewees focused on the following themes:

- Quality representation (key attributes)

²¹ See <http://tidc.tamu.edu/Public.Net/>

- Mental health & opioid issues
- Recommendations for improving the indigent defense system

Additionally, each interviewee group was asked specific questions about their position. Judges were asked about morale, vouchers, complaints and discipline concerning court-appointed counsel, their views on attorney compensation, and attorney caseloads. Attorneys were asked questions about the attorney selection process, attorney compensation, and judicial practices. County officials were asked about their morale and complaints against attorneys.

PPRI visited Bexar County on three site visits in the fall of 2019 and spring of 2020 to interview county officials, judges, attorneys, and survey defendants. PPRI staff also observed district court hearings handling docket work.

Defendant Survey

Using the data download from Bexar County, PPRI extracted SID numbers from a random sample. PPRI was able to match addresses to phone numbers and use these numbers to reach defendants who had no pending or active case in Bexar County. Using its survey lab calling center, PPRI contacted defendants about their experiences with the Bexar County indigent defense system. Using those phone numbers, the survey lab was able to complete 102 surveys.

PPRI also traveled to Bexar County to survey defendants at the probation department. Defendants in waiting areas with no pending cases were approached about the survey and asked if they would like to participate. Defendants were asked about their experiences with their court-appointed attorneys. Questions on the survey included attorney-client contact and perceptions of treatment in Bexar County. The research team was able to complete 95 surveys.

Quality of Service

Local jurisdictions are required by the Fair Defense Act of 2001 to provide legal counsel to defendants who cannot afford an attorney,²² with the important caveat that this representation ought to meet constitutional and ethical obligations to the client. PPRI examined the timelines within Bexar County's indigent defense system, including magistration and appointment of counsel.

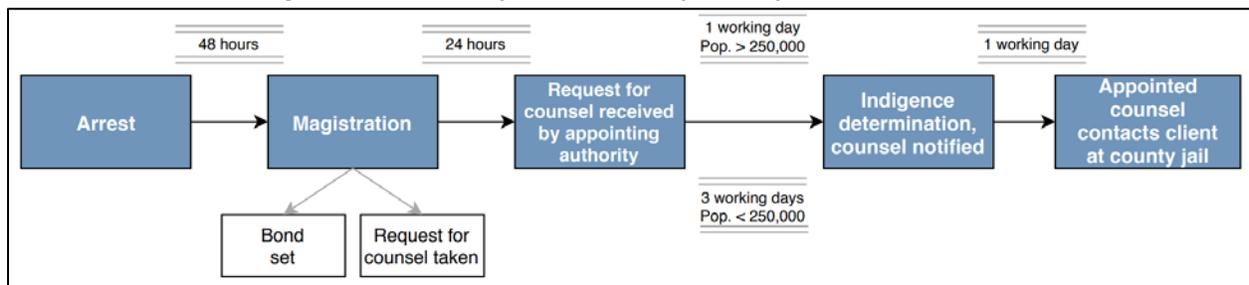
Bexar County Timelines

Bexar County has a central magistration facility where defendants are magistrated. Pretrial Service officers are responsible for conducting risk assessments with defendants pre and post magistration. Pretrial Service officers also initiate the review process to appoint counsel if defendants request a court-appointed attorney.

Statutory Requirements

The statutory timelines governing the appointment of indigent defense counsel are shown in Figure 3-1. Within 48 hours of arrest, the accused must be brought before a magistrate.²³ At the Article 15.17 hearing (magistration), the accused must be informed of their rights and the procedures for requesting counsel. Judges must rule on requests for counsel and appoint counsel within one working day of receiving requests in counties with population of 250,000 or more.²⁴

Figure 3-1: Statutory Timelines Required by Fair Defense Act



ABA Principles & Standards

The ABA Ten Principles of a Public Defense Delivery System²⁵ states in its third principle that:

3. Clients are screened for eligibility, and defense counsel is assigned and notified of appointment, as soon as feasible after clients' arrest, detention, or request for counsel.

²² *Gideon v. Wainwright*, 372 U.S. 335 (1963) applied the right to counsel to felonies; however, the Supreme Court later extended this right to misdemeanor and juvenile cases in *Argersinger v. Hamlin*, 407 U.S. 25, 40 (1972) and *In re Gault*, 387 U.S. 1 (1967), respectively.

²³ Texas Code of Criminal Procedure 14.06

²⁴ Texas CCP 1.051

²⁵ *Supra* note 10.

The ABA's Pretrial Release Standard²⁶ 10-4.1 states that:

"Unless the defendant is released on citation or in some other lawful manner, the defendant should be taken before a judicial officer without unnecessary delay. The defendant should be presented at the next judicial session within [six hours] after arrest. In jurisdictions where this is not possible, the defendant should in no instance be held by police longer than 24 hours without appearing before a judicial officer. Judicial officers should be readily available to conduct first appearances within the time limits established by this Standard."

Bexar County Indigent Defense Plan

Bexar County's indigent defense plan states that the arrested person will be brought before a magistrate within 48 hours of arrest. Additionally, the plan states that counsel will be appointed no later than the end of the first working day after the date the request was received.²⁷

Bexar County Current Practice

PPRI examined quantitative data of disposed cases in Bexar County to assess timelines regarding appointment of counsel. To examine case timelines, the sample is restricted to include only cases where the first attorney assigned to the case was court-appointed.²⁸ Figure 3-2 and Figure 3-3 display timelines for arrest to magistration, magistration to attorney appointment, and attorney appointment to disposition for misdemeanor and felony cases, respectively. The average number of days between arrest and magistration is less than a day for both types of cases.

²⁶ ABA Pretrial Release Standards

https://www.americanbar.org/groups/criminal_justice/publications/criminal_justice_section_archive/crimjust_standards_pretrialrelease_blk/#10-5.1

²⁷ See Appendix A.

²⁸ The sample does not include cases where the first attorney appointed was a public defender or defendant retained counsel. The sample also excludes cases that never had an attorney.

Figure 3-2: Bexar County Misdemeanor Timeline

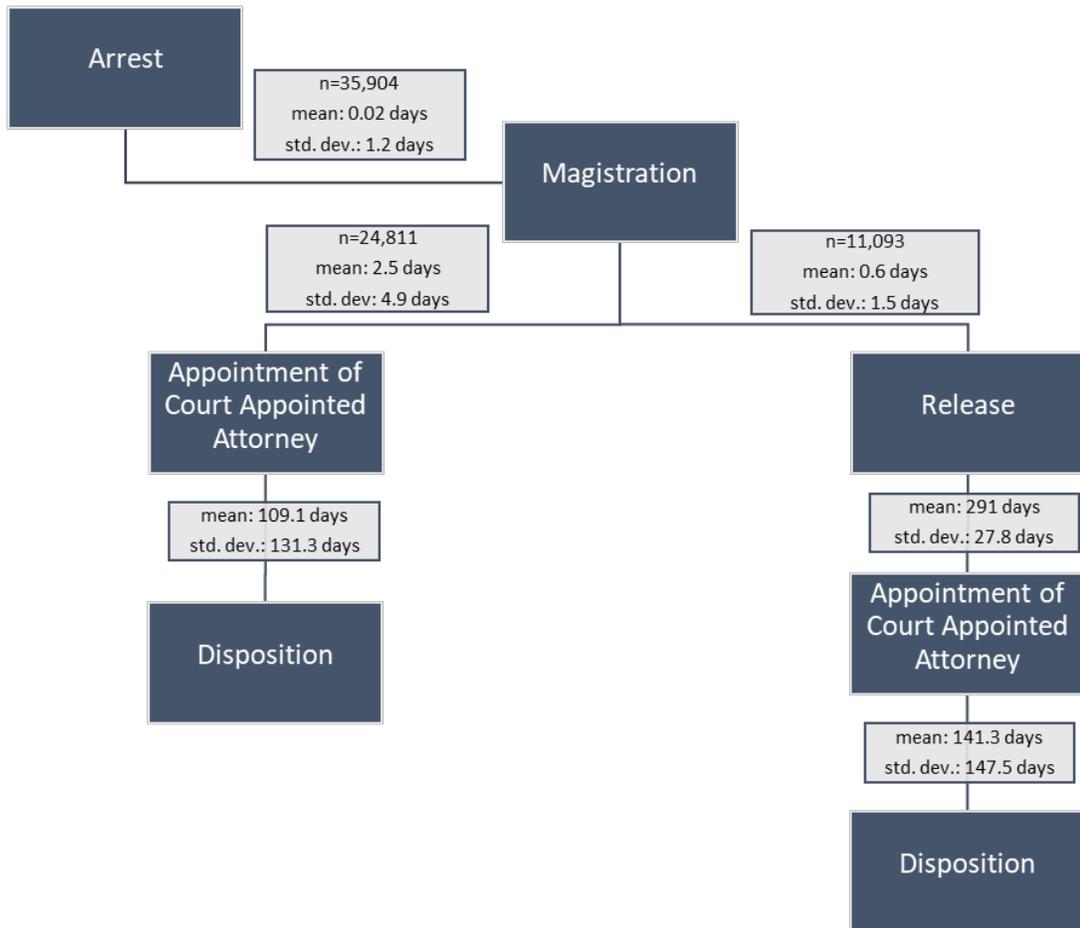
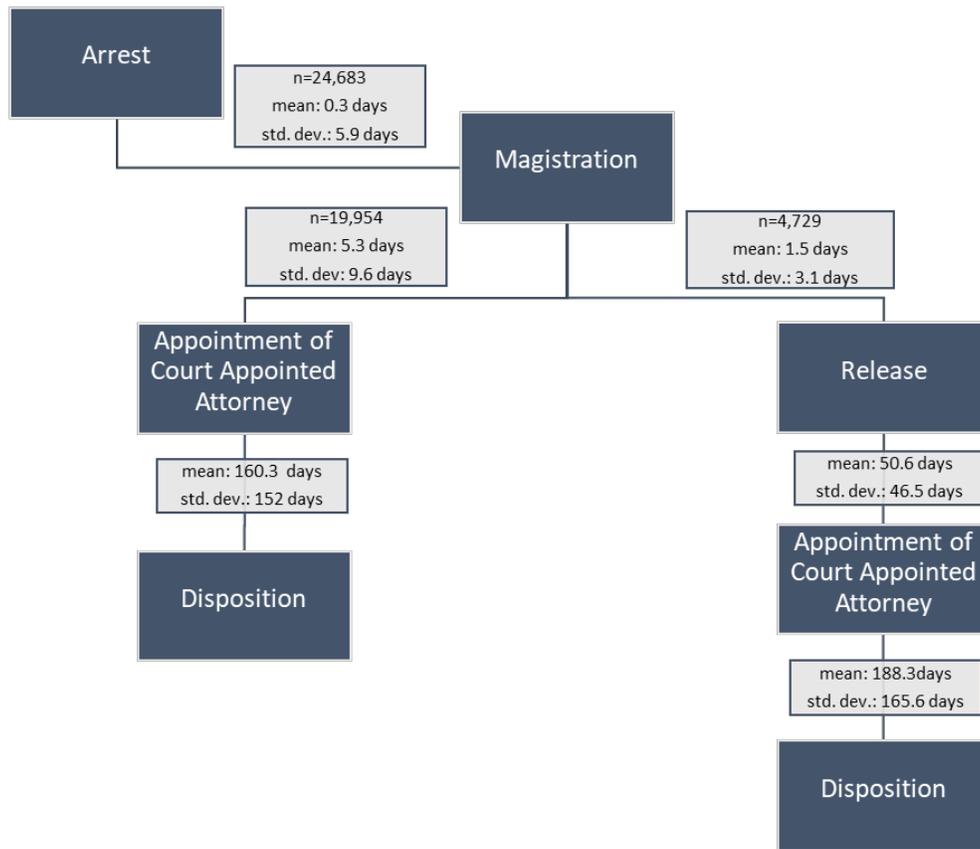


Figure 3-3: Bexar County Felony Timeline



After defendants are magistrates, they may be released before being appointed an attorney. This is the case for 30% of misdemeanor cases and 20% of felony cases. When defendants are released before being appointed an attorney, they will typically be appointed an attorney at their first hearing, which significantly increases the number of days between magistrations and attorney appointment.²⁹ The average number of days between magistrations and attorney appointment for those defendants not released is 2.5 and 5.3 for misdemeanor and felony cases, respectively. For both misdemeanor and felony cases, the average number of days between attorney appointment and disposition is larger for cases that were released before being assigned an attorney. The average number of days for the released cases is 32.2 more days than the 109.1-day average for cases not released for misdemeanors and 28 days more than the 160.3-day average for cases not released for felonies. The average number of days between arrest and disposition for misdemeanors is 129.6 and 179.8 for felonies.

²⁹ Texas Code of Criminal Procedure 1.051 (j) states, “Notwithstanding any other provision of this section, if an indigent defendant is released from custody prior to the appointment of counsel under this section, appointment of counsel is not required until the defendant’s first court appearance or when adversarial judicial proceedings are initiated, whichever comes first.” *Rothgery v. Gillespie County*, 554 US 191 (2008) held, “A criminal defendant’s initial appearance before a magistrate, where he learns the charge against him and his liberty is subject to restriction, marks the initiation of adversary judicial proceedings that trigger attachment of the Sixth Amendment right to counsel. Attachment does not also require that a prosecutor (as distinct from a police officer) be aware of that initial proceeding or involved in its conduct.”

