



**TEXAS INDIGENT DEFENSE COMMISSION
MEETING NOTEBOOK
AUGUST 29, 2019**

FULL BOARD – 10:00 A.M.

Tom C. Clark Building, 1st Floor Conf. Room
205 W. 14th Street, Austin, TX 78701



209 W. 14th Street, Room 202
Austin, Texas 78701
Phone: 512-936-6994; Fax: 512-463-5724
www.tidc.texas.gov

Chair:

Honorable Sharon Keller

Chair – Presiding Judge, Court of Criminal Appeals

Ex Officio Members:

Honorable Sharon Keller

Austin, Presiding Judge, Court of Criminal Appeals

Honorable Nathan L. Hecht

Austin, Chief Justice, Supreme Court of Texas

Honorable John Whitmire

Houston, State Senator

Honorable Brandon Creighton

Conroe, State Senator

Honorable Nicole Collier

Fort Worth, State Representative

Honorable Andrew Murr

Junction, State Representative

Honorable Sherry Radack

Houston, Chief Justice, First Court of Appeals

Honorable Vivian Torres

Rio Medina, Judge, Medina County Court at Law

Members Appointed by the Governor:

Mr. Alex Bunin

Houston, Chief Public Defender, Harris County Public Defender Office

Honorable Richard Evans

Bandera, Bandera County Judge

Mr. Gonzalo Rios, Jr.

San Angelo, Attorney, Gonzalo P Rios Jr Law Office

Honorable Missy Medary

Corpus Christi, Presiding Judge, 5th Administrative Judicial Region of Texas

Honorable Valerie Covey

Georgetown, Commissioner Precinct 3

Staff:

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TEXAS INDIGENT DEFENSE COMMISSION
209 WEST 14TH STREET, ROOM 202 • PRICE DANIEL BUILDING • (512) 936-6994
Austin, Texas 78701

DATE: Thursday, August 29, 2019—10:00 a.m.
Tom C. Clark Building, 1st Floor Conference Room
205 West 14th St, Austin, TX 78701

AGENDA

The Commission may discuss or act on any of the following items:

1. Commencement – *Presiding Judge Sharon Keller*
2. Attendance
3. Approval of June 6, 2019 Minutes
4. Chair’s Report – *Presiding Judge Sharon Keller*
 - a. Welcome new board member
5. Director’s Report – *Mr. Geoffrey Burkhart*
6. Grants and Reporting
 - a. Report on Fair Defense Account (Fund 5073)
 - b. Issue FY20 formula grant request for applications
 - c. Issue supplemental mental health public defender request for applications
 - d. Issue FY19 Indigent Defense Expenditure Report manual
 - e. Consider improvement grant applications
 - i. Consider new and pending FY20 improvement grant applications
 - ii. Consider pending grant modification requests
 - f. Consider technical support grant applications
 - g. Consider extraordinary grant requests
 - h. Consider adopting final FY19 budget
 - i. Report on FY20-21 contracts
 - j. Consider adopting FY20 budget
7. Fiscal Monitoring Report
8. Policies and Standards – *Mr. Alex Bunin*
 - a. 2019 indigent defense plan submission process
 - b. Policy Monitoring Report
 - i. Distribution of Dallas misdemeanor appointments
 - c. Update on policy monitoring process review and rule review
 - d. Complaints
9. Next meeting
10. New business
11. Public comment
12. Adjournment

TEXAS INDIGENT DEFENSE COMMISSION

Roll Call
COMMISSION MEMBERS

	MEMBER	PRESENT / ABSENT
1	THE HONORABLE SHARON KELLER	
2	MR. ALEX BUNIN	
3	THE HONORABLE VALERIE COVEY	
4	THE HONORABLE BRANDON CREIGHTON	
5	THE HONORABLE RICHARD EVANS	
6	MR. GONZALO RIOS	
7	THE HONORABLE NATHAN HECHT	
8	THE HONORABLE MISSY MEDARY	
9	THE HONORABLE NICOLE COLLIER	
10	THE HONORABLE ANDREW MURR	
11	THE HONORABLE SHERRY RADACK	
12	THE HONORABLE VIVIAN TORRES	
13	THE HONORABLE JOHN WHITMIRE	

Texas Indigent Defense Commission
Minutes of meeting

Thursday, June 6th, 2019 —10:00 a.m.
Tom C. Clark Building, 1st Floor Conference Room
205 West 14th St, Austin, TX 78701

Judge Keller called the meeting to order at 10:03 a.m. Roll was called. Members present: Judge Sharon Keller, Chief Justice Hecht, Mr. Alex Bunin, Judge Nicole Collier, Judge Richard Evans, Mr. Gonzalo Rios, Judge Missy Medary, Judge Chris Hill and Judge Vivian Torres. TIDC staff present: Ms. Megan Bradburry, Ms. Claire Buetow, Mr. Geoff Burkhart, Ms. Kathleen Casey, Mr. Edwin Colfax, Mr. Joel Lieurance, Mr. Wesley Shackelford, Ms. Debra Stewart, Ms. Dorian Torres and Ms. Sharon Whitfield.

Mr. Bunin motioned to approve the minutes from the March 7th, 2019 commission meeting. Judge Medary seconded; the motion passed unanimously.

Judge Keller began her opening remarks with a farewell to board member Mr. Don Hase and welcoming new board member, Mr. Gonzalo Rios.

Mr. Burkhart introduced summer interns Ms. Hayden Kursh and Mr. Christopher Lough.

Mr. Burkhart presented Legislative Appropriations Request and recent activities update. B

Budget

Ms. Whitfield reported on Fair Defense Account's fund and cash balance for FY18, comparison of revenue flows from FY18 and FY19 and the FY19 budget.

Grants & Reporting

Mr. Colfax reported on the update on special conditions for FY19 Formula Grants, there are 6 outstanding counties for the program commissioners court. All counties are in compliance with reporting requirements or have an approved action plan.

Mr. Colfax reported on the sustainability funding policy for Regional Public Defender Office for Capital Cases. TIDC will provide sustainability funding for RPDO-Capital to augment the legislative appropriation made for RPDO-Capital and maintain equitable state-county cost sharing. The committee motioned to increase the sustainability grant funding level for RPDO-Capital to two-thirds; Judge Hill opposed; the motion passes.

Mr. Colfax reported on sustainability funding for rural regional public defender offices for non-capital cases, TIDC may be provided on a reimbursement bases for up to 50% of eligible program costs and may be awarded for up to two years. The committee motioned to increase the sustainability grant funding level for Rural Regional Public Defender offices to two-thirds; Judge Hill opposed; the motion passes.

Mr. Colfax discussed how Formula Grants are calculated. Every county is eligible to receive a grant budgeted by the Commission for the Formula Grant Program calculated based 50% on the County's percent of state population and 50% on the County's percent of statewide direct indigent defense expenditures for the previous year. Judge Keller spoke about when the grant application was due.

The committee motioned to increase the minimum formula grant amount to \$15,000; Judge Hill opposed; the motion passes.

Mr. Colfax reported on a FY20 Improvement Grant Request for Bexar County. The program proposes a middle ground between an indigent defense coordinator function and a managed assigned counsel program. The recommendation was to leave the application pending until staff can help refine the proposal. The committee motioned to make Indigent Defense Coordinator grants eligible for the standard 4-year stepdown improvement grants; Mr. Bunin seconded; the motion passes unanimously.

There was a committee motion to award FY20 continuing multi-year discretionary grants and allocate appropriate amounts to cost containment and mental health public defenders; the motion passes unanimously.

Committee motioned to award FY20 sustainability grant requests per the two-thirds column of recommended award amounts; Judge Hill opposed; the motion passes.

Mr. Colfax discussed a FY20 Improvement Grant Request for Bowie County which seek one public defender and staff investigator for high caseloads. The recommendation is to award Bowie County a multi-year improvement grant of \$140,000. The committee motioned to award FY20 improvement grant for public defender quality improvement through manageable caseloads; the motion passes unanimously.

Mr. Colfax reported a FY19 Improvement Grant Request for Burnet County for videoconferencing technology ensuring timely magistrations. The recommendation is to leave pending to allow staff to work with the County on more detailed cost proposals.

Mr. Colfax reported a FY20 Improvement Grant Request for Collin County which want to implement a Managed Assigned Counsel (MAC) program to improve the quality and efficiency of indigent defense representation. The recommendation is to award Collin County a multi-year Improvement Grant of \$226,882. Committee motioned to award FY20 improvement grant for a managed assigned counsel program; Judge Torres opposed; Judge Hill abstained; the motion passes.

Mr. Colfax discussed a FY20 Improvement Grant Request for El Paso County who proposes a new program to ensure that all arrestees who remain incarcerated after 48 hours are represented by public defenders at a bond review hearing before magistrate. The request has been to award El Paso County a FY20 Multi-Year Improvement Grant of \$353,736. Mr. William Cox testified on behalf of El Paso County. The committee motioned to award FY20 improvement grant for 48-hour bond hearing project; the motion passes unanimously.

Mr. Colfax discussed a FY20 Improvement Grant Request for Fort Bend County to enhance defense services through compliance with requirements for dense counsel to advise defendants immigration-related collateral consequences. The request is the award Fort Bend County a FY20 Improvement Grant of \$99,207. Mr. Bunin motioned to award FY20 improvement grant for a Padilla compliance attorney; Judge Torres seconded; the motion passes unanimously.

Mr. Colfax discussed a FY20 Improvement Grant Request for Harris County to implement a Managed Assigned Counsel (MAC) program to improve quality and accountability representation.

The recommendation is to leave the proposal pending to allow TIDC to work with the County to develop a more comprehensive MAC proposal.

Mr. Colfax discussed a FY20 Improvement Grant for Medina County to implement an Indigent Defense Coordinator (IDC) to improve County appointment process. The request is to award Medina County a FY20 Multi-Year Improvement Grant of \$47,741. The committee motioned to award FY20 improvement grant for an indigent defense coordinator; the motion passes unanimously.

Mr. Colfax discussed a FY20 Improvement Grant Request for Navarro County to support the Indigent Defense Coordinator (IDC) program. The recommendation is the County's current IDC Grant Program provides one-year startup assistance and is not renewable. No award based on current policy.

Mr. Colfax discussed a FY20 Improvement Grant Request for Travis County to create a public defender's office, improvement of MAC staffing and implement defense representation at Article 15.17 magistrations hearings. The recommendation is to leave the proposal pending to allow TIDC staff to work with the County to refine the details and vet the budget.

Mr. Colfax reported a FY20 Improvement Grant Request for Wichita County to implement a public defender office focused on clients exhibiting chronic problems. The recommendation is the award the County a FY20 Multi-Year Improvement Grant of \$274,772. Judge Medary motioned to award FY20 improvement grant for solution-based alternatives to incarceration program; Judge Torres seconded; the motion passes unanimously.

Mr. Colfax reported a FY20 Improvement Grant Request for Wichita County to implement the Odyssey case management system. The County seeks matching funds to purchase mobile technology. The recommendation is to award the County a FY20 Single-Year Improvement Grant of up to \$23,000. Judge Keller motioned to award FY20 improvement grant for mobile technology for indigent legal services; Mr. Bunin seconded; the motion passes unanimously.

Mr. Colfax discussed a Grant Request for Williamson County in support of a program that assigns an Attorney Advocate to youth that have been court ordered into the Williamson County Secure Residential Program and who cannot meet the program requirements. The recommendation is no funding based on program concerns.

Mr. Colfax discussed Willacy County Extraordinary Grant Supplemental Request. Mr. Aurelio Guerra testified on behalf of Willacy County. The committee motioned to award \$150,000; Judge Medary abstained since she is the regional presiding judge covering Willacy County. The motion passed unanimously.

Fiscal Monitoring

Ms. Stewart reported on the Fiscal Monitoring Program. Since the March 2019 meeting, she has conducted four desk reviews and three on-site fiscal monitoring visits. One final report and four initial reports have been issued. There are five final reports and four initial reports pending issuance, two on-site visits are in process. Comprehensive Annual Financial Reports (CAFR)'s and single audit reports for seventeen counties were reviewed.

Judge Torres motioned to reduce future grant payments to Bexar County by \$10,929, to Smith County by \$3,445, and to Parker County by \$14,717; Mr. Bunin seconded; motion passed unanimously.

Legislative Update

Mr. Shackelford discussed TIDC legislative proposals status report, Senate Bill 583 and the indigent defense provision in Senate Bill 2.

Policies and Standards

Mr. Lieurance provided an update on the Policy Monitoring Program and outstanding issues for Dallas County misdemeanor appointments. For the period between July 2018 and March 2019, the top 10% of recipient attorneys received 2.96 times their representative share of appointments. This is within the 3 times share standard in TIDC rules. Mr. Lieurance provided further details on a summary attorney appointment report and the tentative schedule for the TIDC policy team.

Mr. Lieurance reported on a summary of recent complaints. Since the March 7, 2019 meeting there have been 22 new complaints, 6 complaints remain open, pending further investigation and 16 complaints were resolved.

No new business was discussed.

The next meeting will take place in August 29, 2019.

Meeting adjourned at 12:05 p.m.



Director's Report

This is a summary of TIDC's activities from June through August 2019. For additional information, please contact Executive Director Geoff Burkhart: gburkhart@tidc.texas.gov or (512) 936-6999.

People



Commission Members

TIDC is joined by Williamson County Commissioner **Valerie Covey**. Commissioner Covey represents Precinct 3 and has worked for 30 years as a Certified Public Accountant. Welcome, Commissioner Covey!

Staff Activities

As part of TIDC's core work—funding, oversight, and improvement of Texas indigent defense—staff participated in dozens of activities in June through August. Here are a few activities of note:

- On June 11, TIDC convened the Texas Chief Defenders in San Antonio and held a kickoff event for our [Future Indigent Defense Leaders](#) training and mentoring project. The FIDL program sent 25 mentees and 25 mentors to Gideon's Promise public defense training and organized local mentoring pairs throughout the State.





- Geoff Burkhardt, Claire Buetow, Joel Lieurance, Kathleen Casey-Gamez, Scott Ehlers, and Christopher Lough attended the [32nd Annual Rusty Duncan Advanced Criminal Law Course](#) in San Antonio June 13-15.
- On June 28, Geoff presented to the Texas Judicial Council on recent TIDC updates. To see his presentation or read the materials from the meeting, click [here](#).

- Sharon Whitfield attended the [Texas State Agency Business Administrators' Association's \(TSABAA\) Annual Conference](#) in Sugarland July 10-12.
- Scott and Geoff attended the State Bar of Texas Legal Services to the Poor in Criminal Matters Committee's Strategic Planning meeting on July 19.
- On July 30, Wesley Shackelford testified at the Hays County Commissioners meeting, while Geoff attended the Travis County Commissioners Court.
- Geoff attended [Gideon's Promise Leadership Training](#) in Atlanta, GA August 2-4.
- Debra Stewart attended the [State Auditor's Office 2019 Audit Conference](#) August 5-6.
- TIDC has issued final fiscal monitoring reports for [Kendall County](#), [Duval County](#), [Upton County](#), and [Lee County](#).
- TIDC staff has traveled to Rusk, Scurry, Childress, Deaf Smith, Briscoe, Hall, Donley, Fisher, Kleberg, Duval, Collin, Somervell, San Augustine, and Sabine for policy-fiscal monitoring.



Executive Leadership Institute 2019

TIDC is working with several Texas chief public defenders to bring the National Association for Public Defense's (NAPD) Executive Leadership Institute (ELI) to Texas in October 2019. ELI is expected to train approximately 100 indigent defense leaders, managers, and supervisors.



**Texas Indigent Defense Commission
Fund and Cash Balance for FY18**

FUND 5073:

Fund Balance by Year	FY18 Actuals as of June 6, 2019	FY18 Actuals as of August 29, 2019	Total funds available as of August 29, 2019
Cash in Fund	\$2,088,914	\$1,654,180	\$1,654,180
Obligations/ Obligations Paid	(\$925,229)	(\$476,786)	(\$476,786)
Cash Moved/Remaining Cash	\$1,163,685	\$1,177,394	\$1,177,394

FY18:

Cash Remaining in FY18 Ledger - FD5073 **\$2,088,914** **\$1,654,180**

Obligations:

Competitive Improv Grant - Single (Dallas)	\$146,975	\$9,112	
Technical Support Grants	\$753,254	\$467,674	
Innocence Project - (Texas Southern Univ)	\$25,000	\$0	

Total Obligations for FY18 **\$925,229** **\$476,786**

Remaining Cash in FY18 **1,163,685** **1,177,394**

Texas Indigent Defense Commission
Comparison of Revenue Flow (FY17 - FY19)

Revenue Received

	FY17					FY18					FY19				
	Court Costs (3704)	Surety Bond (3858)	State Bar (3195)	General Revenue	Total	Court Costs (3704)	Surety Bond (3858)	State Bar (3195)	General Revenue	Total	Court Costs (3704)	Surety Bond (3858)	State Bar (3195)	General Revenue	Total
September	\$36,521	\$4,102	\$106,308	\$3,750,000	\$3,896,930	\$29,665	\$2,732	\$93,763	\$3,750,000	\$3,876,160	\$32,689	\$185	\$104,195	\$3,750,000	\$3,887,068
October	\$204,207	\$2,984	\$22,620		\$229,811	\$383,637	\$803	\$17,290		\$401,730	\$214,471	\$853	\$24,408		\$239,731
November	\$4,472,057	\$485,464	\$42,575		\$5,000,096	\$7,803,772	\$458,210	\$66,340		\$8,328,322	\$8,476,423	\$471,217	\$55,218		\$9,002,857
December	\$79,919	\$8,104	\$21,320		\$109,344	\$154,862	\$11,679	\$23,985		\$190,526	\$60,035	\$0	\$9,685		\$69,720
January	\$225,991	\$560	\$6,598		\$233,148	\$312,300	\$1,090	\$5,810		\$319,199	\$335,259	\$9,166	\$7,313		\$351,738
February	\$4,021,218	\$460,684	\$4,973		\$4,486,875	\$7,469,984	\$475,264	\$5,460		\$7,950,707	\$7,142,934	\$468,889	\$4,290		\$7,616,113
March	\$68,646	\$10,454	\$2,990		\$82,090	\$74,721	\$1,005	\$2,568		\$78,294	\$289,518	\$3,835	\$2,340		\$295,693
April	\$134,083	\$2,119	\$54,288		\$190,489	\$43,132	\$49	\$45,403		\$88,584	\$658,666	\$2,174	\$115,180		\$776,020
May	\$5,539,151	\$514,743	\$609,018		\$6,662,912	\$8,847,126	\$455,229	\$652,567		\$9,954,923	\$8,614,274	\$498,638	\$1,065,090		\$10,178,002
June	\$39,138	\$0	\$878,863		\$918,001	\$492,189	\$53,233	\$829,270		\$1,374,692	\$17,633	\$181	\$591,630		\$609,443
July	\$139,562	\$282	\$476,570		\$616,414	\$326,653	\$180	\$458,333		\$785,166	\$309,246	\$0	\$353,113		\$662,358
August	\$8,880,042	\$613,844	\$176,474		\$9,670,361	\$8,925,976	\$482,994	\$194,138		\$9,603,108	\$7,961,079	\$468,280	\$50,115		\$8,479,474
Total Revenue Collected	\$23,840,536	\$2,103,340	\$2,402,594	\$3,750,000	\$32,096,471	\$34,864,019	\$1,942,468	\$2,394,925	\$3,750,000	\$42,951,411	\$34,112,225	\$1,923,418	\$2,382,576	\$3,750,000	\$42,168,218
Revenue Appropriated	\$21,000,000	\$2,000,000	\$2,300,000	\$3,750,000	\$29,050,000	\$25,743,124	\$2,000,000	\$2,300,000	\$3,750,000	\$33,793,124	\$24,692,588	\$1,900,000	\$2,300,000	\$3,750,000	\$32,642,588
Collected vs Appropriated	\$2,840,536	\$103,340	\$102,594	\$0	\$3,046,471	\$9,120,895	(\$57,532)	\$94,925	\$0	\$9,158,287	\$9,419,637	\$23,418	\$82,576	\$0	\$9,525,630

Juror Pay

FY12	\$7,620,331
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FY13	\$9,042,121
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FY14	\$7,375,603
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FY15	\$6,697,267
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FY16	\$6,474,113
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FY17	\$6,127,585
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* A reduction of \$474,113 from FY17 estimate of \$6,600,000

FY18	\$6,634,193
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** An increase of \$434,193 from FY18 estimate of \$6,200,000

Sept - May	FY17	FY18	FY19
Court Costs	\$14,781,793	\$25,119,200	\$25,824,268
Surety Bond	\$1,489,213	\$1,406,061	\$1,454,957
State Bar	\$870,688	\$913,185	\$1,387,718
Tot FD 5073	\$17,141,694	\$27,438,445	\$28,666,943
General Rev.	\$3,750,000	\$3,750,000	\$3,750,000
Total w/GR	\$20,891,694	\$31,188,445	\$32,416,943

Sept - Aug	FY17	FY18	FY19
Court Costs	\$23,840,536	\$34,864,019	\$34,112,225
Surety Bond	\$2,103,340	\$1,942,468	\$1,923,418
State Bar	\$2,402,594	\$2,394,925	\$2,382,576
Tot FD 5073	\$28,346,471	\$39,201,411	\$38,418,218
General Rev.	\$3,750,000	\$3,750,000	\$3,750,000
Total w/GR	\$32,096,471	\$42,951,411	\$42,168,218

FD 5073 - FY19

Appropriated for FY19:	\$28,892,588
Revenue Received:	\$38,418,218
Revenue Outstanding:	\$6,200,000
Estimate - Total Receive:	\$44,618,218
Amount Unappropriated:	\$15,725,630
Sitting in Fund	

Texas Indigent Defense Commission
Fiscal Year 2019 Revenue / Budget

	FY19 Budget Adopted as of March 7, 2019	FY19 Actuals as of August 29, 2019	Projected FY19 Year End
Cash Carryforward	\$750,000	\$870,711	\$870,711
Revenue:			
Court Cost Collection (SB7 - 77th Leg)	\$35,000,000	\$34,112,225	\$34,112,225
State Bar (HB 599 - 78th Leg)	\$2,300,000	\$2,382,576	\$2,382,576
Surety Bond (HB 1940 - 78th Leg)	\$1,900,000	\$1,923,418	\$1,923,418
General Revenue (84th Leg)	\$3,750,000	\$3,750,000	\$3,750,000
Juror Pay (SB 1704 - 82nd Leg)	\$6,200,000	\$0	\$6,200,000
Other Funds: Fed./State - CJD/SJI Grant			
Projected Total Cash/Revenue	\$49,900,000	\$43,038,930	\$49,238,930
Capped Spending Authority	\$32,642,588	\$32,642,588	\$32,642,588
Projected Revenue over Spending Auth.	\$17,257,412	\$10,396,342	\$16,596,342
Budget/Expended:	Budget	Expended	Expended
Formula - Based Grants:			
Standard Formula Grants	\$22,320,000	\$17,084,491	\$22,320,000
Supplemental Urban Capital Formula	\$1,000,000	\$1,000,000	\$1,000,000
Competitive Improvement Grants:			
Single Year	\$151,278	\$42,023	\$151,278
Multi-Year - New	\$2,571,475	\$373,837	\$1,340,065
Multi-Year - Continued	\$1,222,806	\$815,668	\$1,222,806
Sustainability Grants:			
Lubbock Capital RPDO	\$2,000,000	\$1,259,724	\$2,000,000
Other Regional PDs (non-capital)	\$1,254,209	\$880,747	\$1,254,209
Extraordinary Disbursement Grants	\$200,000	\$164,000	\$200,000
Compliance Assistance Grants	\$50,000	\$0	
Technical Support Grants	\$200,000	\$0	
Administrative:			
TIDC Administration	\$1,049,234		\$1,000,000
PPRI Contract (Database)	\$100,754	\$78,677	\$100,754
UT Contract (Interns)	\$15,000	\$0	\$15,000
Other:			
PPRI Contract (Research)	\$70,000	\$93,328	\$93,328
Innocence Project - Rider	\$600,000	\$241,924	\$600,000
Administrative Support from OCA	\$51,000	\$51,000	\$51,000
TIDC Employee Benefits *	\$270,000	\$212,525	\$250,000
OCFW & Benefits *	\$1,589,368	\$1,425,738	\$1,589,368
Total Budgeted/Expended	\$34,715,124	\$23,723,682	\$33,187,808
Total Cash/Revenue vs Expended		\$19,315,248	
Spending Authority vs Budget/Expended	(\$213,168)	\$10,557,169	\$1,294,148

* Not counted against the capped appropriation



TEXAS INDIGENT DEFENSE COMMISSION
209 West 14th Street, Suite 202 Price Daniel, Sr. Building, Phone: 512-936-6994,
Austin, Texas 78701, Fax: 512-463-5724
www.tidc.texas.gov

FY2020 Formula Grant Program Request for Applications (RFA)

Issued September 2019

Formula Grant Program Overview

The Texas Indigent Defense Commission (Commission) provides financial and technical support to counties to develop and maintain quality, cost-effective indigent defense systems that meet the needs of local communities and the requirements of the Constitution and state law. Formula Grants are awarded to eligible Texas counties to help counties meet constitutional and statutory requirements for indigent defense and to promote compliance with standards adopted by the Commission.

Application Due Date

Formula grant applications for Fiscal Year 2020 must be submitted on-line **by Friday, November 15, 2019**. The grant period is October 1, 2019 through September 30, 2020.

Total FY 2020 Formula Grant Amount Budgeted: \$25,000,000

Eligibility for Formula Grants

Only Texas counties may apply. Counties must meet the following requirements:

- 1) Indigent Defense Expenditure Report** — All counties are statutorily required (Texas Government Code Sec. 79.036 (e)) to submit an Indigent Defense Expenditure Report each year on November 1 in the form and manner prescribed by the Commission. Counties that do not complete the Indigent Defense Expense Report on or before November 1, 2019 may have payments temporarily suspended by Commission staff until the report is submitted and reconciled by staff.
- 2) Indigent Defense Plan Requirements** — The Local Administrative District Judges, the Local Statutory County Court Judges (or County Judge as applicable) and the Chairman of the Juvenile Board for each county must submit a copy of all formal and informal rules and forms that describe the procedures used in the county to provide indigent defendants with counsel in accordance with the Code of Criminal Procedure (Countywide Plans) to the Commission as required in Government Code §79.036. The Countywide Plans submitted must be in compliance with applicable statutes and rules and must meet the minimum requirements for each plan section as outlined in the Biennial Indigent Defense Countywide Plan Instructions. Plans were due November 1, 2019. Formula grant payments during the year may be withheld until plans are submitted or meet the minimum requirements for each plan section set by Commission.

- 3) **Compliance with Monitoring Reports** — A county must respond within the required time, take corrective action for findings of non-compliance, and satisfactorily address all recommendations in a Commission fiscal or policy monitoring report. Failure to comply with any of these requirements could result in the Commission imposing a remedy under TAC 173.307 or Texas Government Code §79.037.
- 4) **Office of Court Administration Reporting Requirements** — The applicants' county and district clerks must be in compliance with monthly reporting requirements listed below.
- a) Texas Judicial Council Monthly Court Activity Reports required by Texas Administrative Code Chapter 171 and Texas Government Code §71.035; and
 - b) Appointments and Fees Monthly Reports required under Chapter 36, Texas Government Code.

Reports for September 2018 through August 2019 are due not later than September 30, 2019 and must be submitted to OCA electronically unless OCA grants a temporary waiver for good cause.

How Formula Grants are Calculated

Every county is eligible to receive a grant of \$15,000 plus its share of the remaining funds budgeted by the Commission for the Formula Grant Program calculated by:

- 50 percent on the County's percent of state population; and
- 50 percent on the County's percent of statewide direct indigent defense expenditures for the previous year (as defined in Title 1, Part 8, Texas Administrative Code Sec. 173.202(1)-(3)):
 - less discretionary funds provided by the Commission for expenditures defined in Title 1, Part 8, Texas Administrative Code Sec. 173.202(1)-(3)
 - less the reimbursed costs of operating a regional program
 - The baseline requirements below do not apply to counties with a 2000 Census population of less than 10,000.

The County shall not receive more in funds than what was actually spent by the county in the prior year.

Baseline — The baseline is the minimum amount counties must spend in indigent defense before they qualify for formula grants. To meet the requirements under Texas Government Code §79.037(d), the Commission has adopted as an expenditure baseline based on each county's FY01 indigent defense expenditures. Attorney fees, investigator expenses, expert witness expenses, and other litigation expenses paid by the county on behalf of indigent criminal defendants / juvenile respondents are allowable expenses. This information remains a static baseline. The baseline requirement does not apply to counties with a 2000 Census population of less than 10,000.

How to Apply for Formula Grant

Applications are submitted online at <http://tidc.tamu.edu>. All county judges have been assigned a unique user name and password. The application requires a commissioner's court resolution to be scanned and e-mailed or uploaded on the application page of the website. The resolution is generated by the on-line system and must be printed from the on-line application page.

If a person other than the recipient of this letter needs to obtain a user name and password for the online application system, contact the Public Policy Research Institute (PPRI) at Texas A&M University. PPRI manages the collection, storage and retrieval of data for the Commission. County officials may contact PPRI through e-mail, (hcaspers@ppri.tamu.edu) or phone (979) 845-6754. PPRI will not provide user

names and passwords over the phone. Individuals using personal e-mail accounts may be asked to provide additional information.

Application Steps

- a. Go to the PPRI Commission website at <https://tidc.tamu.edu>.
- b. Sign in and enter the User ID and Password or contact PPRI (Follow on-line page instructions).
- c. Select “FY2020” and your county in the upper left part of the screen.
- d. Select “Apply for Formula Grant” from the column on the left side of the screen.
- e. Review the eligibility requirements. The screen will display the County’s compliance status regarding indigent defense plans. Counties that have outstanding requirements will not be able to receive funds until they meet all grant program eligibility requirements. If indigent defense plans are not marked “Complete” counties should still submit the application and then contact the Commission for instructions to resolve plan compliance issues.
- f. Identify the individuals in the following grant positions as required in Texas Administrative Code Rule 173.301.
 - i. Authorized official - This person must be authorized to apply for, accept, decline, modify, or cancel the grant for the applicant county. A county judge or a designee authorized by the governing body in its resolution may serve as the authorized official
 - ii. Fiscal Officer - This person must be the county auditor or county treasurer if the county does not have a county auditor.Use the “**Change**” button make changes as needed to officials or contact information.
- g. Click the “**Submit**” button at the bottom of the screen. You should be taken to a confirmation page at that point.
- h. Maintain confirmation – When the system provides a confirmation page to the grant officials confirming that the application has been completed and informing them that the resolution must be adopted by the commissioner’s court and then faxed to the Commission. **PLEASE PRINT THE CONFIRMATION PAGE.**
 - i. Select the “Resolution” link in the confirmation page to create your county’s resolution form.
 - j. Print or download resolution. The system will allow the user to download a resolution as a Microsoft Word document or provide an opportunity to print the document. Please use the resolution printed from the website. The resolution must be adopted by the commissioners court.
 - k. Please scan the resolution adopted by commissioners court and then upload it in the application page of the website **on or before the DUE DATE Monday, November 18, 2019.** Alternatively, you may email the resolution to Heather Caspers (hcaspers@ppri.tamu.edu) or fax it to 888-351-3485.

