



## TEXAS DISTRICT AND COUNTY ATTORNEYS ASSOCIATION

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# The Texas District and County Attorneys Association August, 2010

The Texas District and County Attorneys Association (TDCAA) is a professional 501(c)(6) nonprofit corporation dedicated to providing educational and other assistance to Texas prosecutors.

The mission of TDCAA is to promote the improvement of prosecution and government representation in Texas. It accomplishes this by providing educational and technical assistance to prosecutors and their staffs, by providing educational and technical assistance to the law enforcement community, and by serving as a resource in criminal law and government representation matters.

### *History of the Association.*

Prior to 1970, the Texas District and County Attorneys Association was a loose-knit group of Texas prosecutors who met in conjunction with the Attorney General's Annual Law Enforcement Conference. The first documented meeting of the Association was in conjunction with the State Fair in Dallas on November 5, 1905.

In 1970, Harris County District Attorney Carol Vance obtained federal LEAA grant funding to fund a prosecutor training organization. In 1971 the Texas District and County Attorneys Association was formally organized as a nonprofit corporation whose purpose was to train and offer technical assistance to prosecutors.

Recognizing the need to improve prosecution in Texas, in 1971 the Texas Criminal Justice Council funded a study by Peat, Marwick, Mitchell & Co. to examine all aspects of the Texas prosecution system and make recommendations for optimizing the handling of criminal cases. The 1974 report by Peat, Marwick made a number of recommendations for the improvement of prosecution.

The report listed ten statewide coordination functions that would greatly increase the effectiveness of local prosecution. ***First on the list was the training of prosecutors on a systematic and comprehensive basis.***<sup>1</sup> The report specifically recognized that professional development and training requires expertise not easily developed in a state agency, and recommended that the State continue to contract for such services with experienced providers such as TDCAA.<sup>2</sup> The report noted that TDCAA was uniquely capable of providing the needed

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<sup>1</sup> STUDY OF THE PROSECUTORS' OFFICES IN THE STATE OF TEXAS, Peat, Marwick, Mitchell & Co. 1974, page I-2; see Appendix A.

<sup>2</sup> *Id.*, pages VIII-9-10; VIII-14; VIII-16; see Appendix A.

training and communication services because of its knowledge and emphasis on programs and publications.<sup>3</sup>

In October of 1980 all LEAA funds were cut off by the federal government. Then-Governor Clements continued the funding of prosecutor training by grant funding from state Criminal Justice funds.<sup>4</sup> In 1991, those funding sources were no longer available, and funding for both prosecutor and indigent defense training was made available from the Judicial and Court Personnel Training Fund (Fund 540), administered by the Texas Supreme Court. In 1993, the supervision of Fund 540 was transferred to the Court of Criminal Appeals.

Besides training, the Association became a kind of conduit of communication between prosecutors and state government in 1973. On the heels of a failed Penal Code bill, the Association was asked by state leaders to play a significant role in the development of a Texas Penal Code based on the national model penal code. That effort, spearheaded by the TDCAA Executive Director Dain Whitworth and his assistant and now retired Presiding Judge of the Court of Criminal Appeals Mike McCormick, transformed the association into the first stop of the Legislature and other governmental officials when seeking the opinion and help of prosecutors in criminal justice matters.

### ***What TDCAA does.***

The Texas District and County Attorneys Association has three primary responsibilities: 1) provide training for prosecutors and their staff; 2) provide technical and legal assistance to prosecutors, their staff, and other in the law enforcement community; and 3) act as a resource for other governmental organizations involved in criminal justice issues.

### **Training.**

In terms of the number of training hours received each year, TDCAA is the fifth-largest provider of continuing legal education in the State of Texas.<sup>5</sup> TDCAA has developed a strong curriculum of training for new and experienced prosecutors. Relying on a well-trained staff, member-driven course development, and state-of-the-art training techniques, in a typical year TDCAA will produce nine or more major training conferences, ten to fifteen regional conferences, and two or three faculty development courses.

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<sup>3</sup> *Id.*, pages VIII-9-10; see Appendix A.

<sup>4</sup> THE STATUS OF PROSECUTION IN TEXAS, A Study by the Texas Prosecutors Coordinating Council for the Senate Jurisprudence Committee, 1980, pages 16-17.; see Appendix B.

<sup>5</sup> State Bar of Texas MCLE Sponsors – Market Share Report, Fiscal Year 2002 – June 1, 2001 to May 31, 2002; See Appendix C. TDCAA is fifth out of a total of 1,550 MCLE sponsors, and ranks only behind two State Bar of Texas training entities, the University of Texas, and the University of Houston.

Historically, over two-thirds of the 2,600 Texas prosecutors will receive some or all of their required MCLE training from TDCAA. From 1990 to 2005, TDCAA training has expanded from 1,800 attendees to 7,623. The greatest single increase came in 2005, with the advent of an aggressive DWI regional training program funded by TEXDOT.