Article 17.03 allows defendants to be released on personal bond.³⁰ Additionally, the ABA Standards surrounding pretrial release state “the law favors the release of defendants pending adjudication of charges.”³¹ Bexar County’s indigent defense plan also states that personal bonds can be utilized to release defendants. Table 3-1 shows additional timelines for misdemeanors and felonies. Most defendants are being released from custody within 10 days for misdemeanors and 50 days for felonies.³²

Table 3-1: Bexar County Time Spent in Custody by Misdemeanors and Felonies

	Misdemeanor	Felony
Average Number of Days Spent in Custody	9.4 days (SD=28.4)	46.9 days (SD=84.5)

A complication of the analysis of time between request for counsel and appointment of a court-appointed attorney is the date of request for a court-appointed attorney is not currently recorded electronically. Pretrial services utilizes a separate system to record data. This system records the date of an interview concerning financial resources, but not the specific request for attorney date. The actual request date for appointment of counsel is not recorded within the CJIS database. Free text entry references for request for counsel were found. However, they were not consistent throughout the data, and a specific event code did not exist making it impossible to know with certainty the date. The county shared a data download from the pretrial service system, but merging the new information with the CJIS database was not possible due to missing key elements such as case number.

Recommendations

Bexar County is currently in compliance with statutory requirements, ABA Standards, and the indigent defense plan for magistration within 48 hours of arrest. In order to precisely measure the timeline between request for counsel and appointment of an attorney, Bexar County needs to specifically record the request date. With this data element, the precise timelines can be analyzed and compliance with statutory requirements can be assessed.

³⁰ Texas CCP 17.03

³¹ ABA Standards of Pretrial Release 10-1.1-10-1.5

³² Average days are calculated by the number of days between arrest and release (for those who were released on bond) and arrest to disposition (for those who were not released on bond). Misdemeanor: *n*=54,930, Felony: *n*=35,115

Attorney-Client Contact

Statutory Requirements

Texas law states that after appointment of counsel is made, counsel must “make every reasonable effort to contact the defendant not later than the end of the first working day after the date on which the attorney is appointed and to interview the defendant as soon as practicable after the attorney is appointed.”³³

ABA Standards

ABA Criminal Justice Standards for the Defense Function 4-1.3 states that defense attorneys “have a duty to communicate and keep the client informed and advised of significant developments and potential options and outcomes.”³⁴

Bexar County Indigent Defense Plan

Bexar County’s indigent defense plan states that counsel must make every reasonable effort to contact the client within one working day of appointment after the date on which the attorney is appointed.³⁵ Additionally, Bexar County’s County Court Plan states that attorneys “shall interview the defendant as soon as practicable after the attorney is appointed; and maintain reasonable communication and contact with the client at all times and keep the client informed of the status of the case.” Failure to “twice or more fail to contact or interview clients in a timely manner as required by Article 26.04(j)(1), Code of Criminal Procedure,” is grounds for removal from the court appointment wheel. Bexar County’s District Court Plan states that, “when an attorney intentionally or repeatedly violates the requirement that the attorney make every reasonable effort to contact the defendant not later than the end of the first working day after the date on which the attorney is appointed and to interview the defendant as soon as practicable after the attorney is appointed,” then this violation is grounds for removal from the court appointment wheel.

Bexar County Current Practice

Although Bexar County does not record the date of initial client contact in the data management system, a sample of defendants were asked about the appointment process and when they were first contacted by their attorney. A little less than half (41%) of defendants did not feel informed about the appointment process, and Table 3-2 shows almost 40% of defendants met their attorney at their first court hearing. Slightly less than 10% (8.4%) of attorneys reached out to their clients by either a letter or email. One fifth of interviewed defendants had an in-person visit by their attorney.

Further, 35% of defendants stated that it took more than three days before their attorney first contacted them. Additionally, 40% of defendants stated they felt it was hard to contact their attorney, and the average number of times defendants stated that they spoke with their attorney throughout their case was 3.7.

³³ Texas CCP 26.04 (j)

³⁴ Another ABA Standard relating to attorney-client contact includes: ABA Standards, Defense Function 4-2.1. See https://www.americanbar.org/groups/criminal_justice/standards/DefenseFunctionFourthEdition/

³⁵ See Appendix A.

Table 3-2: Method of First Contact

Question		Percent
How did your attorney first contact you? (n=191)	In Court	39.3
	In-Person Visit	20.4
	Phone Call	19.4
	No Response	12.3
	Letter	6.3
	Email	2.1

Attorneys were also asked how often they met with their clients on average. While PPRI did not survey attorneys for quantitative responses about methods in which they used to meet their clients, attorneys did provide some of the ways they first interacted with defendants. The most frequently mentioned were jail visits. Attorneys explained that once they received their appointment they would arrange a visit to the jail to see their client. For cases filed on or after September 1, 2019, appointed attorneys could request an additional \$50 if they visited their client at the jail or through the RAV. Other attorneys mentioned utilizing the RAV or talking to their clients over the phone. The RAV is a videoconferencing technology which allows attorneys to meet with their clients. Attorneys can schedule a time with Bexar County Court Administration to utilize the video equipment to meet with clients when their clients are in custody. Attorneys also answered that they tried to see their clients before court while some said they would meet with them in court. Finally, several attorneys said they contact their clients by fax or letter. It was also discussed that if clients were not in jail sometimes they were difficult to locate with a working phone number or accurate address. Attorneys indicated that this problem was difficult to overcome, as it increased the time it took to contact their clients.

Recommendations

In order to comply with the law and ABA Standards, Bexar County needs to track initial client contact. Due to Bexar County’s indigent defense plan stating that attorneys could be removed from the appointment wheel due to lack of timely contact with the defendant, initial attorney-client contact needs to be included as a database field within the new data management system. Such system should be flexible to reflect the variety of ways attorneys reach out to their clients, allowing the county the ability to create reports by type of case, attorney, method of contact, etc.

Attorney Complaints & Discipline

Statutory Requirements

Texas does not have specific statutory requirements regarding attorney complaints.

ABA Standards

The ABA does not have the authority to handle complaints against attorneys. Each state establishes its own agency to manage these issues. The State Bar of Texas has a disciplinary system, which is governed by Rules of Professional Conduct and Rules of Disciplinary Procedure.³⁶ These rules govern professional conduct for counsel when representing defendants, and the rules for disciplinary procedure present the method for filing grievances against attorneys.

Bexar County Indigent Defense Plan

The Bexar County's indigent defense plan does not specifically discuss complaints against attorneys, but it does state that attorneys can be removed from cases if defendants can show good cause.

Bexar County Current Practice

Attorney complaints are not tracked within Bexar County's data management system, but county stakeholders were asked specifically about complaints concerning court-appointed attorneys. Most judges stated that defendants can file a grievance with the grievance committee at the State Bar of Texas if they are having an issue with their attorney. County officials and judges mentioned that it is not uncommon for attorneys not to show up in court. Judges stated that this is a primary reason why they appoint another attorney from the bench. County officials claimed many defendants complain they have not heard from their attorney, and that this happens fairly frequently. A specific data entry code does not exist in the Bexar County data management system to track an attorney not showing up for court. Free text entry is being used to indicate attorneys not showing up for court in event qualifiers, but this entry method prevents systematic analysis. Even with a unique data code, data entry is not consistent throughout creating tremendous complexities and uncertainty in understanding court events.

Judges also discussed how they discipline attorneys and the reasons why they discipline them. Judges regularly meet together and decide whether to remove an attorney from the wheel. Often, judges give attorneys an opportunity to appear before them to explain the situation before removing them from the wheel. However, most judges just remove them from the specific case, but in the case of more serious infractions, judges will refer attorneys to the State Bar for disciplinary actions. Before the referral, judges would hold a hearing to discuss issues. Besides removal from the wheel or referral to the State Bar, other options judges used to discipline attorneys include holding attorneys in contempt or placing them on probation.

Recommendations

Bexar County should track complaints about attorneys in order to ensure attorneys are providing quality representation. Both district and county court administration could keep information about complaints against certain attorneys. If an indigent defense coordinator were employed by the county, this individual could also assist with handling complaints against attorneys. This information could then be provided to judges to better inform their decision-making regarding attorneys on the court appointment wheel. This data element could reflect time sensitive information in which the court needs to be aware

³⁶ See https://www.texasbar.com/AM/Template.cfm?Section=Grievance_and_Ethics_Information1&Template=/CM/HTMLDisplay.cfm&ContentID=50581

of, hence the county should consider best ways to track defendant complaints in an accurate, secure, and timely manner.

Bexar County recently submitted an improvement grant to TIDC to implement an indigent defense attorney monitoring program in the felony courts. This program would implement a review committee made up of San Antonio Criminal Defense Lawyers, a managing attorney, an investigator, and an administrative assistant. The program would review complaints about attorneys from defendants and provide continuing legal education seminars. This program would address some of the issues regarding attorney complaints and dysfunction that are occurring within the indigent defense system.

Bail Reduction

Statutory Requirements

Texas statute allows for bond reductions within certain parameters. A measure of quality service is attorneys filing a bond reduction once a defendant has served 90 days in custody without indictment.³⁷ At this time, defendants are entitled to a personal bond or a bail reduction.

ABA Standards

The ABA Criminal Justice Standards for the Defense Function 4-3.2 states that, “in every case where the client is detained, defense counsel should discuss with the client, as promptly as possible, the client’s custodial or release status and determine whether release, a change in release conditions, or less restrictive custodial conditions, should be sought. Counsel should be aware of applicable statutes and rules, and all alternatives less restrictive than full institutional detention.”³⁸

Bexar County Indigent Defense Plan

Bexar County’s indigent defense plan does not stipulate any requirements for attorneys to file bail reductions in this situation.

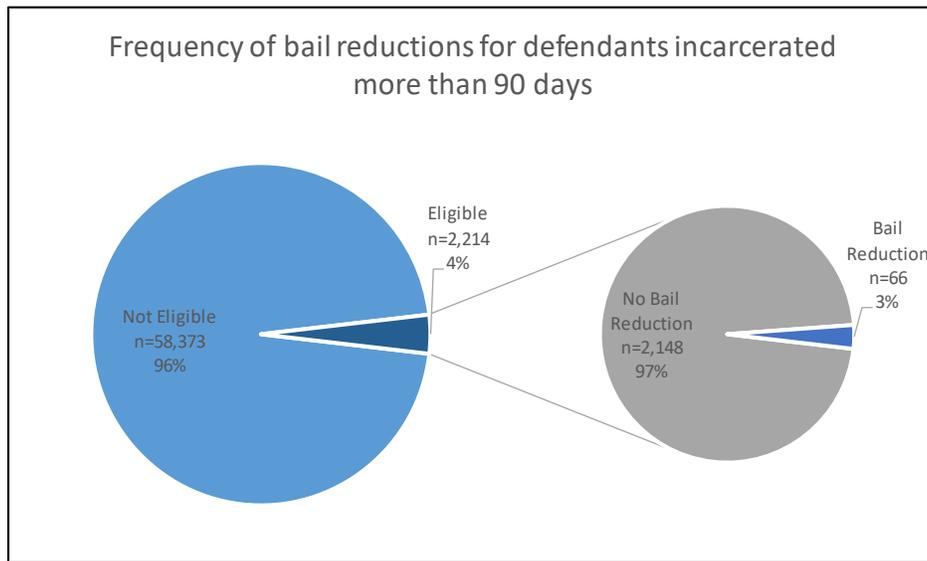
Bexar County Current Practice

Figure 3-4 shows the frequency of which court-appointed attorneys secure bail reductions for cases that are eligible. Defendants are considered eligible for bail reductions if they have been incarcerated more than 90 days without indictment. Only 4% of cases in the sample are eligible for bail reduction. Of the 2,214 cases eligible for bail reductions, 97% do not receive a reduction. This data indicates that of the eligible cases, attorneys are not filing motions for personal bond or a bail reduction.

³⁷ Texas CCP 17.151

³⁸ See https://www.americanbar.org/groups/criminal_justice/standards/DefenseFunctionFourthEdition/

Figure 3-4: Bail Reduction



Recommendations

Texas statute and ABA Standards provide for defendants to be released if the state is not ready to proceed to trial and a defendant is still in custody. If a tracking metric could be placed on a defendant’s case, this could help court coordinators to track this information for the cases that qualify in a particular court.

Conclusion

Although Bexar County is meeting statutory requirements regarding magistration within 48 hours, it is difficult to ascertain compliance with additional requirements due to milestones not tracked within the current Bexar County database. Attorney-client contact and complaints about attorneys are not tracked within the data system. These issues must be addressed in the new data system Bexar County is implementing.

Quality of Representation

In order to evaluate the quality of representation indigent defendants receive, county stakeholders (defendants, judges, county officials, and attorneys) were asked to list key attributes of quality representation. PPRI also examined Bexar County's indigent defense system using the American Bar Association's Ten Principles. Finally, other issues impacting quality representation, including continuing legal education and Bexar County's mental health policies are discussed.

Defendants

PPRI interviewed 197 defendants: 102 over the phone and 95 in person at the probation department and asked defendants three sets of open-ended questions. The first set of questions was, "What does quality representation mean to you? What are the key attributes for good quality representation?" Fifty defendants listed specifically communication or listening were attributes of quality representation in attorneys that they felt were important. Other characteristics mentioned include the attorney cares about and respects the defendant, that they were fair and honest, they provide the same defense as a hired attorney and they explained the case, the court, and the whole process to the defendant.

Table 4-1 shows additional responses concerning quality representation and other perceptions of the criminal justice system from the defendant survey. Almost 50% of defendants felt that their attorney listened to their concerns, and over 50% of defendants felt the outcome of their case was fair. Defendants overall felt positive towards the judge and prosecutor; however, responses about attorneys investing adequate time on cases, court system explanations, and expressing views in court were more negative.

