

Regional Public Defender for Capital Cases



Fiscal Year 2014 Summary

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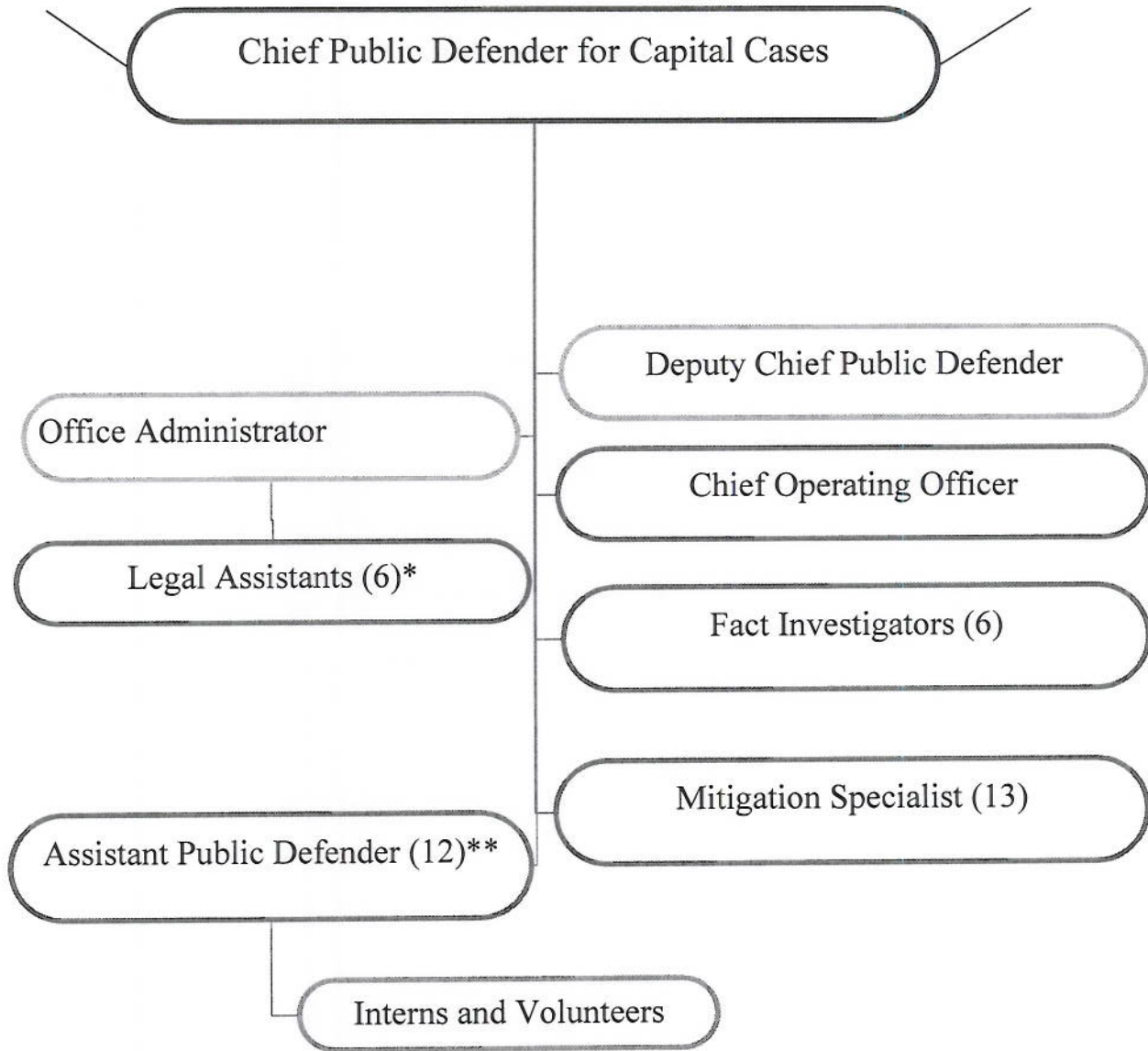
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Section 1: Mission Statement

Regional Public Defender for Capital Cases Mission Statement

The Regional Public Defender's Office shall represent those indigents charged with commission of capital offenses in the participating counties by providing high quality, cost-effective legal services in an ethical, professional, and competent manner. We shall seek to secure the legal protection of our clients, and enhance the quality of life in our community. In accomplishing our mission, we shall treat all people with dignity, respect, honesty and fairness.