Contact Edwin Colfax, Grants Administrator, ecolfax@tidc.texas.gov or 512-463-2508 for questions.

Notice of Funding

- **Statement of Grant Award** — Statements of Grant Awards will be prepared as authorized by the Commission. These may include special conditions. The e-mail with the attached Statements of Grant Award will be directed to the official designated in the resolution adopted by the commissioners’ court. The County will have thirty days to notify the grant administrator of errors or cancelation after receipt of the award.

- **Special Conditions** — The Commission may determine special conditions or authorize staff to apply the conditions on criteria set by the Commission (TAC 173.201). The Commission may develop special conditions that relate to expenditures, compliance with statutory requirements or standards adopted by the Commission.
- **Denial of Grant** — Counties not completing the grant application process or those not meeting minimum eligibility requirements will be notified by mail within 30 days following the Commission award meeting.

Use of Funds

Funds must be used to improve indigent defense systems. Attorney fees, investigator expenses, expert witness expenses, and other direct litigation costs that a county spends on behalf of a criminal defendant or juvenile respondent in a criminal matter that has been determined by a court of competent jurisdiction to be indigent are allowable expenses. All funds must be spent in compliance with the following: Texas Administrative Code, Title 1 Administration, Part 8 Texas Judicial Council, Chapter 173 Indigent Defense Grants; and Texas Uniform Grant Management Standards.

Payments

Funds will be distributed in four (4) equal quarterly disbursements. Counties must have met all eligibility, spending, and grant condition requirements before receiving payments. Payments will be made quarterly for most counties. Some counties may have a special conditions related to meeting minimum spending requirements. These counties will receive funds only after a supplemental expenditure report establishes that they have spent the predetermined minimum amount stated in the special condition.

No payment shall be made from grant funds to a county until all special conditions have been met unless the special condition adopted by the Commission provides an alternative payment schedule or instructions for payment. Commission staff shall maintain documentation through electronic/paper files or correspondence to the county stating how the special condition was met.

Maintain contact information

All counties must maintain the grant and plan officials contact information on counties' web page set up at <http://tidc.tamu.edu>. Counties must advise the Commission of changes in the authorized official, program director, financial officer, local administrative district judge, local administrative statutory county judge, chairman of the juvenile board and constitutional county judge by updating this website contact information. This information will be used to provide notices for grant or plan submission information. The Commission staff will use e-mail whenever possible to notify counties of required reports and funding opportunities.

Impact of Multi-year Discretionary Regional or Sustainability Grants

Counties that receive discretionary grants from the Commission are encouraged to continue to apply for the Formula Grant. Such counties may use their formula grant payments to maintain the discretionary grant program.

Notification of Availability

This FY20 Formula Grant - Request for Applications (RFA) is sent to all 254 Texas Constitutional County Judges. A courtesy notice is sent to all local administrative district judges, local administrative statutory county judges, chairman of juvenile board and each county auditor (or treasurer).

Authorization to Fund, Applicable Authority and Rules

Texas Government Code Sec. 79.037. TECHNICAL SUPPORT; GRANTS.

- (a) The commission shall:
 - (1) provide technical support to:
 - (A) assist counties in improving their indigent defense systems; and
 - (B) promote compliance by counties with the requirements of state law relating to indigent defense;
 - (2) to assist counties in providing indigent defense services in the county, distribute in the form of grants any funds appropriated for the purposes of this section; and
 - (3) monitor each county that receives a grant and enforce compliance by the county with the conditions of the grant, including enforcement by:
 - (A) withdrawing grant funds; or
 - (B) requiring reimbursement of grant funds by the county.
- (b) The commission shall distribute funds as required by Subsection (a)(2) based on a county's compliance with standards adopted by the board and the county's demonstrated commitment to compliance with the requirements of state law relating to indigent defense.
- (c) The board shall adopt policies to ensure that funds under Subsection (a)(2) are allocated and distributed to counties in a fair manner.
- (d) A county may not reduce the amount of funds provided for indigent defense services in the county because of funds provided by the commission under this section.

Texas Administrative Code Chapter 173

Uniform Grant Management Standards (UGMS)



FY2020/FY2021

Mental Health Public Defender Improvement Grant Program

Supplemental Request for Applications (RFA)

Overview

The Texas Indigent Defense Commission (TIDC) provides financial and technical support to counties to develop and maintain quality, cost-effective indigent defense systems that meet the needs of local communities and the requirements of the Constitution and state law. The Commission may provide Improvement Grants for any program that improves the provision of indigent defense services.

The Texas Legislature appropriated funds to TIDC to help create or expand mental health defender programs in existing public defender offices:

Indigent Defense with Mental Illness. Out of the amounts appropriated above in Strategy D.1.1, Texas Indigent Defense Commission, \$2,500,000 in General Revenue-Dedicated Fair Defense Account No. 5073 each fiscal year shall be used to provide funding to existing public defender offices for a pilot project for the early identification and specialized representation of indigent defendants with a mental illness. The Commission shall use the funds to provide grants to public defender offices to expand the capacity of existing mental health defender programs and to establish mental health defender programs in public defender offices currently without these programs. The Commission shall provide grants to public defender offices on a continuing basis to sustain effective mental health defender programs.

Eligibility

Only Texas counties are eligible for Mental Health Public Defender Improvement Grants. Counties may apply jointly for funding for regional programs but must designate one county as the grant recipient.

Only public defender programs existing as of September 1, 2019 are eligible for this funding. Funds must be used to create or expand mental health public defender services. Mental health public defenders employ specially trained attorneys who work with social workers or case workers and other support staff to collect, analyze, and present relevant information to prosecutors and courts to represent clients with criminal charges in the context of their mental illness and advocate for appropriate case outcomes.

Period for Funding and Program Operation: January 1, 2020 (or as soon as possible thereafter) to September 30, 2021.

Application Due Date for Priority Consideration: November 15, 2019. Applications submitted after this date will be considered for funding based on availability of funds. Applications must be submitted online through the Commission's [Grant and Plan Management Website](http://tidc.tamu.edu) (<http://tidc.tamu.edu>).

Multi-Year Grant Standard Match Schedule

- Grant funds are disbursed on a reimbursement basis.
- Programs are eligible for four years of grant funding. Grants typically fund 80% of total project costs for the first 12 months; 60% for the second 12 months; 40% for the third 12 months; and 20% for the fourth 12 months.
- After the initial award, continuing awards for multi-year programs are made each fiscal year, with funding of eligible expenses provided on a reimbursement basis according to the approved match schedule. Grantees will be required to reapply for continued funding each grant year after the initial term.
- Requests for sustainability funding beyond the fourth year of the program may be considered depending on the availability of funds.

Alternative County Match Proposals Considered

Because this RFA will be issued after many counties have adopted FY2020 budgets, counties may request an alternative schedule for matching funds.

Application Process & Requirements

Application Requirements

Applications are submitted via the [Grant and Plan Management Website](http://tidc.tamu.edu) (<http://tidc.tamu.edu>). Each application must have a narrative section that describes the proposed activity. The narrative portion of the application consists of seven sections that must be completed. Additionally, an online budget form must be completed. Each of these elements must be completed for the application to receive full consideration. An incomplete or blank section decreases the likelihood of the program receiving funding because no score will be assigned to missing information. The online system will accept basic formatting and simple tables. The sections are:

- a. Introduction (Executive Summary)**—In one hundred (100) words or less, describe the program and the main goals to be addressed. This paragraph will be the abstract of the project. Clearly state what the program will do and the broad goals that will be met if the program is funded. The summary will be most useful if it is prepared after the application has been developed in order to encompass all the key summary points necessary to communicate the project.
- b. Problem Statement**—Describe the issue or problem the proposed activity is intended to improve or correct. Make a clear, concise, and well-supported statement of the problem to be addressed. Provide any formal or informal data related to the problem. Include information about the affected populations, social and economic costs of the issue, and resources currently used.

- c. **Objectives**—Develop clear targets and goals for the program to accomplish. State how the objectives address the problem stated above.
 - i. Objectives must be related to the program in this application and the funds requested.
 - ii. Objectives must be time/date specific and measurable.
 - iii. Objectives are the basis for the evaluation and progress reports.
 - iv. Objectives must be consistent with the Problem Statement.
- d. **Activities**—Describe the specific activities the county will conduct if awarded grant. The activities should support the objectives.
 - i. Include detailed instructions of step-by-step procedures that will take place to implement the program and the resources needed to complete each task.
 - ii. Make sure to incorporate the required elements for the types of programs listed on Attachment C.
 - iii. Include **start-up tasks** and the **ongoing program activities** that staff will perform to implement the program.
 - iv. Write this section so that outsiders know exactly what the county plans to do.
 - v. Provide justification related to effectiveness and/or economy of the activity proposed. Include supporting research on this activity if available.
 - vi. Describe whether the existing staff and/or contractors will perform tasks, reports, etc. or if new staff positions will be created to implement the program. If the program will be implemented through a contract, include information on the selection process.
 - vii. If the proposed program implements a new component into an existing process or program, clarify how the new process is different from existing programs.
- e. **Evaluation**—Describe the process that will be used to determine whether the program has met the stated objectives and the measures that will be used to demonstrate the program’s impact.
 - i. Evaluation must be linked directly to the objectives and activities. The evaluation must measure both the progress made toward implementing the grant-funded activity and the effect of the program once it is in operation.
 - ii. Measure the attainment of objectives in a specific and tangible manner (e.g., applications of indigence and requests for appointed counsel will be accepted electronically and maintained in an online data management system).
 - iii. Measures must be quantifiable (e.g., count the number of requests for counsel received).
 - iv. Measures must be time specific (e.g., requests for counsel will be counted from February to January and reported monthly).
 - v. Measures must identify the manner in which they will be recorded for future review (e.g., a report or screenshot of the programming results, affidavit of acceptance of work, or summary database). Data collection cooperation agreements with other county offices and departments are strongly recommended so that the county can demonstrate it will be able to meet data collection and evaluation goals.
 - vi. The evaluation provides meaning to the program objectives. The measure of success is determined by the goals and objectives of the proposed activity. Describe how milestones, accomplishments, and timelines will be tracked and recorded.
 - vii. Evaluations must demonstrate how the program impacts other county processes when applicable. The evaluation reports are submitted during and after the implementation phase and in accordance with UGMS. Evaluations are both fiscal and programmatic. Process evaluations may also be included.
- f. **Future Funding**—Describe how the proposed activity fits into the county’s long-term budget planning after the grant ends.

- g. Budget Narrative and Budget Form (a narrative is required in addition to completing the form)**—Counties will submit the online budget form. Budgets must clearly state the costs to implement and sustain the operation of the program. The budget narrative justifies all expenses and must be consistent with the activities and objectives.
- i. Include all costs necessary to implement the proposed activity.
 - ii. Provide a narrative to detail and justify all budgeted expenses. This narrative must correspond to the activities sections. Items in the budget not stated in the activity section will be removed.
 - iii. Indicate in the budget and narrative the start-up or non-reoccurring costs for multi-year grants.
 - iv. Indirect costs are allowable but the application will not be considered competitive if above 10%.
 - v. The equipment line requires a list of equipment to be purchased. All equipment must be purchased in the first year of the grant unless permission is granted from the Commission in writing. Otherwise, the equipment costs will not factor into the total project cost after the first year of funding.
 - vi. Budget line items must include detailed basis of cost explanations in the budget narrative.

In addition to the full grant application narrative and budget described above, applicants must submit the following:

1. **Resolution/Internet Submission Form** – Counties applying for grants must also submit the Resolution/Internet Submission Form (See Attachment A) in order for the Commission to consider the application. The resolution must be adopted by the County Commissioners Court, signed by the applicant’s authorized official, and emailed to the Commission Grants Manager (ecolfax@tidc.texas.gov).
 - The adopted resolution is the official authorization from the Commissioners Court for the grant request. It names the grant officials required in Texas Administrative Code § 173.301. It is also a pledge to take legal responsibility for the appropriate expenditure of grant funds. Finally, it certifies that the information submitted in the application material is true and correct and that the county will abide by all relevant rules, policies, and procedures if the Commission awards grant funds to the county.
 - The Internet Submission Form is a separate form located on the bottom of the Resolution Form. The Internet Submission Form must contain the confirmation number that will be generated when the application is submitted. The confirmation number may be completed by hand after the Resolution Form is approved by Commissioners Court and the application is submitted.
2. **Court Commitment**– The judiciary is responsible for implementing indigent defense procedures within counties. Applications must include letter(s) of support from the judges who will participate in or implement the program (See Attachment B). Attachment B is a **sample form** and must be edited to describe the level and type of commitment the judges will provide to the specific program in the application.
3. **Other Supporting Documents**– Additional material such as timelines, data collection cooperation agreements, general letters of support, or other supporting documents must be submitted to the Commission Grants Manager before the application due date.

Due Date for Priority Consideration: November 15, 2019. Applications submitted after this date will be considered for funding based on availability of funds.

General Application Requirements

- a. **New Programs and Positions**–Only new programs and/or positions will be funded. This may include adding new positions or new elements to existing programs. The application must clearly demonstrate that the requested positions will perform work that is not currently provided.
- b. **Grant Officials**– Each grant application must designate the following:
 - i. Program director. This person must be the officer or employee responsible for program operation or monitoring and will serve as the point-of-contact regarding the program’s day-to-day operations.
 - ii. Financial officer. This person must be the county auditor or county treasurer if the applicant does not have a county auditor.
 - iii. Authorized official. This person must be authorized to apply for, accept, decline, modify, or cancel the grant for the applicant county. A county judge or a designee authorized by the governing body in its resolution may serve as the authorized official.
 - iv. The program director and the authorized official may be the same person. The financial officer may not serve as the program director or the authorized official.

Fiscal Application Requirements

- a. **Multi-Year Funding**– Funding is available for multi-year programs to encourage innovative long-term programs to improve the delivery of indigent services. Continued awards for multi-year programs can be renewed each year, but the Commission will only commit funding for the current grant year.
- b. **Equipment Costs**– Equipment and other one-time costs will only be funded in the first year of the grant unless permission is granted by the Commission in writing. The Commission’s portion of the grant and the cash match after the first year of funding will be calculated based on the total project costs less the equipment expenses from the first year.
- c. **Calculating the Cash Match**
 - 1. **Multi-year Requests** – Counties must provide a cash match from county or other funds of 20% of total project costs in the first funding year, 40% the second funding year, 60% the third funding year, and 80% the fourth funding year. An applicant’s use of matching funds must comply with the same statutes, rules, regulations, and guidelines applicable to the use of the Commission funded portion of a grant project.

Section III: Funding Conditions & Requirements

Conditions of Funding

- 1) **Indigent Defense Expenditure Report:** All counties are statutorily required (Texas Government Code Sec. 79.036 (e)) to submit an Indigent Defense Expenditure Report each year on November 1 in the form and manner prescribed by the Commission. Counties that do not complete the Indigent Defense Expense Report on or before November 1 of each year may have payments temporarily suspended by Commission staff until the report is submitted and reconciled by staff.
- 2) **Indigent Defense Plan Requirements:** The Local Administrative District Judges, the Local Statutory County Court Judges (or County Judge as applicable) and the Chairman of the Juvenile Board for each county must submit a copy of all formal and informal rules and forms that describe the procedures used in the county to provide indigent defendants with counsel in accordance with the Code of Criminal Procedure (Countywide Plans) to the Commission as required in Government Code §79.036. The Countywide Plans submitted must be in

compliance with applicable statutes and rules and must meet the minimum requirements for each plan section as outlined in the Biennial Indigent Defense Countywide Plan Instructions. Plans were required to be submitted by **November 1, 2019**. Grant payments may be withheld until plans are submitted or meet the minimum requirements for each plan section set by Commission.

- 3) **Compliance with Monitoring Reports:** A county must respond within the required time, take corrective action for findings of non-compliance, and satisfactorily address all recommendations in a Commission fiscal or policy monitoring report.
- 4) **Office of Court Administration Reporting Requirements:** County and district clerks must be in compliance with monthly court activity reporting requirements promulgated by the Texas Judicial Council.

Governing Statutes, Rules and Standards

All Commission grant programs are governed by one or more of the following statutes, rules, and standards. These documents are available at: <http://www.tidc.texas.gov>.

- Texas Government Code: [Chapter 79](#) & [Chapter 81 § 054](#)
- Texas Administrative Code: Title 1 [Chapter 173](#) and [Chapter 174](#)
- [Uniform Grant Management Standards](#) (UGMS) as promulgated by the Texas Comptroller of Public Accounts.

Commission Funding Policies

- a. **Right of Refusal**—The Commission reserves the right to reject any or all of the applications submitted.
- b. **State Funds Availability**— All commitments are subject to availability of funds.
- c. **Awards**— Publishing the RFA does not obligate the Commission to fund any programs.
- d. **Partial Funding**— The Commission may choose to offer funds for all or any portion of a program submitted in the application.
- e. **Substitution**—The Commission may offer alternative funding sources, special conditions, or alternative program elements in response to submitted applications.
- f. **Competitive Application Process**—The application process for the Commission's Improvement Grant Program is competitive. Awards are based on a review of the County's grant application. Receipt of a Notice to Proceed with Application does not guarantee funding by the Commission or alter the competitive nature of the process.
- g. **Review Criteria**—Commission staff will review each grant using objective tools and comparative analysis. The weight given to each section or combination of sections is at the sole discretion of the Commission. Menu Option Applications will be reviewed based on project budget review and availability of funds.
- h. **Final Selection**—The Commission may select and award programs that reflect geographic diversity, demographic diversity, and/or distinctive program elements at its own discretion.
- i. **Future Funding for Multi-Year Projects**—The Commission generally commits funding only for the current grant year. Future funding will be based on the county's submission of an application to continue funding in subsequent years, submission of required progress reports, a demonstration of successful progress made in implementing the program, and future availability of funds.
- j. **Formula Grant**—Counties that receive multi-year improvement grants from the Commission are encouraged to continue to apply for the Formula Grant. The county will submit its Indigent Defense Expenditure Report on or before November 1 of each year. If the implementation of the grant program results in a reduction of the county's indigent defense expenditures below the baseline, formula grant funds may be withheld by the Commission.
- k. **Delayed Start**—The Commission's Period for Funding and Program Operation is October 1 to September 30. Counties may begin to make program expenditures on October 1; however, multi-year grant programs occasionally require counties to postpone expenditures for several months.

The hiring of the first program position typically marks the first month of Program Operation for multi-year grants. In order to allow a grantee to take advantage of the typical first-year 80% cash match, the funding amounts will be calculated from the first month of program operation. If approved for continued funding, the county will enter into the next grant period with the previous year's reimbursement rate for a temporary period that is equal to the duration of the first year's delay. The remainder of the renewed grant period will be reimbursed at the match rate for the corresponding grant year. This process will carry forward each year until the program is complete. Grant documentation will reflect the county's funding schedule and any adjustments that may be required because of the delayed start of program operation.

- l. Supplanting Prohibited**–Commission funding can only be awarded for **new programs**; a county may not reduce the amount of funds provided for indigent defense services because of a grant award.
- m. Dual Use**– If a county applies for an indigent defense program that may be tied to a general government process, the county must provide documentation and rationale to establish a basis of costs to determine the portion of a program/project that is attributable to indigent defense.

Program Fiscal Requirements

- a. Fund Use**– Funds must be used to pay for the direct and/or administrative costs of providing and improving indigent defense services.
- b. Allowable Costs**– Grants may be used for:
 - i. Attorney fees for indigent defendants accused of crimes or juvenile offenses;
 - ii. Expenses for licensed investigators, experts, forensic specialists, or mental health experts related to the criminal defense of indigent defendants; and
 - iii. Other approved expenses allowed by this grant program or necessary for the operation of a funded program.
- c. Unallowable Costs**– The Commission has adopted the Uniform Grant Management Standards (UGMS) to determine unallowable costs. See UGMS for a full list of unallowable costs. Specifically, in accordance with UGMS and the grant rules the following conditions apply:
 - i. General government costs are unallowable;
 - ii. Costs of law enforcement, prosecution, and incarceration are unallowable;
 - iii. Replacing existing county funding with grant funds is unallowable; and
 - iv. Funding positions that previously existed or currently exist in the county is unallowable.
- d. Failure to Begin**– Failure to begin operating the program before the end of the grant award period may constitute a failure to meet performance measures unless authorized by the Commission.
- e. Dual Use**– If a county applies for an indigent defense program that may be tied to a general government process, the county must provide documentation and rationale to establish a basis of costs to determine the portion of a program/project that is attributable to indigent defense.

Grantee Reporting Requirements

- a. Maintain Official Contact Information**– All counties must maintain correct grant official contact information on the Commission's [Grant and Plan Management Website \(http://tidc.tamu.edu\)](http://tidc.tamu.edu). Counties must advise the Commission of changes in the authorized official, program director, financial officer, local administrative district judge, local statutory county judge and county judge by updating contact information. Commission staff will use e-mail whenever possible to notify counties of required reports and funding opportunities.
- b. Reports**– Online fiscal and program reports are required each quarter. All grants will require at least one follow-up report outside of the grant period. A reporting schedule will be provided in the Statement of Grant Award (SGA) if the Commission authorizes a grant award.

Program Records Requirements

- a. **Data Collection and Agreements**—The County must collect data to support the evaluation of the program’s impact and compliance with the Fair Defense Act. This may require Data Collection Agreements from county offices or departments to provide information to the program director on a regular basis.
- b. **Records Retention**– Counties must maintain records related to the funded activity for at least three years after the end of the grant period. Records may be stored electronically.
- c. **Monitoring and Auditing**– Records must be made available to the Commission or its designees upon request. (See Texas Administrative Code § 173.401 for more details.)

Program Equipment and Purchasing Requirements

- a. **Use DIR State Contract**– All technology, equipment and software must be purchased from the DIR State Contract. The county may submit a written request for exception that demonstrates why the DIR contract cannot be used for this project.
- b. **Inventory**– Equipment purchased with grant funds is the property of the county. The Commission requires each grantee to maintain an inventory record of all equipment purchased with grant funds. After the grant period expires, the grantee must complete a physical inventory of all grant funded property and must reconcile the results with the existing property records. The inventory report must be submitted and reconcile with the final financial expenditure report.
- c. **Equipment and Software Maintenance**– All equipment purchased with grant funds may include up to three (3) years of maintenance to ensure the equipment will operate as intended during and beyond the grant period. **For multi-year grants, the cost of the actual equipment and other one-time costs will only be funded the first year of the grant and will not factor into the overall project costs in subsequent years of funding.**
- d. **Technology Standards** - Software developed with grant funds must conform to applicable industry information exchange standards including the National Information Exchange Model (NIEM) and the Electronic Case File (ECF) 4 standards. Applications that include information technology projects must also address how the projects meet applicable technology standards adopted by the Texas Department of Information Resources (DIR) and Judicial Committee on Information Technology (JCIT) as applicable. If no relevant standards are available from DIR or JCIT, then the county must meet commonly accepted technology standards such as Open Data Base Compliant (ODBC) or Transmission Control Protocol/Internet Protocol (TCP/IP) as applicable.

Contracting Requirements

- a. **Professional and Contractual Services**– Any contract or agreement entered into by a grantee that obligates grant funds from the Commission must be in writing and consistent with Texas contract law. Grantees must establish a contract administration system to ensure that contract deliverables are provided as specified in the contract. Grantees must regularly and consistently document the results of their contract monitoring reviews and must maintain the files and results of all contract monitoring reviews in accordance with the record retention requirements described in this section of the RFA. A grantee’s failure to monitor its contracts may result in disallowed costs and/or disallowed match.
- b. **Commission Review**—Contracts with third parties for core services in funded programs must be provided to the Commission and approved prior to execution.
- c. **Contract Performance Monitoring**—Grantees that use grant funds to contract for services must develop and include in the contract provisions to monitor each contract that is for more than \$10,000 per year. These provisions must include specific actions to be taken if the grantee discovers that the contractor’s performance does not meet the operational or performance terms of the contract. In the case of contracts for public defender offices and managed assigned counsel programs, these provisions must include a review of utilization and activity, reporting of financial data to evaluate the contractor’s performance within the budget required by statute

for such programs. Commission staff must review each contract at least once every two years and notify the grantee if it is not sufficient (See TAC § 173.311).

- d. **Limit on Equipment for Third Party Contracting of Legal Services**– Counties that contract with third parties to provide direct client indigent defense services may have included one-time purchase of equipment in the grant application. Counties may not include in the contract with the third party the full costs of the equipment line item into future funding years.

DRAFT

Attachment A

Sample Resolution/Internet Submission Form **Indigent Defense Improvement Grant Program**

MUST BE PRINTED FROM ONLINE SYSTEM

WHEREAS, under the provisions of the Texas Government Code § 79.037 and Title 1 of the Texas Administrative Code Chapter 173, counties are eligible to receive grants from the Texas Indigent Defense Commission to provide improvements in indigent defense services in the county; and

WHEREAS, the commissioners court authorizes this grant program and application to assist the county in the implementation and the improvement of the indigent criminal defense services in this county; and

WHEREAS, _____ County Commissioners Court has agreed that in the event of loss or misuse of the funds, _____ County Commissioners assures that the funds will be returned in full to the Texas Indigent Defense Commission.

NOW THEREFORE, BE IT RESOLVED and ordered that the **OFFICIAL DESIGNATED BY THE COMMISSIONERS' COURT** of this county is designated as the Authorized Official to apply for, accept, decline, modify, or cancel the grant application for the Indigent Defense Improvement Grant Program and all other necessary documents to accept said grant; and

BE IT FURTHER RESOLVED that the **OFFICIAL DESIGNATED BY THE COMMISSIONERS' COURT** is designated as the Program Director for this grant and the **County Auditor or County Treasurer if the county does not have an auditor (per TAC § 173.301(a))** is designated as the Financial Officer for this grant.

Adopted this _____ day of _____, 20____.

This is a **Sample**. Submitted resolution submitted **MUST BE PRINTED FROM ONLINE SYSTEM**
County Judge

Attest:

County Clerk

Attachment B

Sample

INDIGENT DEFENSE MULTI-YEAR IMPROVEMENT GRANT PROGRAM SAMPLE COOPERATION AGREEMENT

Instructions: Applicants can edit and complete this sample agreement to indicate the support or participation from the local judiciary. If the Board of Judges takes official action to approve or support the grant application, please provide the Commission with signed documentation in lieu of this form. All materials must be submitted to the Commission before the due date.

_____ County has applied for a improvement grant from the Texas Indigent Defense Commission (Commission) to assist in funding _____ program. Implementation of this program will affect the courts below. The undersigned judges agree to support and/or participate with the program pursuant to the county's improvement grant application to the Commission and any special conditions of the grant award to the county. This commitment includes participating in the data collection efforts required in the program, as well as utilization of the services to be provided by the program.

To be considered for funding this program cooperation agreement must be signed by the judges of all of the statutory county / district courts hearing criminal matters punishable by incarceration or juvenile matters in the county.

Acknowledged and Approved by all statutory county / district courts hearing criminal matters punishable by incarceration or juvenile matters in the county:

Signature of Local Administrative District Judge Date

Printed Name and Title

Signature of Local Administrative Statutory County Judge Date

Printed Name and Title

Signature of Judge serving as Chair of the Juvenile Board Date

Printed Name and Title

Signature of Judge Date

Printed Name and Title

Signature of Judge Date

Printed Name and Title

Signature of Judge Date

Printed Name and Title

Signature of Judge Date

Printed Name and Title

Signature of Judge Date

Printed Name and Title

Attachment C Required Program Elements

In addition to general program requirements provided throughout the RFA, applications for these specific types of programs must include the following required elements to be considered for funding.

Mental Health Public Defender Programs—Establishing or expanding local or regional mental health public defender services are major priorities of the Commission.

Required Program Elements:

- a) Must demonstrate broad-based support of the local judiciary;
- b) Must involve the local defense bar in the planning stages;
- c) Must involve clear appointment/referral and intake processes;
- d) Must include adequate access to support services including secretaries, paralegals, social workers and/or caseworkers, and investigators;
- e) Must have defined caseload/workload standards;
- f) Must have internal case management/tracking controls sufficient to monitor attorney caseload/workload;
- g) Must have ability to produce other reports that enable the office to evaluate its own performance and demonstrate its cost-effectiveness;
- h) A written plan must be developed addressing how the program will interface with and not duplicate existing resources (LMHAs, TDCJ Reintegration, CSCD, etc.) available to people with mental health issues; and
- i) Emphasis on staff training/supervision/evaluation to continually improve program performance.

Publication of FY2019 Indigent Defense Expenditure Report (IDER) Manual

- The full draft FY2019 IDER Manual may be reviewed here:
<http://www.tidc.texas.gov/media/58186/fy19-ider-manual.pdf>

- The manual has been updated to reflect dates for the current reporting cycle.

- Only one substantive change is included.
 - Last year TIDC amended the instructions to provide for reporting of expenses associated with representation at 15.17 magistration hearings.

 - The draft 2019 reporting manual adds that expenses associated with bond review hearings that are not reported elsewhere in the IDER may be reported in the same manner as defense representation at 15.17 magistratiton proceedings.

Bexar County

FY 2020

Multi-year request

Indigent Defense Attorney Monitoring Program

	<----- Projected ----->			
	Year 1	Year 2	Year 3	Year 4
Total Program Cost	\$242,764	\$237,714	\$237,714	\$237,714
Required County Match	\$48,553	\$95,086	\$142,628	\$190,171
FY20 Discretionary Grant Request	\$194,212	\$142,628	\$95,086	\$47,543
TIDC/County Share	80%/20%	60%/40%	40%/60%	20%/80%

Program Summary

Bexar County seeks to enhance oversight and accountability of defense services by establishing a division within Criminal District Court Administration that will develop and implement programs to support attorneys representing indigent defendants, collect and investigate complaints against attorneys, and monitor compliance with requirements.

Currently, the limited ability to collect, investigate, and act regarding complaints from arrested persons, the public, and the judiciary regarding the quality of indigent defense services may result in an arrested person spending more time in jail prior to disposition of their case and a loss of confidence in the court appointed system. The proposed division will convene a review committee of peer attorneys and judicial representatives as a venue to consider problems and identify corrective action plans that may include training, mentoring, or sanctions as appropriate.

Staff will audit whether court appointed counsel is contacting clients in a timely manner and provide ways for defendants to notify the program if the attorney has not made timely contact. The investigator will evaluate the veracity of these complaints. Staff will also spend time in court observing attorney performance and monitoring jail rosters for unindicted felony cases where arrested persons have been in custody for 90 or 180 days or more and may be eligible for release. Finally, the program will monitor caseloads and plan trainings focused on issues most commonly raised regarding court appointed counsel.

Summary of External Grant Review Committee Comments

The proposed program occupies a middle ground between an indigent defense coordinator function and a managed assigned counsel program, but the proposed structure, which locates the staff in district court administration, is inconsistent with the independence required by some MAC-type activities proposed (such as counseling defense attorneys regarding performance). Reviewers agreed that the program has potential, but that TIDC should explore significant modifications prior to making an award to ensure that the structure was likely to succeed in accomplishing the goals identified.

Recommendation

Not recommended. Earlier this year, TIDC awarded a Technical Support Grant to Bexar County to conduct an indigent defense system evaluation. Bexar County has recently contracted with PPRI to conduct the study and the report is expected in FY20. Staff believes the findings of this research should guide the development of this concept. Staff has offered to continue to consult with county stakeholders on the design of the program, and the county will likely return with a refined proposal next year.