Table 4-1: Defendant Survey Responses

Questions ³⁹	% Answering Yes ⁴⁰
Do you feel like your attorney listened to your concerns? (n=188)	49.5
Do you feel like your attorney invested adequate time on your case? (n=189)	38.6
Whenever the courts didn't hear your case right away, someone explained why you had to wait. (n=194)	35.1
In court, you had the opportunity to express your views. (n=191)	35.1
In court, you understood what was going on. (n=191)	70.7
In court, your defense attorney spoke up on your behalf. (n=190)	67.9
The prosecutor treated you respectfully. (n=192)	61.5
The judge treated you respectfully. (n=192)	83.9
The judge made sure you understood what was going on. (n=192)	79.2
Overall you felt the outcome of your case was fair. (n=192)	56.3
Overall you were treated with respect in court. (n=192)	78.7

³⁹ Some survey questions are from Rachel Swaner, Cassandra Ramadath, Andrew Martinez, Josephine Hahn, and Sienna Walker (2018). *What do defendants really think? Procedural Justice and Legitimacy in the Criminal Justice System*. Center for Court Innovation.

⁴⁰ Defendant Survey Responses: Yes, No, Not Sure

Judges & Other County Officials

Like defendants, judges also cited communication as an important characteristic. Judges stressed the importance of knowing the law, caring about the client, and visiting defendants. Additionally, judges viewed attorneys appearing in court as another essential element of quality representation. Judges mentioned how hearings needed to be reset due to attorneys not showing up in court.

While communication and listening to the client were mentioned by county officials, contact or visiting the client were discussed more. Competency or mental health, advocating for the client, returning the client's phone calls and investigating the case thoroughly were also key attributes stated by county officials. Several county officials also stressed the cost of representation and had concerns about the quality of representation defendants are currently receiving.

Attorneys

Like defendants and judges, attorneys cited communication as a top attribute. Communication was followed by investigation, research, and discovery in cases. Attorneys stressed the importance of explaining the case to the client, visiting or meeting with the client, providing the same defense as they do for their retained clients, understanding the case and knowing the law. Of interest, only one attorney listed showing up for court as an indicator of quality. Based on other qualitative data, this seems to be a key concern for other county stakeholders.

Defining quality of representation is not straightforward as it involves multiple aspects of indigent defense. However, as Table 4-3 below suggests, communication was consistently mentioned across the three main parties of defense: judges, lawyers, and defendants. Thorough investigation was another characteristic highlighted across stakeholders with the exception that defendants did not specifically mention this attribute in their responses.

Table 4-3: Quality of Representation

What are the key attributes of quality representation?	Defendants	Judges	County Officials	Attorneys
Communication	X	X	X	X
Thorough investigation		X	X	X
Appearing in court		X	X	X
Research		X		X
Provide same defense as hired attorney	X			X
Explanation of process/case	X			X
Knowing the law		X		X
Visiting/meeting with the defendant		X		X
Caring/respect	X			
Fair & honest	X			
Competency/mental health issues			X	
Advocate for client			X	
Return phone calls			X	
Discovery				X

Bexar County Indigent Defense System

PPRI examined Bexar County’s indigent defense system using the American Bar Association’s Ten Principles of a Public Defense Delivery System.⁴¹ Bexar County’s indigent defense system is already fulfilling several of these principles. Currently, a Public Defender Office and the private defense bar represent indigent defendants in Bexar County. Bexar County requires an application where attorneys must provide their qualifications and experience in order to begin taking cases from the appointment wheel. Defense counsel attend continuing legal education courses in order to remain on the appointment wheel.

However, several issues still remain. The public defense function, including requests for investigation, is still currently under the judge’s discretion. In Bexar County, court-appointed attorneys must ask judges for funding to conduct investigations, not an independent entity. Additionally, the private bar’s caseloads are not monitored to ensure attorneys are not overburdened. Most importantly, there does

⁴¹ *Supra* note 10.

not appear to be an adequate system in place to supervise and review attorney performance for quality and efficiency metrics in Bexar County. Many quality indicators are not currently tracked. Quality indicators that are not tracked include attorney-client contact, complaints about attorneys, and attorneys not appearing in court. Many of these indicators were highlighted qualitatively by stakeholder groups in Table 4-3.

Continuing Legal Education (CLE) Requirements

Statutory Requirements

The Fair Defense Act established requirements regarding attorneys' minimum legal education requirements for indigent defense representation.⁴² Texas Administrative Code Section 174.1. states that an attorney may be appointed only if the attorney:

“Completes a minimum of six hours of continuing legal education pertaining to criminal law during each 12-month reporting period. The judges of criminal courts of the county shall set the 12-month reporting period applicable to the jurisdiction. Continuing legal education may include activities accredited under Section 4, Article XII, State Bar Rules, self-study, teaching at an accredited continuing legal education activity, attendance at a law school class or legal research-based writing. The judges may require attorneys to complete more than the minimum number of hours of continuing legal education in criminal law in the procedures developed under Article 26.04, Code of Criminal Procedure; or (2) Is currently certified in criminal law by the Texas Board of Legal Specialization.”⁴³

ABA Principles

Two ABA principles are directly related to continuing legal education requirements:

6. Defense counsel's ability, training, and experience match the complexity of the case.
9. Defense counsel is provided with and required to attend continuing legal education.

Bexar County Indigent Defense Plan

Bexar County's County Court indigent defense plan requires:

“An attorney shall complete a minimum of six (6) hours of CLE in the area of Criminal law within 30 days from the date the attorney submits their application to be on the appointment list. In addition to those six (6) hours of CLE in Criminal Law, an attorney must provide proof of either a CLE course in Immigration Law or an Immigration component within another CLE course. There is no minimum required number of hours needed for the Immigration Law requirement. Said attorney shall take any Texas State Bar accredited course dedicated to Criminal Law, including, but not limited to, the San Antonio Criminal Defense Lawyer's Association Annual Nuts & Bolts course;

In addition to the requirements to receive court appointments set out above, attorneys applying for misdemeanor appointments must maintain a minimum of six (6) hours of CLE in Criminal Law and an additional CLE course or component in Immigration law as set forth above annually. All attorneys on the appointment list must submit proof of these hours on an annual basis to County Court Administration (by January 15th each year). Attorneys need only submit a copy of

⁴² See http://www.tidc.texas.gov/media/5922/FDACodified2013FINAL_Revised.pdf

⁴³ TAC Sec. 174.1.

their State Bar MCLE page to show proof of these hours. We will accept courses within a one-year period immediately preceding (calendar year) to satisfy these hours. As an alternative to meeting the CLE requirements, an attorney may be currently certified in Criminal Law by the Texas Board of Legal Specialization”

Bexar County’s District Court indigent defense plan requires:

“1. To qualify for any felony appointment, including appeals and post-conviction writs/DNA motions, an attorney must have completed ten hours of CLE in criminal law or procedure in the past year, including carryover from the previous year only. Also, a State Bar approved Legislative Update Seminar must be attended in any year the Legislature meets.

2. To qualify for the State Jail Felony list, an attorney must have at least one-year prior experience in criminal litigation, and prior experience as lead or co-counsel in at least three criminal jury trials.

3. To qualify for the Second and Third Degree Felony list, an attorney must have at least two years prior experience in criminal litigation, and prior experience as trial counsel in two or more felony jury trials, as lead or co-counsel.

4. To qualify for the First Degree and 3(g) Felony list, an attorney must either be board certified in criminal law, OR

- have at least four years prior experience in criminal litigation; and
- have prior experience as trial counsel in four felony jury trials in the last five years, having served as lead counsel in at least two of those trials; and
- have completed twelve hours of CLE in criminal law or procedure in the last calendar year. Suggested courses are: The Criminal Law Institute (offered annually by the SABA), Advanced Criminal Law Course (offered in San Antonio once every four years), The Short Course (offered annually by the TCDLA). Other courses authorized by the State Bar of Texas in criminal law or procedure are acceptable.”

Bexar County Current Practice

Attorneys on court appointment lists must complete continuing legal education requirements to remain on the appointment wheel. Every year, court-appointed attorneys in Bexar County are required to provide records of their fulfillment of CLE requirements. PPRI extracted a random sample of 100 attorney applications from the appointment list and examined their CLE records for compliance with the CLE standards stated in the county’s indigent defense plan.⁴⁴ All attorneys were current with their CLE requirements.

Recommendations

Bexar County must continue to monitor compliance with continuing legal education requirements. Compliance is currently tracked manually using email submission of documents. If continuing legal education compliance was added to the data management system, tracking of completion of annual requirements would be streamlined easily allowing the creation of reports for judges and other interested parties.

⁴⁴ See Appendix A.

The state of Texas statutorily requires minimum continuing legal education requirements for court appointed attorneys. However, counties can implement more stringent requirements to be on the appointment wheel. As previously discussed, Bexar County could increase the number of continuing legal education hours to apply and remain on the appointment wheel, as other large counties in Texas require. Bexar County could increase the number of hours from 12 to 15 for felony cases. In order to remain an active member of the State Bar of Texas, attorneys must complete 15 hours of CLEs during the compliance year.⁴⁵

While no standards specifically mention the number of hours needed to ensure quality representation for court appointed attorneys, it is crucial for all counties to ensure the minimum qualifications are met and examine if the number of hours required should be increased based on attorney performance.

Mental Health & Opioid Issues

Statutory Requirements

Article 16.22 of the Texas Code of Criminal Procedure provides procedures for early identification of defendants suspected of having mental health illness or Intellectual disability.⁴⁶ The statute states:

“Not later than 12 hours after the sheriff or municipal jailer having custody of a defendant for an offense punishable as a Class B misdemeanor or any higher category of offense receives credible information that may establish reasonable cause to believe that the defendant has a mental illness or is a person with an intellectual disability, the sheriff or municipal jailer shall provide written or electronic notice to the magistrate. The notice must include any information related to the sheriff’s or municipal jailer’s determination, such as information regarding the defendant’s behavior immediately before, during, and after the defendant’s arrest and, if applicable, the results of any previous assessment of the defendant.”

Additionally, Article 17.032 provides for the release of defendants on personal bond with a mental illness or intellectual disability.⁴⁷

ABA Standards

ABA Criminal Justice Standards for the Defense Function 4-5.2 (c) states that:

“If defense counsel has a good faith doubt regarding the client’s competence to make important decisions, counsel should consider seeking an expert evaluation from a mental health professional, within the protection of confidentiality and privilege rules if applicable.”⁴⁸

Bexar County Indigent Defense Plan

The Bexar County’s indigent defense plan discusses the Bexar County Public Defender Office handling mental health cases.

⁴⁵ See

https://www.texasbar.com/AM/Template.cfm?Section=Definition_of_MCLE_Credit&Template=/CM/HTMLDisplay.cfm&ContentID=49945

⁴⁶ Texas CCP 16.22

⁴⁷ Texas CCP 17.032

⁴⁸ See https://www.americanbar.org/groups/criminal_justice/standards/DefenseFunctionFourthEdition/

The County Court Plan states:

“Public Defender’s Office for Mental Health Cases - Any defendant charged with a misdemeanor offense who 1) has been deemed to have mental health issues, 2) who is found to be indigent, and 3) who requests a court appointed attorney, may be assigned to the Bexar County Public Defender’s Office. The Pre-trial or booking officer will enter an "M" code on all cases that request a court appointed attorney and who have been identified as having mental health issues. The "M" Code will appoint the Public Defender's Office to represent those mental health cases for each misdemeanor category of offense. All other cases will be passed on to the "attorney rotation wheel" as set forth in Section III.”

The District Court Plan states:

“By standing order, the Bexar County Public Defender's Office is appointed to represent indigent arrested persons and/or arrested persons who suffer from a mental illness during the arrested person's appearance before the magistrate at the Central Magistration (CMAG) facility, if the arrested person requests counsel, does not already have counsel on record, and financially qualifies. The appointment of the Bexar County Public Defender's Office shall be for the limited purpose of representation of the mentally ill and/or indigent arrested person during the magistration process and related solely to the determination of the bond and the conditions of the bond for the arrested person. The limited appointment of the Bexar County Public Defender's Office is concluded upon the termination of the magistration proceedings and no motion to withdraw is necessary. At that point the indigent arrested person shall be appointed counsel according to the procedures outlined in this plan, to represent that person for the remainder of the case.”

Bexar County Current Practice

Another aspect of quality representation is providing adequate assistance to defendants with mental health issues. Bexar County has invested a great deal of resources to assist defendants with mental health issues. Bexar County established a Mental Health Consortium, with involvement from community resource groups and criminal justice system stakeholders. Some of the community resources include the Center for Health Care Services and the Methodist Healthcare Ministries. The Reentry Center is also another resource in the community that provides wraparound services to defendants. The Reentry Center was created by the Bexar County Reentry Council in 2016, a working group to address issues with reentry. Additionally, Bexar County has a Specialty Courts Coalition, which includes Mental Health Courts, Drug Courts, DWI Courts, Veteran’s Court, a Domestic Violence Specialty Court, and Esperanza Court (Prostitution Prevention Court). The Bexar County Public Defender Office has felony and misdemeanor mental health attorneys who specialize in these issues and practice in the mental health courts.

Bexar County stakeholders were asked about mental health issues and the opioid crisis. County officials stated Bexar County is in the midst of a lawsuit against pharmaceutical companies.⁴⁹ County officials did not comment due to the ongoing litigation. Attorneys also did not want to comment on the opioid crisis,

⁴⁹ Quixem Ramirez and Joe Galli, 2019, Bexar County suing for over \$1 billion in opioid case; trial date set for 2020, available at <https://news4sanantonio.com/news/local/bexar-county-seeking-over-1-billion-in-opioid-case-trial-date-set-for-2020>

but others felt that some other drugs (heroin, meth, and synthetic cannabis) are a bigger problem or crisis than opioids.

Judges approached mental health issues from a fiscal perspective, stating that there was still not enough funding or resources for Bexar County to adequately address mental health issues. Attorneys felt Bexar County did well assisting defendants with mental health issues, yet most attorneys added there was room for improvement. Several attorneys observed the benefits of mental health programs were helping with diverting some defendants from jail. Other county officials who were asked about Bexar County's mental health programs noted that there were questions on arrest intake forms now to specifically address the mental health of defendants. Several officials also noted that there had been several deaths in the jail indicating the mental health problems had not yet been adequately addressed.