Section 2: Organizational Structure



*one additional position open

**two additional positions open

2014-2015
Regional Public Defender for Capital Murder Cases
Oversight Board Members

7th Administrative Judicial Region

Hon. Dean Rucker , 318th District Court – ruckerd@co.midland.tx.us
William Bowden, Attorney, Midland – billbowden@cableone.net
Hon. Stephen Ellis, 35th District Court – 35thdistjudge@browncountytexas.org
Hon. Denn Whalen, 70th District Court – dwhalen@co.ector.tx.us
Hon. Ben Woodward, 119th District Judge – ben.woodward@co.tom-green.tx.us

9th Administrative Judicial Region

Hon. Kelly G. Moore, 121st District Judge – kmoore@terrycounty.org
Hon. David Gleason, Senior Judge - judgegleason@gmail.com
Hon. John Board, 181st District Judge - judgeboard@pottercscd.org
Hon. Brad Underwood, 364th District Judge – bunderwood@co.lubbock.tx.us
Hon. Pat Phelan, 286th District Judge - pphelan@hockleycounty.org
Chuck Lanehart, Attorney, Lubbock, Texas - chucklanehart@hotmail.com
Selden Hale, Attorney, Amarillo - sbhale310@aol.com

County Judges

Arthur Ware – 9th Region (Potter County) – arthurware@co.potter.tx.us
Susan Redford – 7th Region (Ector County) - redfosm@co.ector.tx.us

County Commissioners

Bill McCay – 9th Region (Lubbock County) – bmccay@co.lubbock.tx.us
Chuck Statler – 7th Region (Taylor County) – statlerc@taylorcountytexas.org

Others:

Andrea Marsh – Director, Pro Bono Programs, UT Law School - amarsh@law.utexas.edu
Kathryn Kase – Texas Defender Service – kmkase@texasdefender.org

Ex-Officio/Advisory Members:

Jim Bethke – Texas Indigent Defense Commission – jim.bethke@tidc.texas.gov
Jackie Latham – Lubbock County Auditor – jlatham@co.lubbock.tx.us
Dean Stanzione – Lubbock County Courts Administrator – dstanzione@co.lubbock.tx.us

Section 3: RPDO History and Regional Overview

RPDO—A BRIEF HISTORY

A modest, yet ambitious and innovative idea was conceived in the collaborative efforts of District Judges, criminal defense attorneys, various county officials, and David Slayton, who at the time was the Director of Court Administration for Lubbock County. West Texas is vast, consisting of miles and miles of ranch and farmland. It is mostly rural with the major population centers being Abilene, Midland, Odessa, Lubbock, and Amarillo. Yet this large region was not untouched by crime, averaging approximately twenty-five capital murders per year over a ten-year survey period. The problems facing the counties unlucky enough to have an indigent capital murder defendant charged in its jurisdictions were twofold: where do we find qualified defense teams to handle the cases, and how do we pay for the defense? The solution, according to the collaborators, was the formation of a regional office staffed with full-time qualified personnel, with offices in several locations around the region, charged with defending indigent capital murder defendants. And, it would be funded by the counties which chose to participate in the program by paying “premiums” yearly based upon population and average yearly capital case filings as a percentage of the whole. It would operate in a manner similar to a risk pool operation. But would it work?

