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Data: Some Indigent Defendants in Capital Cases Received Few If Any Visits from Appointed Attorneys in Harris County

New Policy Brief Highlights Failures in Capital Representation for Indigent Defendants

HOUSTON, TX – The Texas Center for Justice and Equity recently released a policy brief spotlighting inadequate legal representation for people with the most severe charges in Harris County. “[Absentee Advocacy: Failures in Harris County’s Capital Representation System](#)” explores the landscape of indigent defense in capital cases in the county, highlights findings from an analysis of jail visitation logs and court filings, and proposes an actionable solution for county decisionmakers.

“While an attorney should be afforded the discretion to develop legal theories and evidence behind their case, failing to visit a client whose life is *literally* on the line in no way comports with rendering ‘effective, high-quality legal representation with integrity,’” the brief’s authors wrote. “Whatever the underlying causes of these failures in legal defense, assertions that this is an acceptable compromise between legal practice and financial consideration must be wholly rejected.”

As investigated in a [2021 Duke Law Journal article](#) by TCJE Harris County Project Attorney Jay Jenkins and Neel U. Sukhatme of the Georgetown University Law Center, the same attorneys who are appointed in capital cases often donate to judges’ election campaigns, creating a “pay to play” system. Although Harris County has a growing Public Defender’s office, that office does not take capital cases. This leaves the most indigent defendants reliant on appointed representatives, chosen by the judges in their cases.

“Absentee Advocacy” follows [previous reports on this issue](#) from the Wren Collective ([part 1](#), [part 2](#)). Jay Jenkins (one of the authors of TCJE’s brief) also recently joined partners from the Wren Collective, Pure Justice, Texas Fair Defense Project, and Peer Navigator Project for a community town hall on the state of indigent defense in Harris County. Panelists and attendees discussed the organizations’ recent findings, as well as the failures of representation for under-resourced community members.

This research is particularly relevant in light of a judge’s [recent recommendation](#) to overturn a death sentence in the county on the grounds that the defendant received insufficient legal representation. In the “extremely rare” and “highly unusual” filing, Judge Natalia Cornelio found that lawyers appointed to represent Jeffery Prevost failed to investigate critical information about the defendant’s background and upbringing, and that the lead attorney in his case was overburdened.



[The “Absentee Advocacy” policy brief is available on TCJE’s website here.](#) With questions or to learn more about the organization’s Harris County work, please contact Jay Jenkins at jjenkins@texascje.org. With general questions about TCJE, please contact Madison Kaigh at mkaigh@texascje.org.

Key Findings

The brief’s authors reviewed jail visitation logs and court filings for capital murder cases active between January 1, 2015, and March 1, 2020, narrowing their sample to exclude defendants who were able to post bail. Of the 603 defendants held in the Harris County Jail while charged with capital murder cases active between those dates, the authors found that:

- 51 individuals received no visits by an attorney during this period
- 137 individuals were visited by an attorney less than once per year
- 258 individuals were visited by an attorney less than twice per year
- 56 individuals (less than 10% of cases) were visited by an attorney more than once per month
- 12 individuals were convicted but never visited by an attorney

Recommendations

The brief recommends that Harris County adopt the Regional Public Defender for Capital Cases (RPDO) model, which is already used in 186 Texas counties. RPDO provides capital representation by assigning a team of four people in each case it receives, including two attorneys, an investigator, and a mitigation specialist, all of whom have training specific to capital cases.

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The Texas Center for Justice and Equity (formerly the Texas Criminal Justice Coalition) advances solutions and builds coalitions to end mass incarceration and foster safer Texas communities.