Travis County

FY 2020 Improvement Grant

Multi-year request

Public Defender Office + MAC Improvements

Modified FY2020 Grant Request: \$1,571,007

Program Overview

Travis County aims to improve representation for all indigent defendants in the county through the following:

1. Creation of a public defender office that will increase oversight and accountability of indigent representation through the hiring and direct supervision of a team of staff attorneys and support staff (largely mirroring TIDC recommendations in a 2018 planning study);
2. Enhancements to the managed assigned counsel system to provide more effective oversight and attorney accountability, adequate support services, reform to compensation structures, and caseload monitoring to ensure quality representation.

TIDC has worked closely with Travis County for more than a year on this project. Following best practices for large counties, Travis County's goal is to operate a hybrid system relying on both staff defenders and managed private counsel to deliver quality, cost-effective representation. The public defender program will scale up over several years to represent 30% of adult defendants. The balance of the adult, non-mental health cases will continue to be handled by lawyers working with Travis County's managed assigned counsel program, the Capital Area Private Defender Service (CAPDS), with augmented resources to better ensure quality and accountability.

In 2015 Travis County partnered with TIDC to create CAPDS. The program has successfully addressed concerns regarding the distribution of appointments among attorneys by shifting the oversight and administration of the indigent defense function from the judiciary to an independent defense organization. Bench appointments have plummeted, and attorney vouchers and requests for experts and investigators are now handled by the defense professionals. While the MAC has provided new training, mentoring, and resources for its attorneys, its supervisory capacity and support services have been stretched thin, sacrificing quality of representation. Moreover, the original implementation of the MAC structure did not include annual caseload limits or a restructuring of the attorney fee schedules that have inhibited improvements to representation. This proposal addresses gaps in oversight capacity, creates structures for more substantive and effective monitoring of performance, and implements a more effective approach to caseload monitoring to ensure that representation is not compromised by excessive caseloads. This proposal represents the consensus of county stakeholders that improvements are required throughout the system.

Modifications of Original Request

Since the original application was submitted, the County continued to review the program budgets and timelines in light legislative impacts on the County's budget. TIDC staff has continued to work with the County's elected officials and staff to review and refine budgets and to clarify and improve some aspects of the proposal.

The revised grant application included the following changes:

- The program budget and grant request were reduced by nearly 10%.
- New staff positions for both the public defender office and CAPDS were reduced.
- Both the PD and MAC elements of the program are slated to phase in more gradually.
- More detail was provided on how the enhancements to CAPDS oversight and quality improvements will be operationalized.
- CAPDS will shift from carrying caseload monitoring to annualized caseload monitoring.
- Additional detail on oversight board.
- Counsel at magistration was removed as part of the project.

Alternative Match Schedule

TIDC multiyear grants fund roughly 50% of program costs over four years. The typical reimbursement schedule is 80% of program costs in the first year, 60% in the second, 40% in the third, and 20% in the fourth. TIDC has occasionally approved alternative, roughly equivalent match schedules that are preferable to the county. For example, when TIDC provided a grant to start the Harris County Public Defender Office, the alternative match schedule was 100/80/20/20. Because Travis County is proposing a more gradual, phased implementation of the project, in which first year spending is much lower than the fully implemented project budget, Travis County has proposed an alternative 50/50 match schedule for each year of the grant over 5 years.

Original Travis County Request

	←----- Projected -----→				
	Year 1	Year 2	Year 3	Year 4	Year 5
Total Program Cost	\$8,214,768	\$14,465,578	\$15,740,045	\$15,845,982	
County Match	\$4,079,325	\$7,180,660	\$7,816,422	\$7,867,876	
Grant (w/ 2% indirect)	\$4,135,443	\$7,284,918	\$7,923,624	\$7,978,107	\$0
TIDC/County Share (alternate match proposed)	50%/50%	50%/50%	50%/50%	50%/50%	0/100%

Amended Travis County Request

	←----- Projected -----→				
	Year 1	Year 2	Year 3	Year 4	Year 5
Total Program Cost	\$3,027,898	\$7,261,848	\$10,675,929	\$12,911,713	\$13,447,808
County Match	\$1,513,949	\$3,630,924	\$5,337,964	\$6,455,856	\$6,723,904
Grant (w/ 2% indirect)	\$1,571,007	\$3,776,161	\$5,547,483	\$6,714,091	\$6,992,860
TIDC/County Share (alternate match proposed)	50%/50%	50%/50%	50%/50%	50%/50%	50%/50%

Four Year (48 month) Alternative to Amended Travis County Request

	←----- Projected -----→				
	Year 1 (6 mos.)	Year 2	Year 3	Year 4	Year 5 (6 mos.)
Total Program Cost	\$1,736,804	\$7,261,848	\$11,427,346	\$12,911,713	\$6,838,762
County Match	\$868,402	\$3,630,924	\$5,713,673	\$6,455,856	\$3,419,381
Grant (w/ 2% indirect)	\$903,138	\$3,776,161	\$5,923,220	\$6,714,091	\$3,556,156
TIDC/County Share (alternate match proposed)	50%/50%	50%/50%	50%/50%	50%/50%	50%/50%

Summary of External Grant Review Committee Feedback

The program will have a major impact on indigent defense improvement and should be given favorable consideration. The County has supplemented its application to provide more detail on MAC accountability enhancements and address caseload concerns regarding the original submission.

Recommendation: Award FY2020 improvement grant to Travis County. Consider Travis County’s alternative proposed 5 year match schedule in light of phased implementation and small fraction of full program budget in first year.

**2020 Travis County Discretionary Grant Application Narrative
(Multi-Year Grant)**

a. Application Form

Counties Represented: **Travis**

Fiscal Year: **2020**

State Payee Identification Number: **740000192**

Division To Administer Grant: **Travis County Justice Planning**

Program Title: **Travis New Public Defender Office and CAPDS Enhancement**

Requested Grant Amount: **\$4,135,443.00**

Financial Officer: **Patti Smith**

Program Director: **Roger Jefferies**

Mailing Address: **P.O. Box 1748; Austin, TX 78767**

b. Introduction (Executive Summary)

Travis County seeks to establish a comprehensive public defender office ("PDO") and improve its managed assigned counsel ("MAC") program -- the Capital Area Private Defender Service ("CAPDS") -- to provide individuals with defense in accordance with nationally recognized best practices. The PDO will (1) promote a client-centered culture that values and respects client dignity; (2) serve as a strong, independent, institutional voice for public defense; (3) provide a training ground that produces excellent defenders; (4) raise the quality of criminal representation for all people charged with crimes in Travis County who cannot afford an attorney and (5) be resourceful and responsive to the evolving needs of the community. CAPDS will improve its in-house support and expand its holistic team

c. Problem Statement

With the help of the Texas Indigent Defense Commission (TIDC), Travis County established a mental health public defender in 2006 and the MAC program in 2014. However, between the case volume and the paucity of resources available for public defense, further progress is needed. All agree that the current level of funding for low-income criminal defense must be increased. Virtually every major urban jurisdiction of similar size, in Texas and nationally, has a hybrid public defense system comprised of a public defender office and private appointed counsel, which the American Bar Association considers a best practice. Travis County now seeks to create an institutional defender office that will provide excellent representation to its clients; conduct a needs assessment and add strategic resources to CAPDS; and, have the two entities share training and resources to improve the quality of defense across the county.

An essential improvement for indigent defense in Travis County is additional resources for our currently understaffed and underfunded MAC. For example, the CAPDS holistic defense team of one immigration attorney and two social workers struggles to meet the needs of the clients involved in the 20,000+ cases CAPDS currently handles each year. CAPDS has focused social work resources on clients with mental health conditions and those facing the most serious charges, but, that targeting results in far too few clients being assisted. Further, CAPDS' single immigration attorney is stretched too thin to provide the constitutionally mandated advice that is required by *Padilla v. Kentucky*, with consultation wait times up to four weeks for in-custody clients and a six-plus-weeks for out-of-custody clients.

Travis County needs additional funds and a robust public defender office in order to achieve public defense systems that value equity, fairness, and respect; adheres to the American Bar Association's Ten Principles of a Public Defense Delivery System; and, employs best practices in every person's case. Creation of a public defender office should be accompanied by raising the level of resources available to assigned counsel, so that all clients receive an adequate defense, regardless of whether they are assigned to the PDO or to an attorney assigned by CAPDS. A planning study completed by TIDC staff last fall outlined a plan that forms the basis for the PDO component of this proposal.

d. Objectives

Travis County seeks to establish a PDO to provide robust and client-centered representation to a significant portion of people charged with crimes in Travis County who cannot afford an attorney, and improve the quality of all public defense representation countywide. This project includes the following objectives:

- Create a scalable, comprehensive PDO that would provide holistic defense representation and other support to low-income people accused of criminal offenses in Travis County, in coordination with CAPDS.
- Provide 24-hour representation and bond advocacy during magistration for all arrested persons at the Travis County Central Booking facility.
- Provide high-quality trial representation, including robust investigation and mitigation support, for low-income people in misdemeanor and felony courts in Travis County.
- Through legal representation and advocacy, as well as policy-making, work to limit unnecessary incarceration and excessive punishment of poor people in Travis County.
- Develop and provide comprehensive, client-centered, training, continuing legal education, and mentorship to public defenders.
- Act as a resource and support to private appointed counsel representing low-income individuals in Travis County.
- Develop reasonable and robust standards for evaluation of the quality of public defender representation and appointed counsel representation, and regularly evaluate the system and make necessary adjustments and improvements to ensure clients' needs are being met.
- Develop reasonable and robust standards for the evaluation and oversight of individual attorneys employed by the PDO.
- Act as an institutional representative on behalf of the accused in county groups and other forums and participate in systemic policy development and decision making.
- Pursue funding from other sources, including the City of Austin and other governmental and nongovernmental sources, internships and fellowships, and sponsored programs and research.

Travis County also seeks to expand direct client services provided by CAPDS to increase capacity and expand areas of service to achieve better outcomes for clients needing those services, reduce incarceration, and increase engagement in community services. Further, Travis County seeks to improve the MAC program by designing and implementing an improved model of compensation, transparency, and accountability for criminal cases to eventually end flat-fee compensation and provide structural improvements. Lastly, Travis County seeks to improve the supervisory role within the MAC. This project includes the following objectives:

- Improve outcomes, increase attorney efficiency, and reduce recidivism by expanding the support of alternative dispositions specialists.
- Improve outcomes, reduce failures to appear, increase attorney efficiency, and increase engagement of community resources by expanding case management services.
- Provide constitutionally required Padilla advice and complementary advocacy promptly to all clients.
- Increase monitoring of attorney performance to ensure all clients are provided high-quality representation.
- Improve supervision and monitoring of MAC by increasing capacity to receive and respond to clients, and provide appropriate community feedback.
- Design and implement a pilot program to increase supervision and monitoring of managed assigned counsel performance through the use of mandatory time reporting and hourly billing.

e. Activities

Upon receiving notice that Travis County has been awarded the grant, the Travis County Commissioners Court may delegate its oversight of the Public Defender Office to an Oversight Board as permitted by

Article 26 of the Texas Code of Criminal Procedure. The board will have an odd number of no less than seven members who have demonstrated conflict resolution skills and the duties described in Article 26.045(c)(1) through (3). The membership of the Oversight Committee will include representation from at least the following categories:

1. Community advocates who are, who are family members of, or who work with individuals directly impacted by the criminal justice system;
2. Criminal defense attorneys; and
3. Jurists retired from the criminal justice system.

The Commissioners Court will appoint a nonpartisan board with a mix of voting and non-voting seats to balance the requirements of Texas Law with the American Bar Association's Ten Principles of a Public Defense Delivery System, placing significant emphasis on the first two principles:

1. That public defense be independent from political influence; and
2. That the public defense delivery system consists of both a defender office and the active participation of the private bar.

The hiring committee for the Chief PD may use the National Association for Public Defense (NAPD) Systems Builders Committee, which comprises current and retired defender leaders, to assist with the Chief Public Defender search or may also use any other National Search service that might assist in the search for the office's chief public defender. The hiring committee will begin the search for a chief public defender within 45 days of notification of the grant award and will conduct interviews of candidates and make recommendations to the Commissioners Court. Travis County will make every effort to hire a Chief Public Defender by November 15, 2019.

The selected Chief Public Defender will oversee the hiring of staff consistent with the goals of:

1. Providing 24-hour representation and bond advocacy during magistration at the Central Booking facility for all arrested persons, and
2. Taking on 15% of Travis County misdemeanor (A and B) and felony cases by the end of the first grant year. Staffing will include at least one deputy to the Chief Public Defender, a training director, attorneys at varying levels of practice consistent with taking misdemeanor to first degree felony cases, and other staff. Staffing levels and staff positions will be determined by the Travis County Planning and Budget Office based on those necessary personnel to accommodate the percentage of cases handled.

Travis County anticipates that the PDO will handle 30% of felony and misdemeanor cases in the county and district courts by the end of the second grant year and remain at that level through the rest of the grant term. Staffing will increase in grant year two to accommodate a full appointment capacity.

The PDO and CAPDS will seek to develop contractual relationships with entities and partnerships to provide advocacy in collateral proceedings, including school suspension hearings, administrative license revocation hearings, and immigration proceedings where the proceeding is impacted by or has an impact on the underlying criminal matter. These services will be approved and funded by Commissioners Court.

The selected Chief Public Defender will oversee the procurement of necessary office equipment and furniture, as well as give input on the office location options should office space procurement still be in process. The Travis County Fair Defense Act plan will be adjusted for the addition of an adult public defender office. The PDO will be included in the random, automated appointment system, and will be weighted proportionately as to be available for appointment at the percentage levels contained in this proposal. The Chief Public Defender or the deputy will have access to the appointment system such that they can enter the PDO's availability. In doing so, the chief/deputy will have the autonomy to govern the office's workload.

The PDO will begin accepting appointments in the county and district courts no later than February 1, 2020.

The PDO will begin representation and bond advocacy at magistration no later than February 1, 2020.

The PDO will begin entering cases into a case management system by February 1, 2020.

The PDO will develop the ability to track all complaints relating to the PDO and their staff. The system must allow for tracking, classifying, and reporting on complaints, and tracking the numbers of complaints,

client satisfaction surveys conducted, consultations with attorneys on performance, and responses to complaints among other metrics.

The PDO will begin reporting to Commissioners Court after the first quarter on April 1, 2020.

The PDO, with participation and approval of the oversight development committee, will produce and present, in an open community forum, an annual report that includes, at a minimum, activities and evaluation.

The Chief Public Defender or deputy will periodically attend judges' meetings or meetings with other stakeholders to facilitate improvement to any system problem areas in the continuity of client-centered representation.

The Chief Public Defender or designee will attend Travis County jail population meetings.

The Chief Public Defender shall review the caseload status at least quarterly. The Chief Public Defender may override individual or office caseload limits based on overall complexity of cases, overall types of cases, attorney experience, support staff experience, court needs, or other factors affecting the delivery of services. The Chief Public Defender must notify the oversight development committee in writing if exceptions to the caseload standards are warranted.

The training director will provide relevant training for public defenders including remedial training as needed, which will also be available to assigned counsel. The training director will conduct at least one CLE per month on best practices, including trial trainings, skills workshops, holistic defense representation and legal specializations, for both the PDO and managed assigned counsel attorneys. The training director will maintain training materials for the PDO and managed assigned counsel bar, and act as a resource for both.

The PDO will have dedicated space for use by assigned counsel, partner with CAPDS, Justice Planning, and the Law Library to provide to appointed private counsel and pro se defendants adequate resources for legal research and appropriately private spaces including computer stations with Lexis Nexis or Westlaw access and access to a private room for client meetings.

The PDO, along with the oversight development committee, will have ongoing discussions regarding the feasibility of merging one or more of the existing specialized Travis County Public Defender offices into the general PDO in grant year four. If such a merger is desired by each agency and the PDO, and has the approval of Commissioners Court, then the merger will occur at a future point agreeable to each agency.

For the MAC program:

CAPDS will immediately expand staffing for holistic defense resources in the form of hiring two alternative disposition specialists (one supervisory), two case managers, and two immigration attorneys.

CAPDS will develop job descriptions for these positions and post for applicants no later than October 15, 2019, for its expansion and will hire new staff with appropriate experience and qualifications no later than November 30, 2019.

CAPDS will begin to accept referrals for new and expanded services no later than December 31, 2019, and will train assigned counsel on the use of expanded services.

CAPDS will expand its administrative capacity by hiring two supervisory attorneys and two client advocates. These positions will allow CAPDS to more effectively oversee contract attorneys and respond to client concerns. A financial analyst will also be added to assist with budgeting. CAPDS will develop job descriptions and responsibilities for these positions.

CAPDS will develop, with Criminal Court Administration, the ability to track all complaints in the Indigent Defense Application software, allowing for better tracking, classifying, and reporting of complaints, and, to track the number of complaints, client satisfaction surveys conducted, consultations with attorneys on performance, and decisions by the review committee to remove attorneys from the panel, among other metrics.

CAPDS will develop objective criteria, to be adopted by the CAPDS review committee, to review attorney performance, including caseloads, number and quality of complaints, utilization of holistic defense resources, and case outcomes to determine which attorneys are qualified to remain on the appointment list.

CAPDS will develop written policies and procedures for deviation from the flat fee payment on misdemeanor cases. Additionally, CAPDS will develop written policies and procedures for proactive monitoring of attorney performance and evaluation, including expanded ability to collect and utilize client feedback. These policies will be readily available to assigned counsel.

Time Reporting and Hourly Billing Pilot Program for "A, B and C Panel" Cases: In addition to the program-wide activities designed to improve attorney monitoring and performance described above, CAPDS will develop and implement a pilot program for enhanced reporting and accountability. The pilot program will require attorneys to report their time and submit hourly billing for their work on all cases assigned.

CAPDS will develop draft guidelines and procedures for the pilot program that will be designed to support improvements to CAPDS' attorney monitoring and evaluation functions, as well as to eliminate the County's current flat-fee compensation structure. The pilot program will begin in grant year 1 with the implementation of hourly billing for all A panel cases; year 2 will include hourly billing for all B panel cases; year 3 will include hourly billing for all C panel cases. CAPDS will finalize guidelines and procedures for the pilot program in consultation with stakeholders, including panel attorneys and the CAPDS oversight committee. At a minimum, guidelines and procedures for the pilot program will include:

1. Mandatory participation by all panel attorneys;
2. Mandatory time reporting by panel attorneys using time categories that are consistent with those used to develop the TIDC caseload guidelines and that protect attorney-client and attorney work product privileges;
3. Payment of all cases in the pilot program on an hourly, and not fixed-fee, basis;
4. Requirements for attorney certification of time reports;
5. Audit procedures for time reports;
6. Evaluation metrics for attorney performance in cases in the pilot program that are consistent with; and, permit comparison with, attorney performance metrics; and
7. Evaluation metrics for the pilot program as a whole. CAPDS also will work with stakeholders to develop a phase-in timeline for the pilot program. CAPDS will finalize the guidelines, procedures, and phase-in timeline for the pilot program no later than January 1, 2020.

In preparation for phase-in of the pilot program, CAPDS will develop, with Criminal Court Administration, the ability to effectively accept and review electronically through the AMP and IDA software systems detailed vouchers that include time reporting within the categories included in the pilot program within the first year of the grant. The Travis County criminal judges will modify the Travis County fee schedule to provide for hourly compensation, at a rate no less than \$100-\$125 per hour, for all felony panel assignments. CAPDS will train panel attorneys on time reporting procedures, pilot program audit and attorney evaluation procedures, and, the electronic voucher system.

Phase-in of the pilot program for A panel cases will begin February 1, 2020.

The hiring committee for the Chief PD may use the National Association for Public Defense (NAPD) Systems Builders Committee, which comprises current and retired defender leaders, to assist with the Chief Public Defender search or may also use any other National Search service that might assist in the search for the office's chief public defender. The hiring committee will begin the search for a chief public defender within 45 days of notification of the grant award and will conduct interviews of candidates and make recommendations to the Commissioners Court. Travis County will make every effort to hire a Chief Public Defender by November 15, 2019.

The selected Chief Public Defender will oversee the hiring of staff consistent with the goals of:

1. Providing 24-hour representation and bond advocacy during magistration at the Central Booking facility for all arrested persons; and
2. Taking on 15% of Travis County misdemeanor (A and B) and felony cases by the end of the first grant year. Staffing will include at least one deputy to the Chief Public Defender, a training director, attorneys at varying levels of practice consistent with taking misdemeanor to first degree

felony cases, and other staff. Staffing levels and staff positions will be determined by Travis County based on those necessary personnel to accommodate the percentage of cases handled.

Travis County anticipates that the PDO will handle 30% of felony and misdemeanor cases in the county and district courts by the end of the second grant year and remain at that level through the rest of the grant term. Staffing will increase in grant year two to accommodate a full appointment capacity.

The PDO and CAPDS will seek to develop contractual relationships with entities and partnerships to provide advocacy in collateral proceedings, including school suspension hearings, administrative license revocation hearings, and immigration proceedings where the proceeding is impacted by or has an impact on the underlying criminal matter. These services will be approved and funded by Commissioners Court.

The selected Chief Public Defender will oversee the procurement of necessary office equipment and furniture, as well as give input on the office location options should office space procurement still be in process. The Travis County Fair Defense Act plan will be adjusted for the addition of an adult public defender office. The PDO will be included in the random, automated appointment system, and will be weighted proportionately as to be available for appointment at the percentage levels contained in this proposal. The Chief Public Defender or the deputy will have access to the appointment system such that they can enter the PDO's availability. In doing so, the chief/deputy will have the autonomy to govern the office's workload.

The PDO will begin accepting appointments in the county and district courts no later than February 1, 2020.

The PDO will begin representation and bond advocacy at magistration no later than February 1, 2020.

The PDO will begin entering cases into a case management system by February 1, 2020.

The PDO will develop the ability to track all complaints relating to the PDO and their staff. The system must allow for tracking, classifying, and reporting on complaints, and tracking the numbers of complaints, client satisfaction surveys conducted, consultations with attorneys on performance, and responses to complaints among other metrics.

The PDO will begin reporting to Commissioners Court after the first quarter on April 1, 2020.

The PDO, with participation and approval of the oversight development committee, will produce and present, in an open community forum, an annual report that includes, at a minimum, activities and evaluation.

The Chief Public Defender or deputy will periodically attend judges' meetings or meetings with other stakeholders to facilitate improvement to any system problem areas in the continuity of client-centered representation.

The Chief Public Defender or designee will attend Travis County jail population meetings.

The Chief Public Defender shall review the caseload status at least quarterly. The Chief Public Defender may override individual or office caseload limits based on overall complexity of cases, overall types of cases, attorney experience, support staff experience, court needs, or other factors affecting the delivery of services. The Chief Public Defender must notify the oversight development committee in writing if exceptions to the caseload standards are warranted.

The training director will provide relevant training for public defenders including remedial training as needed, which will also be available to assigned counsel. The training director will conduct at least one CLE per month on best practices, including trial trainings, skills workshops, holistic defense representation and legal specializations, for both the PDO and managed assigned counsel attorneys. The training director will maintain training materials for the PDO and managed assigned counsel bar, and act as a resource for both.

The PDO will have dedicated space for use by assigned counsel, partner with CAPDS, Justice Planning, and the Law Library to provide to appointed private counsel and pro se defendants adequate resources for legal research and appropriately private spaces including computer stations with Lexis Nexis or Westlaw access and access to a private room for client meetings.

The PDO, along with the oversight development committee, will have ongoing discussions regarding the feasibility of merging one or more of the existing specialized Travis County Public Defender offices into the general PDO in grant year four. If such a merger is desired by each agency and the PDO, and has the approval of Commissioners Court, then the merger will occur at a future point agreeable to each agency.

For the MAC program:

CAPDS will immediately expand staffing for holistic defense resources in the form of hiring two alternative disposition specialists (one supervisory), two case managers, and two immigration attorneys.

CAPDS will develop job descriptions for these positions and post for applicants no later than October 15, 2019, for its expansion and will hire new staff with appropriate experience and qualifications no later than November 30, 2019.

CAPDS will begin to accept referrals for new and expanded services no later than December 31, 2019, and will train assigned counsel on the use of expanded services.

CAPDS will expand its administrative capacity by hiring two supervisory attorneys and two client advocates. These positions will allow CAPDS to more effectively oversee contract attorneys and respond to client concerns. A financial analyst will also be added to assist with budgeting. CAPDS will develop job descriptions and responsibilities for these positions.

CAPDS will develop, with Criminal Court Administration, the ability to track all complaints in the Indigent Defense Application software, allowing for better tracking, classifying, and reporting of complaints, and, to track the number of complaints, client satisfaction surveys conducted, consultations with attorneys on performance, and decisions by the review committee to remove attorneys from the panel, among other metrics.

CAPDS will develop objective criteria, to be adopted by the CAPDS review committee, to review attorney performance, including caseloads, number and quality of complaints, utilization of holistic defense resources, and case outcomes to determine which attorneys are qualified to remain on the appointment list.

CAPDS will develop written policies and procedures for deviation from the flat fee payment on misdemeanor cases. Additionally, CAPDS will develop written policies and procedures for proactive monitoring of attorney performance and evaluation, including expanded ability to collect and utilize client feedback. These policies will be readily available to assigned counsel.

Time Reporting and Hourly Billing Pilot Program for "A, B and C Panel" Cases: In addition to the program-wide activities designed to improve attorney monitoring and performance described above, CAPDS will develop and implement a pilot program for enhanced reporting and accountability. The pilot program will require attorneys to report their time and submit hourly billing for their work on all cases assigned.

CAPDS will develop draft guidelines and procedures for the pilot program that will be designed to support improvements to CAPDS' attorney monitoring and evaluation functions, as well as to eliminate the County's current flat-fee compensation structure. The pilot program will begin in grant year 1 with the implementation of hourly billing for all A panel cases; year 2 will include hourly billing for all B panel cases; year 3 will include hourly billing for all C panel cases. CAPDS will finalize guidelines and procedures for the pilot program in consultation with stakeholders, including panel attorneys and the CAPDS oversight committee. At a minimum, guidelines and procedures for the pilot program will include:

1. Mandatory participation by all panel attorneys;
2. Mandatory time reporting by panel attorneys using time categories that are consistent with those used to develop the TIDC caseload guidelines and that protect attorney-client and attorney work product privileges;
3. Payment of all cases in the pilot program on an hourly, and not fixed-fee, basis;
4. Requirements for attorney certification of time reports;
5. Audit procedures for time reports;

6. Evaluation metrics for attorney performance in cases in the pilot program that are consistent with; and, permit comparison with, attorney performance metrics; and

7. Evaluation metrics for the pilot program as a whole. CAPDS also will work with stakeholders to develop a phase-in timeline for the pilot program. CAPDS will finalize the guidelines, procedures, and phase-in timeline for the pilot program no later than January 1, 2020.

In preparation for phase-in of the pilot program, CAPDS will develop, with Criminal Court Administration, the ability to effectively accept and review electronically through the AMP and IDA software systems detailed vouchers that include time reporting within the categories included in the pilot program within the first year of the grant. The Travis County criminal judges will modify the Travis County fee schedule to provide for hourly compensation, at a rate no less than \$ 100-\$125 per hour, for all felony panel assignments. CAPDS will train panel attorneys on time reporting procedures, pilot program audit and attorney evaluation procedures, and, the electronic voucher system.

Phase-in of the pilot program for A panel cases will begin February 1, 2020.

f. Evaluation

Travis County will evaluate annually the effectiveness, efficiency, and fairness of public defense services, including services provided by both public defenders and assigned counsel. For purposes of providing a fair comparison of the outcomes of the managed assigned counsel program and the public defender office, cases will be assigned randomly with use of the wheel system. Travis County will obtain assistance from the Quattrone Center for the Fair Administration of Justice at the University of Pennsylvania, the Public Policy Research Institute (PPRI) at Texas A&M University, the Sixth Amendment Center, or, comparable nationally-recognized researchers to assist in designing the evaluation and evaluation metrics. Travis County will use a case management system capable of tracking case data and outcomes. Evaluation will be both quantitative and qualitative and will include client satisfaction surveys. Nationally-accepted best practice evaluation measures will be adopted, including those from organizations such as the National Legal Aid & Defender Association and the Indigent Defense Research Association. Such measures will include, but are not limited to:

- Number of people represented
- Number of new cases and cases disposed
- Average time from appointment to initial person contact
- Average time from appointment to in-person interview
- Number of interactions with clients - whether in person, emails or telephone correspondence
- Percentage of clients in jail pretrial
- Average number of days in jail pretrial
- Percentage of clients released on personal bond
- Percentage of clients released on bond
- Use of investigators
- Use of immigration attorneys
- Use of alternative disposition specialists
- Use of defense experts
- Use of discovery
- Number of motions filed
- Case outcomes (dismissal, acquittal, reductions and conviction)
- Sentence length
- Caseloads of attorneys and non-attorney advocates
- Income of attorneys and non-attorney advocates
- Oversight and client complaint resolution
- Advocacy in collateral proceedings

Clients will be surveyed on their satisfaction with:

- Amount of time spent with attorney
- Advice and case information given by attorney
- Trust in attorney
- Whether client felt empowered in their representation
- Belief that attorney was fighting for them
- Attorney preparation
- Outcome in case

In addition to the general evaluation measures used above, attorneys participating in the time reporting and hourly billing pilot program will be evaluated on how the overall amount of time they dedicate to cases in the program, and the time they dedicate to different time categories, compares to relevant data used to develop the TIDC caseload guidelines. To the extent practicable given the nature of available pre-implementation data, A, B, and C Panel attorneys' performance pre- and post-implementation of the pilot program will also be reviewed. Evaluation of the pilot program as a whole will consider CAPDS' differential ability to monitor attorney performance in program and non-program cases, any identifiable changes in A, B, and C Panel attorney performance pre- and post-implementation, and differences in attorney performance outcomes compared to attorney performance in other CAPDS cases and in cases handled by the PDO.

In grant year 3, Travis County will evaluate the overall effectiveness of its public defense system, including by considering client outcomes, cost efficiency, and impact of representation on class and racial disparities, to determine the appropriate proportion between public defender and assigned counsel cases and structure of the indigent defense system. The County will consider expanding public defender representation, expansion of time reporting and hourly billing to all case types, greater funding to the managed assigned counsel system, and/or other improvements to public defense.

g. Future Funding

All Travis County funding is considered on an annual basis. Travis County intends to fund a shared cost of the program each year as required by the discretionary grant program contract that will be negotiated between the County and TIDC. The County will make a good faith effort to continue funding the program after the grant period expires.

Travis County and CAPDS will pursue alternative funding and resources, including internships with college and university students, and funding and fellowships from private foundations and/or governmental agencies available for public defense programs.

Please see Attachment A for a table outlining future budget/funding requested in the application.

h. Budget Narrative and Budget Form

In order to ensure that the entire Travis County public defense system receives equitable representation, both the PDO and CAPDS management and staff salaries must be commensurate with the prosecutorial offices, e.g. the District and County Attorney offices. Factors that should be considered in determining salaries include percentage of cases handled, tenure in office, and experience levels. This information should be determined based on the review, assessment, and recommendation of the Planning and Budget Office. The number of staff requested for the PDO and CAPDS should be reflective of the needs based on the types of cases handled, and the overall percentage of cases that each entity represents.