In 2007, the collaborators approached the Task Force for Indigent Defense (now the Texas Indigent Defense Commission) and asked for grant funding to implement the proposed West Texas Regional Public Defender for Capital Cases (WTRPDO). The Commission, eager to assist with the establishment of new programs aiding indigent defense, embraced the concept and agreed to proceed with funding the WTRPDO to handle cases in the 7th and 9th Administrative Judicial Regions. Lubbock County was, and remains, the fiscal agent for the grant.

On January 1, 2008, the WTRPDO officially opened its doors and began accepting appointments from any of the eighty-five counties in the region. Growth was incremental. During year one, offices were opened in Lubbock, Amarillo, and Midland. Attorneys, mitigation specialists, investigators, and legal assistants were hired. Continued training of staff was imperative. Protocols were adopted, designed to ensure that clients were receiving effective, efficient, and ethical representation. The WTRPDO was largely accepted and welcomed in West Texas by judges, prosecutors, and county officials.

During each of the years of our existence, office staff have been asked to make presentations to various groups explaining the mission of the office, as well as its costs and benefits to counties. Word spread, and soon we were fielding phone inquiries asking about a possible expansion which would enable a county outside of our existing region to participate. The TIDC heard those same questions, and with the assistance of Lubbock County, awarded additional grant funds to Lubbock County to roll out the expansion into heretofore uncovered regions. The funding formula remained consistent, as did the staffing formula.

On October 1, 2010, the WTRPDO became the Regional Public Defender for Capital Cases, and began accepting case appointments in the 4th, 5th, and 6th Administrative Judicial Regions. Satellite offices were opened in Kingsville and Uvalde, with incremental staffing

throughout the first year. In FY2011, it became clear that not all of the counties in this region thought participation in the program was in the best interest of their county, so the RPDO modified its staffing and closed the Uvalde office in order to maintain fiscal integrity. In 2013, we moved the Kingsville office to Corpus Christi.

On October 1, 2011, the RPDO opened in the 2nd and 3rd Administrative Judicial Regions. Offices were opened in Angleton and Burnet, though the Angleton office located to Clute in August 2014. Again, staffing was done incrementally. That particular region has been particularly active and staff are very busy. An enormous advantage the RPDO enjoys over the private appointment sector is the ability to assign additional staff to a case to assist in investigation, preparation, and trial.

On October 1, 2012, the RPDO opened the 1st and 8th Administrative Judicial Regions, with offices in Wichita Falls and Terrell. While the influx of cases in this region has not been large, the RPDO is handling arguably one of the most highly publicized cases in the last decade, that being the killing of a district attorney, his wife, and one of his assistants.

This brief “historical summary” delivers, I hope, a picture of the birth and early developmental years of a program conjured by some innovative and outside the box thinking stakeholders. They saw the problems, confronted them, and put into motion a plan to overcome them. The best practices of the RPDO are, today, a model for other capital defense litigators to emulate (my opinion, of course).