Recent TDCAA training conferences have included:

- ✓ Two week-long trial skills courses for new prosecutors
- ✓ Annual specialty courses on topics such as child sex abuse, digital evidence, evidence, appellate practice, capital murder, drug enforcement, DWI, and intoxication manslaughter
- ✓ Courses and seminar tracks devoted to civil practice and open government
- ✓ Regional training on legislative updates, search and seizure, sentencing practices, gang prosecution, and DWI
- ✓ Faculty training courses

In addition, TDCAA, as a primary sponsor of prosecutor training, has responded in its training curriculum to mandated training and other legislative priorities in the areas of protective orders, hate crimes, diversion training, and state jail training.

### **Technical assistance.**

The TDCAA staff provides legal and technical assistance to prosecutors, their staff, and allied professionals. It provides this assistance in a number of ways:

- ✓ Answers dozens of legal questions from prosecutors each week, on topics such as prosecutor ethics, evidence, substantive criminal law, and search and seizure
- ✓ Maintains a legal website ([www.tdcaa.com](http://www.tdcaa.com)) which averages 26,000 hits a month, containing every important criminal case, relevant legal articles and information, a complete civil and juvenile forms databank, discussion forums, seminar papers, and important links
- ✓ Maintains a one-of-a-kind jury charge bank (launched January 17, 2003) that is open and available to any prosecutor, judge, or criminal defense attorney
- ✓ Provides weekly email criminal case law service, with expert commentary

### **Publications.**

TDCAA began its publication venture by publishing a modest Penal Code to serve its members in 1989. The business has grown: in the last five years alone, TDCAA has distributed nearly 164,000 criminal law books. Books printed and distributed with grant funds include:

- ✓ Prosecutor Ethics (2nd Edition 2006)
- ✓ Appellate Manual
- ✓ Texas Crimes
- ✓ Future Danger

- ✓ Capital Writs
- ✓ The Perfect Plea
- ✓ Investigator Desk Reference
- ✓ Pleas, Probation and Punishment
- ✓ Juveniles
- ✓ *Brady*
- ✓ Conflicts

In addition, TDCAA has used private funds to provide a number of timely prosecutor-specific publications that are not available from any other source. In the last couple years the following books and materials have been distributed to Texas prosecutors and other criminal justice professionals:

- ✓ Predicates Questions Manual
- ✓ Prosecutor Trial Manual
- ✓ Annotated Criminal Laws
- ✓ Penal Code (with legislative amendments indicated)
- ✓ Code of Criminal Procedure (with legislative amendments indicated)
- ✓ Investigating and Prosecuting Child Sexual Abuse
- ✓ Sex Offender Registration
- ✓ Annotated Transportation Code
- ✓ Legislative Update Booklet
- ✓ DWI Investigation and Prosecution (3rd Edition 2007)
- ✓ Charging Manual
- ✓ Search and Seizure Manual (3rd Edition 2007)
- ✓ Warrantless Search and Seizure
- ✓ Confessions Manual
- ✓ Mental Defenses
- ✓ Grand Jury Handbook
- ✓ Asset Forfeiture Manual
- ✓ Exemption and Nondisclosure
- ✓ HIPAA for Prosecutors
- ✓ Extradition
- ✓ Victims Rights Brochures
- ✓ Case Folders

### **Resource and governmental affairs.**

Besides meeting the training and legal needs of Texas prosecutors and their staff, TDCAA acts as a point-of-contact and clearinghouse for communications to prosecutors and discussions with prosecutors by other governmental agencies, criminal justice entities, and the Legislature. During the legislative sessions, the Association acts as a “home base” and source of information for prosecutors who deal with the legislature, and has two employees who go “off grant” to concentrate on legislative affairs.

In addition, the Association frequently acts as a conduit for information and action in dealing with other governmental entities, such as the Office of the Governor, the Office of the Attorney General, the Comptroller, DFPS, and legislative interim committees.

Finally, only TDCAA maintains a current and accurate database of all Texas prosecutors and their staff. This database is used to provide information to government agencies and others who need to communicate with specific prosecutors, or certain groups of prosecutors. In addition, the TDCAA staff and leadership can help agencies and allied professionals with their technical and practical expertise in criminal law.

For example, TDCAA has recently provided this database and/or worked on legal and training issues with the following groups:

- ✓ Office of Court Administration
- ✓ Texas Department of Protective and Regulatory Services
- ✓ Texas Ethics Commission
- ✓ Fraud Unit of the Texas Department of Insurance
- ✓ Criminal Justice Policy Council
- ✓ Texas Youth Commission
- ✓ Texas Department of Criminal Justice
- ✓ Texas Peer Assistance Program for Nurses
- ✓ Texas Crime Victim Clearinghouse
- ✓ Texas Workforce Commission
- ✓ Baker Institute of Public Policy at Rice University
- ✓ Women's Advocacy Project
- ✓ Texas Equal Access to Justice Foundation
- ✓ SB 553 Task Force on Competency (77<sup>th</sup> Session)