Travis County estimates that based on projected caseload levels, an adult public defender office taking 30% of cases and providing representation and bond advocacy at magistration will ultimately need up to 40 trial attorneys. Appropriate staffing to ensure the effective implementation of a holistic defense model, including management positions, specialized

attorneys, support staff, social workers, paralegals, investigators, and analysts will require additional personnel. The funding needed to staff the office depends upon caseload levels and percentage of cases represented. Public defender and CAPDS personnel should have pay parity with county and district attorneys' staff of similar experience and rank, providing for a 3% annual increase for anticipated compensation and benefit cost increases.

Travis County will determine any staffing projections and annual ongoing expenses that will be incurred by both offices. These expenses include continuing legal and other education and associated travel and lodging, mileage for regular travel, phone bill allowances, office supplies, subscription services, licenses and maintenance for case management software and professional memberships. Estimated annualized ongoing court costs at \$144,000 for expert witnesses and lab tests are also included within that ongoing expense total; this number is an estimate and not a cap on these costs. If needed, PDO will seek additional funding from the Commissioners Court. Additionally, approximately \$800,000 in one-time start-up costs is projected by Travis County for capital equipment. Outside of the proposed grant funding, the County will provide office space, human resources, Information Technology services and other support.

This proposal also seeks funding to help improve the pay and incentive structure for private attorneys that are assigned counsel through CAPDS. A program expanding hourly pay for "A Panel" counsel assigned clients facing 1st degree felony cases will be implemented in year 1. Based on projected caseloads in fiscal year 2020, CAPDS projects an additional \$1,091,030 will be needed to provide hourly pay for the remaining 1st degree felony cases at \$125/hour; and, an additional \$2,744,493 to provide hourly pay for the remaining 2nd and 3rd degree cases at \$100/hour in year 2; and, an additional \$777,120 for the remaining state jail felony offenses at \$100/hour in year 3.

In addition, based on a needs assessment by CAPDS leadership, funding is requested for personnel to provide more holistic support to clients with managed assigned counsel and to better supervise private attorneys and their use of these additional resources. Specifically, funding is requested for additional social workers, case managers, immigration attorneys, additional support staff, a financial analyst, and supervising attorneys are included within this proposal. Additional ongoing expenses to support the new CAPDS employees are also requested. CAPDS employees are contracted with Travis County; costs (including salaries and fringe benefits) are reflected under contracted services.

Funding is requested for new CAPDS employee office furniture and equipment, as well as for software development to support improved private attorney management, specifically, payment and complaint tracking (\$80,000).

Travis County is proposing an alternate grant match schedule at 50% for each of the grant's four years, with the State contributing 50% of grant funds, in addition to an annual 2% indirect cost allocation.

Please see Attachment B for staffing charts.

Please see Attachment C for the proposed grant match schedule from FY2020 to FY2023.

Personnel Costs		\$4,162,906.00
FTE's	73.00	
Salary	\$3,009,325.00	
Fringe Benefits	\$1,153,581.00	
Travel and Training		\$110,350.00
Equipment		\$1,305,862.00
Supplies		\$116,317.00
Contract Services		\$2,463,215.00
Indirect		\$56,118.00
Total		\$8,214,768.00
Required County Match		\$4,079,325.00
Total less County Match		\$4,135,443.00



ATTACHMENT B

PDO Staffing Chart

Position	FTE
Chief Public Defender	1.00
Deputy Chief	1.00
Division Director	2.00
Training Director	1.00
Attorney VI	10.00
Attorney V	5.00
Attorney IV	9.00
Attorney III	10.00
Attorney II	5.00
Attorney I	5.00
Investigator Lt	1.00
Investigator	5.00
Social Worker	4.00
Office Manager Sr	1.00
Legal Secretary	7.00
Paralegal	4.00
Business Analyst	1.00
Financial Analyst Sr	1.00
Total	73.00

**CAPDS Additional Staffing Chart
(Contracted)**

Position	FTE
Supervising Attorney	2.00
Immigration Attorney	2.00
Alternative Disposition Specialist (MSW) Supervisor	1.00
Alternative Disposition Specialist (MSW)	1.00
Case Manager	2.00
Legal Secretary	2.00
Financial Analyst, Sr.	1.00
Total	11.00

ATTACHMENT C

TIDC PD Office and CAPDS Improvements Grant Match Schedule 50/50

Year	FY 2020 (Year 1)	FY 2021 (Year 2)	FY 2022 (Year 3)	FY 2023 (Year 4)	Total (Grant Term)	FY 2024 Cost
State Grant Funds	\$4,135,443	\$7,284,918	\$7,923,623	\$7,978,107	\$27,322,091	\$0
County Match	\$4,079,325	\$7,180,660	\$7,816,421	\$7,867,876	\$26,944,282	\$16,011,416
Total	\$8,214,768	\$14,465,578	\$15,740,044	\$15,845,983	\$54,266,373	\$16,011,416

ATTACHMENT A

TIDC PD Office and CAPDS Improvements Grant Application Budget

Year	FY 2020 (Year 1)	FY 2021 (Year 2)	FY 2022 (Year 3)	FY 2023 (Year 4)	Total (Grant Term)	FY 2024 Cost
PD Personnel	\$4,162,906	\$8,597,354	\$8,855,274	\$9,120,933	\$30,736,467	\$9,394,561
PD Ongoing Operating	239,867	501,194	501,194	501,194	1,743,449	501,194
PD Start Up costs	805,862	0	0	0	805,862	0
Case Management System	500,000	100,000	100,000	100,000	800,000	100,000
Total PD	\$5,708,635	\$9,198,548	\$9,456,468	\$9,722,127	\$34,085,778	\$9,995,755
CAPDS Personnel	948,437	1,172,268	1,207,436	1,243,659	4,571,799	1,280,969
CAPDS Ongoing Operating	122,050	122,050	122,050	122,050	488,200	122,050
Holistic Defense Parity w PD	23,290	8,408	8,987	9,256	49,941	9,534
MAC Parity w PD	115,286	24,523	25,259	26,017	191,084	26,797
CAPDS/PD Evaluation (OT)	0	0	200,000	0	200,000	0
CAPDS One time operating	149,922	0	0	0	149,922	0
Hourly Pilot	1,091,030	3,835,523	4,612,643	4,612,643	14,151,839	4,612,643
Total CAPDS	\$2,450,015	\$5,162,772	\$6,176,374	\$6,013,625	\$19,802,785	\$6,015,662
Estimated Program Budget	\$8,158,650	\$14,361,320	\$15,632,843	\$15,735,751	\$53,888,564	\$16,011,416
Indirect Cost from State	56,118	104,258	107,202	110,231	377,809	0
Total Grant Application Budget	\$8,214,768	\$14,465,578	\$15,740,045	\$15,845,982	\$54,266,373	\$16,011,416



OFFICE OF TRAVIS COUNTY JUDGE SARAH ECKHARDT

July 31, 2019

Dear Mr. Burkhart,

On May 9, 2019, Travis County submitted an FY2020 Multi-Year Discretionary Grant, (confirmation number D202022720190509) to the Texas Indigent Defense Commission to help fund the establishment of a public defender's office. In response to your request for additional and clarifying information, please see the following:

1. The extent to which the total budget for the grant project will be impacted by SB2.

Please see the attached memo from the Planning and Budget Office and Justice Planning that outlines the changes that were made to the original grant application budget in response to the potential impact of revenue caps on county budgets.

2. Adjustments to the 30% target for cases assigned to the PD in order to implement PD counsel at the proposed 24/7 magistration hearings.

As noted in the PBO/Justice Planning memo, the share of cases to be taken by the public defender office remained at 30% to be achieved by the end of the grant period.

3. As part of the CAPDS improvements, address caseloads and shift from a carrying caseload to annualized caseload maximums.

Please see attached agenda item backup from Criminal Courts Administration.

4. How data will be used on an ongoing basis to provide enhanced supervision for CAPDS attorneys.

Please see attached agenda item backup from Criminal Courts Administration.

5. The basis of cost for the case management system budget item.

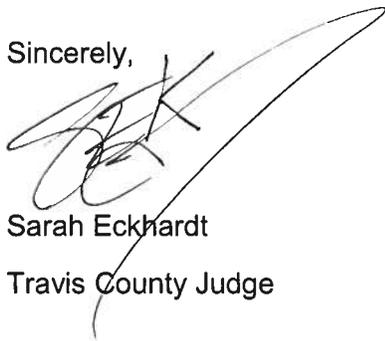
The Planning and Budget Office has worked with our ITS Department to refine the estimate for the public defender office case management system. The amount reflected in the revised budget is the latest estimate.

6. Information on the proposed oversight structure.

- Academic (Andrea Marsh)
- Private Attorney (Gerry Morris)
- Public Defender (Alex Bunin)
- Justice Involved Individual (Darwin Hamilton)
- Community Advocate (Ofeliia Zapata)
- Commissioners Court Representative (Roger Jefferies)
- Community Advocate (Pastor Joe Parker)
- Judicial Representative (TBD)
- Justice Involved/Community Advocate (TBD)

Thank you for your consideration of this revised grant application. Please contact us if you have further questions. We look forward to your response.

Sincerely,

A handwritten signature in black ink, appearing to be 'SE', written over a large, light-colored scribble or background mark.

Sarah Eckhardt

Travis County Judge



Travis County Commissioners Court Voting Session Agenda Request

Meeting Date: July 30, 2019

Agenda Language:

Consider and take appropriate action on the grant application to the Texas Indigent Defense Commission for a public defender office in Travis County.

Prepared By/Phone Number: Roger Jefferies, 512-854-4759

Elected/Appointed Official or Department Head: Roger Jefferies, County Executive, JPS

Commissioners Court Sponsor(s): Sarah Eckhardt, County Judge

Press Inquiries: Hector Nieto, PIO@traviscountytexas.gov or (512) 854-8740

Background/Summary of Request and Attachments:

On May 7, 2019, the Commissioners Court submitted an application to the Texas Indigent Defense Commission (TIDC) to fund a public defender office in Travis County. TIDC has requested some further information to help them in their analysis of our request. The additional information includes:

1. The extent to which the total budget for the grant project will be impacted by SB2 (if at all).
2. Adjustments to the 30% target for cases assigned to the PD in order to implement PD counsel at the proposed 24X7 magistration hearings.
3. As part of the CAPDS improvements, the application should address caseloads and shift from a carrying caseload to annualized caseload maximums.
4. While the application identifies a number of metrics to be used in the evaluation, more information should be included regarding how data will be used on an ongoing basis to provide enhanced supervision for CAPDS attorneys.
5. We'd like to see the basis of cost for the case management system budget item.
6. Information on the proposed oversight structure.

On July 16th, the Commissioners Court approved the category composition and charge for the oversight structure. On July 23rd, the Commissioners Court a revised budget that considered the impact of tax revenue caps recently enacted by the Texas legislature (SB2).

The original proposal approved on May 7, 2019 had a projected FY 2024 cost of \$16,011,416. This cost did not include the 24/7 magistration, space related costs and civil attorney fee increases to mirror the proposed criminal hourly fee schedule. If these additional costs had been included, the annual cost by FY 2024 would have been an estimated \$21.6 million a year. PBO would not have been able to support the

AGENDA REQUEST & BACKUP MATERIALS DEADLINE: Agenda requests and backup materials must be submitted in PDF format via email to agenda@traviscountytexas.gov by **12 noon on Tuesday** in order to be considered for inclusion in the following week's voting session.

original application with the added costs due to forthcoming revenue caps. The Commissioners Court directed PBO and JPS to develop a revised proposal that was more affordable but still met the goals of the original program.

In the July 23rd discussion it was recommended by staff that 24/7 magistration not be included in the grant proposal due to funding limitations and programmatic unknowns that still need to be researched. The cost in FY 2025 for the revised program without 24/7 magistration is \$14.8 million (including civil indigent attorney fee hourly rate changes that cannot be included in the grant application). In the discussion, the Commissioners Court directed staff to add back in an Investigator position that had been removed in the revised budget. Also, at the request of former members of the Indigent Legal Services work group, the grant proposal was edited to allow for the three leadership staff who would be hired in the first year to take at least some cases in the first year if able. The previous revised budget assumed that no cases would be taken in the first year.

Criminal Courts Administration will also be providing an overview of a plan to enhance the quality of representation through data collection and utilization of the performance indicators to measure the CAPDS attorneys.

Staff Recommendations:

Staff recommends approval of the revised budget as proposed and the approval of the performance indicators as presented.

Issues and Opportunities:

N/A

Fiscal Impact and Source of Funding:

Please see July 19 memo attached describing the revised financial implications of the grant application.

Required Authorizations:

Sarah Eckhardt, County Judge
Roger Jefferies, County Executive, JPS
Jessica Rio, County Executive, PBO

AGENDA REQUEST & BACKUP MATERIALS DEADLINE: Agenda requests and backup materials must be submitted in PDF format via email to agenda@traviscountytx.gov by **12 noon on Tuesday** in order to be considered for inclusion in the following week's voting session.



PLANNING AND BUDGET OFFICE

TRAVIS COUNTY, TEXAS

700 Lavaca, Ste 1560
P.O. Box 1748
Austin, Texas 78767

July 24, 2019

MEMO REVISED TO REFLECT FEEDBACK FROM JULY 23 2019 COMMISSIONERS COURT MEETING

NOTE: Revised budget includes one additional Investigator position for PD Office, also does not limit PD Office from taking cases the first year, if able.

To: Commissioners Court

From: Roger Jefferies, County Executive for Justice and Public Safety & Travis Gatlin, PBO Budget Director

Re: TIDC Public Defender and CAPDS Improvement Grant Application Update

Travis County currently spends \$23.8 million per year for indigent defense costs, of which \$1.3 million is reimbursed by the State. The County has been exploring ways to improve outcomes of indigent defense within a cost model that is sustainable given revenue caps (SB2) will be in place beginning in FY 2021. The Commissioners Court requested that the Planning and Budget Office and Justice Planning look at revising the grant application to the Texas Indigent Defense Commission (TIDC) to create a general criminal Public Defender's Office in Travis County and make improvements to the Capital Area Private Defenders Service (CAPDS). The original proposal was approved on May 7, 2019 with an annual cost to the County of \$16 million once the grant ends in FY 2024. As noted by the Planning and Budget at that time, the \$16 million did not include the cost for indigent representation at magistration on a 24/7 basis or prosecution and other stakeholder costs including civil indigent attorney fees. These costs are estimated at \$5.6 million. The combined annual amount for FY 2024 with these costs is estimated \$21.6 million.

The revised application maintains that the Public Defender's Office would still handle 30% of eligible cases but does not include representation at magistration on a 24/7 basis. Representation at magistration will continued to be analyzed and discussed during future budget processes. The Planning and Budget Office and Justice Planning recommends a revised application over a five-year term rather than four-year term with an estimated annual cost of \$13.5 million for FY 2024 for grant expenses (County and state) plus \$1.5 million for civil indigent attorney fees that are not eligible to be included in the grant but will be required to match the criminal indigent attorney hourly rate pilot in the revised application. The combined total is \$15 million for FY 2024 and the County must fully fund these costs staring in FY 2025.

The Planning and Budget Office believes the funding requirements for revised grant application and associated non-grant eligible related costs can be more realistically accommodated over the next five years compared to the originally proposed four years with the provision of indigent representation at magistration on a 24/7 basis. The table on the next page highlights the original application with \$16.0 million budget in FY 2024 with the added \$5.6 million for the estimated costs associated with representation at magistration and civil indigent

attorney fees for with the revised application. Details highlighting the changes within the recommended revised application by fiscal year will also be highlighted in the remainder of the memo.

Comparison of FY 2024 Cost for Original Application vs. Revised Application			
Category	Full Cost of Original Application	Revised Application	Difference
Grant Eligible Expenses	\$16 Million (84 FTEs PD + CAPDS)	\$13.5 Million (76 FTEs PD+CAPDS)	\$2.5 Million (8 FTEs)
Representation at Magistration + Civil Attorney Fees	\$5.6 Million (35 FTEs)	\$1.5 Million (0 FTEs)	\$4.1 Million (35 FTEs)
Total	\$21.6 Million (119 FTEs)	\$15.0 Million (76 FTEs)	\$6.6 Million (43 FTEs)

Revised TIDC Grant Application

The revised TIDC grant application as recommended by PBO and Justice Planning includes the following:

- Revised Oversight Committee (discussed with Commissioners Court July 16, 2019)
- Revised cost considerations:
 - Extends grant period from four years to five years
 - Reduces management and support staffing in PD Office proposal by six positions (73 FTE to 67 FTE)
 - Reduces CAPDS personnel from 11 new staff to 9 new staff
 - Gradually increases hourly pilot
 - Removes lease costs in CAPDS budget
 - Includes a more refined case management system costs for the Public Defender’s Office
 - Has an improved space plan for staff
 - Reduces annual personnel cost growth 3% to 2.5%

Public Defender Office

It would be expected that this new public defender’s office would still take 30% of the cases with the workload gradually increasing over a five year period. The attorney staffing ratios per case per year remained the same (138 felony cases for felony defenders and 239 cases per misdemeanor defender); however, some support staff were removed from the budget. The grant proposal includes the following for the Public Defender Office:

- No change to the percentage of cases (30% of felony and misdemeanor cases)
- Maintains Attorney-to-Case ratio as recommended by TIDC
- Refines case management system cost
- Removes deputy chief position
- Removes one Padilla immigration attorney and one research attorney (Revised proposal includes two Padilla immigration attorneys for the PD and two new immigration attorneys for CAPDS)
- Removes one investigators (Revised proposal includes one Investigator Lt and four Investigators)
- Removes two support staff (Paralegal and Legal Secretary)
- Total FTE count reduced by 6, from 73 FTEs to 67 FTEs. (Original report from TIDC proposed 66 FTEs.)
- Indigent representation at magistration on a 24/7 basis is not included
- Includes one-time costs to move to USB Building

CAPDS

The CAPDS proposal still includes increased assistance to the CAPDS attorneys for better overall representation and provide for improved equity in the pay structure between a PD Office, County Attorney & District Attorney and CAPDS personnel. The following is included for the CAPDS portion of the application:

- Maintains two supervising attorneys and two Padilla immigration attorneys
- Maintains Financial Analyst position due to increased number of hourly vouchers
- Reduces two support staff (Case Manager and Legal Secretary)
- Total new staff reduced by two, from 11 to 9 full-time positions
- Removes lease cost for CAPD using County space
- Includes one-time costs to move to Rusk Building

Staffing Schedule

It is expected that the new Public Defender would be hired within six months of the final approval of this grant by Commissioners Court. The new Chief Public Defender will then start hiring Division Directors and support staff. It is not expected that the Office would take cases in the first year. In the second year, staff attorneys would begin to be hired and the Office can increase the percentage of cases they can take. Attorney staffing levels in this proposal maintain the cases-per-attorney ratio as recommended by TIDC. CAPDS, since it is already an established program, will hire all new staff within a two year period to continue to handle the majority of cases. The chart below outlines the staffing and case schedule:

Timeline for PD Office, CAPDS Improvement Schedule					
	Year 1: FY 2020	Year 2: FY 2021	Year 3: FY 2022	Year 4: FY 2023	Year 5: FY 2024
Public Defender FTE	2.50	23.00	40.00	56.00	67.00
CAPDS FTE	5.00	9.00	9.00	9.00	9.00
Total FTE	7.50	32.00	49.00	65.00	76.00
PD Percentage of Eligible Cases Taken	<1%	7.5%	15%	22.5%	30%
CAPDS Percentage of Eligible Cases Taken	>99%	92.5%	85%	77.5%	70%

Indigent Defense Hourly Pilot

The criminal indigent attorney fee hourly pilot portion of the grant was updated to cap hourly rate for highest charges at \$100 rather \$125 hour for felony A cases and other incremental changes in an effort to promote cost sustainability over the grant term. The revised hourly pilot by year is below.

Revised Criminal Hourly Rate Pilot (Grant Eligible)					
Highest Charge	Year 1: FY 2020	Year 2: FY 2021	Year 3: FY 2022	Year 4: FY 2023	Year 5: FY 2024
1 st Degree Felony	\$100	\$100	\$100	\$100	\$100
2 nd Degree Felony	\$0	\$80	\$85	\$90	\$90
3 rd Degree Felony	\$0	\$0	\$85	\$90	\$90
State Jail Felony	\$0	\$0	\$0	\$85	\$85
Misdemeanors	N/A	N/A	N/A	N/A	N/A

Incorporating the changes listed above the following is the proposed grant budget for the revised application:

Revised TIDC Grant Match Costs						
Cost	Year 1: FY 2020	Year 2: FY 2021	Year 3: FY 2022	Year 4: FY 2023	Year 5: FY 2024	Total
PD Personnel & Operating (66 FTE)	\$406,931	\$3,089,982	\$5,108,785	\$7,235,201	\$8,774,807	\$24,615,705
Court Costs	\$-	\$35,931	\$71,862	\$107,793	\$143,724	\$359,310
Space Costs	\$125,000	\$-	\$-	\$-	\$-	\$125,000
Case Mgmt System	\$102,000	\$18,400	\$32,000	\$44,800	\$53,600	\$250,800
Total PD	\$633,931	\$3,144,313	\$5,212,647	\$7,387,794	\$8,972,131	\$25,350,815
CAPDS Personnel & Operating (9 new)	\$712,815	\$1,092,544	\$1,093,473	\$1,119,842	\$1,050,752	\$5,069,426
Current CAPDS personnel Parity w PD	\$138,576	\$142,040	\$144,174	\$149,231	\$152,962	\$726,984
PD/CAPDS Evaluation (OT)	\$-	\$-	\$200,000	\$-	\$-	\$200,000
CAPDS Space Costs	\$50,000	\$-	\$-	\$-	\$-	\$50,000
CAPDS Software	\$80,000	\$80,000	\$80,000	\$80,000	\$80,000	\$400,000
Hourly Rate for MAC Cases	\$1,412,576	\$2,802,951	\$3,945,635	\$4,174,845	\$3,191,963	\$15,527,970
Total CAPDS	\$2,393,967	\$4,117,535	\$5,463,282	\$5,523,918	\$4,475,677	\$21,974,380
Estimated Program Budget	\$3,027,898	\$7,261,848	\$10,675,929	\$12,911,713	\$13,447,808	\$47,325,195
2% Indirect Cost	\$57,058	\$145,237	\$209,519	\$258,234	\$268,956	\$939,004
Total Grant Application Budget	\$3,084,956	\$7,407,085	\$10,885,447	\$13,169,947	\$13,716,764	\$48,264,199

On May 7, 2019 PBO recommended a grant match schedule that allowed TIDC and the County to split the grant costs 50/50, rather than the traditional 20/40/60/80% grant match schedule used for many TIDC grant programs. The revised application includes the proposed 50/50 match. The 50/50 model will allow for a larger state contribution. The following table shows the proposed grant match schedule by year:

50/50 Grant Match Model						
	Year 1: FY 2020	Year 2: FY 2021	Year 3: FY 2022	Year 4: FY 2023	Year 5: FY 2024	Total
State Grant Funds	\$1,571,007	\$3,776,161	\$5,547,483	\$6,714,091	\$6,992,860	\$24,601,601
County Cash Match	\$1,513,949	\$3,630,924	\$5,337,964	\$6,455,856	\$6,723,904	\$23,662,597
Total	\$3,084,956	\$7,407,085	\$10,885,447	\$13,169,947	\$13,716,764	\$48,264,199

Costs not included in the Grant proposal

Space Plan for Counseling and Education Services’ Intake Unit, Office of Child Representation and Office of Parent Representation and Mental Health Public Defender

PBO, Justice Planning and Facilities Management worked on a proposal to accommodate the Public Defender’s Office and consolidate CAPDS personnel into one office. FMD proposes moving the Public Defender Office into the University Savings Bank (USB) Building and move all of CAPDS from their current locations in the Brizendine House and USB in to the Rusk Building. To accommodate those moves, the Office of Child Representation, Office of Parent Representation and Counseling and Education Services’ Intake Division will need to leave the USB and relocate to the 2nd floor of the Granger building, which was recently vacated by the District Attorney’s Office. The Mental Health Public Defender is proposed to move to Post Road, with an eventual move back to the downtown area once the Civil and Family Courthouse is completed. FMD estimates that this move and related office renovations will cost \$975,000, of which the renovations related to USB and Rusk of \$175,000 can be reimbursed by the grant. The County will need to pay for the remaining \$800,000 in renovations costs in FY 2020. The expected completion date of all the changes summer 2020.

Civil Indigent Attorney’s fees

By statute Civil Indigent Attorney’s Fees can match but not exceed the criminal indigent attorney fees schedule as determined by the Criminal Judges. Since the grant is adding an hourly criminal indigent attorney fee pilot, the civil attorney fees will need additional resources based on anticipated civil fee changes from the Civil District Judges. The Civil District Judges submitted an hourly rate budget request to mirror the rates included for criminal cases in the original grant proposal. With the revised criminal rate structure, the Civil Courts propose raising the fees from \$75 to \$90-\$100 over a five year period. Below is the proposed five year rate schedule:

Revised Civil Hourly Rate Schedule (Not Grant Eligible)					
Attorney Qualifications	Year 1: FY 2020	Year 2: FY 2021	Year 3: FY 2022	Year 4: FY 2023	Year 5: FY 2024
Certifications/ Multi-lingual	\$100	\$100	\$100	\$100	\$100
Other	\$75 (no change)	\$80	\$85	\$90	\$90

The total five year cost to Travis County is below for the grant contribution plus non grant eligible space costs and increases for civil indigent attorney’s fees:

Total County Funding Contribution for Indigent Defense Improvements						
	Year 1: FY 2020	Year 2: FY 2021	Year 3: FY 2022	Year 4: FY 2023	Year 5: FY 2024	Annual Cost After Grant
County Cash Match	\$1,513,949	\$3,630,924	\$5,337,964	\$6,455,856	\$6,723,904	\$13,447,808
Space	\$800,000	\$-	\$-	\$-	\$-	\$-
Civil Indigent Attorney’s Fees	\$371,886	\$713,943	\$1,064,204	\$1,421,444	\$1,481,873	\$1,481,873
Total County Contribution	\$2,685,835	\$4,344,867	\$6,402,168	\$7,877,300	\$8,205,777	\$14,929,681

*excludes proposed state’s 2% indirect cost allocation.

As noted on the previous page the final year of the grant plus civil indigent attorney fees is \$15 million, which is \$6.6 million less than the \$21.6 million full cost of May 7 application. The County must carefully plan over the next five years so that resources to fully fund the program in FY 2025 are available. The revised proposal provides resources for the Public Defender's Office to take 30% of criminal cases as originally envisioned and significantly increasing support for indigent defense within CAPDS and indigent attorney budget for the Criminal and Civil Courts. Justice Planning and PBO recommend Commissioners Court approval of these changes to the application. TIDC will make a final determination on the County's application on August 29, 2019.

The FY 2020 Preliminary Budget includes a grant match of \$4,079,325 budgeted in Justice Planning based on the original May 7, 2019 application. The revised proposal includes a FY 2020 grant match of \$1,513,949 with an additional requirement of \$1,171,886 for non-grant eligible space costs and civil indigent attorney fees resulting in a total County requirement for FY 2020 of \$2,685,835. The amount for FY 2021 is \$4,344,867, which will increase to \$6,402,168 for FY 2022, \$7,877,300 in FY 2023, \$8,205,777 in FY 2024 with the full cost of approximately \$15 million in FY 2025 once the grant ends. The Planning and Budget Office will be making forthcoming recommendations on how to best plan for the contributions for each fiscal year.

CC: Kimberly Pierce, Cathy McLaugherty, Valerie Hollier, David Shelton, Keith Goertz, Efrain Davila, Justice Planning
Hon. Brenda Kennedy, Hon Elisabeth Earle, Debra Hale, Margaret Ledyard, Joseph Kertz, Criminal Courts
Hon. Lora Livingston, Peg Liedtke, Amanda Michael, Civil Courts
Jessica Rio, County Executive for Planning & Budget
Katie Gipson, Aerin Pfaffenberger, PBO
ILS Work Group

July 30, 2019 Commissioners Court

Additional Backup for Item #6

Caseload and Additional Monitoring Information for CAPDS Related Enhancements to Indigent Defense in the Application to TIDC

Update for TIDC Grant

Caseload Limits for TIDC Grant

To improve quality and ensure attorneys have adequate time to represent assigned clients, Travis County will move from caseload limits based on a carrying caseload to an annualized caseload based on the TIDC Weighted Caseload Study. Travis County will phase in caseload controls during this grant, to be fully implemented by the end of the grant, ensuring attorneys' yearly caseloads do not exceed the TIDC guidelines by more than 10%, unless demand on a specific panel requires an exception. For example, if there are too few attorneys active on the Felony MH wheel, CAPDS may assign an attorney qualified to represent a Felony Mental Health defendant who has reached their caseload limits for the time period specified. CAPDS will also work with the attorneys and the court's data scientist to determine limits for those who take cases other than Travis County appointed cases. During the phase in, any case that is part of the hourly pilot program will count at 100% toward the caseload limit for the attorney. Cases not subject to the pilot, such as flat fees, may be counted at a reduced rate in order to maintain the viability of all panels during the phase-in process.

Travis County and CAPDS will create a dynamic caseload monitoring program to effectively manage an annualized caseload limit while ensuring the viability of all panels. CAPDS will provide the details of implementation and its caseload monitoring plan no later than October 15, 2019. Caseload monitoring will be further developed and monitored by CAPDS staff during the implementation of the pilot. CAPDS will work with Travis County to create automated caseload controls through the Indigent Defense Application (IDA) after a period of manual monitoring resolves any challenges or concerns with the operation of the dynamic caseload controls.

Enhanced Oversight of Attorneys Receiving an Hourly Rate

One key to improving representation in Travis County for indigent defendants is to improve the quality provided by Managed Assigned Counsel (MAC) attorneys through the CAPDS. This grant will aid in two key ways: through increased CAPDS staff for case support and attorney monitoring, and through a new fee structure that does not disincentivize quality representation. Currently, attorneys are compensated by a flat-fee system, creating a perverse incentive for attorneys in which compensation decreases the harder and longer an attorney works. By moving to an hourly payment system, the attorney's incentives are more closely aligned with those of the client, leading to improved representation. In addition to aligning the incentives between clients and attorneys, the move to an hourly-payment system will lead to improved data collection and allow for more detailed monitoring of the attorneys and the time that they spend on activities related to representation. Attorneys will be required to categorize their

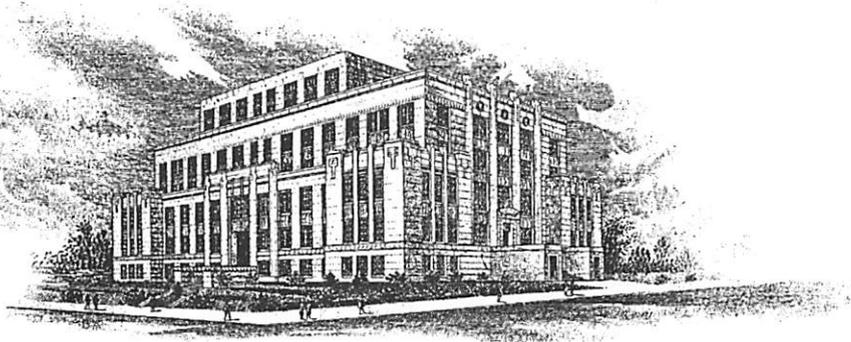
activities in a manner consistent with the TIDC timekeeping study enabling the consolidation of all activities into TIDC main categories: Client communications, negotiation and meetings, discovery, attorney investigation, legal research and trial preparation, court time, social work and case management, and case specific office support. By monitoring the time spent on key activities, CAPDS can identify the areas where individual attorneys or groups of attorneys do not align with best practices. CAPDS can target interventions both individually and collectively to these areas in order to improve performance. This increased data collection and additional staff for support and supervision creates a new vision into representations and new opportunities to evaluate attorney performance. Detailed voucher submission provides CAPDS with a more robust tool than previously available.