REGIONAL PUBLIC DEFENDER FOR CAPITAL CASES



Dallam	Sherman	Haskell	Dodd	Lubbock
Hartley	Moore	Hutchinson	Roberts	Hempfling
Ocham	Pfister	Carson	Gray	Wheeler
Deaf Smith	Randall	Armstrong	Donkey	Collingsworth
Panther	Castro	Shelby	Briscoe	Hall
Bailey	Lamb	Hale	Floyd	Mohley
Cochran	Hookley	Lubbock	Crosby	Dickens
Yoakum	Terry	Lynn	Garza	Kent
Garner	Dawson	Borden	Scurry	Flahar
Andrews	Marin	Howard	Mizell	Nolan
Edgar	Midland	Glasscock	Staring	Coke
Loving	Winkler	Ward	Reeves	Tom Green
Collingsworth	Jeff Davis	Presidio	Brewster	Sutton
Hudspeth	El Paso	Terrell	Edwards	Kinzie
				Menard
				Concho
				McCulloch
				San Saba
				Llano
				Mason
				Gillespie
				Kerr
				Bandiera
				Uvalde
				Zavala
				Dimmit
				Webb
				La Salle
				McMullen
				Live Oak
				Karnes
				Wilson
				DeWitt
				Gonzales
				Guadalupe
				Comal
				Hays
				Bascom
				Travis
				Williamson
				Bell
				McLennan
				Falls
				Robertson
				Lea
				Freestone
				Anderson
				Cherokee
				Rusk
				Panola
				Shelby
				Neogochis
				San Augustine
				Stonewall
				Newton
				Orange
				Jefferson
				Chambers
				Galveston
				Brazoria
				Fort Bend
				Harris
				Montgomery
				San Jacinto
				Walker
				Meason
				Grimes
				Washington
				Austin
				Jalisco
				Colorado
				Wheeler
				Victoria
				Calhoun
				Victoria
				Rea
				San Patricio
				San Antonio
				Nueces
				Comal
				Jim Wells
				Corpus Christi
				Kleberg
				Kendall
				Willacy
				Cameron
				Starr
				Jim Hogg
				Books
				Kendall
				Willacy
				Cameron

AJR 1, 8

AJR 2, 3

AJR 4, 5, 6

AJR 7, 9

RPDO County Membership

- Participating
- Not Participating
- Ineligible County
- Administration
- Satellite Office

Participating counties as of November, 2014

Section 4: Budget



Lubbock County TX

Budget Report Account Summary

For Fiscal: 2013-2014 Period Ending: 09/30/2014

		Original Total Budget	Current Total Budget	Period Activity	Fiscal Activity	Variance Favorable (Unfavorable)	Percent Remaining
Fund: 113 - REGIONAL PUBLIC DEFENDER							
Revenue							
<u>113-4201000</u>	GRANT REVENUE	4,700,364.00	4,700,364.00	0.00	1,536,223.58	-3,164,140.42	67.32%
<u>113-4260000</u>	INTER LOCAL	1,332,890.00	1,332,890.00	9,418.00	1,633,261.85	300,371.85	122.54%
<u>113-4700000</u>	INTEREST INCOME	0.00	0.00	2,139.74	21,524.31	21,524.31	0.00%
<u>113-8113011</u>	XFER FROM GENERAL FUND	144,659.00	144,659.00	0.00	144,659.00	0.00	0.00%
	Revenue Total:	6,177,913.00	6,177,913.00	11,557.74	3,335,668.74	-2,842,244.26	46.01 %
Expense							
<u>113-113-5002000-20</u>	APPOINTED OFFICIALS	2,257,500.00	2,257,500.00	69,682.99	1,482,189.88	775,310.12	34.34%
<u>113-113-5006000-20</u>	STAFF EMPLOYEES	1,637,500.00	1,637,500.00	55,818.35	1,149,536.17	487,963.83	29.80%
<u>113-113-5101000-20</u>	FICA	241,490.00	241,490.00	7,400.06	152,852.98	88,637.02	36.70%
<u>113-113-5102000-20</u>	MEDICARE	56,477.00	56,477.00	1,732.63	36,377.03	20,099.97	35.59%
<u>113-113-5103000-20</u>	RETIREMENT	411,701.00	411,701.00	13,265.67	275,967.95	135,733.05	32.97%
<u>113-113-5104000-20</u>	GROUP HEALTH INSURANCE	346,830.00	342,112.00	12,368.65	243,558.09	98,553.91	28.81%
<u>113-113-5105000-20</u>	GROUP DENTAL INSURANCE	12,595.00	17,313.00	798.23	16,358.62	954.38	5.51%
<u>113-113-5106000-20</u>	LIFE INSURANCE	1,650.00	1,650.00	53.82	1,101.16	548.84	33.26%
<u>113-113-5107000-20</u>	UNEMPLOYMENT INSURANCE	5,842.00	5,842.00	188.25	3,828.89	2,013.11	34.46%
<u>113-113-5109000-20</u>	WORKER'S COMPENSATION	10,516.00	10,516.00	564.25	6,582.94	3,933.06	37.40%
<u>113-113-5201000-20</u>	SUPPLIES/OTH OPER EXP	110,700.00	110,700.00	9,218.45	79,850.54	30,849.46	27.87%
<u>113-113-5231000-20</u>	NON-CAPITAL EQUIPMENT	0.00	0.00	1,183.27	0.00	0.00	0.00%
<u>113-113-5503000-20</u>	TRAVEL AND TRAINING	458,900.00	458,900.00	67,002.11	250,239.13	208,660.87	45.47%
<u>113-113-5614000-20</u>	PROFESSIONAL SERVICES	352,695.00	352,695.00	29,391.25	352,695.00	0.00	0.00%
<u>113-113-5622000-20</u>	CONTRACT SERVICES	35,000.00	35,000.00	625.00	6,250.00	28,750.00	82.14%
<u>113-113-5999000-20</u>	OTHER CHARGES	238,517.00	238,517.00	5,000.00	6,513.33	232,003.67	97.27%
	Expense Total:	6,177,913.00	6,177,913.00	274,292.98	4,063,901.71	2,114,011.29	34.22 %
Fund: 113 - REGIONAL PUBLIC DEFENDER Surplus (Deficit):		0.00	0.00	-262,735.24	-728,232.97	-728,232.97	0.00 %
Report Surplus (Deficit):		0.00	0.00	-262,735.24	-728,232.97	-728,232.97	0.00 %