Defendants were not asked specifically how they thought the Bexar County criminal justice system handles mental health issues; however, several commented that they felt their own mental health issue was not addressed. They also noted there was a lack of communication with defendants who were mentally ill as well as a lack of training in how to treat defendants with mental illness by the police. Overall, defendants felt that their mental health issues were not adequately handled by Bexar County staff.

Recommendations

Bexar County has invested a great deal of resources in mental health services for defendants according to judges, attorneys, and county officials. However, more resources may be needed based on stakeholder feedback. Other counties specifically utilize a mental health appointment wheel. Attorneys on the mental health wheel have specific training requirements in order to qualify for appointment to mental health cases. Bexar County utilizes the Public Defender Office for mental health cases.

Conclusion

Defendants felt positive towards many aspects of the Bexar County indigent defense system, but there were still significant issues mentioned. While stakeholders differed on the metrics they valued as components of quality representation, communication was a key attribute across all stakeholder groups. Bexar County is attempting to address these issues, but other issues still remain. Most importantly, key quality metrics concerning initial attorney-client contact and attorneys not appearing in court are not tracked within the current data system.

Comparison of Representation

As previously discussed, Bexar County requested an evaluation concerning the types of representation utilized within the county. Bexar County currently has three types of representation: court-appointed counsel, retained counsel, and the Public Defender Office. However, due to the lack of comparative data for the Bexar County Public Defender Office, results for the Public Defender Office are presented in a separate chapter.

Statutory Requirements

Section 79.036 of the Texas Government Code states that counties must provide indigent defense plans to the Texas Indigent Defense Commission. These plans must describe all of the procedures utilized by the county to provide indigent defendants with counsel.

ABA Principles

The ABA Ten Principles of a Public Defense Delivery System⁵⁰ states in its second principle that:

2. Where the caseload is sufficiently high, the public defense delivery systems consists of both a defender office and the active participation of the private bar.

Bexar County Indigent Defense Plan

The Bexar County indigent defense plan provides provisions for the Bexar County Public Defender Office to be appointed to represent mental health cases. All other cases are to be handled by court appointed attorneys from the rotation wheel.

Bexar County Current Practice

The mechanisms driving disparities in case outcomes are multifaceted. Discerning these potential facets and the extent to which they influence case outcomes is crucial to the success and wellbeing of defendants and the indigent defense system. Cases with court-appointed counsel often result in less favorable outcomes than cases represented by retained counsel or public defenders. However, it cannot be assumed that disparities in outcomes are solely attributed to type of representation. There may be systematic differences in defendant, case, and attorney characteristics between assigned and retained counsel, making it difficult to disentangle the factors driving the representation gap in case outcomes. Tables 5-1 to 5-9 provide summaries of defendant, case, and attorney characters broken down by the type of the last attorney representing the case before the first disposition for misdemeanor and felony cases, respectively.⁵¹

The sample includes only cases that were booked between January 1, 2016 and April 30, 2019 with an offense date on or after January 1, 1990. Overall, there are 71,249 unique cases, 60% being misdemeanor cases and the remaining felonies. Approximately 80% of misdemeanor and felony cases are represented by court-appointed counsel.

⁵⁰ *Supra* note 10.

⁵¹ The last attorney on a case is assumed to have the most impact on case outcomes.

PPRI examined the apparent differences in observable defendant and case characteristics, represented in Tables 5-1 and 5-2. Defendants are relatively similar in regards to age and gender across attorney types for misdemeanor cases. Both types of attorneys represent mostly males in their early to mid-30's. Defendants represented by retained counsel are more likely to be white and less likely to be black than those represented by court-appointed attorneys. Defendants who retain counsel are about 8 percentage points less likely to be black than defendants who are represented by court-appointed counsel.

Table 5-1: Misdemeanor Defendant Characteristics for Court-Appointed Counsel and Retained Counsel

	Court-appointed (n=34,038)	Retained (n=8,243)
A. Defendant Characteristics		
	Mean	Mean
Male	73.6%	74.2%
Age at Offense	32.3	32.4
White	45%	56.1%
Black	17.7%	9.5%
Hispanic	36.2%	32.5%
Charges per Booking Day	1.2	1.0
Previous Charges	0.9	0.4

When a defendant is booked, the average number of charges a defendant has is similar across attorney types. However, defendants represented by retained counsel have fewer previous charges than defendants represented by court-appointed counsel, implying that court-appointed counsel represent defendants with more serious criminal histories. Retained counsel are also more likely to represent cases with higher level charges.

Table 5-2: Misdemeanor Case Characteristics for Court-Appointed Counsel and Retained Counsel

	Court-appointed (n=34,038)	Retained (n=8,243)
B. Case Characteristics		
	Mean	Mean
MA	45.7%	51.3%
MB	54.3%	48.7%

Table 5-3 reveals differences in attorney characteristics across attorney type. Two measures are used to examine experience – years since law school graduation and the number of cases previously represented, both measured at the date of attorney appointment. Looking at years since graduation, court-appointed and retained counsel have a similar level of experience.

When looking at previous cases, court-appointed attorneys have more experience than retained counsel for misdemeanors and less experience than retained counsel. The number of cases previously represented within a year is used to measure caseload at the time of appointment. For misdemeanors, when a court-appointed attorney is assigned a case, they have represented 43.3 more cases that year than retained counsel, on average.

Table 5-3: Misdemeanor Attorney Characteristics for Court-Appointed Counsel and Retained Counsel

	Court-appointed (n=34,038)	Retained (n=8,243)
C. Attorney Characteristics		
	Mean	Mean
Years of Experience	19.1	19.3
Previous Cases	148.9	105.6
Percent Misdemeanors	74.4%	60.2%
Percent Assigned	93.3%	41.1%

Table 5-4 suggests that cases represented by assigned counsel result in worse outcomes. Misdemeanor cases represented by retained counsel are more likely to be dismissed and receive deferred adjudication than cases represented by assigned counsel. Cases represented by retained counsel are 13.3 percentage points more likely to be dismissed than cases represented by court-appointed counsel. The percentage point difference between defendants incarcerated with retained counsel and defendants incarcerated with assigned counsel is largest for misdemeanor cases. Defendants represented by retained counsel are 32.5 percentage points less likely to be incarcerated than defendants represented by assigned counsel. The average sentence length for defendants represented by court-appointed counsel is 20 days longer than the average sentence length for defendants who retained counsel.

Table 5-4: Misdemeanor Case Outcomes for Court-Appointed Counsel and Retained Counsel

	Court-appointed (n=34,038)	Retained (n=8,243)
D. Case Outcomes		
	Mean	Mean
Guilty Plea/Nolo Contendere	47.0%	27.5%
Guilty by Trial	<1%	<1%
Acquittal by Trial	<1%	<1%
Deferred Adjudication	17.7%	23.7%
Dismissal	34.9%	48.2%
Probation	<1%	15.3%
Incarcerated	47.1%	14.6%
Sentence (Days)	29.3	9.3

Another component of the driving force behind disparities in outcomes for cases with different types of representation is attorney effort. The amount of effort exerted on a case by counsel is not directly observable; however, two proxies can be utilized to indicate attorney effort – the length of time between arrest and first disposition and if there are hearing resets after counsel is assigned/retained. Shorter case lengths can allow jailed defendants to avoid losing employment if they remained in custody. However, some defendants may enter pleas too quickly to avoid these outcomes and resolve the case rapidly. Shorter case length may also be motivated by caseloads and payment. To insure that all indigent individuals will be represented, court-appointed counsel may have to take on a large number of cases, making it difficult to provide quality representation due to time constraints. Low compensation can also result in a decrease in the amount of time spent on cases if the compensation does not justify the additional effort required to spend the appropriate amount of time. From Table 5-5, court-appointed counsel resolve cases 105 days sooner than retained counsel for misdemeanors and 80 days

sooner than retained counsel for felonies. Cases represented by retained counsel are 20 percentage points more likely to have a hearing reset for misdemeanors, while the percentage of hearing resets between retained and assigned counsel is similar for felony cases. Hearing resets can indicate that counsel is not appearing in court or they are not prepared to proceed with the case. However, in the CJIS database, case resets are not shown by party, meaning the system does not indicate whether the prosecution or defense is requesting the delay. Additionally, bail reductions are similar for misdemeanors across attorney type; however, retained attorneys are more likely to secure bail reductions in felony case for their clients compared to court-appointed attorneys.

Table 5-5: Measures of Attorney Effort by Court-Appointed and Retained Counsel for Misdemeanors and Felonies

	Court-appointed		Retained	
	Mean		Mean	
	Misdemeanors			
	(n=34,038)		(n=8,243)	
Hearing Reset After Appointment	15.1%		35.0%	
Case Length (days)	126.6		231.7	
Bail Reduction	0.9%		0.6%	
	Felonies			
	(n=23,315)		(n=5,653)	
Hearing Reset After Appointment	36.5%		35.8%	
Case Length (days)	173.3		253.6	
Bail Reduction	1.4%		2.7%	

PPRI examined the apparent differences in observable defendant and case characteristics for felonies, represented in Tables 5-6 and 5-7. Defendants are relatively similar in regards to age and gender across attorney types for felony cases. Both types of attorneys represent mostly males in their early to mid-30's. Defendants represented by retained counsel are more likely to be white and less likely to be black than those represented by court-appointed attorneys. Additionally, state jail felonies are more likely to be represented by retained counsel; however, first degree felonies are more likely to be represented by retained counsel.

Table 5-6: Felony Defendant Characteristics for Court-Appointed Counsel and Retained Counsel

	Court-appointed (n=23,315)		Retained (n=5,653)	
A. Defendant Characteristics				
	Mean		Mean	
Male	76.7%		80.2%	
Age at Offense	34.7		33.9	
White	35.8%		45.1%	
Black	16.7%		11.6%	
Hispanic	46.7%		42.2%	
Charges per Booking Day	1.4		1.4	
Previous Charges	1.2		0.9	

Table 5-7: Felony Case Characteristics for Court-Appointed Counsel and Retained Counsel

	Court-appointed (n=23,315)	Retained (n=5,653)
B. Case Characteristics		
	Mean	Mean
FC	0.1%	0.1%
F1	8.1%	14.0%
F2	14.5%	16.4%
F3	30.4%	40.1%
FS	47.4%	31.2%

Table 5-8 displays attorney characteristics for felony cases. Both retained and court-appointed counsel have similar years of experience, with retained counsel only slightly higher. The average caseload for court-appointed and retained counsel is similar for felony cases. When looking at previous cases, court-appointed attorneys have less experience than retained counsel for felony cases.

Table 5-8: Felony Attorney Characteristics for Court-Appointed Counsel and Retained Counsel

	Court-appointed (n=23,315)	Retained (n=5,653)
C. Attorney Characteristics		
	Mean	Mean
Years of Experience	21.6	22.3
Previous Cases	122.6	136.4
Percent Misdemeanors	47.1%	47.3%
Percent Assigned	87.4%	41.2%

Table 5-9 displays felony cases outcomes by attorney type. Cases with retained counsel are 11.7 percentage points more likely to be dismissed. Cases represented by retained counsel are also less likely to have a guilty plea/nolo contendere and less likely to result in incarceration. The average sentence length for defendants represented by court-appointed counsel is 75.5 days longer than the average sentence length for defendants who retained counsel.

Table 5-9: Felony Case Outcomes for Court-Appointed Counsel and Retained Counsel

	Court-appointed (n=23,315)	Retained (n=5,653)
D. Case Outcomes		
	Mean	Mean
Guilty Plea/Nolo Contendere	41.8%	31.0%
Guilty by Trial	<1%	<1%
Acquittal by Trial	<1%	<1%
Dismissal	49.8%	61.5%
Probation	<1%	11.8%
Incarcerated	41.5%	22.4%
Sentence (Days)	479.0	403.5

Recommendations

Bexar County officials need to monitor attorney performance. Indicators of attorney performance apart from case length and outcomes include hearing resets and attorneys not appearing in court. In the current data system, hearing resets are tracked, but the party requesting the reset is not. Additionally, attorneys not appearing in court are not tracked. If these variables were included in the data management system, the metrics could provide valuable and timely insight into attorney performance.

Multivariate Logistic Regression Analysis

This section briefly summarizes the results from a multivariate logistic regression analysis. A multivariate logistic regression allows us to identify whether court appointed attorneys influence case outcomes while accounting for other possible factors (such as case, defendant, and attorney characteristics), which could also affect those outcomes. Accounting for these factors allows us to examine if disparities in outcomes persist when the same attorney is representing cases as assigned and retained counsel in the same year. Case outcomes evaluated in this section are dismissal, guilty/nolo contendere plea, and incarceration. The findings are summarized below:

- In terms of dismissals:
 - Court-appointed attorneys are less likely to be associated with dismissals relative to retained counsel.
- In terms of pleas:
 - Court-appointed attorneys are more likely to be associated with pleas relative to retained counsel.
- In terms of incarcerations:
 - Court-appointed attorneys are more likely to be associated with incarcerations relative to retained counsel.

Conclusion

PPRI examined case elements and outcomes by attorney type. Retained counsel tend to be associated with better case outcomes compared to court-appointed counsel. A logistic regression analysis also obtains similar results.

Bexar County Public Defender Office

As previously mentioned, the Public Defender Office is made up of the following divisions: appellate, misdemeanor and felony mental health, mental health civil, misdemeanor trial (only operates in courts where judges elect to have the Public Defender) and magistration. As of the Fall of 2019, the Bexar County Public Defender Office was comprised of 20 attorneys (one of which is the Chief Public Defender). In order to contact clients, the Bexar County Public Defender Office requested and has their own private RAV station for the public defenders to utilize.