### ***How TDCAA pays for it.***

State support for TDCAA comes through a grant from the Court of Criminal Appeals, and more recently through TEXDOT. For instance, the FY 2007 CCA grant was in the amount of \$1,333,000.<sup>6</sup> The CCA grants come from the Judicial and Court Personnel Training Fund (Fund 540), a dedicated fund established by Chapter 56 of the Government Code and funded with a \$2.00 court cost on every criminal conviction. This fund generates around \$9 million per year, and is designated by statute and appropriations riders to fund training for appellate and district judges, county court at law judges, constitutional county judges, justices of the peace, municipal judges and prosecutors, district and county attorneys, and criminal defense attorneys who engage in indigent criminal defense.<sup>7</sup>

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<sup>6</sup> For a historical summary of the training grants received by TDCAA from the State, see the table on page 6.

<sup>7</sup> Chapter 56, TEX. GOV. CODE (Vernon's Supp. 2003).

As do many nonprofit corporations, TDCAA accomplishes its training and assistance with a mixture of grant funds and other revenue. When the Association first began its training efforts in 1970, it quickly became apparent that there would be a continuing need to bridge the gap between state support and the funding needed. Thus, TDCAA generates additional revenue from sources such as publications, seminar fees, and membership dues. Over time, these sources have come to represent a significant source of support for TDCAA.

The following table reflects the revenue that TDCAA has generated from all sources to support its training and assistance efforts:

<b>Fiscal Year</b>	<b>Grant</b>	<b>Non-Grant</b>	<b>Total</b>
1990	\$610,376 (61%)	\$391,502 (39%)	\$1,001,878
1992	\$665,420 (51%)	\$651,139 (49%)	\$1,316,559
1994	\$679,000 (47%)	\$774,211 (53%)	\$1,453,211
1996	\$679,000 (45%)	\$822,854 (55%)	\$1,501,854
1998	\$679,000 (40%)	\$997,849 (60%)	\$1,676,849
2000	\$950,458 (42%)	\$1,306,337 (58%)	\$2,256,795
2002	\$1,358,000 (51%)	\$1,301,875 (49%)	\$2,659,875
2004	\$1,853,682 (63%)	\$1,105,054 (37%)	\$2,958,736
2005	\$2,071,168 (66%)	\$1,055,271 (34%)	\$3,126,439
2006	\$1,849,105 <sup>8</sup> (57%)	\$1,421,186 (43%)	\$3,270,291
2007	\$2,058,248 (64%)	\$1,120,500 (36%)	\$3,178,748
2008	\$1,798,289 (49%)	\$1,841,090 (51%)	\$3,639,379
2009	\$1,532,915 (47%)	\$1,750,710 (53%)	\$3,283,625
2010	\$1,781,427 (51%)	\$1,729,709 (49%)	\$3,511,436

<sup>8</sup> This figure includes grants, program income, and unexpended balances of grant funds carried from the previous year.

The following table reflects the number of people who work in prosecutor offices, and the number of people trained by TDCAA in that year. It also records the number of staff members who accomplished the task.

<b>Year</b>	<b># of Prosecutors and Staff</b>	<b># of Attendees</b>	<b># of TDCAA Staff</b>
1990	3,065	1,800	7
1992	3,448	2,500	8
1994	3,609	2,991	9
1996	3,836	2,333	11
1998	4,031	2,554	13
2000	4,409	3,264	14
2002	4,755	3,958	14
2004	4,929	4,198	14
2005	5,002	7,623 <sup>9</sup>	15
2006	5,134	5,098	15
2007	5,154	7,418	16
2008	5,323	4,585	15
2009	5,424	6,277	15
2010	5,397	4,428	16.5

### ***The Texas District and County Attorneys Foundation.***

This memorandum discusses the historical growth of TDCAA, and how the association supports its work with a mix of grants and private income. In the summer of 2006 the TDCAA Board created a new organization, the Texas District and County Attorneys Foundation. This organization is a 501(c)(3) charitable/educational foundation created to support the work of TDCAA. The premise is simple – funding needs continue to grow, and the association should seek support for our work from those in the community who share our goal of a safer Texas. In its first four years of operation, the new foundation has generated nearly \$2 million financial support, and has attracted some major sponsors for training and assistance activities, including the Anheuser Busch Companies, ATT, and Delta Airlines.

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<sup>9</sup> This number includes all people trained by TDCAA in FY 2005 under the CCA grant (3,621), the TEXDOT grant (1,112), and the TDCAA trust regional legislative updates and elected prosecutor regionals (2,890).

## ***Conclusion.***

The Texas District and County Attorneys Association has consistently fulfilled the mission of service that it undertook in 1970. The funding mechanisms for the work have changed over time, but the association has worked to find the resources to do the job.

From this snapshot of the association's history, a pattern of consistent growth appears. The growth of the association continues to mirror the consistent growth of its service group – the offices of county and district attorneys in the State of Texas. If history is any predictor of future events or needs, we can predict that the association will need to continue to find ways to grow as it works to support the efforts of Texas prosecutors.