Group Summary

Account Typ...	Original Total Budget	Current Total Budget	Period Activity	Fiscal Activity	Variance Favorable (Unfavorable)	Percent Remaining
Fund: 113 - REGIONAL PUBLIC DEFENDER						
Revenue	6,177,913.00	6,177,913.00	11,557.74	3,335,668.74	-2,842,244.26	46.01 %
Expense	6,177,913.00	6,177,913.00	274,292.98	4,063,901.71	2,114,011.29	34.22 %
Fund: 113 - REGIONAL PUBLIC DEFENDER Surplus (Deficit):	0.00	0.00	-262,735.24	-728,232.97	-728,232.97	0.00 %
Report Surplus (Deficit):	0.00	0.00	-262,735.24	-728,232.97	-728,232.97	0.00 %

Section 5: Case Statistics (Cases Closed During FY 14)

Colu mn#	Opened	Defendant Name	County	Closed	Disposition	Total Hours	1st Chair	2nd Chair	Mitigation	Investigation	Support	Expert Funds
1	2/28/2013	Becton, Corey Percy	Galveston	10/7/2013	Waiver	896.95	92.5	82.5	83.85	30		\$ -
2	6/7/2013	Flores, Jerry	Lubbock	10/22/2013	No billed	137.4	1,365.00	375	5031	0		\$ -
3	1/15/2013	Almaraz, Matilda	Crosby	11/13/2013	Murder - Life	419.7	98	100.5	203.15	17.05	1	\$ 1,550.85
4	2/4/2012	Allen, David Keith	Coryell	11/20/2013	Arson - 30 years	2398.15	711.9	1.8	1339.15	320.2	25.41	\$ 18,485.64
5	8/21/2013	Small, Sherill	Milam	11/21/2013	waiver - withdrew	69.4	15.75	0	51.4	2.25		\$ -
6	2/14/2012	Harris, James	Brazoria	12/11/2013	death - Jury trial	8553.15	2299	2811.85	2058.9	1383.4		\$ 166,390.67
7	2/26/2013	Gomez, Esequiel	Swisher	1/8/2014	LWOP - Plea	763.8	197.2	63.8	266.8	236		\$ -
8	1/29/2013	Covington, Michael	Burnet	4/15/2014	Plea - 45 years murder	961.8	228.75	46.6	529.5	155.75	1.2	\$ 5,139.24
9	6/15/2011	Serna, Marcus	La Salle	4/17/2014	Murder - 40 years; plea	1484.25	279	163.05	732.4	309.6	0.2	\$ -
10	5/7/2012	Boulds, Christopher	Grimes	4/25/2014	LWOP - Plea	1918.95	293.05	351.9	1096.95	168.05	9	\$ 4,800.92
11	3/5/2012	Suniga, Brian	Lubbock	5/15/2014	Death - Jury trial	5278.7	1299.95	964.05	2507.6	501.1	6	\$ 53,759.41
12	10/17/2013	Allen, David Keith	Galveston	6/13/2014	waiver - withdrew	437.85	58	15.8	193.05	171		\$ 119.45
13	8/6/2013	McKelvey, Kevin	Angelina	6/23/2014	LWOPP- Plea	897	167.55	16.5	658.3	54.6	0.05	\$ 125.60
14	7/30/2013	Berry, Brian	Tom Green	7/22/2014	LWOPP- Plea	1046.65	495.45	15	383.45	152.75		\$ 600.00
15	8/27/2014	Dennis, Patricia	Lubbock	9/5/2014	withdrew - non death	15	14		1			\$ -
16	4/22/2014	Burns, Anthony	Washington	9/23/2014	LWOPP - Plea	341.55	37.55	69.25	146	88.75		\$ 5,506.52
17	8/25/2014	Carbajal, Eric	Kaufman	9/29/2014	Charges dropped	38.7		5	33.7			