Currently, the Bexar County Public Defender has a limited and specialized caseload, representing mental health cases. These cases are often very complex and present unique challenges. The office could represent more cases; however, qualitative interviews indicated that not all courts utilized the Public Defender Office as a resource. It should also be noted that public defenders represent misdemeanor cases, but their caseload is very small compared to court-appointed and retained counsel.⁵²

Due to differences in representation and the significantly different number of observations across all attorney types, direct comparisons between outcomes for court-appointed, retained counsel, and public defenders could not be completed. Descriptive analysis of the Public Defender's Office's defendants, case and attorney characteristics, and outcomes are presented independently in this chapter. In order to fully evaluate the Bexar County Public Defender Office, a different research approach would be required.

Statutory Requirements

Article 26.044 of the Texas Code of Criminal Procedure provides statutes relating to operating a public defender office. Additionally, Article 26.04 (a) and (f) provide for the priority appointment of a public defender office. Article 26.04 (f) states:

“In a county with a public defender's office, the court or the courts' designee shall give priority in appointing that office to represent the defendant in the criminal proceeding, including a proceeding in a capital murder case. However, the court is not required to appoint the public defender's office if:

- (1) the court makes a finding of good cause for appointing other counsel, provided that in a capital murder case, the court makes a finding of good cause on the record for appointing that counsel;
- (2) the appointment would be contrary to the office's written plan under Article 26.044;
- (3) the office is prohibited from accepting the appointment under Article 26.044(j)”

ABA Principles

The ABA Ten Principles of a Public Defense Delivery System⁵³ states in its second principle that:

2. Where the caseload is sufficiently high, the public defense delivery systems consists of both a defender office and the active participation of the private bar.

⁵² The Bexar County Public Defender Office represents felony cases; however, the number of cases is 6.

⁵³ *Supra* note 10.

Bexar County Indigent Defense Plan

The Bexar County indigent defense plan provides provisions for the Bexar County Public Defender Office to be appointed to represent mental health cases. All other cases are to be handled by court appointed attorneys from the rotation wheel.

Bexar County’s County Court Plan states:

“Public Defender’s Office – According to CCP 26.04(a), the procedures for appointing counsel for an indigent defendant must provide for the priority appointment of a public defender’s office. At this time, the Chief Public Defender in Bexar County has indicated that the Public Defender’s Office will not seek any additional appointments pursuant to CCP 26.04 (effective 9/1/19), other than the ones their office is currently receiving from the appointment wheel.

Pursuant to CCP, Art. 26.04(f), the court is not required to appoint the public defender's office if:

1. The court makes a finding of good cause for appointing other counsel;
2. The appointment would be contrary to the office's written plan under Article 26.044;
3. The office is prohibited from accepting the appointment under Article 26.044(j); or
4. A managed assigned counsel program also exists in the county and an attorney will be appointed under that program.

Pursuant to CCP 26.044(j), the Public Defender’s office may not accept an appointment if:

1. A conflict of interest exists that has not been waived by the client;
2. The office has insufficient resources to provide adequate representation for the defendant;
3. The office is incapable of providing representation in accordance with the rules of professional conduct;
4. Acceptance of the appointment would violate the maximum allowable caseloads established for the office; or
5. The office shows other good cause for not accepting the appointment.”

Bexar County’s District Court Plan states:

“By standing order, the Bexar County Public Defender's Office is appointed to represent indigent arrested persons and/or arrested persons who suffer from a mental illness during the arrested person's appearance before the magistrate at the Central Magistration (CMAG) facility, if the arrested person requests counsel, does not already have counsel on record, and financially qualifies. The appointment of the Bexar County Public Defender's Office shall be for the limited purpose of representation of the mentally ill and/or indigent arrested person during the magistration process and related solely to the determination of the bond and the conditions of the bond for the arrested person. The limited appointment of the Bexar County Public Defender's Office is concluded upon the termination of the magistration proceedings and no motion to withdraw is necessary. At that point, the indigent arrested person shall be appointed counsel according to the procedures outlined in this plan, to represent that person for the remainder of the case.

With respect to the foregoing appointments which are in accordance with the Bexar County Public Defender’s Office plan:

- The Public Defender’s office is given priority appointment to those types cases referenced above. The judges hearing criminal cases shall consult with the chief public defender to determine what percentage of cases to appoint to the public defender’s office. Absent a finding of good cause, the judges shall appoint the public defender’s office accordingly.

The Public Defender’s Office may refuse to accept appointment to a case, if:

- A conflict of interest exists;
- The office has insufficient resources to provide adequate representation;
- The office is incapable of providing representation in accordance with the rules of professional conduct;
- Acceptance of the appointment would violate the maximum allowable caseloads established for the office; or
- The office shows other good cause for refusing appointment.”

Bexar County Current Practice

Tables 6-1 to 6-6 provide descriptive analysis regarding the Public Defender Office. Table 6-1 displays defendant characteristics for Public Defender Office misdemeanor cases. Defendants represented by the Public Defender Office are mostly males in their mid 30’s. The largest proportion of their clients are white.

Table 6-1: Defendant Characteristics for Public Defender Misdemeanor Cases

	Public Defender (n=921)
A. Defendant Characteristics	
	Mean
Male	70.0%
Age at Offense	33.4
White	41.8%
Black	18.2%
Hispanic	38.5%
Charges per Booking Day	1.1
Previous Charges	1.0

Table 6-2 displays case characteristics for the Public Defender Office. About 70% of their caseload is comprised of less serious misdemeanor offenses, Class B Misdemeanors.

Table 6-2: Case Characteristics for Public Defender Misdemeanor Cases

	Public Defender (n=921)
B. Case Characteristics	
	Mean
MA	29.6%
MB	70.4%

Table 6-3 displays attorney characteristics. Public defenders have approximately eight years of experience, on average. The average number of previous cases is exceptionally large for public defenders; however, this is most likely due to the way cases are assigned to public defenders.⁵⁴

Table 6-3: Attorney Characteristics for Public Defender Misdemeanor Cases

		Public Defender (n=921)
C. Attorney Characteristics		
		Mean
Years of Experience		8.0
Previous Cases		203.4
Percent Misdemeanors		97.9%
Percent Assigned		99.2%

Table 6-4 presents case outcomes for Public Defender Office cases. The majority of their cases end in pleas and incarceration.⁵⁵

Table 6-4: Case Outcomes for Public Defender Misdemeanor Cases

		Public Defender (n=921)
D. Case Outcomes		
		Mean
Guilty Plea/Nolo Contendere		47.1%
Guilty by Trial		<1%
Acquittal by Trial		<1%
Deferred Adjudication		22.9%
Dismissal		29.9%
Probation		<1%
Incarcerated		47.5%
Sentence (Days)		22.0

Table 6-5 displays measures of attorney effort for public defenders. Due to the small number of felony cases in the sample, results are only displayed for misdemeanor cases. The case length for public defender cases is slightly over three months, and a small percentage of their cases (less than 30%) have a hearing reset.

⁵⁴ Qualitative interviews indicate that the process for appointing the public defender is slightly different. The Chief PD's name is listed on order appointing attorney, then the case is reassigned in the office.

⁵⁵ In order to participate in mental health court (County Court at Law 12), defendants must plea guilty or no contest. This court is primarily where the public defenders operate.

Table 6-5: Measures of Attorney Effort for Public Defender Misdemeanor Cases

	Public Defender
	Mean
	Misdemeanors
	(n=921)
Hearing Reset After Appointment	26.5%
Case Length (days)	109.1
Bail Reduction	0.8%
	Felonies
	n/a
Hearing Reset After Appointment	n/a
Case Length (days)	n/a
Bail Reduction	n/a

County Court at Law 12

The public defenders primarily operate in County Court at Law 12, the misdemeanor mental health court. During the sample period, County Court 12 exclusively dealt with mental health cases. The mission of the mental health court is “to advocate for individuals with mental illness and to provide access to mental health treatment, community resources, and support to reduce their involvement in the criminal justice system.”⁵⁶

The cases in County Court 12 are assigned to public defenders until all defenders have reached a maximum amount of cases. In the sample consisting of 54,918 county court cases, public defenders are appointed 3,081 times. Of the 3,081 public defender appointments, 65% were appointed in County Court 12. Public defenders are appointed in 47% of the cases in County Court 12. In all other county courts, the percentage of cases with public defender appointments is less than 3%. In the data, public defenders are always appointed from the rotation wheel.

Recommendations

Based on statutory requirements, judges must provide a documented reason on the record for not appointing the public defender. These reasons must be documented within the new data system. Given the data limitations on cases represented by the Public Defender Office, this report refrains from articulating any recommendations for the Public Defender Office. In order to offer constructive recommendations, researchers would need to fully evaluate the office, which lies beyond the scope of this study.

Conclusion

Due to the specialized and limited caseload of the Public Defender Office, comparisons could not be made between retained and court-appointed counsel. Therefore, descriptive information about the Public Defender Office caseload was presented separately in this chapter.

⁵⁶ See <https://www.bexar.org/1991/Mental-Health-Court>

Judicial Evaluation

While Bexar County was primarily interested in an evaluation regarding quality representation, judges also play a critical role in indigent defense practices in the county. Specifically, it is crucial to understand judges' practices in appointing from the bench and handling indigent defense cases, including voucher reimbursements. PPRI analyzed qualitative and quantitative data to examine judicial practices within Bexar County.

Judge & County Officials' Morale

PPRI asked judges how they would rate their morale with respect to working with indigent defense in Bexar County. Most of the judges stated their morale was high. Unanimously, judges explained they enjoy their job, are happy to come to work, and love being a judge. PPRI asked the same question to county officials and had a much different response. The county officials rated their morale as neutral to low with respect to indigent defense. They described their role as mainly influenced by judges, being busy with a large number of duties or simply not being involved at all.

Bench Appointments

Statutory Requirements

Article 26.04 of the Texas Code of Criminal Procedure states:

“The judges of the county courts, statutory county courts, and district courts trying criminal cases in each county, by local rule, shall adopt and publish written countywide procedures for timely and fairly appointing counsel for an indigent defendant in the county arrested for, charged with, or taking an appeal from a conviction of a misdemeanor punishable by confinement or a felony. The procedures must be consistent with this article and Articles 1.051, 15.17, 15.18, 26.05, and 26.052 and must provide for the priority appointment of a public defender's office as described by Subsection (f). A court shall appoint an attorney from a public appointment list using a system of rotation, unless the court appoints an attorney under Subsection (f), (f-1), (h), or (i). The court shall appoint attorneys from among the next five names on the appointment list in the order in which the attorneys' names appear on the list, unless the court makes a finding of good cause on the record for appointing an attorney out of order. An attorney who is not appointed in the order in which the attorney's name appears on the list shall remain next in order on the list.”⁵⁷

ABA Standards

The American Bar Association has published the Model Code of Judicial Conduct. Rule 2.13⁵⁸ states that:

“In making administrative appointments, a judge:
(1) shall exercise the power of appointment impartially and on the basis of merit; and
(2) shall avoid nepotism, favoritism, and unnecessary appointments.”

⁵⁷ Texas CCP 26.04

⁵⁸ See

https://www.americanbar.org/groups/professional_responsibility/publications/model_code_of_judicial_conduct/model_code_of_judicial_conduct_canon_2/rule2_13administrativeappointments/

Additionally, ABA Standards, Providing Defense Services 5-2.1-5-2.3 provide standards relating to rotational assignment.⁵⁹

Bexar County Indigent Defense Plan

Bexar County's District Court Plan states that:

"The judge may make a finding of good cause on the record for appointing out of order, and may appoint any qualified, willing attorney or a qualified, willing member of the Bexar County Public Defender's Office, regardless of whether the attorney's name is among the next five names on the appropriate list. "Qualified" in the context of this rule means that the particular individual attorney filled out the appropriate application form, met all of the qualifying appointment requirements, and was approved by a majority of the Criminal District Court Judges."

Bexar County's County Court Plan states that:

"The Judges or Judge's Designee (appointing authority) will use the "attorney rotation wheel" discussed in Section III (Minimum Attorney Qualifications), unless the court makes a finding of good cause on the record for appointing an attorney out of order. Good cause may include:

- The defendant requesting counsel does not speak and understand the English language, or that the defendant is deaf, then the court or the courts' designee shall make an effort to appoint an attorney who is capable of communicating in a language understood by the defendant.
- The defendant has an attorney already appointed on a prior pending or concluded matter. The same attorney will be appointed to the new matter, unless the attorney is not on the list for the type of offense involved in the current case; or
- Other good cause exists for varying from the list or "attorney rotation wheel"

Additionally, both plans allow "the judge presiding over a criminal case may remove appointed counsel upon entering a written order showing good cause for such removal."⁶⁰

Bexar County Current Practice

A key component of judicial evaluation is to examine if courts are following proper appointment procedures and are not bypassing the court-appointment wheel. Two approaches were used to determine to what extent courts are bypassing the court-appointment rotation wheel. PPRI examined the number of times a court had a case where there was at least one bench appointment. Figure 7-1 displays the number of percentage points each county and district court is over or under the overall average percent of cases with bench appointments, respectively. For example, the average percentage of bench appointments for county courts and district courts is 34.7% and 13.7%, respectively. From Figure 7-1, County Court at Law 12 is 2.8 percentage points over the 34.7% average for county courts. Similarly, County Court at Law 13 is 8.4 percentage points below the 34.7% county court average.

⁵⁹See

https://www.americanbar.org/content/dam/aba/publications/criminal_justice_standards/providing_defense_services.pdf

⁶⁰ See Appendix A.