Currently, CAPDS and Travis County closely monitor attorney outcomes. But outcomes do not tell the whole story. With the detailed and structured data submission that will be required of attorneys paid an hourly amount, CAPDS and Travis County will be able to better pinpoint where attorneys are not spending sufficient time on activities. Using categories from the TIDC time sufficiency study, CAPDS can identify where an attorney's practice differs from guidelines and target its limited resources at appropriate remediation.

For example, one area that has a large effect on a client's perception of their representation is the amount of time spent communicating with the client and family members. It is not possible, however, to directly evaluate the frequency or quality of those communications using outcomes. Increasing the amount of information that attorneys report will permit better monitoring of the frequency of communication an attorney has with the client and provide contextual clues into the quality and appropriateness of the amount of communication. Currently, CAPDS only is able to track the dates of first client contact and first face-to-face meeting with a client, but not the duration of these interactions or any subsequent meetings. With hourly timekeeping, attorneys will record their meetings and CAPDS supervisory staff will be able to compare the frequency and duration against TIDC standards and Travis County averages to spot attorneys that are deficient in their client communication. This will allow CAPDS to work with attorneys to improve their interactions and ultimately adopt additional standards to guide attorneys and provide new benchmarks for evaluation. Communication is just one example of how improved data collection through attorney time tracking will allow CAPDS to better monitor attorneys and improve the services available to clients. Other areas that CAPDS will monitor to better understand and evaluate the work that attorneys are performing are investigation by the attorney, legal research, social work performed by the attorney, and increased understanding of hearings and motion practice. Understanding how attorneys are spending their time provides CAPDS with new tools and opportunities to improve quality.

In addition to time tracking, this grant will permit the development a complaint tracking system tied to Indigent Defense Application ("IDA"). Currently CAPDS receives client complaints and acts on them when appropriate; however, its resources and current case tracking system does not permit comprehensive review, coding, and tracking of complaints and responses. By moving complaint and response tracking into IDA, CAPDS will better be able to see patterns of behavior and cross-reference assignments, clients, and cases. By developing a view into total attorney performance, CAPDS can consolidate complaints, responses, observations, and data metrics to create a more comprehensive view of attorney performance. With the addition of two supervising attorneys, CAPDS will increase its capacity to proactively monitor performance and responding to client concerns, improving the services that clients receive.

CAPDS is committed to increased monitoring and supervision of its attorneys utilizing the new resources of this grant. CAPDS already uses a large amount of data to track case outcomes, bonding work, and jail visits. However, this information only scratches the surface of what can be learned from data about the quality of services being provided to clients. By moving to hourly billing, not only do we better align the incentives between clients and attorneys, we also increase the amount of visibility that CAPDS has into the activities taken by the attorneys. By better understanding where attorneys are spending their time in representing clients, CAPDS can target trainings and mentoring to those areas where deficiencies are observed. This increase in data availability and new staff will help CAPDS to improve representation of the clients they are charged with representing.



TO: TIDC
FROM: Travis County Criminal Court Judges
RE: Eckhardt Proposal for PDO
DATE: May 9, 2019

The Criminal Court Judges of Travis County are responsible, as members of the judiciary, to ensure that all defendants are competently and adequately represented in the criminal justice system. We strive to provide equitable representation to all persons accused of crimes in Travis County, whether they be indigent or non-indigent. In that regard, we have reviewed the proposal offered by County Judge Eckhardt, and the attached proposal has been approved by a majority of our judges.

Our approval of this plan is conditioned upon our current Managed Assigned Counsel (CAPDS) which under our adopted plan is tasked with handling 70% of the entire indigent defense population, being adequately funded over the entirety of the grant period by either TIDC and/or the Travis County Commissioner's Court. It is our duty, under the Constitution and under our oath as judges, to insure that the legal representation of ALL indigent individuals is equally resourced. So, both entities need adequate funding to operate at an acceptable level in providing competent indigent defense to all.

In summary, upon approval and assurance that CAPDS will also be funded in accordance with the provisions outlined in the Eckhardt proposal, we will support the implementation of a PDO as also outlined in the attached plan.

On behalf of the Criminal Court Judges of Travis County,

Signed this 9th day of May, 2019

Judge Brenda P. Kennedy
Presiding Judge
Travis County Criminal Courts

Harris County
 FY 2020 Improvement Grant
 Multi-year request
Managed Assigned Counsel Program

Modified FY2020 Grant Request: \$2,172,855

Original Request

	<----- Projected ----->			
	Year 1	Year 2	Year 3	Year 4
Total Program Cost	\$3,305,669	\$3,245,669	\$3,245,669	\$3,245,669
Required County Match	\$661,134	\$1,298,268	\$1,947,401	\$2,596,535
FY20 Discretionary Grant Request	\$2,644,535	\$1,947,401	\$1,298,268	\$649,134
TIDC/County Share	80%/20%	60%/40%	40%/60%	20%/80%

Revised Request (FTEs reduced from 23 to 19)

	Year 1	Year 2	Year 3	Year 4
Total Program Cost	\$2,716,069	\$2,656,069	\$2,656,069	\$2,656,069
Required County Match	\$543,214	\$1,062,428	\$1,593,641	\$2,124,855
FY20 Discretionary Grant Request	\$2,172,855	\$1,593,641	\$1,062,428	\$531,214
TIDC/County Share	80%/20%	60%/40%	40%/60%	20%/80%

Program Overview

Harris County seeks to implement a managed assigned counsel (MAC) program to improve the quality of representation for indigent defendants in misdemeanor cases through independence, additional support resources, and greater attorney accountability. The MAC will address gaps in oversight, support, and resources for misdemeanor cases. Approximately 4/5th of all misdemeanors will be handled by the MAC, while the remaining 1/5th will be handled by the existing public defender office.

Harris County’s current system runs afoul of TIDC’s contract rules. Judges in Harris County are directly involved in attorney appointment and voucher review processes and have some discretion in choosing attorneys to work for an agreed period of time. Judges also review and approve ancillary services such as investigators. This project will transition Harris County from “term assignment” lawyers (*i.e.*, contract counsel) to individual case assignments independently appointed, supervised, and resourced. The program is also intended to address longstanding concerns about excessive caseloads by adopting standards and monitoring to ensure reasonable caseloads. The MAC will also provide support services directly to private attorneys representing indigent defendants, as well as expanded professional development opportunities to improve the quality of representation. Other program features include a complaint monitoring and investigation component and collection of feedback from attorneys, clients, and other stakeholders.

Summary of External Grant Review Committee Comments

The program provides a good vehicle for much-needed independence, oversight, caseload management, and support services and will have a major impact on representation in Texas’s largest county. A comprehensive approach that includes district courts should be encouraged.

Recommendation: Award Harris County an FY2020 Improvement Grant based on revised request. Continue to work with Harris County on plans for district court program.

**2020 Harris County Discretionary Grant Application Narrative
(Multi-Year Grant)**

a. Application Form

Counties Represented: **Harris**

Fiscal Year: **2020**

State Payee Identification Number: **760454514**

Division To Administer Grant: **072206378**

Program Title: **Indigent Defense: Harris County Office of Managed Assigned Council**

Requested Grant Amount: **\$2,644,535.20**

Financial Officer: **Michael D. Post**

Program Director: **Ed Wells**

Mailing Address: **1001 Preston; 900; Houston, TX 77002**

b. Introduction (Executive Summary)

The purpose of the Harris County Managed Assigned Counsel program is to create a managed attorney appointment system that is a well-organized, consolidated, impartial representation model for all involved in appointed representation for defendants found to be indigent in Harris County. This will be accomplished through strong partnerships and shared resources within and outside of Harris County government. This program will embrace a holistic defense philosophy. It will also exist as a central beacon of leadership, guidance, mentoring, training and continuing education for the defense bar, social workers, and other professionals dedicated to indigent defense. The FY 2020 Harris County Discretionary Grant Application includes both misdemeanor and felony components. This online submission is the misdemeanor component. The felony component will be submitted separately by email.

c. Problem Statement

Currently, Judges in Harris County are directly involved in the attorney appointment process, making appointment of counsel primarily through appointments for defendants determined to be indigent. Judges appoint from a list through an automated and random assignment system. Qualification exams are currently administered through the Office of Court Management for the County Criminal Courts at Law. Judges currently have some discretion in choosing attorneys to work for an agreed upon period of time. Judges also review and approve fee vouchers and payment for indigent representation, as well as ancillary services such as investigators based on an approved fee schedule.

There are a number of improvements to the Harris County attorney appointment system that can be realized through the successful implementation of a MAC program. In considering the American Bar Association's Ten Principles of a Public Defense Delivery System, a Harris County MAC program could immediately address several of these principles, including; (1) Defense function is independent of the judiciary, (5) Defense counsel's workload is controlled, (6) Defense counsel's ability, training, and expertise match case complexity, (7) the same attorney represents the client until the case is complete (8), Parity exists between defense and prosecution with regard to resources, and (10) defense counsel is supervised and reviewed for quality and efficiency.

d. Objectives

Appointment of counsel to qualified defendants will be administered by the Office of Managed Assigned Counsel, independently of the judiciary in accordance with the first of ABA's Ten Principles of a Public Defense Delivery System. Specific objectives are as follows:

1. Establish an agreement of organizational roles between the Harris County MAC program, the Harris County Public Defender's Office, the Houston Bar Association, and the Harris County Criminal Lawyers Association.
2. Strong leadership and excellent communication will be important themes of the MAC program; this will include a MAC program director who has experienced in indigent defense systems.
3. The MAC program will operate with a clear mission and vision that is adopted by employees of the Office of Managed Assigned Counsel, and articulated to the Harris County criminal justice community as well as the clients the MAC program serves.
4. Establish a system to monitor and evaluate attorney caseloads, based on criteria outlined in Chapter 2 of TIDC's Managed Assigned Counsel Programs in Operation guide. This will be accomplished following

the hiring of a MAC program director.

5. Establish a system to monitor and evaluate attorney performance, including evaluation standards, in-court observation by MAC leadership/administrators, annual surveys, motion review, and any other functions as deemed necessary by the MAC governing body. This will be accomplished following the hiring of a MAC program director.
6. Establish a system of in-house training, include Continuing Legal Education training, for appointed attorneys, as well as MAC program staff.
7. Create a system of mentoring for new appointed attorneys, those who have limited relevant experience, or those who otherwise require such assistance. This system will require mentors and mentees meet on a regularly-scheduled basis, that progress be reported to the MAC program Executive Director, and that mentors be compensated for their work in this capacity.
8. Create and clearly communicate a client feedback process, allowing a designated person within the MAC program to receive complaints or other feedback about appointed attorneys. This process will include a system of detailed documentation of this feedback, as well as written procedures for handling complaints.
9. Related to the above objective, create a survey for clients of attorneys appointed through the MAC program in order to track performance and client feedback, as well as a system within the MAC program leadership structure to review this feedback and consider possible improvements.
10. Create a system of feedback about MAC program quality and resources, to be provisioned to attorneys taking appointments through the MAC program, as well as a system within the MAC program leadership structure to review this feedback and consider possible improvements.
11. Create synergy between the MAC and the Harris County Public Defender's Office, which may include things like mentorship and coordination of caseloads and goals.
12. Create a model system for MAC program in a large jurisdiction, as evidenced by a third party justice system evaluation consultant with specialization in indigent defense systems. This will be accomplished during the first year of the MAC program's operation.

e. Activities

If awarded a grant to establish a Managed Assigned Counsel Program, Harris County will create the office in accordance with Tex. Code Crim. Proc. art. 26.047, while striving to achieve ABA's Ten Principles of a Public Defense Delivery System. Below are specific activities that will be conducted:

1. Work with the Harris County Commissioners Court and Budget Management Department to ensure the ability to sustain the MAC after the grant period has ended.
2. Assemble a committee to develop a job description for a MAC Director, to review candidates, and to make a recommendation to Commissioners Court. Advertise the posting, accept applications, review applications, interview candidates, and hire a MAC Director.
3. Identify key stakeholders and participants in order to establish an oversight committee to review MAC program history and existing implementation/use cases. This committee would determine a MAC program governance structure, quorum and voting rules, and the establishment of a clear set of goals, milestones, and a timeline for project implementation.
4. Work with local stakeholders and TIDC to develop a model and proposed budget to begin the implementation process.
5. Establish a government agency, the Office of Managed Assigned Counsel, which will consist of an advisory committee, a governing board, and staff as determined by an Executive Director of the Office of Managed Assigned Counsel.
6. Once an Executive Director is chosen, recruit staff members including social workers, investigative personnel, immigration specialists, technology professionals, expert/professional, and administrative staff to support the Office of Managed Assigned Counsel as well as appointed attorneys representing clients through the Managed Assigned Counsel program.
7. Engage in a strategic planning and visioning process in order to build an ideological foundation on which the MAC program can grow into an institution of indigent defense resources in Harris County.

8. Establish Board of Directors or refine oversight committee - including both voting membership and functions (such as financial responsibilities and disclosures, hiring and firing of director, budget approval, review committee recommendations, oversight committee meetings, etc.). Voting members can include members of the public. Non-voting members can include attorneys currently taking appointments.
9. Develop and implement an attorney recruitment system to include exam/testing procedures and management of the Harris County appointed attorney list.
10. Transition appointments from the current system of term-based assignments, to a system of individual case assignments.
11. Design and implement guidelines for caseload limits, as well as a system to systematically monitor attorney caseloads.
12. The MAC will coordinate with the Chief of the Harris County Public Defender's Office (PDO) to ensure that the PDO receives an appropriate number and types of cases, subject to Code of Criminal Procedure 26.044(j).
13. Develop systems of two-way communication and supervision through the Office of Managed Assigned Counsel, for use by (1) clients of appointed attorneys to report issues to the Office, (2) for appointed attorneys regarding matters in need of managerial attention, and (3) for MAC organization leadership and the MAC Advisory Committee or governing board.
14. Create and implement systems of mentoring and professional casework services (immigration expertise, investigators, interpreters, social workers, administrative staff, etc.) for shared use by appointed counsel.
15. Create and implement systems of holistic defense.

f. Evaluation

The MAC program will be reviewed and evaluated based on the delivery of timely indigent defense, the quality of indigent defense, the delivery of essential services, management of caseloads, case outcomes, and management of costs.

Beyond these early phases, the evaluation of the functionality of the office, as well as the quality of representation for clients represented by the office, will include the use of an independent third party consultation service in the field of indigent defense. The specific service and the goals it will measure, will be identified by MAC leadership (governing body and director).

Some or all of the following performance metrics will be data priorities:

- Time from appointment to first contact with defendant - will measure the time from receipt of the order of assignment to the first contact with defendant
- The number of meetings with defendant
- Days from arrest to release
- Days until disposition - broken down by incarcerated compared to bonded defendants;
- Disposition type - with specific type of disposition
- Type of conviction
- Sentence imposed
- Use of experts
- Amount of money spent on experts
- Types of experts hired

- Amount of money spent on mitigation
- Use of investigators
- Amount of money spent on investigation of cases
- Survey of Judges - to address overall impressions of quality of indigent defense services and attorney performance
- Survey of Users - to gauge overall satisfaction with representation through the MAC
- Type of Bonds - broken down by case type and bond type
- Caseload review - the number of active cases assigned to attorneys
- Cases disposed
- Average caseload summary
- Individual attorney caseload
- Average cost per case
- Total number of cases assigned through the MAC

All of the above are to be broken down by attorney performance when possible. All of the above are to include socio-economic status of defendant when possible. These reports will be done monthly.

The holistic defense components of the MAC program will be reviewed and evaluated for effectiveness.

With respect to the duties of the Oversight Committee and the Director, our initial thoughts are as follows:

The Director has the responsibility to provide reports to the oversight committee regarding the following:

- All MAC program policies and procedures
- The date job descriptions are completed
- The date each staff position is filled
- The date each employee is added
- The date software is functional
- The date MAC representation commences
- The date the first case is received
- Analysis of cost and budget, including periodic reevaluation of budget needs

Along with quality representation and holistic defense, cost controls will be a priority of the office. Attorney activity will be quantifiable, and cost controls may take the form of reducing jail population, increasing efficiency, institutionalization, decreased administrative costs, and budget predictability.

Persistent evaluation of caseload performance will occur through the designation of key performance indicators as identified by the MAC program director. Supporting data for these KPIs may be provided by the Harris County Office of Court Management.

g. Future Funding

Harris County is fully committed to providing the highest quality indigent defense consistent with the efficient use of a managed assign counsel program. The County anticipates re-applying for the grant every year for the four years that grant funding is available. The first year funding request will include the start-up costs of the program, so subsequent years' funding would be significantly higher. After the expiration of the grant period, the MAC Office will request funding from the Harris County Commissioners Court. It is anticipated that funding for the office would be approved by the Commissioners Court, provided that it is established that the office can be run in cost-efficient manner while maintaining quality representation for indigent defendants. This will be determined by criteria outlined in the Evaluation section of this application.

h. Budget Narrative and Budget Form

Executive Personnel

Appointment of counsel to qualified indigent defendants will be administered by a County department (Office of Managed Assigned Counsel (MAC)) independent of the judiciary. Appointments will transition away from term assignments to individual case assignments. Attorney caseloads will be monitored by the MAC. The MAC will provide administration of the appointment system and payment of fees for appointed counsel. Additionally, the MAC will provide mentoring, training, professional services (investigators, immigration specialists, interpreters, social workers) to appointed counsel. At the discretion of the Director, executive staffing may also include an Administrative Assistant, Technical Support Manager, and Financial Analyst.

Misdemeanor Division Chief

A Misdemeanor Division Chief will be responsible for coordination of assignments, management of contracts, and general management assistance to the MAC Director. The Misdemeanor Division Chief will be a leadership role, tasked with communicating a unifying vision for the misdemeanor division of the MAC program.

Managing Attorneys

This proposal and budget anticipates that attorneys and other resources necessary for quality indigent defense will continue to be engaged by appointment and compensated as they currently are, only under assignment by Managing Attorneys. Managing Attorneys will be primary liaisons between the MAC and individual courts. Managing Attorneys will be responsible for intake assessment and appropriate assignment of attorneys to cases, review of financial claims, monitoring adherence to time standards for case processing, and assistance with problem resolution in discovery or litigation.

Between 140 and 160 attorneys are typically certified to accept appointments for misdemeanor indigent defendants in the County Criminal Courts. This number fluctuates in relation to qualification testing that is administered three times per year. This number does not include attorneys working in the Public Defender's Office taking cases requiring Mental Health expertise in the misdemeanor courts. 8 Managing attorneys could provide a ratio of one attorney per approximately 20 appointed attorneys handling indigent defense.

Currently, the average number of indigent defendants on County Criminal Court dockets is 8,573, which have a total of 10,107 active cases pending. Eight (8) Managing Attorneys would each provide management oversight for 1,072 defendants at any given time, or 1,263 cases annually.

In State Fiscal Year 2018, appointed attorneys in Harris County disposed of approximately 24,465 cases for indigent defendants. Based on TIDC's Guidelines for Indigent Defense Caseloads, the recommended caseload for Class B misdemeanors is 236 cases, and Class A misdemeanors is 216 cases. Based on a weighted average of Harris County's misdemeanor caseload distribution, a maximum allowable caseload of 224 misdemeanor cases per attorney would allow the current pool of appointed attorneys to handle up to 35,840 cases annually.

Immigration Attorney

The Immigration Attorney will be a liaison between the Office of Managed Assigned Counsel, and attorneys appointed through the Harris County MAC system. This person will have extensive experience with immigration law, and will serve as a resource, lending this expertise to attorneys managing their caseload through the MAC program. In addition to making this expertise available, the Immigration

Attorney will provide training guidance as well as Continuing Legal Education (CLE) instruction to attorneys taking appointments. They will also keep attorneys apprised of legislative changes and emerging issues in the field of immigration law.

Holistic Defense Supervisor

This proposal and budget anticipates that investigators, social workers, mitigation specialists, expert witnesses, immigration attorneys, and other resources necessary for quality indigent defense will continue to be engaged and compensated as contract service providers as they currently are, only under supervision and management of a Holistic Defense Supervisor.

The Holistic Defense Supervisor will be responsible for training and supervision of holistic and mentoring programs and assist attorneys in the use of a team defense. This could include training attorneys in proper use of social workers, investigators, and immigration resources, both individually and in formal training. The Holistic Defense Supervisor will evaluate and oversee the work of investigators, social workers, and an immigration attorney; manage processes for investigations, social workers, forensic and other experts, and an immigration attorney; establish guidelines for quality defense services; review the delivery of defense service to ensure services meet established quality guidelines, best practices, and needs of the attorneys and defendants; and provide legal guidance regarding applicable legal and ethical standards of defense services. The Holistic Defense Supervisor will also engage with the community to promote holistic defense methods and will study, monitor, and report on the effectiveness of holistic defense services.

Social Worker(s)

Connecting clients to available social and community services is a crucial component of a holistic defense system. A team of Social Workers will serve as a comprehensive resource guide for the Office of Managed Assigned Counsel and attorneys taking appointments through the Harris County MAC system. Social workers will help attorneys identify community services, housing, and other available resources in order to help reduce the collateral consequences of the criminal case lifecycle. This team will be a valuable resource for the office and the clients it serves, by maintaining a persistent awareness of available community resources, as well as maintaining routine communication with key contacts in the community of social work resources in Harris County.

Chief Investigator

This proposal and budget anticipates that investigators and other resources necessary for quality indigent defense will continue to be engaged and compensated as contract service providers as they currently are, only under supervision and management of a Chief Investigator. The Chief Investigator will assist the Holistic Defense Supervisor in ensuring that appropriate resources are available for investigation and case preparation. The Chief Investigator can provide direct investigatory services to attorneys where appropriate.

Technical Support Manager

Primary support for the office automation and desktop services will be the responsibility of Harris County Universal Services. The MAC Technical Support Manager will serve as the first line of technology troubleshooting, and also as the technical liaison to Universal Services for assistance with supporting the office. This person will have both strong communication skills and desktop support/troubleshooting skills, using both as a first-line of support for the MAC program's technical needs. This person will also be the MAC program's technical representative to other Harris County departments including Universal Services, as well as various technical committees in the Harris County justice community.

Harris County has developed an online system for Attorney claims processing, beginning with a TIDC discretionary grant in 2011. The system allows attorneys using a computer or smartphone to view information about the cases to which they are assigned, submit claims and supporting documentation for claims, and track the status of claims through the approval and payment process. The system is integrated with the courts' case management system, the County Auditor's system, and the Clerk's document system for electronic signatures and eFiling of forms. Anticipating that the MAC Director would recognize the value of this existing systems integration, we are requesting funds to adapt the systems to enable workflow automation for the MAC Office.

Financial Analyst

The MAC program Financial Analyst will oversee the funding and cost structure of the entirety of the Office of Managed Assigned Counsel. This will include budgeting, accounting, tracking of expenditures, overall budget analysis, and detailed financial reporting for use within the MAC program, the MAC oversight committee, and representatives of the Harris County budget process. The Financial Analyst will also assist with preparation of financial information for continuation of TIDC grants, as well as research and engagement in other grant funding opportunities for indigent defense and holistic defense.

Startup Costs

Startup/non-reoccurring costs for necessary for the creation of the Office of Managed Assigned Counsel include office furniture, telephones, computer equipment (desktop/laptop computers and printers), and copiers.

Contract Services

Contract Services requested for this program are primarily allocated to an estimate for software development for a Case Management System (CMS) platform. The MAC program director may determine which CMS platform is best suited for the office, or consult with Harris County Purchasing and/or the Harris County Public Defender's Office in order to assist with this determination. Contract Services may also include consultation with a third-party organization to analyze the MAC program and ensure it is meeting the stated goals of the office and its oversight board.

Personnel Costs		\$3,015,000.00
FTE's	23.00	
Salary	\$2,250,000.00	
Fringe Benefits	\$765,000.00	
Travel and Training		\$20,500.00
Equipment		\$60,000.00
Supplies		\$11,100.00
Contract Services		\$185,000.00
Indirect		\$14,069.00
Total		\$3,305,669.00
Required County Match		\$661,133.80
Total less County Match		\$2,644,535.20



TO: Texas Indigent Defense Commission, Grant Administration

CC: Geoff Burkhart

CC: Edwin Colefax

CC: Scott Ehlers

August 21, 2019

Re: Supplementary materials for Harris County Indigent Defense Improvement Grant application

On May 10, 2019, Harris County submitted a FY2020 Indigent Defense Improvement Grant application, seeking funding support for the creation of a Managed Assigned Counsel program. Contingent upon this grant, the creation of a MAC program in Harris County would open the door to a number of positive changes to the indigent defense system in Harris County.

Throughout the application process, TIDC has provided valuable guidance to Harris County, including a report distributed on July 11, 2019 titled *Recommendations for a Unified Harris County Managed Assigned Counsel Program*. Per this guidance, the following information is intended to supplement the Harris County application for the purpose of assisting the grant review process. In addition to this document, a modified budget narrative is also attached.

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Staffing

The original application did not provide details associated with the Executive Director outlined in the Budget Summary. The following is a proposed description of the qualifications, role, and duties of the Executive Director for this program:

Executive Director Qualifications

- Must be a member of the State Bar of Texas in good standing.
- Must have at least ten years of experience trying cases in the area of criminal law including misdemeanor, felony and/or federal cases. A significant amount of his/her practice must be in the area of criminal defense.
- Must have experience in drafting trial motions and memorandums of law.
- Must have managerial, budget and administrative experience. (can include running his/her own practice)
- Must have some experience in the hiring of experts and investigators.
- Must have at least some knowledge and experience in forensics.
- Must have taken court appointments in criminal law matters.

Executive Director Role

- Responsible for maintaining the integrity of the Managed Assigned Counsel Program.
- Responsible for developing and enforcing the policies and procedures of the Managed Assigned Counsel Program, including the creation of a personnel procedures guideline.
- Responsible for the management of the participating defense attorneys.
- Develops and maintains resources to better serve the program.
- Actively monitors the overall caseload and performance of Managed Assigned Counsel attorneys.
- Develops continuing legal educational opportunities for the program.
- Assists attorneys in maintaining the integrity of the attorney/client relationship.
- Manages the day to day operations of the Managed Assigned Counsel Program.
- Develops and maintains the budget of the Managed Assigned Counsel Program.
- Liaises with the judiciary, budget management department, and other justice stakeholders regarding indigent defense.

Executive Director Duties

- Oversees the private appointed legal representation of indigent defendants in Harris County
- Works closely with elected officials and policy-making entities in accomplishing the objective of the Office of Managed Assigned Counsel.
- Provides guidance, mentoring and legal advice to assigned counsel; manages administrative functions of the office including budgeting, human resources, purchasing and resource planning. The Director will have fiscal and administrative duties in the management of the Office of Managed Assigned Counsel.
- Will prepare a written plan of operation as required by Texas Code of Criminal Procedure Article 26.047(c), and direct the administrative and operation functions of the office consistent with the stated goals of the Office of Managed Assigned Counsel.

- Oversees staff, including hiring, training, performance evaluations, dissemination of information regarding ethics issues such as confidentiality, privilege, and waivers, and the administration of disciplinary actions and dismissals.
- Prepares and Presents an annual report on the operation of the office to Harris County Commissioners. The Director also prepares and presents quarterly operational and monthly financial reports on the expenditures of the indigent resources to the Advisory Committee.
- Along with reporting, the Director establishes policies and procedures relating to the administration of indigent defense in conjunction with the Advisory Committee and develops recommendations for the committee.
- Maintains positive relationships with other components of the criminal justice system and indigent defense organizations.
- Facilitates the development, training and education of assigned counsel by providing Continuing Legal Education (“CLE”) program, implementing a training curriculum consistent with current trial and investigative techniques including ethics related to criminal law, and establishing a mentoring program.
- Maintains the following: expert database, witness/officer files, motion and brief banks, legal research file, CLE materials and performance measures for the Office of Managed Assigned Counsel.
- Develops the processes for application, acceptance, renewal and removal of assigned counsel.
- Responds to inquiries and complaints and investigates such complaints.
- Represents the office on various committees and work groups and participate in community outreach at various governmental, judicial and community functions.
- Researches and reviews legislative updates and legal opinions, and adapts existing policies and procedures to address legislative changes.

Administrative Assistants

- There are two (2) Administrative Assistants included in the Budget Summary. The specific duties of these administrative assistants will be the discretion of the Executive Director. One Administrative Assistant may serve as an executive assistant to the Director of the Office of Managed Assigned Counsel. Generally, the Administrative Assistants will assume responsibility for office-critical functions such as purchasing and procurement, payroll and other human resource functions, phone and calendar management, office supply management, organization of meetings and conference calls, dissemination of various reports, and interfacing with the public as well as contacts within the county for general purposes related to the Office.

Total Number of Staff

In the original grant application, the budget request included a total of 23 staff members, including (8) supervising attorneys. The creation of this office will focus on misdemeanor appointments, therefore we are requesting a reduction in the number of supervising attorneys to four (4), which reduces the total number of FTEs to 19.

Oversight Committee/Governing Board

Governance of the Office of Managed Assigned Counsel can be simplified to include a governing board, the architecture, responsibilities, and subcommittees of which are currently under consideration. This board will be established in a manner that upholds independence from undue judicial or political influence. Board responsibilities will include, at a minimum, recommending an Executive Director, providing policy guidance to the Executive Director, and evaluating the efficacy of the office.

Membership on this board may include:

Voting Membership

- 2 Members of the defense bar
- 1 President of the Harris County Criminal Lawyer’s Association or designee
- 2 Members of the community
- *2 or more additional members (TBD)*

Non-Voting Membership

- 1 Judge or retired judge
- 1 Member of the Harris County Public Defender’s Office
- 2 Members of Harris County Commissioners Court
- 1 Harris County Office of Court Management, Court Manager or designee

Possible Additional Membership

- Retired Judge
- Member – Houston Lawyers Association
- Member – Mexican American Bar Association
- Budget Department Designee

Indigence Determination

The responsibility of determining indigency will remain with the Courts, in accordance with Harris County Criminal Courts at Law, [Local Rule 24: Alternative Plan for the Appointment of Counsel to Indigent Defendants Under the Fair Defense Act](#), 24.4: Determining Indigence.

Location of Department

The environment in which the Office of Managed Assigned Counsel will operate is located centrally on the north side of downtown Houston. At the time of this grant application, much of this environment remains displaced from damages sustained during Hurricane Harvey. This includes the courts, administrative offices supporting the courts, and the offices of other justice system stakeholders, many of which currently operate in temporary and shared facilities. While Harris County has yet to determine a specific location for this office, repairs are underway at key facilities in the downtown courthouse complex, including the 20-story Harris County Criminal Justice Center.