Section 6: Awards



**Filipino American Legal Defense &
Education Fund, Inc.**

2013 FALDEF DSE "Service" Award

Presented to

Texas Regional Public Defenders Office for Capital Crimes

for your organization's dedication to public service and your overall
accomplishments that reflect the high tradition of selflessness,
which is at the core of FALDEF's mission.

Given this 26th day of October, 2013
Doubts Free by Hilton
Newark, New Jersey


JTS Mattinga, Esq.
President

National Association of Counties

2009
*Achievement Award
Winner*

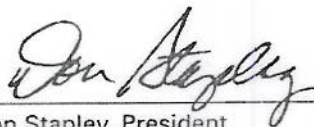
This Award is Presented to

Lubbock County, TX

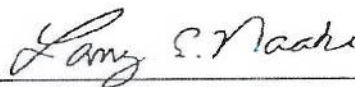
for
its program

*West Texas Regional Public
Defender for Capital Cases*

in recognition of an effective and innovative program
which contributes to and enhances county government
in the United States.



Don Stapley, President



Larry Naake, Executive Director

NACO National Association of Counties

The Voice of America's Counties

National Association of Counties

2009
*Achievement Award
Winner*

The 2009 Achievement Award Program

bestows its

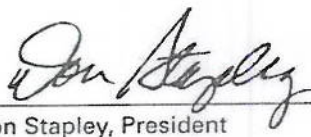
Best of Category Award

to

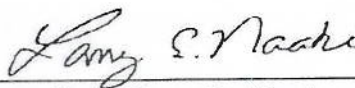
Lubbock County, TX

for its

*West Texas Regional Public Defender for Capital
Cases Program*


Don Stapley, President

July 2009


Larry Naake, Executive Director

NACO National Association of Counties

The Voice of America's Counties

Section 7: Highlights and Quotes

Highlights and Quotes

“This study finds that the Texas Regional Public Defender for Capital Cases (RPDO) increases access, improves quality, and reduces costs of death penalty representation in small to mid-sized counties. The program makes attorney and non-attorney capital team members readily available in the most remote regions of the state. In addition, specific strategies are employed by the office to raise the quality of counsel. By starting to work as early in the case as possible, developing a strong relationship of trust with each client, and constructing a convincing argument for mitigation of death, public defenders create the conditions most likely to result in a plea agreement. Cases ending in a plea are less costly to counties, both in terms of the initial disposition and subsequent appeals. Pleas also save the life of the defendant.