In the sample, the number of cases assigned to each county court ranges from 4,046 to 4,462. County Court at Law 6 and County Court at Law 7 have the highest percentage of bench appointments. County Court 6 is 9 and County Court 7 is 10.8 percentage points over the 34.7% average for county courts. The number of cases assigned to each district court is between 1,601 and 2,565. All but three district courts fall below the 13.7% average of bench appointments. The 399th District Court is 12.2 percentage points over the average. Table 7-1 displays the top three attorneys that were appointed from the bench for County Court 6, County Court 7, and the 399th District Court and the number of times the court-appointed each attorney for years 2016, 2017, and 2018. In November 2016 and 2018, Bexar County's elections led to changes within the judiciary for both district and county courts. Some judges are relatively new to the bench and others have been there prior to 2016; therefore, court numbers do not necessarily reflect bench appointments by the same judge.⁶¹

Figure 7-1

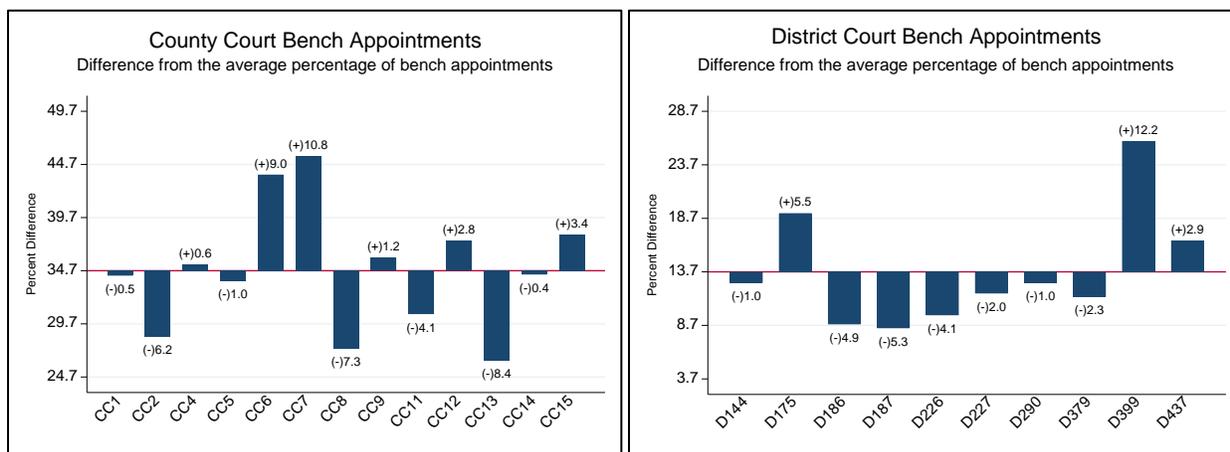


Table 7-1

	County Court 6		County Court 7		399 th District Court	
	Bar Number	Appointments	Bar Number	Appointments	Bar Number	Appointments
2016	Atty-A	72	Atty-E	31	Atty-K	72
	Atty-B	50	Atty-F	29	Atty-M	50
	Atty-C	39	Atty-G	20	Atty-N	39
2017	Atty-B	118	Atty-F	42	Atty-L	118
	Atty-A	112	Atty-H	39	Atty-O	112
	Atty-D	76	Atty-I	35	Atty-K	76
2018	Atty-A	121	Atty-I	36	Atty-P	121
	Atty-D	104	Atty-F	30	Atty-L	104
	Atty-B	102	Atty-J	28	Atty-Q	102

⁶¹ The following courts did not have changes in the judiciary due to elections from 2016 to 2019: 186th, 227th, 379th, and the 437th District Courts and County Courts at Law 5, 6, and 11.

Judges appointing attorneys from the bench may not always indicate a disregard for the court-appointment rotation wheel. Courts may also appoint from the bench if defendants have multiple cases. Bexar County's indigent defense plan specifies that judges do have discretion to deviate from the appointment wheel as long as the reason is documented on the record. The CJIS database does not document a reason why a judge appoints from the bench; therefore, PPRI could not identify such reasons. However, judges were asked qualitatively about why they appoint from the bench. Reasons included:

- Attorney does not show up for court
- Moving their docket
- Defendant asks for a new attorney
- Client control/handling defendant
- Mental health issues of defendant
- Race/gender issues
- Attorney ability to handle caseload
- Pro se defendants

Another way to examine the extent to which courts are bypassing the court appointment wheel is the frequency with which courts switch attorneys appointed from the court appointment wheel with attorneys appointed from the bench. Cases where a bench appointment occurs within 6 months after a rotation wheel appointment are examined. PPRI used this timeframe to examine judicial favoritism, assuming the farther out the assignment of an attorney from the bench is, the increase in the probability that case/defendant characteristics are the reason as opposed to judicial preference. Figure 7-2 displays the number of percentage points each county and district court is over or under the overall average percent of cases with appointments that change from the rotation wheel to the bench. The percent of cases with rotation wheel to bench appointments for all district courts never exceeds 2 percentage points above or below the 3.7% average for district courts. The average percentage of cases with at least one rotation wheel to bench appointment is 9.9% for county courts. The percentage of cases with rotation wheel to bench appointments either falls below or never exceeds 4 percentage points above the 9.9% average for all other county courts, with the exception of County Court 12 and County Court 6, which are 6 and 10.2 percentage points over the average for county courts, respectively.⁶²

⁶² In November 2016 and 2018, Bexar County's elections led to changes within the judiciary for both district and county courts. Some judges are relatively new to the bench and others have been there prior to 2016; therefore, court numbers do not necessarily reflect bench appointments by the same judge. The following courts did not have changes in the judiciary due to elections from 2016 to 2019: 186th, 227th, 379th, and the 437th District Courts and County Courts at Law 5, 6, and 11.

Figure 7-2

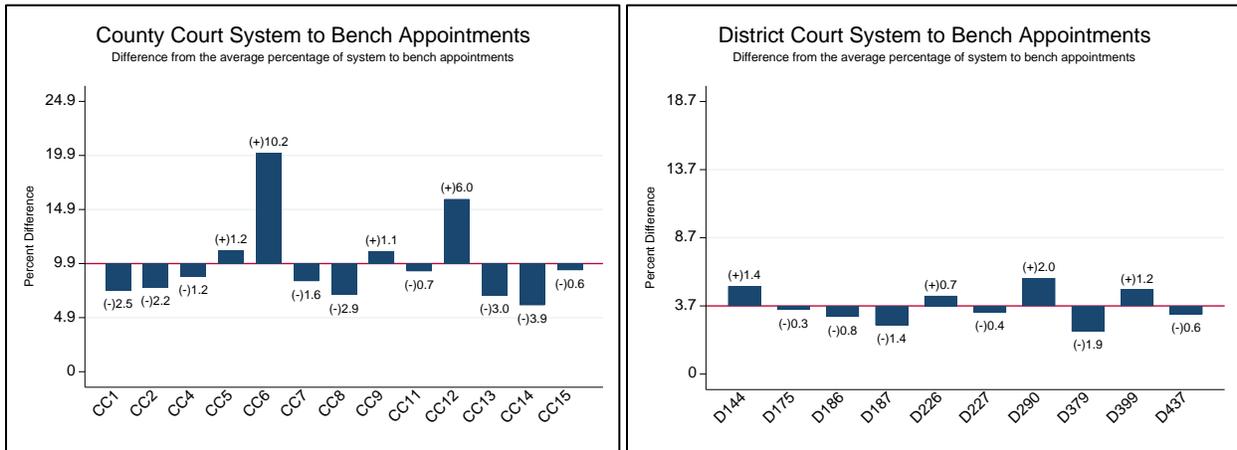


Table 7-2

	County Court 6		County Court 12	
	Bar Number	Appointments	Bar Number	Appointments
2016	Atty-A	22	Atty-T	38
	Atty-C	19	Atty-U	21
	Atty-B	16	Atty-V	12
2017	Atty-B	51	Atty-T	39
	Atty-A	49	Atty-U	23
	Atty-D	32	Atty-V	17
2018	Atty-A	57	Atty-W	54
	Atty-D	43	Atty-X	13
	Atty-B	40	Atty-V	10

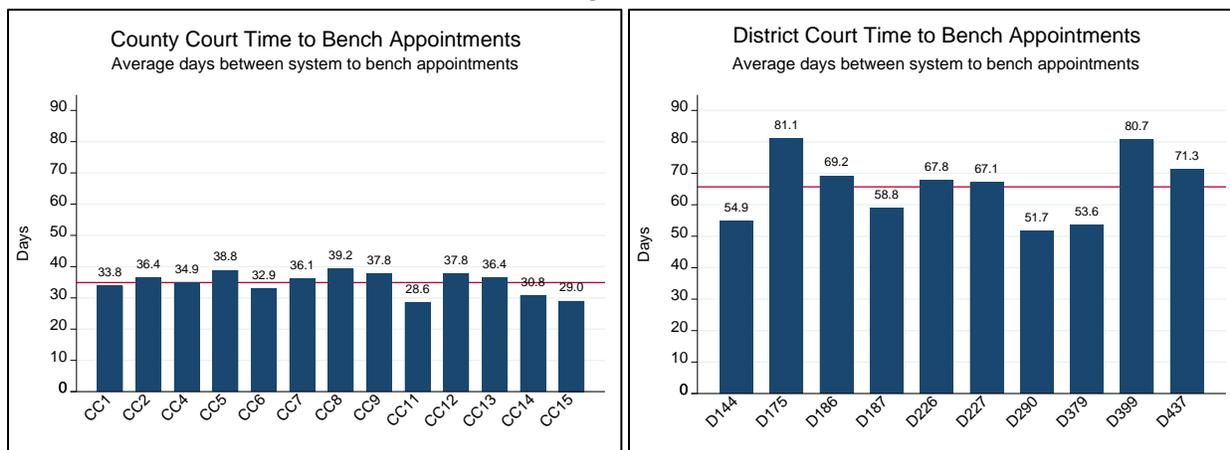
The relatively high percentage of cases with rotation wheel to bench appointments in County Court 12 may be misleading.⁶³ In County Court 12, 47% of cases have a rotation wheel appointment, and therefore may be more likely to have wheel to bench appointments than the other county courts with small percentages of public defender appointments. Although, the percentage of rotation wheel appointments that are not public defenders is lower for County Court 12 than the remaining county courts, it is not low enough to account for the large number of wheel to bench appointments coming from public defender appointments. The percentage of cases with wheel to bench appointments in County Court 12 is 11% more than the corresponding average percentage in the remaining county courts. Once public defenders are assigned the maximum amount of cases allowed in County Court 12, cases are supposed to be assigned to an attorney from the rotation wheel. However, of the 497 cases where there was an attorney appointed after a public defender, 99% were bench appointments.

⁶³ See Chapter 6 for information about the Public Defender Office operating in County Court at Law 12. A new judge was elected for County Court at Law 12 in November 2018. This judge assumed office in January 2019.

Referring back to Figure 7-2, County Court 6 has the highest percentage of cases with rotation wheel to bench appointments – 10.2 percentage points over the 9.9% average for county courts. Comparing Figure 7-1 to Figure 7-2, we see that County Court 6 is the only court with a high percentage of bench appointments and rotation wheel to bench appointments. Table 7-2 displays the top three attorneys that were appointed from the bench after a rotation wheel appointment for County Court 6 and County Court 12, and the number of times that attorney was appointed from the bench after a rotation wheel appointment for years 2016, 2017, and 2018. Comparing the results from Table 7-1 with Table 7-2 for County Court 6, the attorneys are practically the same across all three years.

PPRI also examined the number of days between wheel and bench appointments. Figure 7-3 presents the average number of days between rotation wheel and bench appointments for county and district courts. The average number of days between rotation wheel and bench appointments for county courts is similar across courts, with a total average of 34.8 days. The average number of days between rotation wheel and bench appointments for district courts is 65.6. The 175th District Court and the 399th District Court have a longer time between rotation wheel and bench appointments—81.1 and 80.7 days, respectively. When switching from a rotation wheel appointment to a bench appointment, district courts wait longer than county courts on average. However, district courts cannot proceed with cases until they are indicted.

Figure 7-3



Recommendations

Bexar County must track the reasons for deviating from the wheel to better understand judicial behavior in a database format. Statutory requirements and the Bexar County indigent defense plan state that a reason must be documented on the record. Recording judge appointment decisions in a database format would allow for analysis of judicial benchmarks across courts, time, case type, and beyond.

Wheel vs. Non-Wheel Appointments

Statutory Requirements

Article 26.04 (a) of the Texas Code of Criminal Procedure stipulates that courts must appoint attorneys from a public appointment list.⁶⁴

ABA Standards

ABA Standards, Providing Defense Services 5-2.1 states:

“The plan for legal representation should include substantial participation by assigned counsel. That participation should include a systematic and publicized method of distributing assignments. Except where there is a need for an immediate assignment for temporary representation, assignments should not be made to lawyers merely because they happen to be present in court at the time the assignment is made. A lawyer should never be assigned for reasons personal to the person making assignments. Administration of the assigned-counsel program should be by a competent staff able to advise and assist the private attorneys who provide defense services.”⁶⁵

Bexar County Indigent Defense Plan

The Bexar County’s indigent defense plan states that attorneys will be appointed from a rotational wheel.