The Executive Director will work with Harris County Commissioners Court and the Harris County Engineer to determine the most appropriate office location. Such a decision would consider

independence from the judiciary a high priority. This independence may be accomplished through physical means (i.e. a building separate from the courts) or through established electronic systems (access control and private elevators).

Case Management System

In the original grant application, the budget request included the line item **Software Development – Case Management** in the amount of \$180,000. The intent of this item is to ensure the case management platform that is either built or purchased, meets the operational needs of the office as established by the Executive Director, and meets the reporting needs of Harris County stakeholders and those of the Texas Indigent Defense Commission. Implementation of this system may require custom programming or integration with existing Harris County systems, which may exceed the scope of an off-the-shelf product.

This system needs to incorporate mobile-friendly and remote-entry/viewing capabilities that are empowering to the end-user, as opposed to a burden. Usability on the front-end will be crucial not only for attorneys using the system, but also for reliable reporting and downstream data analysis.

The research and selection process for this platform will be carried out by the Executive Director with the assistance of Harris County justice system stakeholders. The \$180,000 budget request is intended to fund the creation of, and maintenance for this system through the entirety of the grant.

Training and Professional Memberships

In the original grant application, the budget request included the line item **Training and Professional Memberships**. Details relating to provisions for training office personnel and appointed attorneys will fall within the scope Executive Director. Training will be a core component of this office. As is stated in the application's executive summary, the Office of Managed Assigned Counsel will exist as a central beacon of leadership, guidance, mentoring, training, and continuing education.

**FY 2020 Harris County Discretionary Grant Application
Managed Assigned Counsel Budget Narrative**

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Executive Director (1)

Upon securing funding for the Office of Managed Assigned Counsel, Harris County will engage in the search for an Executive Director who will report to Commissioners Court. This person will be responsible for recruiting staff members detailed below in this Budget Narrative. A set specific of qualifications, roles, and duties of the Executive Director are outlined in the supplementary Memorandum.

This individual will have a strong background in indigent and holistic defense, demonstrate extraordinary leadership skills, and possess the ability to forge and maintain partnerships in the communities that will benefit the organization's mission, both within and outside of government. Independence from the judiciary is of paramount importance to the creation of this office, and a Board of Directors will be established to provide guidance for the Executive Director accordingly. Additionally, the County Criminal Courts at Law, the Harris County Office of Court Management, and many other Harris County representatives stand ready to help ensure the Executive Director has a successful start.

Administrative Assistants (2)

The specific duties of these administrative assistants will be determined by the Executive Director. One Administrative Assistant may serve as an executive assistant to the Director of the Office of Managed Assigned Counsel. Generally, the Administrative Assistants will assume responsibility for office-critical functions such as purchasing and procurement, payroll and other human resource functions, phone and calendar management, office supply management, organization of meetings and conference calls, dissemination of various information and reports, and interfacing with the public as well as contacts within the county for general purposes related to the Office.

Misdemeanor Division Chief (1)

A Misdemeanor Division Chief will be responsible for coordination of assignments, management of contracts, and general management assistance to the MAC Director. The Misdemeanor Division Chief will be a leadership role, tasked with communicating a unifying vision for the misdemeanor division of the MAC program.

Managing Attorneys (4)

This proposal and budget anticipates that attorneys and other resources necessary for quality indigent defense will continue to be engaged by appointment and compensated as they currently are, only under assignment by Managing Attorneys. Managing Attorneys will be primary liaisons between the MAC and individual courts. Managing Attorneys will be responsible for intake assessment and appropriate assignment of attorneys to cases, review of financial claims, monitoring adherence to time standards for case processing, and assistance with problem resolution in discovery or litigation.

Between 140 and 160 attorneys are typically certified to accept appointments for misdemeanor indigent defendants in the County Criminal Courts. This number fluctuates in relation to qualification testing that is administered three times per year. This number does not include attorneys working in the Public Defender's Office taking cases requiring Mental Health expertise in the misdemeanor courts. 4 Managing attorneys could provide a ratio of one attorney per approximately 40 appointed attorneys handling indigent defense.

Currently, the average number of indigent defendants on County Criminal Court dockets is 8,573, which have a total of 10,107 active cases pending. Four (4) Managing Attorneys would each provide management oversight for an annual 2,144 defendants, or 2,562 cases.

In State Fiscal Year 2018, appointed attorneys in Harris County disposed of approximately 24,465 cases for indigent defendants. Based on TIDC's Guidelines for Indigent Defense Caseloads, the recommended caseload for Class B misdemeanors is 236 cases, and Class A misdemeanors is 216 cases. Based on a weighted average of Harris County's misdemeanor caseload distribution, a maximum allowable caseload of 224 misdemeanor cases per attorney would allow the current pool of appointed attorneys to handle up to 35,840 cases annually.

Immigration Attorney (1)

The Immigration Attorney will be a liaison between the Office of Managed Assigned Counsel, and attorneys appointed through the Harris County MAC system. This person will have extensive experience with immigration law, and will serve as a resource, lending this expertise to attorneys managing their caseload through the MAC program. In addition to making this expertise available, the Immigration Attorney will provide training guidance as well as Continuing Legal Education (CLE) instruction to attorneys taking appointments. They will also keep attorneys apprised of legislative changes and emerging issues in the field of immigration law.

Holistic Defense Supervisor (1)

This proposal and budget anticipates that investigators, social workers, mitigation specialists, expert witnesses, immigration attorneys, and other resources necessary for quality indigent defense will continue to be engaged and compensated as contract service providers as they currently are, only under supervision and management of a Holistic Defense Supervisor.

The Holistic Defense Supervisor will be responsible for training and supervision of holistic and mentoring programs and assist attorneys in the use of a team defense. This could include training attorneys in proper use of social workers, investigators, and immigration resources, both individually and in formal trainings. The Holistic Defense Supervisor will evaluate and oversee the work of investigators, social workers, and an immigration attorney; manage processes for investigations, social workers, forensic and other experts, and an immigration attorney; establish guidelines for quality defense services; review the delivery of defense service to ensure services meet established quality guidelines, best practices, and needs of the attorneys and defendants; and provide legal guidance regarding applicable legal and ethical standards of defense services. The Holistic Defense Supervisor will also engage with the community to promote holistic defense methods and will study, monitor, and report on the effectiveness of holistic defense services.

Social Worker (6)

Connecting clients to available social and community services is a crucial component of a holistic defense system. A team of Social Workers will serve as a comprehensive resource guide for the Office of Managed Assigned Counsel and attorneys taking appointments through the Harris County MAC system. Social workers will help attorneys identify community services, housing, and other available resources in order to help reduce the collateral consequences of the criminal case lifecycle. This team will be a valuable resource for the office and the clients it serves, by maintaining a persistent awareness of available community resources, as well as maintaining routine communication with key contacts in the community of social work resources in Harris County.

Chief Investigator (1)

This proposal and budget anticipates that investigators and other resources necessary for quality indigent defense will continue to be engaged and compensated as contract service providers as they currently are, only under supervision and management of a Chief Investigator. The Chief Investigator will assist the Holistic Defense Supervisor in ensuring that appropriate resources are available for investigation and case preparation. The Chief Investigator can provide direct investigatory services to attorneys where appropriate.

Technical Support Manager (1)

Primary support for the office automation and desktop services will be the responsibility of Harris County Universal Services. The MAC Technical Support Manager will serve as the first line of technology troubleshooting, and also as the technical liaison to Universal Services for assistance with supporting the office. This person will have both strong communication skills and desktop support/troubleshooting skills, using both as a first-line of support for the MAC program's technical needs. This person will also be the MAC program's technical representative to other Harris County departments including Universal Services, as well as various technical committees in the Harris County justice community.

Harris County has developed an online system for Attorney claims processing, beginning with a TIDC discretionary grant in 2011. The system allows attorneys using a computer or smartphone to view information about the cases to which they are assigned, submit claims and supporting documentation for claims, and track the status of claims through the approval and payment process. The system is integrated with the courts' case management system, the County Auditor's system, and the Clerk's document system for electronic signatures and eFiling of forms. Anticipating that the MAC Director would recognize the value of this existing system integration, we are requesting funds to adapt the system to enable workflow automation for the MAC Office.

Financial Analyst (1)

The MAC program Financial Analyst will oversee the funding and cost structure of the entirety of the Office of Managed Assigned Counsel. This will include budgeting, accounting, tracking of expenditures, overall budget analysis, and detailed financial reporting for use within the MAC program, the MAC oversight committee, and representatives of the Harris County budget process. The Financial Analyst will also assist with preparation of financial information for continuation of TIDC grants, as well as research and engagement in other grant funding opportunities for indigent defense and holistic defense.

Capital/Equipment (Startup Costs)

Startup/non-reoccurring costs for necessary for the creation of the Office of Managed Assigned Counsel include office furniture, telephones, computer equipment (desktop/laptop computers and printers), and copiers.

Contract Services

Contract Services requested for this program are primarily allocated to an estimate for software development for a Case Management System (CMS) platform. The MAC program director may determine which CMS platform is best suited for the office, or consult with Harris County Purchasing and/or the Harris County Public Defender's Office in order to assist with this determination. Contract Services may also include consultation with a third-party organization to analyze the MAC program and ensure it is meeting the stated goals of the office and its oversight board.

Budget Summary

	<u>Num</u>	<u>Rate</u>	<u>Extended</u>
Executive			
Personnel			
Director of the Managed Assigned Counsel Program	1	\$160,000	\$160,000
Administrative Assistant	2	\$60,000	\$120,000
Technical Support Manager	1	\$70,000	\$70,000
Financial Analyst	1	\$70,000	\$70,000
Executive Personnel Subtotal			\$420,000
Fringe and Benefits			\$142,800
Executive Personnel Total			\$562,800
Misdemeanor Division			
Misdemeanor Division Chief	1	\$130,000	\$130,000
Supervising Attorneys - Misdemeanor Division	4	\$110,000	\$440,000
Holistic Defense Supervisor	1	\$130,000	\$130,000
Immigration Attorney	1	\$90,000	\$90,000
Chief Investigator	1	\$90,000	\$90,000
Social Worker	6	\$85,000	\$510,000
Misdemeanor Personnel Subtotal			\$1,390,000
Fringe and Benefits			\$472,600
Misdemeanor Personnel Total			\$1,862,600
Operating Expenses			
Training and Professional Memberships			\$20,500
<i>Travel/training for professional development and memberships, including bar dues.</i>			
Professional Services			\$5,000
Office Supplies/Misc.			\$11,100
Capital/Equipment			\$60,000
<i>Funds for one-time office startup costs: Furniture, Telephones, and Computer/Office equipment</i>			
2% Indirect Cost			\$14,069
Operating Expenses Subtotal			\$110,669
Software Development - Case Management			
			\$180,000
Number of FTEs / Salary	19		\$1,810,000
Fringe and Benefits			\$615,400
TOTAL			\$2,716,069

Hays County

FY 2020 Improvement Grant

Multi-year “Menu Option” request

Indigent Defense Coordinator

FY2020 Grant Request: \$61,341

<----- Projected ----->

	Year 1	Year 2	Year 3	Year 4
Total Program Cost	\$76,676	\$64,830	\$64,830	\$64,830
Required County Match	\$15,335	\$25,932	\$38,898	\$51,864
FY20 Grant Request	\$61,341	\$38,898	\$25,932	\$12,966
TIDC/County Share	80%/20%	60%/40%	40%/60%	20%/80%

Program Overview

Hays County seeks assistance to implement the Indigent Defense Coordinator (IDC) program to improve appointment processes and to provide more consistent, centralized implementation, and monitoring of Fair Defense Act requirements. The IDC reduces the time that judges must perform administrative duties, such as appointments, and enhances processes to ensure that appointment practices are fair, neutral, and nondiscriminatory. The IDC will maintain the attorney wheel, report a summary of appointment data to judges on at least a monthly basis, monitor appointment lists and attorneys’ CLE completion, and perform training for stakeholders on the indigent defense requirements as needed.

TIDC staff worked extensively with Hays County during the FY2020 grant cycle exploring a small public defender program, *Padilla* resources, and mental health programs. While the County continues to explore the possibility of building a public defender office in the future, it realized a need for an IDC. Although Hays County missed the improvement grant deadline, IDCs are TIDC menu option offered to all Texas counties, and the Board could choose to waive the deadline.

Recommendation: Award Hays County an FY2020 Improvement Grant of \$61,341 for an Indigent Defense Coordinator.

**Indigent Defense Coordinator Program
FY2020 Hays County Menu Option Discretionary Grant**

Application Submitted by Lindsay Mcclune at 8/7/2019 10:45:22 AM

The Discretionary Grant Application Confirmation Number is D202010520190807.

[Official Requests for Applications \(RFA\) Notice on Texas Indigent Defense Commission website](#)

(If a conflict exists between this webpage and the RFA, the RFA prevails.)

This form is completed using the information currently available to the Commission. Please review and make any corrections necessary.

Confirmation Number **D202010520190807**

State Payee Identification number

Official County Mailing Address

Address (line 1)

Address (line 2 if needed)

City

State

ZIP

Program Title: Hays County County Indigent Defense Coordinator Program

Allowable Uses:

Hays County agrees to implement the Indigent Defense Coordinator program to improve the county's appointment process and to provide documentation that a county is in compliance with the Fair Defense Act. IDCs reduce administrative time of judges spent on appointments. [County] County agrees to use the IDC to enhance processes to ensure that appointment practices are fair, neutral and non-discriminatory. A clear and objective standard of indigence with a timely appeal process to the courts in case of denial by the IDC ensures success of these programs.

Required Program Elements:

Hays County Agrees to the Following Required Program Elements (You must agree to all by checking each of the required program elements to receive an award.)

- Must perform all appointments (in and out of court) as the designee of the judge or judges
- Must maintain the rotation default system on assigned counsel systems and monitor the frequency and reasons of exception for off list appointments
- Must report summary of appointment data to judges at least monthly
- Must manage the graduated list of court appointed attorneys for judges and receive applications for advancements or adjustments as higher qualifications are met by attorneys
- Must monitor appointment list and attorneys' completion of continuing legal education (CLE) to meet minimum requirements of local plan and Commission rules
- Must review invoices submitted by attorneys and compare to appointment schedule prior to judicial approval
- Perform training for law enforcement, magistrates, local bar, and other stakeholders on indigent defense plan(s) adopted by courts
- Report directly to the judges (rural) or board of judges (mid-size or urban)
- Develop procedures to track attorney contact with client, which includes tracking, investigating and reporting allegations of attorneys not meeting their clients within statutory or plan requirements
- Must involve all courts in the jurisdiction (rural and mid-sized) or all of the judges of a type of court (urban)

Budget

Personnel (1 FTE)

	\$49,912.86
Fringe Benefits	\$10,217.17
Travel & Training	\$1,700.00
Equipment	\$11,846.00
Supplies	\$3,000.00
Contract Services	
Indirect Costs	
Estimated Total Program Cost	\$76,676.03
Required Cash Match By County	\$15,335
Estimated Grant Amount	\$61,341

Officials Designated at the County Level

The County Judge and Financial Officer positions must be designated according to rule. The County Judge is the elected Constitutional County Judge for the county. The Financial Officer must be the County Auditor, or in the case of counties which do not have a county auditor, the County Treasurer. In order to streamline communications, all grant communication will be with the Program Director. If the information for these positions is out-of-date, click on Cancel, update these positions from the county home page, and then re-enter this application.

The County Judge is **Ruben Becerra**.

The Financial Officer is the County Auditor, **Marisol Alonzo**.

Grant Officials

The Program Director must be an officer or employee responsible for the program operation or monitoring and who will serve as the point-of-contact regarding the program's day-to-day operations. The Authorized Official must be authorized to apply for, accept, decline, modify, or cancel the grant for the applicant county. A county judge or a designee authorized by the governing body in its resolution may serve as the authorized official. The program director and the authorized official may be the same person. The financial officer may not serve as the program director or the authorized official. *Texas Government Code §173.301(a)*

Program Director

Stephen Michael Thomas
 712 S. Stagecoach Trail
 Suite 3240
 San Marcos, TX 78666

phone: 512-393-7700
 Fax: 512-393-7713
 email: steve.thomas@co.hays.tx.us



Authorized Official

Ruben Becerra
 111 E. San Antonio Street
 Suite 300
 San Marcos, TX 78666

phone: 512-393-2205
 Fax:
 email: judge.becerra@co.hays.tx.us



[Resolution / Internet Submission Form](#): Click on link to open new window with Sample resolution. This may be printed or copied (Ctrl+A, Ctrl+C) and pasted (Ctrl+V) into Word Processing software for editing. [Word Version](#)

Printable [Indigent Defense Discretionary Grant Program Cooperation Agreement](#)

Administrative Users Only

Grant Category

The discretionary grant is Public Defender related

Navarro County FY 2020 Improvement Grant
Multi-year “Menu Option” request
Indigent Defense Coordinator

FY2020 Grant Request: \$35,228

	FY2019	FY2020	<----- Projected ----->	
	FY2019	FY2020	FY2021	FY2022
Proposed Total Program Budget	\$70,604	\$70,456	\$70,456	\$70,456
Proposed County Match	\$35,302	\$35,228	\$35,228	\$35,228
Grant Request	\$35,302	\$35,228	\$35,228	\$35,228
Staff Recommendation	\$35,302	\$33,978	\$33,978	\$33,978
TIDC/County Share	50%/50%	50%/50%	50%/50%	50%/50%

Program Overview

Navarro County was awarded a FY2019 grant to implement the Indigent Defense Coordinator (IDC) program to improve appointment processes and to provide more consistent, centralized implementation, and monitoring of Fair Defense Act requirements. The IDC reduces the time that judges must perform administrative duties, such as appointments, and enhances processes to ensure that appointment practices are fair, neutral, and non-discriminatory. The IDC will maintain the attorney wheel, report a summary of appointment data to judges on at least a monthly basis, monitor appointment lists and attorneys’ CLE completion, and perform training for stakeholders on the indigent defense requirements as needed.

At the June 2020 meeting, the TIDC Board modified the Indigent Defense Coordinator grant program to cover 4-years of funding, averaging 50% per year. This grant extends the new policy to the current grant.

Recommendation: Award Navarro County an FY2020 Improvement Grant of **\$33,978** for the second year of a 4-year Indigent Defense Coordinator grant. (Adjusted to remove equipment costs from operating budget.)

Navarro County FY 2020 Improvement Grant
Single Year request
TechShare Indigent Defense Implementation

FY2020 Grant Request: \$12,600

	FY2020
Proposed Total Program Budget	\$25,200
Proposed County Match	\$12,600
Grant Request	\$12,600
Staff Recommendation	\$12,600
TIDC/County Share	50%/50%

Program Overview

Implementation of the TechShare Indigent Defense system will help the county automate and track key processes. TechShare is a cloud-based indigent defense process management system designed to enhance efficiency, transparency, and compliance with the Fair Defense Act. Benefits of the program include faster processing of requests for counsel and attorney appointments, uniform eligibility screening according to the county’s indigence standard, central monitoring of data elements needed to assess compliance with the Fair Defense Act, automatic appointment of the next qualified attorney on the wheel, and an all-electronic attorney fee voucher submission, review, and payment process. The system also streamlines the auditor’s preparation of the annual Indigent Defense Expenditure Report (IDER).

Recommendation: Award Navarro County an FY2020 Improvement Grant of \$12,600 for TechShare Indigent Defense Implementation.

Burnet County

FY 2020 Improvement Grant

Single year “Menu Option” request

Indigent Defense Videoconferencing

Revised FY2020 Grant Request: \$16,835

	Year 1
Total Program Cost	\$33,669
Required County Match	\$16,833
FY20 Discretionary Grant Request	\$16,835
TIDC/County Share	50%/50%

Program Overview

Videoconferencing technology will assist Burnet County in ensuring timely magistration by facilitating justices of the peace and municipal judges’ ability to conduct magistration when Burnet County’s primary magistrate is unavailable. This technology will ensure weekend, emergency, sick, and vacation coverage for magistration proceedings, as well as guarantee compliance with state and federal laws.

Recommendation: Award Burnet County an FY2020 Improvement Grant for Indigent Defense Videoconferencing technology.

2020 Burnet County Discretionary Grant Application Narrative (Single-Year Grant)

a. Application Form

Counties Represented: **Burnet**
 Fiscal Year: **2020**
 State Payee Identification Number: **74-6000454**
 Division To Administer Grant: **Burnet County Magistrate**
 Program Title: **Burnet County Video Conferencing Project**
 Requested Grant Amount: **\$16,833.50**
 Financial Officer: **Karin Smith**
 Program Director: **Kirk Noaker**
 Mailing Address: **220 S PIERCE ST; BURNET, TX 78611**

b. Introduction (Executive Summary)

Videoconferencing technology will assist Burnet County in ensuring timely magistration when not available otherwise by facilitating JP and municipal judge ability to conduct magistration when Burnet County's primary Magistrate Judge is unavailable including times other than 8-5 on weekdays.. This technology will better ensure weekend, emergency, sick and vacation coverage for magistration proceedings. The County would like to further deploy videoconferencing to link mental health professionals and indigent defense attorneys with arrestees.

c. Problem Statement

Burnet County Jail houses 587 offenders which include offenders from 12 other counties, 5 local municipalities and is a holding facility for I.C.E. and US Marshalls. With only one magistrate there is need for weekend, emergency, sick and vacation coverage. The JPs and municipal judge are willing to assist, however scheduling time would be easier if there was remote access. Burnet County could also have remote access with Mental Health professionals, local indigent defense attorneys as well as other counties' Indigent Defense attorneys.

Please note that this project is in no way meant to replace the in person magistration. The intent of this program is to have alternate process when in person magistration is not available in a timely manner.

d. Objectives

Remote access magistration can be performed from any location. JPs have the ability to commit to a certain time frame and would be able to easily magistrate from their office or from home without giving up their time to travel to the jail. More timely mental health evaluations allow the inmates get the help they need with less jail time.

e. Activities

Purchase 10 Microsoft Surface Pros and accessories to be utilized by the magistrate, justices of the peace (4), public defender's office (3), municipal judge, and our Mental Health provider.

Purchase Microsoft Office for the 10 Surface Pros.

Purchase Adobe Standard for the 10 Surface Pros.

Purchase WebCam and Scanner for the jail in order to initiate the magistration process for recording.

Purchase and set up software for video conferencing recordings to be saved in a secured location in order to have the ability to access remotely and store any video files that are statutorily required to keep. VIDEOMAGISTRATE.COM

Notify the indigent defense coordinators from the counties which have inmates that are housed Burnet County Jail how to connect to the jail to allow access from their computers in their counties.

Upload necessary documents and videos of the recorded magistration into the system.

Please note that this project is in no way meant to replace the in person magistration. The intent of this program is to have alternate process when in person magistration is not available in a timely manner.

f. Evaluation

Track number inmates that were remotely magistrated. Track number of inmates who receive mental health evaluations. Track number of remotely accessed Indigent Defense cases.

g. Future Funding

This grant application is to cover one-time implementation costs. Ongoing participation costs for software licenses will be the responsibility of the County.

h. Budget Narrative and Budget Form

Purchase 10 Microsoft Surface Pros and accessories to be utilized by the magistrate, justices of the peace (4), public defender's office (3), municipal judge, and Bluebonnet Trails: our Mental Health provider. Quoted cost of \$19,151.70. with an additional 5% for possible increase in price at the request of TIDC making the total on the application of \$20,109.

Microsoft Office \$221.16 for each of the 10 Surface Pros for \$2,212 plus 5% equaling \$2,322.

Adobe Standard \$311.19 for each of the Surface Pros for \$3,112 plus 5% equaling \$3,268.

6 Hot Spots using our Verizon contract for the 6 magistrates. Currently monthly fee is \$37.99 per month per hot spot. 12 months totals \$2,735.

Web camera to attach to jail PC in order to record inmates magistration and save on the county server. Should be less than \$100.

Scanner to include with the jail PC. \$611

Purchase and set up software for video conferencing recordings to be saved in a secured location in order to have the ability to access remotely and store any video files that are statutorily required to keep. Cost of licenses with VIDEOMAGISTRATE.COM is \$195 per month for one year for 2 licenses. (\$4,680).

Personnel Costs		\$0.00
FTE's	0.00	
Salary		
Fringe Benefits		
Travel and Training		
Equipment		\$26,254.00
Supplies		
Contract Services		\$7,415.00
Indirect		
Total		\$33,669.00
Required County Match		\$16,835.50
Total less County Match		\$16,833.50



Grant Modification Requests

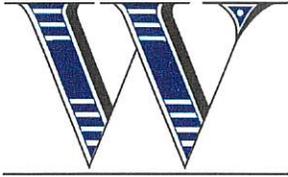
- **Williamson County Grant 212-19-D08**, Transformative Justice: A Multi-Disciplinary Approach to Indigent Defense for Young Adults in Williamson County
- **Dallas County Grant 212-19-D06**, Transformative Justice: A Multi-Disciplinary Approach to Indigent Defense for Young Adults in Dallas County

Requests for no cost extension of grant term through May 31, 2020.

Background

TIDC awarded the above FY19 grants to Dallas and Williamson Counties as part of a coordinated effort to conduct a randomized control trial study to document the impact of the programs. The awards were made contingent on the projects securing third-party funding for the major research component. The start-up of the programs was delayed because the research funding was not secured until April 2019. The actual date the program began incurring expenses was June 1, 2019.

Staff recommendation: Approve extension of grant term for these awards through May 31, 2020 to allow 12 months from implementation of program.



BILL GRAVELL JR.
County Judge
WILLIAMSON COUNTY TEXAS

August 23, 2019

The Honorable Sharon Keller, Chair
Texas Indigent Defense Commission
209 W. 14th Street, Room 202
Austin Texas 78701

RE: Williamson County-2019 Discretionary Grant Award Number 212-19-D08

Dear Judge Keller,

I am writing to request an extension to our above referenced 2019 Discretionary Grant that was awarded to Williamson County by The Texas Indigent Defense Commission. We are requesting an extension of our grant from June 1, 2019 to May 31, 2020. The County understands there will be no impact on the amount of the award.

Thank you in advance to you and the entire Texas Indigent Defense Commission for your consideration of our request for extension.

Sincerely,

Bill Gravell, Jr.
County Judge

Grant Budget Adjustment Requests

Bee County Regional Public Defender Office (5 Counties)

And

Starr County Regional Public Defender Office (3 Counties)

Background

TIDC helped to establish the Willacy County Public Defender (now funded as part of the Bee County Regional PD) in 2007. The Bee County Regional Public Defender was created in 2009, and the Starr County Regional Public Defender was created in 2016. The programs are operated through contracts with Texas Rio Grande Legal Aid (TRLA) and have led to significant improvements to indigent defense access and quality of representation in the jurisdictions served. TIDC currently provides sustainability funding to these regional public defender offices. Current program budgets were based on caseload projections and expense estimates but have not been adjusted routinely to reflect increases in caseload and other increases in personnel and operating costs. For example, the Bee County RPDO budget averaged increases of less than 1% since 2013. The proposed budget amendments align grant budgets with actual caseloads and costs.

Regional Public Defender Office Proposed Budget Adjustments			
Bee County Regional Public Defender Office - 5 Counties			
Including Bee, Live Oak, McMullen, Refugio and Willacy			
		County	TIDC Grant
Current Program Budget	\$1,077,784.00	\$359,261	\$718,523
Proposed Program Budget	\$1,284,473.00	\$428,158	\$856,315
Increase	\$206,689.00	\$68,897	\$137,792
Starr County Regional Public Defender Office - 3 Counties			
Including Starr, Duval, and Jim Hogg			
		County	TIDC Grant
Current Program Budget	\$833,400.00	\$277,800	\$555,600
Proposed Program Budget	\$967,874.00	\$322,625	\$645,249
Increase	\$134,474.00	\$44,825	\$89,649

Staff recommendations: Increase the FY2020 grant award to Starr County by **\$89,649** to \$645,249.

Increase the FY2020 grant award to Bee County by **\$137,792** to \$856,315.

Technical Support Grant Request

County: Lubbock

Project: Defense Counsel at 15.17 Magistration Randomized Control Trial (RCT) Pilot Project

Request: \$127,400

Summary

Persons arrested in Texas are generally not provided counsel at magistration. Yet many significant decisions—including pretrial release—are decided at magistration. While courts continue to split regarding whether counsel at magistration is required under the Sixth Amendment, Texas A&M and Harvard seek to measure the positive effect of counsel at magistration on case outcomes, public safety, and cost. The four Texas counties that currently have counsel at magistration have provided anecdotal evidence that all three of these are improved by counsel’s presence. However, the issue has not been studied with any rigor.

Lubbock County has agreed to participate in a randomized control trial (RCT) to provide defense counsel for some arrestees at magistration in order to evaluate the impact of such representation. The study will be the first of its kind in the nation, and an RCT study is considered the “gold standard” for evaluating the impact of new programs or interventions. Arnold Ventures (formerly Arnold Foundation) has provided a grant to the Public Policy Research Institute at Texas A&M (PPRI) to conduct the research component of this project. Lubbock County is requesting grant assistance from TIDC to fund the cost of providing representation, which will be provided by attorneys from the Lubbock Private Defender Office (managed assigned counsel program) during the pilot project. The results of the study will help inform jurisdictions across the state and nation about the impact of counsel at first appearance.

Staff Recommendation

Award a Technical Support Grant of \$127,400 to Lubbock County to support the representation costs of the one-year pilot project that will be the subject of the RCT research.



Technical Support Application Form

County Requesting Support:		Date of Request:
Lubbock County		August 20, 2019
Address:	Contact Information	
904 Broadway, Ste 325	Name:	Dean Stanzione
Lubbock, TX 79401	Title:	Director, Lubbock Court Administration
	E-mail:	DStanzione@co.lubbock.tx.us
	Phone:	(806) 775-1987
	Fax:	

Project Name:	Time Period:
Counsel at First Appearance – Randomized Controlled Trial	January 2, 2020 – January 1, 2021

Brief Description:

The bail hearing – the “first appearance” of a defendant in front of a judge or magistrate – constitutes an important moment where a defendant’s ability to secure their freedom is in jeopardy. Currently, counsel is not present at this juncture, which presents several problems for defendants, who are ill-suited to navigate this stage alone. Although preliminary studies have been conducted elsewhere, it is unclear how these defense services might benefit defendants and county stakeholders in Lubbock.

Issue to Be Addressed:

The provision of counsel may improve case outcomes by 1) right-sizing pretrial release conditions, 2) reducing failure to appear because defendants understand their pretrial release conditions, and 3) enhance the notion of procedural justice. The study will seek to answer the following questions:

1. Does counsel at first appearance have an impact on bail and pretrial release conditions decisions?
2. For those who are released pre-trial, do defendants with counsel at first appearance exhibit lower FTA rates than those without such representation?
3. Does counsel at first appearance have a positive impact on case disposition, sentencing, or pre- or post-trial recidivism?
4. Does counsel at first appearance have an effect on arrestees’ attitudes toward the legal system?
5. What is the cost-benefit ratio for jurisdictions interested in piloting this program?

Proposed Project to Address Problem:

In partnership with the Public Policy Research Institute’s (PPRI) randomized controlled trial (RCT) to study counsel at first appearance (CAFA), we seek grant funding to temporarily fund this initiative. It is our belief that the provision of CAFA should primarily reduce FTAs and reduce unnecessary jail days. We also believe that this grant support is helpful in determining the benefits of longer-term provision of these defense services.