These findings show the public defender model is a successful means to deliver affordable, high-quality, specialized capital defense expertise in non-metro areas of the state. The model is worthy of consideration by eligible Texas counties as well as by other states contemplating replication.” (Carmichael, Dottie, 2013)

“Unique nationally, Texas’s Regional Public Defender for Capital Cases is a groundbreaking model. Evaluation results show the approach has successfully elevated the quality of legal representation in death-penalty cases while also helping to contain costs of defense in small- to mid-sized counties.

Taken together, these findings show the Texas public defender for capital cases is successfully achieving its objective of improving the quality of counsel and containing costs of defense for counties with populations below 300,000.” (Carmichael, Dottie, 2013, p. 76)

“Finally, one of the most significant advancements aimed at improving the fairness of capital proceedings was brought about by the establishment of two offices to provide capital representation throughout the state. In 2007, the Regional Public Defender for Capital Cases (RPDO) was established to represent indigent capital defendants at trial in an increasing number of Texas’s 254 counties. In 2009, the Office of Capital Writs (OCW), was created to represent indigent death-sentenced inmates during state habeas proceedings. Prior to the creation of these two offices, the State of Texas relied almost exclusively on locally-appointed counsel to represent indigent capital defendants and death-sentenced inmates. Although the most populous counties continue to rely primarily upon an appointment system in capital trials, the creation of these two offices—staffed by attorneys with demonstrated knowledge and expertise in death penalty cases—is a significant step forward in the improvement of the quality of representation available to Texas’s indigent defendants and inmates in death penalty cases.” (American Bar Association, 2013)

Quotes From Staff

I appreciate you sending the letter. I have to say that it feels good to hear from a previous client. I know that I work hard for all of our clients but when I started I would have never guessed that I would have some of these feelings. It makes me feel good to hear that he is doing well and is thankful. This made my day. – *Mitigation Specialist*

It's not unusual for a judge – when a case is concluded – to either email or to call and just say, 'Your guys did a really good job and you've got a lot to be proud of.' I've never heard any dissatisfaction from a trial judge that we've appeared before." - *Jack Stoffregen, Chief Public Defender*

"I look at my job sometimes... as quality control. We talk a lot about being efficient, being ethical, and being effective. We want to make sure we stay on point with those three goals." - *Jack Stoffregen, Chief Public Defender*

"There's still a culture in the rural counties to deny money for mitigation specialists... So that the public defender does not have to ask the judge is a great benefit." - *RPDO Oversight Board Member*

"I think you have to resist the temptation to go too fast... That's not going to work in these cases because ultimately there's more at stake. You are charged with a lot more duty in a death case than you are in any other case." - *Capital Public Defender*

"One of the first things you'll do... is find out if [clients] have any immediate needs that can be met. Are you too cold in your jail cell? Is there someone you need to contact? And we'll try to address some of those very immediate needs insofar as we can." - *RPDO Mitigation Specialist*

"I think that's the advantage of this office. We don't have to run back to the office and type up a divorce decree and handle six misdemeanors. You know, that's the kind of constraints people in private practice are under."- *Capital Public Defender*

"In all our cases there is obviously a deceased person, but a lot of times understanding the 'why' or the 'how' may help shift the case just enough where we get a [plea] offer or it's beneficial to our defense." - *RPDO Investigator*

"Once you come to know somebody it's much easier to be in a position where you can... grant those people mercy. And that's how we can most often save their lives."- *RPDO Mitigation Specialist*

Section 8: Informative Links

Informative Links

PPRI Report:

http://www.txcourts.gov/tidc/pdf/130607_FINAL.CapitalDefenderReport.pdf

Murder Insurance Article:

www.txcourts.gov/tidc/pdf/MurderInsuranceSprow

Making a Case:

http://www.county.org/magazine/CountyMagazinePDFs/CountyMag_NovDec2011.pdf

Regional Public Defender Website:

<http://rpdo.org/>