Bexar County Current Practice

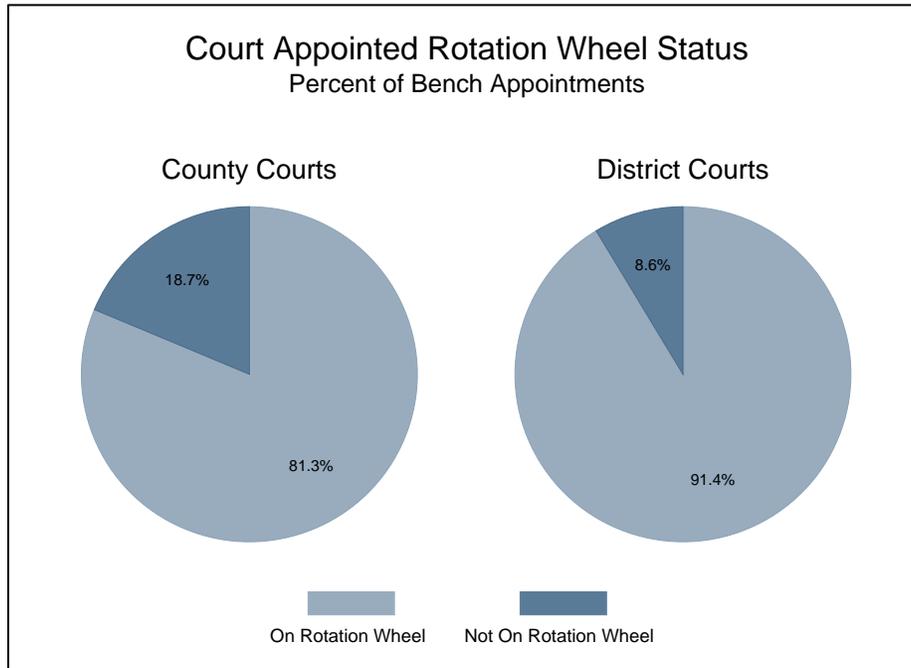
PPRI examined bench appointments from the CJIS database in 2019 and matched the attorneys who were on the 2019 court-appointed attorney lists provided by Bexar County Court Administration. Results are shown for County and District Courts in Figure 7-4. The percentage of bench appointed attorneys that were not on the court-appointed rotation wheel is larger in County Courts than in District Courts in 2019. 18.7% of bench appointments in County Courts were not on the court-appointed attorney list, while the equivalent measure in District Courts was 8.6%.

⁶⁴ Texas CCP 26.04 (a)

⁶⁵ See

https://www.americanbar.org/content/dam/aba/publications/criminal_justice_standards/providing_defense_services.pdf

Figure 7-4



Recommendations

These findings indicate that most judges are appointing attorneys from the court appointment lists, as stated in the Texas Code of Criminal Procedure. However, almost 20% of judges in the county courts are still appointing attorneys not on the appointment list. Bexar County needs to monitor this situation closely to ensure appointments are to attorneys on the appointment list.

Vertical Representation

Many factors can influence case outcomes. One potential factor is the number of attorney substitutions throughout a case. An effective attorney-client relationship cannot be created or maintained if attorneys are substituted throughout a case. Vertical representation is the continuity of representation throughout a case.

Statutory Requirements

Texas does not have specific statutory requirements regarding vertical representation (continuity of representation).

ABA Standards & Principles

The seventh ABA principle focuses on the importance of vertical representation in order to obtain a better outcome for a defendant:

- 7. The same attorney continuously represents the client until completion of the case.

ABA Standards, Providing Defense Services 5-6.2 states:

“Counsel should be provided at every stage of the proceedings, including sentencing, appeal, certiorari and postconviction review. In capital cases, counsel also should be provided in clemency proceedings. Counsel initially provided should continue to represent the defendant

throughout the trial court proceedings and should preserve the defendant's right to appeal, if necessary.”⁶⁶

Bexar County Indigent Defense Plan

Bexar County’s indigent defense plan does not specifically mention vertical representation.

Bexar County Current Practice

PPRI examined the number of attorney changes between arrest and disposition per case regardless of attorney type.⁶⁷ Of the 90,045 cases, 97% were represented by at least one attorney. Of these cases, about 20% had at least one change in representation, with the maximum number of attorney changes for any given case being six. The frequency of the number of attorney changes between arrest and disposition is displayed in Table 7-3. 17% of the 20% of cases with at least one attorney change had only one change in counsel.

Table 7-3: Attorney Substitutions

Number of Attorney Changes	Percent
0	81.2
1	17.1
2	1.5
3	0.2
4	0.03

Just as there are many factors that influence case outcomes, there are also many factors that influence a change in counsel. Changes in representation may be attributed to court/assigned counsel or defendant characteristics. Whether the change resulted from court/assigned counsel or defendant characteristics and the assumption of the corresponding effect on case outcomes may be inferred by the types of attorneys involved in the change. A change from retained to court-appointed and retained to retained most likely results solely from defendant characteristics and is not an indication of problems with courts or their assigned counsel. Changes from court-appointed to court-appointed is assumed to be the result of court/assigned counsel characteristics. Switching from court-appointed to retained could result from a change in a defendant’s financial situation or poor quality of representation from assigned counsel. Of the 18,142 total changes, 54% represent changes from court-appointed to court-appointed and 33% represent changes from court-appointed to retained.

⁶⁶ See https://www.americanbar.org/content/dam/aba/publications/criminal_justice_standards/providing_defense_services.pdf

⁶⁷ Attorney type includes court-appointed, retained, and public defender.

Recommendations

Over 80% of cases only had one attorney, which indicates that Bexar County is doing well maintaining vertical representation. However, Bexar County should continue to monitor cases to ensure vertical representation is maintained as much as possible. A mechanism within the database could be added, which would prevent appointments from the bench if an attorney is not on the appointment wheel.

Judicial Practices

While PPRI analyzed quantitative data regarding judges' appointment procedures, qualitative interview questions also explored attorney attitudes about judges and about any concerns they had about judicial practices. Most attorneys felt that judges were good and fair.

Appointment of Investigators & Experts

Statutory Requirements

Article 26.05(d) of the Texas Code of Criminal Procedure states that counsel appointed to represent indigent defendants "shall be reimbursed for reasonable and necessary expenses, including expenses for investigation and for mental health and other experts."⁶⁸

ABA Standards & Principles

The ninth ABA principle states:

9. There is parity between defense counsel and the prosecution with respect to resources and defense counsel is included as an equal partner in the justice system.

Additionally, ABA Standards, Providing Defense Services 5-1.4 states:

"The legal representation plan should provide for investigatory, expert, and other services necessary to quality legal representation. These should include not only those services and facilities needed for an effective defense at trial but also those that are required for effective defense participation in every phase of the process. In addition, supporting services necessary for providing quality legal representation should be available to the clients of retained counsel who are financially unable to afford necessary supporting services."⁶⁹

Bexar County Indigent Defense Plan

Bexar County's indigent defense plan states that "Bexar County will reimburse appointed attorneys for investigation and expert witness expenses incurred on behalf of an indigent defendant."

Bexar County Current Practice

Judges are required to approve requests for investigators and experts in indigent defense cases. In the CJIS database, there are two codes for appointment of investigators and experts. The investigator appointment code was entered 284 times out of 90,045 cases. The expert appointment code was used only 14 times. Although the codes indicate investigation and expert appointments could be tracked, it appears that these codes are not being utilized and reasons for denials are also not tracked.

⁶⁸ Texas CCP 26.05(d)

⁶⁹ See

https://www.americanbar.org/content/dam/aba/publications/criminal_justice_standards/providing_defense_services.pdf

Table 7-4 and Table 7-5 show Bexar County investigation & expert witness expenditures in FY 2019 for all county and district courts, respectively. County Court at Law 13 and the 227th District Court spent the most money on investigation during FY 2019.

Table 7-4: Bexar County Court Investigation & Expert Witness Expenditures, FY 2019

Court	Investigation Expenditures	Expert Witness Expenditures
County Court at Law No. 1	\$ 768	\$ -
County Court at Law No. 2	\$ 633	\$ -
County Court at Law No. 4	\$ 298	\$ -
County Court at Law No. 5	\$ 1,500	\$ 1,000
County Court at Law No. 6	\$ -	\$ -
County Court at Law No. 7	\$ 1,566	\$ -
County Court at Law No. 8	\$ 340	\$ 750
County Court at Law No. 9	\$ -	\$ -
County Court at Law No. 11	\$ 75	\$ -
County Court at Law No. 12	\$ 410	\$ -
County Court at Law No. 13	\$ 2,437	\$ -
County Court at Law No. 14	\$ 1,644	\$ -
County Court at Law No. 15	\$ 701	\$ -

Table 7-5: Bexar County District Court Investigation & Expert Witness Expenditures, FY 2019

Court	Investigation Expenditures	Expert Witness Expenditures
144th District Court	\$ 42,307	\$ 11,293
175th District Court	\$ 54,686	\$ 38,335
186th District Court	\$ 54,227	\$ 16,322
187th District Court	\$ 43,984	\$ 61,529
226th District Court	\$ 45,497	\$ 56,129
227th District Court	\$ 76,583	\$ 38,862
290th District Court	\$ 27,355	\$ 36,966
379th District Court	\$ 41,341	\$ 58,335
399th District Court	\$ 38,106	\$ 43,722
437th District Court	\$ 61,575	\$ 111,415

Recommendations

The lack of request for investigation and expert codes in the Bexar County CJIS being utilized along with information about whether the amounts were approved or denied and the reasons why the requests were denied or reduced in a database format prevents an informative analysis of how judges are handling these requests. Without these metrics, it is difficult to ascertain if indigent defendants are receiving adequate legal support services. These metrics need to be included in any future data management system.

Voucher Reimbursement

Statutory Requirements

Article 26.05(c) of the Texas Code of Criminal Procedure states that:

“Each fee schedule adopted shall state reasonable fixed rates or minimum and maximum hourly rates, taking into consideration reasonable and necessary overhead costs and the availability of qualified attorneys willing to accept the stated rates, and shall provide a form for the appointed counsel to itemize the types of services performed. No payment shall be made under this article until the form for itemizing the services performed is submitted to the judge presiding over the proceedings or, if the county operates a managed assigned counsel program under Article 26.047, to the director of the program, and until the judge or director, as applicable, approves the payment. If the judge or director disapproves the requested amount of payment, the judge or director shall make written findings stating the amount of payment that the judge or director approves and each reason for approving an amount different from the requested amount. An attorney whose request for payment is disapproved or is not otherwise acted on by the 60th day after the date the request for payment is submitted may appeal the disapproval or failure to act by filing a motion with the presiding judge of the administrative judicial region. On the filing of a motion, the presiding judge of the administrative judicial region shall review the disapproval of payment or failure to act and determine the appropriate amount of payment. In reviewing the disapproval or failure to act, the presiding judge of the administrative judicial region may conduct a hearing. Not later than the 45th day after the date an application for payment of a fee is submitted under this article, the commissioners court shall pay to the appointed counsel the amount that is approved by the presiding judge of the administrative judicial region and that is in accordance with the fee schedule for that county.”

ABA Standards

ABA Standards, Providing Defense Services 5-2.4 states:

“Assigned counsel should receive prompt compensation at a reasonable hourly rate and should be reimbursed for their reasonable out-of-pocket expenses. Assigned counsel should be compensated for all hours necessary to provide quality legal representation. Compensation for assigned counsel should be approved by administrators of assigned-counsel program.”⁷⁰

⁷⁰ See

https://www.americanbar.org/content/dam/aba/publications/criminal_justice_standards/providing_defense_services.pdf

Bexar County Indigent Defense Plan

The Bexar County Indigent Defense Plan contains a Fee and Expense Payment Process Section for both the county court and district courts. Additionally, the fee schedules for both plans are publicly available documents.⁷¹

Bexar County Current Practice

Judges were asked about attorney voucher reimbursements. Judges stated they never denied vouchers, and almost all judges felt that attorneys were underpaid. The voucher reimbursement process begins with the submission of vouchers to the court, where judges give their approval after deciding if expenditures were reasonable. Officials from the auditor's office pick up the vouchers and physically bring them to the auditor's office where they are entered into the computer system and a spreadsheet. One voucher is entered into five screens manually, and vouchers are scanned into the computer, as well. Several county officials in the auditor's office, including interns, handle phone calls from attorneys asking about the status of voucher payments. If county officials take vacation days, this can create a back log in the system. County officials are looking forward to an automated system for processing voucher payments. Bexar County has an e-invoice system for Family & Children's Court, and county officials felt that system worked well. If a similar system could be developed for criminal court vouchers, it would be beneficial for county officials.

Bexar County also has a voucher recommendation committee. If a judge has a question about a voucher, the voucher can be submitted for review. If a voucher is contested by an attorney, it can also be submitted to the voucher recommendation committee. This committee is made up of a group of attorneys to review contested vouchers and make recommendations to judges.

Attorneys were also asked about the voucher reimbursement process. Several stated they had never had a voucher denied and others stated they had vouchers sent to the voucher recommendation committee for review. Other attorneys mentioned that vouchers are modified or adjusted without reasons provided. Attorneys also stated they have had problems getting vouchers paid in a timely manner and some vouchers are lost.

PPRI attempted to analyze voucher payments via the CJIS database. Two codes are used to indicate that a voucher has been filed and that the voucher has been forwarded to the auditor for payment. However, the dollar amounts listed in the event qualifier are not standardized, so an analysis of voucher payment approval and reductions could not be completed because the amount cannot be extracted. The reason for voucher denial or reduction is also not recorded in the database.

Recommendations

The voucher recommendation committee is a promising practice and should be continued. Additionally, voucher payment details need to be collected via the database in order to better examine judicial behavior regarding vouchers.

⁷¹ See Appendix A. See also <http://tidc.tamu.edu/Public.Net/Reports/IDPlanNarrative.aspx?cid=255#B>

Conclusion

PPRI examined judicial quantitative and qualitative data. While certain courts appeared to appoint from the bench more often than others, many tracking measures do not exist within the current data system to examine these practices in more detail. Information about reasons for appointing attorneys from the bench, voucher denials, investigation and expert codes, and reduction reasons are not recorded or fully utilized in the CJIS database. This information is vital in order to fully understand judicial practices within Bexar County.