Specifically, attorneys will gather very basic information from defendants using a protocol developed by the National Association of Criminal Defense Lawyers. This protocol involves collecting basic demographic information, including employment, residence, family dependencies, health issues, and access to financial resources for bail prior to magistration. The attorneys will use this information to provide a narrative background for the client at magistration and should be able to provide a measure of advocacy for the defendant that they could not, alone, produce.

Specific Assistance Needed from the Commission, Including Amount Requested:

The introduction of counsel at first appearance requires additional hours of attorney time. At present, we service approximately 33 new cases each day (~231/week). Given that the randomization feature of the RCT involves assigning roughly 50% of new cases to attorneys at first appearance, there will be 182 days where counsel is present over the course of a full year. Between defendant interviews (1 hour per attorney) and article 15.17 proceedings (budgeted 2 hours), this is about 3 hours of attorney time per day.

Counsel will involve 2-person teams x 3 hours of attorney time per day x 182 days. That results in 1,274 hours of attorney time. At \$100/hour, the total cost of attorney services is estimated at \$127,400 to run the pilot program for a full year.

Thus, we request \$127,400 in funding for this program.

Report

- Deliverable 1: After the first study year, researchers from PPRI will submit a technical report to the participating counties describing the ongoing project, as well as conveying the descriptive statistics associated with service utilization. After the conclusion of the study, they will submit a follow-up report to the counties describing the empirical results. A cost-benefit analysis will be included to provide information to the Commissioner’s Courts about the long-term sustainability of the project. These documents will *also* be sent to TIDC.

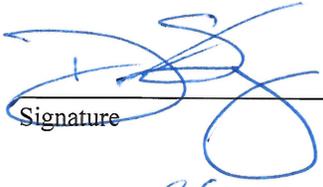
- Deliverable 2: Given the investment in project protocol, the systematic study of counsel at first appearance will allow researchers to validate the materials used by counsel. The checklist that guides attorney interactions will be available for other jurisdictions in Texas – and, we hope, nationally – to adopt.

Additional Documentation if Applicable (describe here and attach to this Application)

Cost estimate calculator (attached)

Lubbock County requests the above Technical Support from the Texas Indigent Defense Commission (Commission). We understand that:

1. The above requested technical support is subject to approval by the Commission.
2. This application does not constitute an agreement until approved and accepted by all parties.
3. Commission reimbursement will only be made for expenses incurred during the period indicated in this request but in no case may it be for expenses prior to the beginning of this agreement or after the end date agreed in writing with the Commission.
4. The county may not obligate Commission funds or staff without a specific written agreement.
5. Disbursement of funds is always subject to the availability of funds.



Signature

Dean Stanzione

Printed Name

8.22.19

Date

Director

Title

Table 1. Costs for attorney services in participating counties, assuming two-attorney teams

		Lubbock
[1]	Cases	33 / day
[2]	Interview time	5 min.
[3]	Total interview time (Row 1 × Row 2)	3 hours
[4]	Total interview time per attorney (Row 3 ÷ 2)	1.5 hour / attorney
[5]	Magistration	2 hours
[6]	Total time per attorney per day (Row 4 + Row 5)	3.5 hours
[7]	Number of treatment days	182 days
[8]	Total billable hours (2 attorneys × Row 6 × Row 7)	1,274 hours
[9]	Total cost at billing rate of \$75/hour (Row 8 × \$75)	\$127,400

Technical Support Grant Request

County: Hays
Project: Regional *Padilla* Compliance Pilot Project
Request: \$342,720

Summary

In *Padilla v. Kentucky*, the United States Supreme Court held that defense attorneys who fail to counsel their clients about the immigration consequences of a conviction are ineffective under the Sixth Amendment. This intersection of the law is complex and rapidly changing. TIDC has awarded grants for *Padilla* attorneys to Fort Bend, Travis, Dallas, and Webb Counties with excellent results. However, no such resource exists for Texas's approximately 190 rural counties.

Under the proposed pilot program, Hays County will contract with a nonprofit to provide remote *Padilla* consultation and advisals to appointed counsel in counties throughout the Third Administrative Judicial Region of Texas. The program will also conduct outreach and education to judges and attorneys representing indigent defendants throughout the region regarding their obligations under *Padilla* and training on how to use the program effectively.

Staff Recommendation

Award a Technical Support Grant of \$342,720 to Hays County to support the regional *Padilla* compliance pilot program for one year.

Designate the grant as cost containment responsive to Budget Rider 7b. The regional approach uses technology to address local needs more efficiently through a centralized resource.



Technical Support Application Form

County Requesting Support:		Date of Request:
Hays		August 2019
Address:		Contact Information
712 S. Stagecoach Trl.		Name: Ruben Becerra
Suite 1094		Title: Hays County Judge
San Marcos, TX.		E-mail: judge.becerra@co.hays.tx.us
78666		Phone: 512-393-2205
		Fax:

Project Name:	Time Period:
Remote Padilla Consultation Project	September 2019-August 2020

Brief Description:

This is a pilot program to help ensure compliance with *Padilla v. Kentucky*. With its administrative home in Hays County, the pilot would begin in the 3rd Administrative Judicial Region and, if successful, may eventually connect criminal defense attorneys with *Padilla* attorneys statewide.

Issue to Be Addressed:

Under *Padilla v. Kentucky*, 559 U.S. 356 (2010), criminal defense attorneys are required to provide defendants individualized counsel regarding the immigration consequences of conviction. Nearly a decade since the decision, *Padilla* compliance is low, and Texas attorneys often risk ineffectiveness. While TIDC has funded *Padilla* attorneys in a handful of Texas counties, approximately 200 counties – including Hays and many in the 3rd AJR – have no way to regularly ensure that their defense attorneys meet their *Padilla* obligation. This project will pilot a solution for counties lacking an in-house *Padilla* attorney. Particular attention will be paid to improving compliance in rural areas and in private appointment systems which continue to provide representation in over 80% of cases involving indigent defendants in Texas.

In Hays County, of the roughly 1890 criminal cases involving indigent defendants in 2018, an estimated 5-6% or roughly 108 were entitled to a *Padilla* consultation. Across the 3rd AJR, some 2000 cases per year will require one. And statewide, of roughly 415,000 criminal cases involving indigent defendants per year, an estimated 11% or 46,000 required *Padilla* advice.

Proposed Project to Address Problem:

The goal of the project is to provide additional capacity in Hays County and across the 3rd Administrative Judicial Region for constitutionally required *Padilla* assistance to criminal defense attorneys.

myPadilla, a Texas nonprofit¹, provides remote written *Padilla* advisals to Texas attorneys through an online platform. The tool—available at myPadilla.com—allows defense attorneys to:

- (1) Interview clients;
- (2) Submit secure intake forms; and
- (3) Receive written advisals with individualized *Padilla* advice.

Attorneys working with myPadilla review intake forms, follow up with defense attorneys as necessary, and submit secure written advice. (Note: advice from myPadilla is limited to *Padilla* advice and does not include immigration representation.)

The project will also include CLE for criminal defense attorneys regarding *Padilla* compliance and use of the tool.

As a result of the pilot project, criminal defense attorneys who previously lacked a resource for complying with *Padilla* will be able to more efficiently and effectively serve their clients, and indigent defendants in underserved areas of Texas will see their Sixth Amendment rights upheld. Success metrics will involve numbers of case referrals made compared to projections; number of criminal defense attorneys participating; and qualitative responses from defense attorneys regarding the service.

myPadilla has conducted a “pre-pilot” phase to test the service. Defense attorneys in several counties across Texas, including Brewster, Hudspeth, Collin, Lubbock, Hidalgo, Laredo, and Travis, used or reviewed the tool and provided feedback regarding their *Padilla* compliance needs.

As mentioned previously, the project will also capitalize on existing investments in immigration resources at the Dallas County Public Defender program, the Capital Area Private Defender Service, and the Webb County Public Defender Office, by extending to other parts of the state the learnings from those offices.

Specific Assistance Needed from the Task Force:

The County seeks \$342,720 in funding to compensate remote *Padilla* attorneys for providing expert assistance to defense attorneys beginning in Hays and neighboring counties and expanding outward throughout the 3rd AJR.

At an hourly rate of \$150, this grant will help facilitate *Padilla* consultations in nearly 1000 cases; malpractice and related insurance; training and outreach for defense attorneys in participating counties; and software maintenance. This total also includes a 5% administrative and overhead fee to Hays County.

¹ Fiscally sponsored by FJC, a 501(c)(3).

Because demand for the service is estimated and will depend, in part, on attorneys having been trained and onboarded, the funding sought is for *up to* ~1948 attorney hours / ~974 cases, and actual reimbursement to *Padilla* attorneys will depend on utilization.

The project is otherwise supported during the pilot period by:

- (1) an anonymous funder (\$87,000)
- (2) Harvard Law Public Service Venture Fund (\$80,000)
- (3) Skadden Flom Incubator Grant (\$10,000)

Summary Report

We will produce a report at the conclusion of the pilot summarizing success metrics (numbers of case referrals made compared to projections; number of criminal defense attorneys participating; and qualitative responses from defense attorneys regarding the service) and documenting successes, challenges, and recommendations for future service expansion of *Padilla* services across the state.

Additional Documentation if Applicable (describe here and attach to this Application)

Budget

_____ County requests the above Technical Support from the Texas Indigent Defense Commission (Commission). We understand that:

1. The above requested technical support is subject to approval by the Commission.
2. This application does not constitute an agreement until approved and accepted by all parties.
3. Commission reimbursement will only be made for expenses incurred during the period indicated in this request but in no case may it be for expenses prior to the beginning of this agreement or after the end date agreed in writing with the Commission.
4. The county may not obligate Commission funds or staff without a specific written agreement.
5. Disbursement of funds is always subject to the availability of funds.



Signature

7-30-2019

Date

Ruben Becerra

Printed Name

Hays County Judge

Title

Technical Support Grant Request

County: Harris

Project: Statewide Future Indigent Defense Leaders Program

Request: \$496,125 over 3 years

Summary

By funding several mentoring programs—including those in Lubbock, Travis, and Comal Counties—and documenting their success in 2015's *Indigent Defense Attorney Mentoring in Texas*, TIDC has shown that mentoring works. TIDC reaffirmed this commitment during its 2018 strategic planning session (led by Dr. Tony Fabelo) and in its FY20-FY21 legislative appropriations request. Meanwhile, Harris County's mentoring program, led by attorney Sarah Wood, has been especially successful, garnering national attention and an award from the American Bar Association.

Last year, TIDC approved an identical grant to launch the first Future Indigent Defense Leaders (FIDL) program. After a rigorous selection process, 25 mentors and 25 mentees were chosen and paired. The program and its promise to improve public defense statewide has already garnered positive media attention from the San Antonio Express-News and Corsicana Daily Sun.

Summary of Request

Harris County, in collaboration with the Texas Criminal Defense Lawyers Association (TCDLA), and Gideon's Promise, will select a new cohort for the 3-year, statewide training, mentoring, and leadership program, aimed at creating the next generation of Texas indigent defense practitioners and leaders. Overseen by an advisory group, the program will build on the success of current programs for indigent defense attorneys across the State.

Staff Recommendation

Award Harris County an FY19 Technical Support Grant for this 3-year project: 496,125.

The program fills a considerable mentoring and leadership gap in Texas, enhancing previous programs and making them available statewide, including to rural populations previously excluded from these programs. Building on the success of established programs and collaborating with TCDLA and Gideon's Promise helps ensure the program's lasting impact on Texas indigent defense practice and leadership.



1201 Franklin Street, 13th Floor
Houston, Texas 77002
713.274.6700 Office
713.368.9278 Fax

[HTTP://HARRISCOUNTYPUBLICDEFENDER.ORG](http://harriscountypublicdefender.org)

August 19, 2019

AGENDA ITEM

Commissioners Court
Harris County Administration Building
1001 Preston, 9th Floor
Houston, Texas 77002

Dear Court Members:

Please consider the following item for August 27, 2019 Commissioners Court agenda:

Request authorization to apply for funds from the Texas Indigent Defense Commission in the amount of \$496,125. for the Texas Statewide Indigent Defense Mentoring, Training, and Leadership Program II, with no required match.

Your favorable consideration of this request is greatly appreciated.

Sincerely,

Alexander Bunin, Chief Public Defender

AB/cm

Attachment: 2019 Harris County Resolution Indigent
Defense Technical Support Grant Program



HARRIS COUNTY, TEXAS

Office of Budget Management 1001 Preston; Suite 500 Houston, TX 77002 713-274-1135

Grants Coordination Section - Conveyance Form Application Award

Department Name / Number	DUNS	Grant Title
PUBLIC DEFENDER - 560	Not Applicable	Statewide Indigent Defense Monitoring, Training & Leadership '19/22
Funding Source: State of Texas, Office of Court Administration: CFDA# N/A	Grant Agency: State of Texas, Office of Court Administration	
Program Year: 2 nd	Program Ending:	
Grant Begin Date: 10/01/2019	Grant End Date: 09/30/2022	
Grant Org. Key:	If applicable, Prior Year Org. Key: NVT56001	

Grant Description:

Funded by the Texas Indigent Defense Commission, discretionary grants are awarded on a competitive basis to assist counties to develop new, innovative programs or processes to improve the delivery of indigent defense services. A county can apply for a single-year or a multi-year grant. Single-year grants pay up to 100% of an awarded activity on a reimbursement basis. Multi-year grants require a cash match, and funding for a grant project is available for up to four years. Applications for discretionary grants are reviewed and scored by a select committee prior to being presented to the Grants and Reporting Committee and the Commission. Types of programs identified as priorities by the Commission are: programs that provide direct services to indigent defendants; programs that establish public defender offices; programs that establish regional public defender offices; programs that provide mental health defender services; and programs that provide juvenile defender services.

	Total Budget	Grant Funded	County Funded
Salary & Benefits	\$35,000.00	\$35,000.00	\$0.00
Non-Labor	\$461,125.00	\$461,125.00	\$0.00
Sub Tot. Incremental Cost	\$496,125.00	\$496,125.00	\$0.00
Indirect Cost	\$0.00	\$0.00	\$0.00*
TOTALS	\$496,125.00	\$496,125.00	\$0.00

* under development

Full Time Equivalent Positions

Date Guidelines are Available

% of Positions Paid by Grant

Grant Submittal Deadline Date

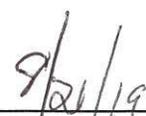
Grant Discussion:

If awarded, this would be the second round of funding for the Department under this grant program. The award would provide support for the continued implementation of a statewide training, mentoring & leadership program in collaboration with the Texas Criminal Defense Lawyers Association (TCDLA) and Gideon's Promise. This project will be overseen by a 3-member advisory group and coordinated by a part-time staff person. This project aligns with TIDC's goal to support next generation indigent defense lawyers through mentoring, leadership & training.

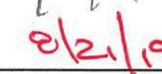
County Funded Cost Projection

Year	Required	Discretionary
2020	-	-
2021	-	-
2022	-	-
2023	-	-
2024	-	-

Completed by:  Cadow, Eric

Date:  9/21/19

Reviewed by: 

Date:  8/21/19

ORDER

STATE OF TEXAS

COUNTY OF HARRIS

On this, the 27th day of August, 2019, the Commissioners' Court of Harris County, Texas, sitting as the governing body of Harris County, upon motion of Commissioner _____, seconded by Commissioner _____, duly put and carried,

IT IS ORDERED that County Judge Lina Hidalgo or her designee be hereby authorized to approve, and on behalf of Harris County, Texas, an application in the amount of \$496,125 to the Office of Court Administration, Texas Indigent Defense Commission:

Statewide Indigent Defense Monitoring, Training & Leadership '19/'22:

Grant Amount: \$496,125.00
Grant Period: October 1, 2019 – September 30, 2022



Technical Support Application Form

County Requesting Support:		Date of Request:	
Harris County		August 29, 2019	
Address:		Contact Information	
1301 Franklin St.	Name:	Alex Bunin	
Suite 100	Title:	Chief Public Defender	
Houston, TX 77002	E-mail:	alex.bunin@pdo.hctx.net	
	Phone:	(713) 274-6700	
	Fax:	(713) 368-9278	

Project Name:	Time Period:
The Texas Statewide Indigent Defense Mentoring, Training, and Leadership Program	October 1, 2019 – September 30, 2022

Brief Description:

Harris County, in collaboration with the Texas Criminal Defense Lawyers Association (TCDLA) and Gideon’s Promise, plans to add a second 3-year, statewide training, mentoring, and leadership program, aimed at creating the next generation of Texas indigent defense practitioners and leaders. Overseen by an advisory group and coordinated by a part-time staff person, the program builds on the success of current professional development programs for indigent defense attorneys across the state.

This program puts into action the results of TIDC’s 2015 publication, *Indigent Defense Attorney Mentoring in Texas*. As that publication states, “Mentoring is a way to equip lawyers who are interested in indigent defense with substantive skills, business acumen, and access to a network of like-minded colleagues to call upon for support.” The first year proved the value of mentoring in practice, and the second year will build on that success. As one mentee expressed early in the program, “After two meetings, I can already tell my mentor will be an excellent resource for asking questions and work shopping ideas.”

Issues to Be Addressed:

This program addresses multiple issues:

- (1) Law schools do not adequately prepare attorneys to do indigent defense work upon graduation, and this sentiment was echoed in many initial mentee surveys from the first year of FIDL. As TIDC’s *Indigent Defense Attorney Mentoring in Texas* states, “Traditional law school training, with its emphasis on teaching legal doctrine and analysis, does little to give new attorneys practical lawyering skills.”
- (2) Absent a training, mentoring, and leadership program, new lawyers often observe and replicate subpar and even improper defense bar behavior, including practices that do not comply with ethical or constitutional standards. One mentor

stated in an interview that he wished the FIDL program had existed when he graduated, because the standard practice at that time was to appoint new lawyers to cases without a consideration to the level of experience needed to adequately represent the defendant.

(3) Although the Texas Criminal Defense Lawyers Association (TCDLA) produces continuing legal education and events, the lawyers most in need of these services often fail to take advantage of them. Many mentees expressed a fear of asking for help. This program requires the mentees to reach out and work with an experienced practitioner—in doing so, they have permission to ask for help without fear of reproach.

(4) The knowledge and experience of seasoned, high-performing Texas criminal defense lawyers is underutilized, particularly as applied to new lawyers in need of training and mentoring.

(5) Many of the best criminal defense attorneys are underleveraged as defense leaders across the state.

(6) Many top national training programs have little interaction with the Texas bar. The exchange of information between national, state, and local organizations regarding criminal defense techniques is underdeveloped.

(7) TIDC's *Indigent Defense Attorney Mentoring in Texas* notes that indigent defense mentoring in Texas is necessary to support small and solo firms, to meet the Fair Defense Act, to create a path to appointment lists, and to enable a client-centered approach to communication.

Proposed Project to Address Problem:

This project is inspired by TIDC's *Indigent Defense Attorney Mentoring in Texas*. A collaboration between Harris County, TCDLA, and Gideon's Promise, with guidance and input from TIDC, can help remedy these problems. The second year of this comprehensive program will help ensure not only a strong, well-educated, and well-resourced defense bar in Texas, but also develop current and future leaders in Texas criminal defense.

- **Goal:** The Collaborative Indigent Defense Training, Mentoring, and Leadership Development program will create the next generation of Texas indigent defense practitioners and leaders.
- **Leadership:** The program will be led by an Advisory Group, which includes membership from each of the following entities: TIDC, Harris County, and TCDLA.
- **Staff:** The day-to-day coordination of the program will be handled by one part-time employee, acting at the Advisory Group's direction.
- **Composition:** The program will comprise 50 Texas criminal defense lawyers, including 25 mentors and 25 mentees. The following selection criteria will apply:

- 50-50 split between public defender and assigned counsel
 - 50-50 split between urban and rural attorneys
- **Selection:** The Advisory Group will develop an application. All mentors and mentees will apply to be included in the program. The process will be available statewide to any public defenders or private assigned counsel focused wholly or primarily on indigent defense. The Advisory Group will select and match mentors and mentees.
 - **Length:** 3-year program
 - **Program Elements:** There will be 5 program elements. These are derived from TIDC's Mentoring publication:
 - (1) **One-on-One Mentoring**
 - Mentor-mentee pairs will meet in-person monthly, and more often as necessary.
 - Mentors will guide mentees through their daily routines, motion practice, investigation, research, client communication, court appearances, and trial skills, encouraging mentees to second-chair cases whenever possible.
 - Mentors and Mentees will submit the FIDL Checklist every 6-months so that the advisory group can track the progress of the mentoring pairs.
 - (2) **Group Mentoring**
 - In addition to contacts via listserv, the full group of mentors and mentees will meet once yearly, preferably attached to Rusty Duncan or another large-scale training event.
 - The team has developed a listserv so that mentors and mentees from across the state can communicate, ask questions, and share documents, including publications and sample pleadings. In the first year, one mentor created a client interview form that was inspired by the FIDL materials, which reviewed the best practices for defense representation.
 - (3) **Regional Hubs**
 - Once the Advisory Board selects and pairs mentors and mentees, pairs will be divided into regional hubs that may include Lubbock, El Paso, San Antonio, Houston, Dallas, and the Rio Grande Valley.
 - Regional hubs will allow mentor-mentee teams to meet with one another to discuss cases, case law, and trial strategies. It will also create a local support group that will enhance the statewide group's impact.
 - (4) **Gideon's Promise**
 - Gideon's Promise is led by MacArthur Genius Award winner Jon Rapping. Gideon's Promise was the subject of the documentary

Gideon's Army and has, for many years, been the gold standard for indigent defense mentoring, training, and leadership.

- Mentors will attend Gideon's Promise leadership or train-the-trainer training in January.
- Mentees will attend Gideon's Promises two-week summer institute.

(5) TCDLA Participation

All mentors and mentees will receive the following from TCDLA:

- TCDLA membership
- TCDLA quarterly CLE attendance
- Rusty Duncan attendance, including a separate meeting room for mentor-mentee events
- TCDLA publications, including the Skills Guide, Code Book, Sexual Assault Pamphlet, DWI Road Maps, Trial Tabs, Trial Notebook, and Cheat Sheets
- Subscription to TCDLA flagship publication, *The Voice*

Specific Assistance Needed from the Commission

Harris County and its collaborators, TCDLA and Gideon's Promise, request 3 multi-year funding for this 3-year project: year 1, **\$316,061**; year 2, **\$90,032**; and year 3, **\$90,032**. Harris County will participate in the management of the program in an Advisory Group including TIDC, TCDLA, and members of Harris County staff.

Summary Report

This 3-year collaboration between Harris County, TCDLA, and Gideon's Promise is transforming indigent defense in the State of Texas, creating not only strong defense attorneys, but also future leaders in the profession.

Additional Documentation if Applicable (describe here and attach to this Application)

Harris County, TCDLA, and Gideon's Promise are happy to produce any additional documentation requested. Harris County will report on the program's progress twice yearly, documenting events, expenditures, successes, and any need for improvement.

2019 Harris County Resolution
Indigent Defense Technical Support Grant Program

WHEREAS, under the provisions of the Texas Government Code Section 79.037 and Texas Administrative Code Chapter 173, counties are eligible to receive grants from the Commission on Indigent Defense to provide improvements in indigent defense services in the county; and

WHEREAS, the commissioners court authorizes this grant program and application to assist the county in the implementation and the improvement of the indigent criminal defense services in this county; and

WHEREAS, Harris County Commissioners Court has agreed that in the event of loss or misuse of the funds, Harris County Commissioners assures that the funds will be returned in full to the Texas Indigent Defense Commission.

NOW THEREFORE, BE IT RESOLVED and ordered that the County Judge of this county is designated as the Authorized Official to apply for, accept, decline, modify, or cancel the grant application for the Indigent Defense Improvement Grant Program and all other necessary documents to accept said grant; and

BE IT FURTHER RESOLVED that Alex Bunin is designated as the Program Director and contact person for this grant and the County Auditor is designated as the Financial Officer for this grant.

Adopted this _____ day of _____, 2019.

Lina Hidalgo
County Judge

Attest:

County Clerk

Harris County requests the above Technical Support from the Texas Indigent Defense Commission (Commission). We understand that:

1. The above requested technical support is subject to approval by the Commission.
2. This application does not constitute an agreement until approved and accepted by all parties.
3. Commission reimbursement will only be made for expenses incurred during the period indicated in this request but in no case may it be for expenses prior to the beginning of this agreement or after the end date agreed in writing with the Commission.
4. The county may not obligate Commission funds or staff without a specific written agreement.
5. Disbursement of funds is always subject to the availability of funds.



Signature

8/19/2019

Date

Alex Bunin

Printed Name

Chief Public Defender

Title

https://www.corsicanadailysun.com/news/leadership-program-kicks-off-with-corsicana-lawyers/article_36aed6da-a1c8-11e9-bcc9-0729dc2a73b8.html

FEATURED

Leadership program kicks off with Corsicana lawyers

From Staff Reports Jul 9, 2019



STEVAN KOYE PHOTOGRAPHY

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Future Indigent Defense Leaders announced Monday, July 1 its inaugural class of 25 mentors and 25 mentees. A joint venture of the Texas Criminal Defense Lawyers Association, the Harris County Public Defender's Office, and the Texas Indigent Defense Commission.

Corsicana attorney Shana Stein Faulhaber, mentor and Kathleen Cameron, mentee participated in the event.

FIDL is a first-of-its-kind statewide mentoring program focused on creating the next generation of public defense leaders and advocates.

Mentors and mentees underwent a rigorous application and interview process, beating out scores of other attorneys statewide. FIDL participation includes three years' training and mentoring through Gideon's Promise, an award-winning public defense leadership institute; TCDLA membership, training, and benefits and local training and mentorship.

The purpose of TCDLA is to protect and ensure by rule of law those individual rights guaranteed by the Texas and Federal Constitutions in criminal cases; to resist the constant efforts which are now being made to curtail such rights: to encourage cooperation between lawyers engaged in the furtherance of such objectives through educational programs and other assistance; and through such cooperation, education and assistance to promote justice and the common good. For more information, visit www.tcdla.com.

The purpose of HPDO is comprised of Harris County Public Defender's, a team of professionals who represent indigent persons in the misdemeanor, felony, juvenile and appellate courts of Harris County. Clients receive zealous representation from the combined experience of lawyers, investigators, social workers, and administrative staff. For more information, visit www.harriscountypublicdefender.org.

The Texas Indigent Defense Commission provides financial and technical support to counties to develop and maintain quality, cost-effective indigent defense systems that meet the needs of local communities and the requirements of the Constitution and state law. More information is available at www.tidc.texas.gov.

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nuzub

Jul 10, 2019

my mothers neighbour is working part time and averaging \$9000 a month. i'm a single mum and just got my first paycheck for \$6546! i still can't believe it. i tried it out cause i got really desperate and now i couldn't be happier. heres what i do,

<https://cutt.ly/Click-Here-For-More-Info>

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OPINION // EDITORIALS

TIDC mentoring program will reap benefits

Express-News Editorial Board

July 26, 2019



Lady justice is blind. But the justice system isn't always fair. A new indigent defense mentoring program should pay dividends for Texas.

Photo: Billy Calzada /

The Texas Indigent Defense Commission, along with the Texas Criminal Defense Lawyers Association, recently launched a statewide mentoring program to groom the next leaders in indigent defense.

These attorneys will also attend a two-week boot camp with Gideon’s Promise, a nonprofit in Georgia focused on indigent defense.

The mentoring program will last three years, and the hope is to make it recurring, grooming promising defense attorneys year after year. Indigent defense in Texas has many needs. This is an area of the law that deserves more attention. There are issues around caseloads, attorney mentoring and resources to provide proper defense. Rural areas are often hard-pressed to provide adequate indigent representation.

Although this program is no cure-all to these systemic issues, it is an opportunity to develop thoughtful leaders who will champion future reforms and take indigent defense here into new areas. It’s a wise and innovative investment by TIDC that should reap benefits for years to come.

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Technical Support Grant Request

County: Lubbock

Project: Automatic Text Reminders, Texting System for Clients and Attorneys

Request: \$36,578

Summary

Lubbock County seeks grant assistance to develop and implement a system to provide automatic text reminders for defendants to remind them of court settings, as well as a system that will allow texting between attorneys and clients. The goal of the program is to reduce failures to appear and resulting additional criminal charges, improve case processing and court efficiency, and improve communication between attorneys and clients.

Staff Recommendation

Award a Technical Support Grant of \$36,578 to Lubbock County.

Designate the grant a cost containment grant responsive to Budget Rider 7b. The program applies technology to reduce FTAs, reducing the need for resets, improving court efficiency, and improving case outcomes. Operating costs are low after initial system set-up.



Technical Support Application Form

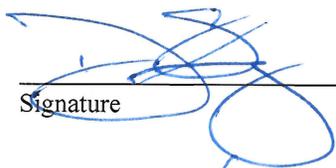
County Requesting Support:		Date of Request:
Lubbock County		8/18/2019
Address:	Contact Information	
904 Broadway, Ste. 325	Name:	Dean Stanzione
Lubbock, TX 79401	Title:	Director of Court Administration
	E-mail:	DStanzione@co.lubbock.tx.us
	Phone:	806-775-1987
	Fax:	

Project Name:	Time Period:
Lubbock Private Defender Office-Implement Automatic Text Reminders and Texting System for Clients and Attorneys	10/1/2019 – 9/30/2020
Brief Description:	
<p>Lubbock County seeks grant assistance to develop and implement a system to provide automatic text reminders for defendants to remind them of court settings, and a system that will allow texting between attorneys and clients. The reminders and texting system will be integrated into Defender Data, the case management system of the Lubbock Private Defenders Office. The overarching goal is to reduce Failures to Appear (FTAs) and resulting additional criminal charges, improve case processing and court efficiency, and improve communication between attorneys and their clients.</p> <p>Outcomes of the system will be assessed, including impact on FTAs before and after implementation.</p>	
Issue to Be Addressed:	
<p>The proposed program addresses the problem of defendants failing to appear for court appearances and the additional criminal charges that can result from an FTA. It also addresses the problem of client complaints about attorneys failing to communicate.</p> <p>Many defendants fail to appear to court, not because they willfully want to abscond, but simply because they forgot. When a defendant fails to appear in court, judges will typically issue a warrant, additional criminal charges for bail jumping may be filed, a bond forfeiture action may be filed, and a defendant may be incarcerated for their FTA. FTAs also waste attorneys' time and the court's time, and result in unnecessary criminal justice costs.</p> <p>By implementing an automatic text reminder system, FTAs should be reduced for relatively little money and with little to no effort on behalf of the attorney.</p>	

<p><u>Grant Request</u> Lubbock County requests 100% grant funding for the full program budget (\$36,578.00).</p>
<p><u>Summary Report</u> The County recognizes the importance of tracking and analyzing key data related to the implementation of this program. The LPDO, in conjunction with Lubbock Co. Courts and Defender Data, will produce a report on the impact of the text reminder system on FTAs and other FTA-related metrics. LPDO will also develop an evaluation of the text-messaging component of the project to determine if communication between clients and attorneys improved. These outcomes will be reported to TIDC, who can report the results to the wider public defense community in Texas as to the effectiveness of these technologies.</p>
<p><u>Additional Documentation if Applicable (describe here and attach to this Application)</u> N/A</p>

Lubbock County requests the above Technical Support from the Texas Indigent Defense Commission (Commission). We understand that:

1. The above requested technical support is subject to approval by the Commission.
2. This application does not constitute an agreement until approved and accepted by all parties.
3. Commission reimbursement will only be made for expenses incurred during the period indicated in this request but in no case may it be for expenses prior to the beginning of this agreement or after the end date agreed in writing with the Commission.
4. The county may not obligate Commission funds or staff without a specific written agreement.
5. Disbursement of funds is always subject to the availability of funds.