Recommendations

During qualitative interviews, Bexar County stakeholders made recommendations to change the indigent defense system. In addition, Bexar County is also moving to a new data management system. In light of this change, it is an opportune time to examine metrics for future tracking of quality indigent defense representation. The following chapter outlines data and policy recommendations for the county. Recommendations are presented by:

- Stakeholder recommendations (including feedback from judges, attorneys, county staff, and defendants)
- PPRI data recommendations
- PPRI policy recommendations

Stakeholder Recommendations

Attorneys, judges, defendants, and other county officials had their own recommendations to improve Bexar County's indigent defense system. Attorneys focused on better pay and more funding for indigent defense. They also suggested an expanded Bexar County Public Defender Office. They mentioned some sort of system to ensure accountability, a questionnaire for defendants after their case is resolved, mentoring, and a committee to review and investigate complaints against attorneys and setting up a system to check if attorneys actually look at discovery information. Other areas attorneys felt needed improvement were logistics surrounding jail visits, lab testing taking a long time, more timely court resolutions (it sometimes takes quite a few settings to resolve a case), and the bond system needs reform. While some attorneys did know about the existence of specialty courts, they were unsure of how the specialty courts actually operated. Several attorneys also specifically mentioned that a DWI case is a complex misdemeanor involving breathalyzer tests and blood work. These cases also typically involve expert witnesses and testimony. This type of case requires a significant amount of time and effort to defend, and currently attorneys only receive \$180 to represent defendants charged with this offense.

Like attorneys, judges also recommended increasing attorney pay, improving the logistics of jail visits, and increasing attorney accountability. Judges also recommended the implementation of a MAC office. Judges mentioned the ethical conflict of interest to rule on issues with attorneys since they have to ask for campaign contributions.

County officials thought attorneys should be paid more, and there should be some accountability for attorneys. Additionally, implementing a MAC were recommendations from county officials to improve the indigent defense system. Other recommendations included a larger Bexar County Public Defender Office and attorneys who give campaign contributions should not get court appointments. The county officials also suggested the voucher system be automated, and they should be able to track a lot of the data more consistently than they are now.

The defendants recommended attorney communication be improved. Better attorney contact was also a recommendation of defendants. A defendant also recommended a generic video presentation at the beginning of the process to explain what they can expect and how the appointment process works.

PPRI Data Recommendations

At this time, it is difficult to measure aspects of quality representation in Bexar County. The county must implement better tracking mechanisms in order to self-monitor court-appointed attorneys. The following section details recommendations concerning data metrics. TIDC has published *Recommended Functionality & Data Guidelines for Indigent Defense Technology Projects*. These elements are shown in Table 8-1, along with the elements' availability in Bexar County's database. Table 8-2 also displays additional data metrics that Bexar County should track to measure quality representation. Several of these metrics are already listed via the TIDC data guidelines.

Table 8-1: TIDC Recommended Functionality & Data Guidelines for Indigent Defense Technology Projects

TIDC Data Elements	Available via Bexar County Criminal Justice Database?
Arrestee Name	Yes
Date and Time of Arrest	Yes
Offense Date	Yes
Charged Offenses	Yes
Indication of mental illness	Some free text, not consistent and not standardized
Need for attorney with proficiency in language other than English	Yes
Bond date	Yes
Bond type/amount	Yes, but observations are missing bond type
Date and time of request for counsel to appointing authority	No. There is some free text entry that shows request for counsel, but it is not standardized
Each data element gathered for financial screening to determine indigence according to county standard	No
Ruling on Indigency (Approved/Denied/Incomplete Application)	No
Date and Time of Ruling on Indigency	No
Date of Appointment of Counsel	Yes
Rotation List Appointment or Other	Yes
Reason for Appointment Outside Rotation	No
Date Attorney Notified of Appointment	Yes
Case Stage (New Offence, Appeal, MTR)	Yes
Date and Method of First Attorney Contact with Client	No
Date of First Client Interview by Attorney	No
Dates of Subsequent Client Contact (including fields to document contact attempts)	No

Dates of Court Appearances/Settings	Hearings & Hearing Resets, Not Type of Hearing
Date and Amount of Request for Expert	No
Date and Amount of Request for Investigator	No
Case Filing Date	No
Case Number	Yes
Lists of Attorneys Approved for Each Offense Level Specified in Local Plan	Yes
Attorney Continuing Legal Education (CLE) Hours	No
Attorney Current Compliance Status with CLE Requirements	No
Attorney Name	Yes
Attorney Bar Number	Yes
Amount billed	Yes
Defendant Name	Yes
Court	Yes
Itemized list of services provided	Case numbers are inconsistent
Date Voucher Approved, Reduced, or Denied by Judge	No
Amount Approved	Yes
Reason for Reduction or Denial	No
Payment Amount, Date	Yes
Expert fees paid per case	Case numbers are inconsistent. There is no case number/judicial number/SID number in the data to link the payments
Investigator fees paid per case	No. The investigator data only has 337 observations. There is no case number/judicial number/SID number in the data to link the payments
Amount of Attorney Fee Repayment	Yes, by court only
Disposition Date	Yes
Disposition (recommend coding to align with clerks' OCA reporting)	Yes, but not consistent
Method of Disposition (Trial: Jury/Bench, Plea)	Yes
Sentence	Yes

Table 8-2: Additional Quality Measures for Bexar County

Additional Tracking Measures	Available via Bexar County Criminal Justice Database?
Timeliness of initial client contact	No
Timeliness from appointment to first face to face contact	No
Frequency of client contact	No
Reason for changing court-appointed counsel	No
Complaints filed against court-appointed attorneys by the defendant or defendants' power of attorney	No
Frequency at which attorney did not appear in court	No
Frequency of contact made with designated power of attorney	No
Frequency at which judicial administrators are notified of any dysfunction or inaction by court-appointed counsel	No
Frequency at which court-appointed counsel, private attorneys, and public defenders reset court dates and conduct investigations.	Investigations not recorded consistently
Reason documented for appointing from the bench	System does not record the judge or reason for when it switches from wheel to non-wheel but does specify court
Frequency with which voucher reimbursements are approved and denied. If denied, list the documented reason for denying reimbursement.	No
Frequency with which court-appointed attorneys are disciplined for an appointed case. If disciplined, list the documented reason for disciplinary action.	No
Educational and professional background of all court-appointed counsel.	No
Court-appointed attorneys completed required continuing legal education requirements.	No

In order to self-monitor, Bexar County needs to track the above data elements.⁷² Having these measures in an electronic format will provide for easy data tracking and analysis to ensure defendants are

⁷² ACT Smart for Public Defense is a web portal designed in collaboration between TIDC and PPRI with funding support from the Bureau of Justice Assistance (BJA). The purpose of the portal is to help Texas jurisdictions use data and metrics to track progress toward full compliance with right to counsel laws, rules and standards. For more information on the web portal, see <http://smartdefense.pprinet.tamu.edu/>

receiving quality representation. In its current format, the database has a large amount of text entry, which prevents consistent data entry and complicates any type of analysis. Presently, many measures are tracked via hard copy documents, which is not conducive to electronic data analysis.

Additionally, it is unclear if court coordinators are using similar event codes for similar court events. A key component of any new data system Bexar County would implement must be a standardized data manual and training on how to enter data consistently across courts. The ultimate goal for Bexar County should be to build a data management system that is based on event codes that minimize if not eliminate free text, and are used consistently by court coordinators. Suggestions to eliminate free text include the use of county approved drop down menu (for instance when recording reasons for bench appointments, etc.) and regular training of data users (court coordinators and others) on data entry using an event code dictionary.

Another focus of qualitative interviews concerned the auditor's office and tracking of attorney vouchers. This data system needs to be electronic and streamlined to ease processing of attorney vouchers. Currently, a voucher is entered into the computer and spreadsheets manually. The new data management system should be inclusive of all aspects of a case; including booking, court events, and voucher payments. Such system would allow the county to be responsive to concerns of stakeholders and use real-time data to run reports on different components of the indigent defense system. For instance, one concern raised by stakeholders was the large number of settings by case. The county should easily be able to examine the party/reason for those additional hearings with the new data management system.

PPRI Policy Recommendations

Bexar County currently offers a diverse set of specialty courts. However, qualitative interviews seemed to indicate that not all attorneys understand how the specialty courts operate. Bexar County could provide more extensive training about how the court processes mental health and other types of cases which might be more suitably directed to specialty courts. Additionally, Bexar County could employ an indigent defense coordinator, as other large counties have, in order to ensure prompt appointment of counsel and assisting defendants with the appointment process.

It appears there is a lack of supervision and accountability for court-appointed counsel. Qualitative interviews showed all stakeholder groups recognized that this issue needs to be addressed. The current system in Bexar County does not have the ability to consistently track complaints against attorneys and ensure quality standards are met. As mentioned previously, Bexar County has submitted an improvement grant to implement an indigent defense monitoring program. This program would address these issues and would be an excellent action to improve indigent defense representation in the county. The Bexar County Public Defender Office already has the infrastructure to monitor attorneys and their caseloads. Due to data limitations, PPRI could not fully examine the outcomes of the Public Defender Office.

However, implementing a Managed Assigned Counsel (MAC) office in conjunction with the current Public Defender Office in Bexar County would ensure further compliance with the ABA Ten Principles. This office would comply with principles 1, 5, and 10.⁷³ The office would provide access to an

⁷³ *Supra* note 10.

investigator independent of the judiciary, control caseloads, and provide supervision and mentoring of attorneys.

A MAC office would allow Bexar County the ability to resolve several of the current struggles the county is facing. Any county with an attorney wheel can benefit from a MAC office because of two main enhancements:

- Oversight of defense services by attorneys
 - A MAC office will handle day to day operations of attorneys which include defendant complains, vouchers, attorney selection/removal from the wheel, CLEs, etc.
 - The office will monitor lawyers (and hold them accountable) in areas such as:
 - Initial contact with defendants
 - Court appearance
- Independence from the judicial body in the county
 - A MAC office allows judges to separate themselves from decisions related to attorneys such as attorney selection, vouchers approvals, defendant complaints about attorneys, etc.
 - Attorneys will report to the leadership of the MAC office

It is important to note that a MAC office in Bexar County should not be seen as a substitute to the judicial leadership, but instead an accompaniment to its efforts. A MAC office removes many, if not the majority, details of the day to day operations from the judges, to allow them to focus on the cases on their dockets. Bexar County judges will still take the lead in legislating new rules and guidelines in the county for the MAC office to implement these. For instance, the judges could decide on whether the new office will have authority to handle the wheel (addition of attorneys on the wheel and removal of attorneys from the wheel as a disciplinary action) or whether they would rather the MAC office staff to bring these matters to the board of judges. Setting up a successful MAC office would require collaboration among different stakeholders within the county including judges, commissioners, IT, Public Defender Office, and the jail to create an office that supports judges and ensures quality defense services to defendants.

For such an office to be successful, Bexar County should consider:

- Start a MAC office with limited scope
 - A potential suggestion is for the MAC office to initially only handle specific cases such as:
 - Conflict cases or
 - Violence against children
- Avoid limiting the MAC office to either misdemeanors or felonies
 - Most defendants have both, misdemeanors and felonies charges, and limiting the office to either one will affect the continuity of defense
- Establish data management system, which will allow the office to generate reports on attorneys and their activities (client visitation, CLEs, court appearance, defendant complaints, etc.)
- Move to hourly pay (for attorneys in the MAC system) rather than case fixed pay
 - This would align attorneys' incentives with the quality of defense
 - This would also ensure access to a pool of quality attorneys

- Work closely with other large jurisdictions in Texas (such as Harris County, Collin County, etc.) who are either in the process of implementing or currently run a MAC office. This collaboration would also highlight the ability to establish a MAC office in conjunction with the current Public Defender Office.

Based on the above, the county would then examine the performance of the new established MAC office based on the below criteria:

- Improved outcomes for defendants
 - Relationship with attorneys (contact, service, attention to the case and needs of defendants, etc.)
 - Case outcomes (pretrial detention, disposition, jail time, etc.)
- Efficiency in operations
 - Voucher system
 - Attorney complaints
 - Attorney wheel operations

Managed Assigned Counsel System Successes in Texas

It is very difficult, if not impossible, to examine the causal impact of a MAC system on a county because of the missing counterfactual. No one can observe what the county would have looked like without a MAC system (if a county had implemented one), or how a county would look like under a MAC system (if the county is considering implementing one) while holding everything else the same. That being said, Bexar County would benefit from the experience of other counties in Texas that have implemented a MAC system. Lubbock County was the first jurisdiction in Texas to establish a MAC office. It initially provided services to mentally ill and intellectually disabled defendants but then expanded to include all non-capital defendants. Collin County was the second jurisdiction with a MAC office. The Collin County system is the only MAC office in Texas that is not a private office and is a fully governmental entity. Similar to Lubbock County, the office in Collin County started offering indigent defense services to mentally ill defendants but expanded to all indigent defense cases in the county. Finally, the Austin Criminal Defense Lawyers Association and the Austin Bar Association created a joint venture to start Travis County's MAC program. This office, however, is much limited than both other systems as it does not make appointments.⁷⁴

Qualitative interviews and discussions offer anecdotal evidence that the quality of representation has improved under the MAC system due to improving accountability, training, mentoring, resources, and controlling of caseloads of assigned attorneys. Better quality of representation is important in ensuring improvements in efficiency and reduction of costs. Cost reductions come in reduced jail populations, increased voucher payment processes (and overall efficiency), and more stability in administrative and budget estimates. The Collin County MAC office saved the county between \$158,000 in 2013 and \$640,000 in 2015.⁷⁵ The office in Lubbock helped an inmate get a treatment plan, which allowed her not to be involved with the criminal justice for seven years after having been incarcerated for 10 years (pre-

⁷⁴ See http://www.tidc.texas.gov/media/57815/tidc_primer2017.pdf

⁷⁵ Texas Indigent Defense Workshop, 2017, Mental Health Defenders Presentation

trial) and not making any court appearance for the last two and a half years. Further, the overall cost per case in Lubbock County is \$450, while it is \$642 around the state.⁷⁶

Conclusion

If Bexar County implements the recommendations contained in this report, the county will take a large step forward in improving indigent defense in the county. Additionally, these changes will improve monitoring of attorneys, ensuring quality indigent representation for all defendants in Bexar County.

⁷⁶ See <https://www.kcbd.com/2019/04/15/lubbock-private-defenders-offices-successful-indigent-defense-influences-other-texas-counties/>