Signature

8-22-19

Date

Dean Starnione

Printed Name

Director

Title

Willacy County Extraordinary Grant Supplemental Request Summary

Background

- Ismael Vallejo and Gustavo Sandoval were convicted for shooting an off-duty border patrol officer and his father during a robbery in 2014. The death penalty was sought against both men.
- Sandoval was convicted and sentenced to death in June 2018. His direct appeal is pending.
- Vallejo pled guilty and was sentenced to 50 years in January 2019. Sandoval's direct appeal is pending.
- The defendants are represented by private assigned counsel, with the exception of Abner Burnet of the Willacy County Public Defender Office, who is second chairing on the Vallejo case

Willacy County Facts

- Estimated population: 21,584
- Tied for #1 highest poverty rate among Texas counties according to Texas Association of Counties.
- Operating budget: \$7.8 million
- County tax rate .7568
- Willacy County has consistently participated in the TRLA Regional Public Defender Program (for all non-capital representation) since 2007.
- Willacy County became eligible for RPDO- Capital in 2011 and joined the program in 2016.
- Current Willacy County Judge Aurelio Guerra took office in January 2015.

Amount Requested

Total capital defense FY2017-2019 expenses claimed: \$688,059. Staff review found \$657,226 was eligible under the extraordinary policy.

(When the 2016 request was considered, staff review found expenditures in eligible categories of \$328,675.)

Previous Extraordinary Grants for Willacy County

- FY08 of \$100,059
- FY13 of \$100,000
- FY16 of \$50,000 (toward older expenses on same cases)
- FY19 of \$150,000 (toward same cases)

At the June 2019 board meeting, the board directed staff to review the request in light of the fact that codefendant representation would not have been provided for the county, even if the county were participating in RPDO at the time of the incident.

Eligible expenses for codefendant Sandoval from 2017-2019, the lower of the two, totaled \$225,691. Expert expenses for Vallejo \$119,515, would not have been covered by RPDO, for a total of \$345,206 in expenses that would have been incurred regardless of RPDO membership.

Staff Recommendation: Award an amount that reimburses 50% of the eligible amounts that would have been incurred regardless of RPDO participation. This option requires an additional award of **\$22,603**.

Contract Renewals FY20/21

TIDC has three biennial contracts to assist in its completion of its duties or at the legislature's direction. Each of them will expire on August 31, 2019 and staff has prepared contracts for the next two years. The TIDC board has consistently budgeted funds for these contracts and they are planned to be part of the initial FY20 budget to be considered at the August 2019 board meeting. These three contracts are described below:

1. **University of Texas School of Law:** Contract for the services of law clerks is for a maximum of \$30,000 over the FY20-21 biennium. Clerks are employees of U.T. and are paid at the prevailing research assistant rates of about \$11 per hour. Services include one to three law clerks who assist TIDC in research projects, review of indigent defense plans, updating of Fair Defense Laws publication, and other publications. Christopher Lough and Hayden Kursh were with us this summer and provided outstanding work.
2. **Innocence Project at six public law schools:** Since 2005 there has been a Rider in the General Appropriations Act directing TIDC to contract and provide funds to each of the state's public law schools for the operation of innocence projects. As it has for several sessions, the FY20-21 the rider directs \$100,000 per year to the six public universities with law schools "to support innocence project screening, investigation and litigation activities regarding claims of actual innocence in non-capital cases in Texas and associated expenses necessary to conduct those activities." Staff is currently routing contracts for review and execution with each of the law schools.
3. **Texas A&M's Public Policy Research Institute (PPRI):** Contract includes two parts.
 - a. The first part is for business services to assist TIDC with administering its statutory grant program and indigent defense plan obligations. The PPRI proposal for FY20-21 biennium is for a total cost of \$201,508, the same amount as for the current biennium. PPRI maintains and continues to develop business applications for the previously-established internet-based information system that allows information to be inputted, modified, and shared by multiple remote users including TIDC grants management and accounting staff, county formula and improvement grantees, the PPRI data management team, and the general public.
 - b. The second part is for a research project to evaluate the impact of rural regional public defender offices. TIDC has regularly commissioned research projects to advance the knowledge about indigent defense in the state and

contracted with PPRI for many such studies. For the current biennium, PPRI assisted TIDC in preparing a report to the legislature that was mandated by rider in TIDC's budget in the General Appropriations Act. TIDC has typically budgeted around \$70,000 per year for this purpose. PPRI's proposal for the FY20-21 biennium is for a qualitative and quantitative analysis of the indigent defense systems in several rural counties in far west Texas and south Texas, including counties that participate in two rural regional public defender programs and adjacent counties that do not. The two programs included are the Far West Texas regional public defender office serving Brewster, Culberson, Hudspeth, Jeff Davis, and Presidio Counties and the regional public defender office operated by Texas Rio Grande Legal Aid serving Bee, Live Oak, McMullen, and Refugio Counties. The study is proposed to be conducted over the next one and half years with the final report to be issued by November 30, 2020 or just prior to the next legislative session. The cost of conducting the study is \$139,992 over the biennium with two of the three deliverables to be completed in FY20 totaling \$93,328. This amount is reflected in the draft FY20 TIDC budget. The full study proposal from PPRI is below:

EVALUATION OF RURAL REGIONAL PUBLIC DEFENDER OFFICE INITIATIVES

INTRODUCTION

When the Fair Defense Act passed in 2001, just 7 Texas counties had a locally operated defender office with dedicated responsibility for overseeing court-appointments. Since 2005, that number has risen to 39. Twenty-nine new jurisdictions have created or joined public defender offices (PDOs) and 3 have implemented managed assigned council (MACs) offices. Today indigent defendants in 8 of the state's 10 largest jurisdictions¹ – containing nearly half of the state's population (45%) – benefit from quality-managed offices in their home county – at least for some portion of cases. In addition, 180 smaller jurisdictions with populations below 300,000 are enrolled in the Regional Public Defender Office for Capital Cases (RPDO).² Counties seeking to establish structurally robust systems capable of sustaining effective representation have increasingly turned to public defender offices (PDOs) or managed assigned council offices (MACs) as alternatives to the traditional approach relied upon in most jurisdictions.

While the majority of indigent defendants in urban jurisdictions have access to quality-managed offices, this is not the case for rural areas. The main goal of this research is to document and identify mechanisms

¹ Ordered by size, these are Harris County, Dallas County, Bexar County, Travis County, Collin County, El Paso County, Hidalgo County, and Fort Bend County.

² The Regional Public Defender Office for Capital Cases was established in 2009 to provide capital case representation counties with populations less than 300,000 in Texas' 7th and 9th Administrative Judicial Regions. The program is now available to 238 jurisdictions that qualify on the basis of size.

to improve the quality of indigent defense services in rural counties in Texas. Common struggles of rural counties revolve around lack of resources (availability of court appointed counsel, mental health services, etc.), which often seriously impact the counties' abilities to provide fair and timely legal services. These shortcomings greatly affect the representation indigent defendants receive. There is already a growing literature on the benefits of establishing a regional public defender office specifically to handle resource scarcity in rural counties.³ Public defender offices improve reliability of indigent defense services, create institutional resources, and are cost effective in providing counsel services. This is done through controlling attorney caseloads, offering economies of scale through its institutional nature, providing support to junior attorneys (mentorship opportunities, readily available CLE hours, etc.), and providing access to full time investigators, and social workers. That said, more research is needed to further ascertain current obstacles and advantages of quality-managed offices in rural counties.

We propose to examine the criminal justice process (with a focus on indigent defense) across counties that have access to the regional public defender relative to those neighboring counties which are not members. To identify whether a regional public defender office actually improves the delivery of fair and timely legal services, we need to document and map the entire process from arrest to sentencing in each of these counties. We plan to do so using a combination of quantitative statistics and detailed qualitative interviews with key stakeholders. Our goal is to better understand the reasons of incarceration, the process of attorney appointment and representation for indigent defendants, and current struggles of counties to ultimately build data capacity for county officials and policy makers.

We propose to conduct this project with a group of rural counties in two different areas of the State of Texas. The first area is located in the Southwest region of Texas. The list of potential counties include Bee, Brooks, Calhoun, Goliad, Jackson, Lavaca, Live Oak, Refugio, Willacy, and Zapata. Specifically, Bee, Live Oak, McMullen, and Refugio counties are part of the Bee County Regional Public Defender Office operated by Texas Rio Grande Legal Aid (TRLA). We plan to collaborate with the regional public defender program, which provides court appointed counsel to indigent defendants in these counties in the Southwest area of Texas. Counties in this region vary in land size from 784 square miles (Willacy) to 1,795 square miles (Duval) averaging approximately 825 square miles. The population also varies with a low of about 7,000 people (Refugio) to a high of 32,000 in Bee County. The different population and land sizes create a widespread distribution of population density ranging from 6.2 person per square mile (Duval) to 37 persons per square mile (Bee). The range of population density places these counties at the bottom 100 counties in terms of population density within Texas. Bee, Live Oak, McMullen, and Refugio receive indigent defense services through the Bee County regional public defender program, while the remaining neighboring counties in the list do not. In terms of socioeconomic indicators and for 2015, the majority of residents are Hispanic (58% Hispanic on average), the average unemployment rate is 6% (with a high of almost 13% in Willacy), and the mean poverty rate is 22%.

The second area is located in the Far West region of Texas. Specifically, potential counties include Brewster, Culberson, Hudspeth, Jeff Davis, and Presidio Counties, which are members of the newly established Far West Texas regional public defender office (FWTRPDO). Other nearby potential counties

³ See for example "Judgment and Justice: An Evaluation of the Texas Regional Public Defender for Capital Cases" June 2013 (<http://www.tidc.texas.gov/resources/publications/reports/program-evaluations/lubbock-rpdo-evaluation-by-ppri/>) and "Making a Difference in Texas: NAPD Report on the Regional Public Defender Office" December 2016 (<http://www.tidc.texas.gov/resources/publications/reports/program-evaluations/napd-report-on-rpdo/>)

include Pecos, Reeves, and Terrell, which are not part of FWTRPDO. Far West Texas counties are considered some of the most rural jurisdictions in the state with the highest density being 5.9 person per square mile (Reeves) and lowest being 0.3 person per square mile (Terrell), placing these among the top 50 most rural counties in Texas. The above counties are also large in terms of land size (the smallest is Jeff Davis with more than 2,000 square miles). In terms of socioeconomic indicators and for 2015, the majority of residents are Hispanic (64% Hispanic on average), the average unemployment rate is 5% (with a high of almost 11% in Presidio), and the mean poverty rate is 20%.

County	Population	Density	Border	TRLA
Bee	32,587	37.0 per mile ²	No	Yes
Brooks	7,114	7.5 per mile ²	No	No
Calhoun	21,561	20.8 per mile ²	No	No
Goliad	7,584	8.8 per mile ²	No	Yes
Jackson	14,874	17.3 per mile ²	No	No
Lavaca	20,110	20.7 per mile ²	No	Yes
Live Oak	12,166	11.2 per mile ²	No	Yes
Refugio	7,032	8.8 per mile ²	No	Yes
Willacy	21,515	27.4 per mile ²	No	Yes
Zapata	14,190	13.4 per mile ²	Yes	No

Notes: 1. Population is based on 2018 estimates. 2. Density is calculated as population divided by the county area size. 3. Border refers to whether county has a physical border with Mexico.

County	Population	Density	Border	FWTRPDO
Brewster	9,267	1.4 per mile ²	Yes	Yes
Culberson	2,204	0.5 per mile ²	No	Yes
Hudspeth	4,795	1.0 per mile ²	Yes	Yes
Jeff Davis	2,252	0.9 per mile ²	No	Yes
Pecos	15,673	3.2 per mile ²	No	No
Presidio	6,948	1.8 per mile ²	Yes	Yes
Reeves	15,695	5.9 per mile ²	No	No
Terrell	823	0.3 per mile ²	Yes	No

Notes: 1. Population is based on 2018 estimates. 2. Density is calculated as population divided by the county area size. 3. Border refers to whether county has a physical border with Mexico.

Quantitative Analysis

Quantitative analysis will be based on several data sets. To identify data and time trends in main indicators of criminal justice systems, we rely on data from the TIDC and OCA’s online databases organized by county to include information on the number and type of filed cases, caseloads, costs, etc. We plan to supplement the county level data with individual case level data from participating counties. Micro level data will allow us to better link case outcomes to specific case characteristics (type of attorneys representing defendants to disposition and sentencing outcomes, length of pretrial stay, etc.). We will also look at jail data using either county micro level incarceration data (if available) or data from the Texas Commission on Jail Standards (TCJS). Jail data could help uncover trends and variations in jail capacity across different counties and systems.

Quantitative data availability will dictate the research design and methodology, but we will be presenting basic descriptive statistics, and are considering simple multivariate methods such as panel data, time series, and others.

Qualitative Analysis

The project will include an extensive qualitative component, focusing on the regional public defender offices' processes. PPRI staff will conduct numerous interviews with public defender office staff and county officials, including judges and attorneys. These qualitative interviews will inform the quantitative analysis of the regional public defender office data. Additionally, PPRI will map the processes of the regional public defender (PD) offices and will also document successes and challenges of these offices.

INFORMATION SOURCES

A first step will be to identify repositories of information about indigent defense practices for these rural PD offices. A blend of sources will be reviewed to develop a comprehensive, multi-dimensional perspective on this important question. Sources to be considered include:

- Literature Review
- Analysis of Data Submitted Annually by Counties to TIDC
- Analysis of Rural Regional PD Office Data
- Qualitative Interviews with Stakeholders

Other data or information sources will be integrated into the study as they are identified.

RESEARCH THEMES BY TASK

Task II-1: Preliminary Planning & Site Visits

PPRI will identify additional counties to participate in the research outside of the PD offices with TIDC input. PPRI will also conduct initial site visits to these PD offices and begin initial interviews with PD staff. PPRI staff will also identify data elements needed and the availability of this data.

Task II-2: Qualitative & Quantitative Analysis

PPRI staff will continue conducting qualitative interviews and conduct an initial pull of quantitative data.

Task II-3: Preliminary Report

PPRI will finalize the qualitative component of the project, including mapping processes (successes, challenges, etc.). PPRI will provide a preliminary draft of the report to TIDC.

Task II-4: Final Report

Findings and conclusions regarding factors influencing regional rural public defender offices will be summarized in a final report. Complex data will be distilled and summarized, so results are accessible to users from diverse domains: state policymakers, county officials, indigent defense counsel, advocates, professional associations, and others. Key findings will also be summarized in the form of

an executive summary, PowerPoint presentations, and briefs. All aspects of the study will be complete by November 30, 2020.

PROJECT TIMELINE AND STAFFING

The research will be conducted between September 1, 2019 and November 30, 2020.

- The overall study will be led by Assistant Research Scientist, George Naufal (20% effort).
- Heather Caspers (30% effort) will provide research assistance.

BUDGET

The work associated with Deliverable II, “Evaluation of Rural Regional Public Defender Office Initiatives,” can be accomplished for \$139,992. Payment will be billed in three installments on the dates specified below, conditioned on the successful completion of the following work products.

Deliverable II -1 (9/1/19 – 12/31/19)	Associated Tasks	Estimated Delivery Date	Billable Amount
<ul style="list-style-type: none"> • Preliminary Planning & Site Visits 	Task II-1	12/31/19	\$46,664
<ul style="list-style-type: none"> • Qualitative & Quantitative Analysis 	Task II-2		

Deliverable II -2 (1/1/20 – 6/30/20)	Associated Tasks	Estimated Delivery Dates	Billable Amount
<ul style="list-style-type: none"> • Preliminary Report 	Task II-3	6/30/20	\$46,664

Deliverable II - 3 (7/1/20 – 11/30/20)	Associated Tasks	Estimated Delivery Dates	Billable Amount
<ul style="list-style-type: none"> • Prepare Final Report 	Task II-4	11/30/20	\$46,664

Total Costs for Deliverable II			Billable Amount
TOTAL COST	9/1/19 through 11/30/20		\$139,992

Texas Indigent Defense Commission
Proposed Fiscal Year 2020 Revenue / Budget

	FY20 Proposed Budget as of August 29, 2019	FY20 Adopted Budget as of August 29, 2019
Cash Carryforward	\$730,000	\$730,000
Revenue:		
Court Cost Collection (SB7 - 77th Leg)	\$39,000,000	\$39,000,000
State Bar (HB 599 - 78th Leg)	\$2,300,000	\$2,300,000
Surety Bond (HB 1940 - 78th Leg)	\$1,900,000	\$1,900,000
Juror Pay (SB 1704 - 82nd Leg)	\$6,100,000	\$6,100,000
Other Funds: Fed./State - CJD/SJI Grant		
Projected Total Cash/Revenue	\$50,030,000	\$50,030,000
Capped Spending Authority	\$49,717,856	\$49,717,856
Projected Revenue over Spending Auth.	\$312,144	\$312,144
Budget/Expended:	Budget	Budget
Formula - Based Grants:		
Standard Formula Grants	\$25,000,000	
Supplemental Urban Capital Formula	\$1,000,000	
Competitive Improvement Grants:		
Single Year	\$100,176	
Multi-Year - New	\$4,903,400	
Multi-Year - Continued	\$1,038,462	
Sustainability Grants:		
Lubbock Capital RPDO	\$4,221,036	
Other Regional PDs (non-capital)	\$2,197,234	
Mental Health Public Defender Grants	\$2,500,000	\$2,500,000
Extraordinary Disbursement Grants	\$500,000	
Compliance Assistance Grants	\$100,000	
Technical Support Grants	\$500,000	
New Improvement Grants (unawarded)	\$4,866,232	
Administrative:		
TIDC Administration	\$1,868,234	\$1,868,234
PPRI Contract (Database)	\$100,754	\$100,754
UT Contract (Interns)	\$15,000	\$15,000
Other:		
PPRI Contract (Research)	\$93,328	\$93,328
Innocence Project - Rider	\$600,000	\$600,000
Administrative Support from OCA	\$114,000	\$114,000
TIDC Employee Benefits *	\$270,000	\$270,000
OCFW & Benefits *	\$2,146,790	\$2,146,790
Total Budgeted/Expended	\$52,134,646	\$7,708,106
Total Cash/Revenue vs Expended		
Spending Authority vs Budget/Expended	\$0	\$44,426,540

* Not counted against the cap

Texas Indigent Defense Commission

August 22, 2019

Summary of Fiscal Monitoring

Since the June 2019 TIDC Board meeting, the fiscal analyst conducted three on-site fiscal monitoring visits. Seven final and two initial reports have been issued. Currently there is one final report and three initial reports pending issuance. Two of the initial reports will be issued with policy reports. The review process is ongoing for the three on-site visits. The Comprehensive Annual Financial Reports (CAFR)'s and single Audit reports for one county was reviewed.

The Commission provided fiscal monitoring and technical assistance to counties as specified in Title 1, Chapter 173.401(b), Texas Administrative Code. The counties were monitored based on the risk assessment scores and geographical area. The Uniform Grant Management Standards (UGMS) and grant rules set monitoring priorities for the counties.

County	Site Visit Date	Visit	Summary of Review	Status
Duval	Engagement letter dated October 19, 2017	Desk Review	<p>General court expenditures were included with the criminal indigent defense expenses in the FY2016.</p> <p>Some attorney payments do not appear to be made in accordance with the published fee schedule.</p> <p>Written explanations from judges for variance in amounts requested and amounts approved on attorney fee vouchers were not present.</p> <p>Records are not maintained to verify attorney qualifications to receive appointments</p>	Final Report issued June 13, 2019
Lamb	Engagement letter dated October 24, 2017	Desk Review	<p>Attorney fee vouchers did not contain the itemization.</p> <p>Some payments to attorneys do not appear to be made in accordance with the published fee schedule</p> <p>Records are not maintained to verify attorney qualifications to receive appointments.</p>	Final report issued September 6, 2018.
Young	Engagement letter dated October 24, 2017	Desk Review	<p>Attorney fee vouchers did not contain itemization.</p> <p>Written explanations from judges for variance in amounts are not provided.</p> <p>Attorney fee vouchers do not always appear to be made in accordance with the published fee schedule.</p> <p>IDER was not presented in manner prescribed by the Commission.</p>	Final report issued November 1, 2018.

Texas Indigent Defense Commission
August 22, 2019
Summary of Fiscal Monitoring

County	Site Visit Date	Visit	Summary of Review	Status
Bexar	Engagement Letter dated February 9, 2018	On- site review February 26-28, 2018	General court expenditures were included with the IDER. Written explanation from judges for variances in amounts approved and amounts requested were not present. Bexar county utilizes Specialty courts within their courts both District and County however contract rules are not followed.	Final Report issued January 3, 2019 Financial finding
Hays	Engagement Letter dated February 22, 2018	On-site Joint Fiscal & Policy Review March 20-23, 2018	The District Court cases are all filed in the 22 nd District court. The attorneys don't list which district court heard the case. The county court cases are filed in the CCL1, but the attorneys distinguish which court heard the case. Cases paid in the District court do not always follow fee schedule.	Final report issued February 15, 2019
Smith	Engagement Letter dated March 13, 2018	On-site Joint Fiscal & Policy Review April 10-13, 2018	Court administrators do not request CLE hours. Competency to stand trial reported on IDER. Other Mental Health cost also reported on IDER	Joint report issued December 7, 2018 response received Financial finding
Hockley	Engagement Letter dated May 7, 2018	On- site review May 21-25, 2018	General court expenditures were included with the IDER. Records are not maintained to verify attorney qualifications to receive appointments. Attorney fee vouchers do not always appear to be made in accordance with the published fee schedule	Final report issued December 21, 2018 No action on financial finding
Cochran	Engagement Letter dated May 7, 2018	On- site review May 23, 2018	General court expenditures were included with the IDER. Records are not maintained to verify attorney qualifications to receive appointments. Attorney fee vouchers do not always appear to be made in accordance with the published fee schedule	Final report issued December 21, 2018 No action on financial finding

Texas Indigent Defense Commission

August 22, 2019

Summary of Fiscal Monitoring

County	Site Visit Date	Visit	Summary of Review	Status
Kendall	Engagement Letter dated May 31, 2018	On-site Review June 19-21, 2018	<p>The FY2017 Indigent Defense Expense Report (IDER) submitted in accordance with Texas Government Code Section 79.036(e) was not supported by the financial data provided.</p> <p>Attorney fee vouchers were not always used as outlined in the County's indigent defense plan or as required by Texas Code of Criminal Procedures (CCP) Article 26.05(c).</p> <p>Written explanations from judges for variance in amounts requested and amounts approved on attorney fee vouchers, as required by CCP Article 26.05(c), were not present on one voucher.</p>	<p>Technical assistance letter issued December 19, 2018</p> <p>Final Report issued June 13, 2019</p>
Parker	Engagement Letter dated September 14, 2018	On-site Review September 25-27, 2018	<p>The FY 2017 Indigent Defense Expenditure Report (IDER) submitted in accordance with Texas Government Code Section §79.036(e) was not supported by financial data provided IDER was not prepared in the manner required.</p> <ul style="list-style-type: none"> ▪ Civil case expenditures were included with the criminal indigent defense expenses; ▪ Case counts were not reported properly; and ▪ Investigations cost and cost to produce court reporter records were not included 	<p>Final report issued April 22, 2019</p> <p>Financial finding</p>
Upton	Engagement Letter dated January 3, 2019	Desk Review	<p>The FY 2017 Indigent Defense Expenditure Report (IDER) submitted in accordance with Texas Government Code Section §79.036(e) was not supported by financial data provided.</p> <p>Some attorney payments do not appear to be made in accordance with the published fee schedule as required by Article 26.05(b) of Texas Code of Criminal Procedure (CCP).</p> <p>Written explanations from judges for variance in amounts requested and amounts approved on attorney fee vouchers were not present on vouchers as required by CCP Article 26.05(c).</p>	Final Report issued July 19, 2019
Lee	Engagement Letter dated January 4, 2019	Desk Review	<p>General court expenditures were included with the criminal indigent defense expenses in the FY 2017 and FY 2018 Indigent Defense Expense Report (IDER) submitted under Texas Government Code Section §79.036 (e).</p> <p>Attorney CLE hours are not maintained to verify attorney eligibility to receive appointments</p>	Final Report issued June 13, 2019

Texas Indigent Defense Commission

August 22, 2019

Summary of Fiscal Monitoring

County	Site Visit Date	Visit	Summary of Review	Status
Goliad	Engagement Letter dated January 29, 2019	On-site review February 19-20, 2019	<p>The FY 2018 Indigent Defense Expenditure Report (IDER) submitted in accordance with Texas Government Code Section §79.036(e) was not prepared in the manner required.</p> <ul style="list-style-type: none"> ▪ Civil case expenditures were included with the criminal indigent defense expenses; ▪ Case counts were not reported properly; and ▪ Investigation costs, expert witness costs, and reimbursement of other eligible expenditures were all reported under the attorney fee category. 	<p>Initial report issued April 29, 2019</p> <p>Final report pending</p>
Fort Bend	Engagement Letter dated January 30, 2019	On-site Review February 21-22, 2019	<p>General court expenditures were included with the criminal indigent defense expenses in the FY 2018 Indigent Defense Expense Report (IDER) submitted under Texas Government Code Section §79.036 (e).</p> <p>Some attorney payments do not appear to be made in accordance with the published fee schedule as required by Article 26.05(b) of Texas Code of Criminal Procedure (CCP).</p>	Initial report issued June 18, 2019
Waller	Follow-up email dated January 30, 2019	On site February 28, 2019	Fiscal issue regarding competency to stand trial from first review is resolved.	Joint report pending
Cass	Engagement Letter dated March 5, 2019	Limited Scope Desk Review	<p>Cass County prepared and submitted the FY 2018 IDER in accordance with Texas Government Code Section §79.036(e) however, the reported amounts were not fully supported by the financial data provided.</p> <ul style="list-style-type: none"> • Cass County included civil case attorney fees, specifically, mental commitment cases, with the criminal indigent defense expenses in the county court section of the IDER. • Additionally, Cass County failed to report costs provided for investigation, expert witness, and other direct litigation expenses, as well as the attorney fees on two cases that were overlooked in the calculation. 	Final Report issued July 19, 2019
Jefferson	Engagement Letter dated March 7, 2019	On-site Review April 1-3, 2019	General court expenditures were included with the criminal indigent defense expenses in the FY 2018 Indigent Defense Expense Report (IDER) submitted under Texas Government Code Section §79.036 (e).	Initial Report pending issue with Policy report

Texas Indigent Defense Commission

August 22, 2019

Summary of Fiscal Monitoring

County	Site Visit Date	Visit	Summary of Review	Status
Hopkins	Engagement Letter dated April 16, 2019	Limited Scope Desk Review	Hopkins County prepared and submitted the FY 2018 IDER in accordance with Texas Government Code Section §79.036(e) however, the reported amounts were not fully supported by the financial data provided.	Initial report issued July 8, 2019
Freestone	Engagement Letter dated April 23, 2019	Limited Scope Desk Review	<p>Freestone County prepared and submitted the FY 2018 IDER in accordance with Texas Government Code Section §79.036(e) however, the reported amounts were not fully supported by the financial data provided.</p> <p>Freestone County included some general court expenditures with the criminal indigent defense expenses on the FY 2018 IDER submitted under Texas Government Code Section §79.036 (e).</p>	Final report issued August 20, 2019
Houston	Engagement Letter dated April 25, 2019	Limited Scope Desk Review	<p>Chosen for limited scope review from risk assessment process.</p> <p>No issues noted.</p>	Final report issued August 22, 2019
Jim Wells	Engagement Letter dated April 18, 2019	On-site Review May 13-16, 2019	<p>Chosen for review per risk assessment. Joint review with policy team.</p> <p>The FY 2018 Indigent Defense Expenditure Report (IDER) submitted in accordance with Texas Government Code Section §79.036(e) was not supported by financial data provided nor prepared in the manner required.</p> <ul style="list-style-type: none"> ▪ Civil case expenditures were included with the criminal indigent defense expenses; ▪ General court expenditures were included with the criminal indigent defense expenses; and ▪ Some attorney fee payments on criminal cases were not included. 	Initial Report pending issue with Policy report
San Patricio	Engagement Letter dated April 25, 2019	On-site Review May 15-16, 2019	<p>Chosen for review due to proximity to Jim Wells County.</p> <ul style="list-style-type: none"> ▪ One attorney fee voucher of the 65 vouchers reviewed was not an attorney-submitted voucher as required by Code of Criminal Procedure (CCP) Article 26.05 (c). 	Initial report pending
Rusk	Engagement Letter dated June 4, 2019	On-site review June 24-25, 2019	Joint review with Policy team	Review in progress
Harrison	Engagement Letter dated June 17, 2019	On-site review June 26-27, 2019	Chosen for review due to proximity to Rusk County	Review in progress

Texas Indigent Defense Commission

August 22, 2019

Summary of Fiscal Monitoring

County	Site Visit Date	Visit	Summary of Review	Status
Collin	Engagement Letter dated June 21, 2019	On-site review July 30-31, 2019	Joint review with Policy team	Review in progress

CAFR's/ Single Audit

County	Date Submitted	Financial Statement Opinion	Single Audit Opinion	TIDC Funds - Major Program	TIDC Findings	Financial Statement Findings	Compliance Findings Noted
Harris	9/6/2018	Unmodified	Unmodified	No	NA	Yes	Yes
Randall	2/25/2019	Unmodified	Unmodified	No	NA	No	No
Ector	3/14/2019	Unmodified	NA	NA	NA	No	NA
Lubbock	3/14/2019	Unmodified	Unmodified	Yes	No	No	No
Jefferson	3/19/2019	Unmodified	Unmodified	No	NA	No	No
Montgomery	3/26/2019	Unmodified	Unmodified	No	NA	No	No
Travis	3/26/2019	Unmodified	Unmodified	No	NA	No	No
Bee	3/28/2019	Unmodified	Unmodified	Yes	No	No	No
Hays	3/29/2016	Unmodified	Unmodified	No	NA	No	No
Burnet	3/29/2019	Unmodified	NA	NA	NA	Yes	NA
San Jacinto	4/2/2019	Unmodified	Unmodified	No	NA	Yes	No
Williamson	4/12/2019	Unmodified	Unmodified	Yes	No	No	No
Brazoria	4/17/2019	Unmodified	Unmodified	No	NA	No	No
Fort Bend	4/25/2019	Unmodified	Unmodified	No	NA	No	No
Bexar	4/29/2019	Unmodified	Unmodified	Yes	No	No	No
Bell	4/25/2018	Unmodified	NA	NA	NA	No	NA
Caldwell	5/13/2019	Unmodified	NA	NA	NA	No	NA
Tarrant	06/21/2019	Unmodified	Unmodified	Yes	No	No	No

Texas Indigent Defense Commission
August 22, 2019
Summary of Fiscal Monitoring

IDER Training Sessions

1st training session was hosted by Hill County on Thursday October 25, 2018. Auditors from six counties were in attendance.

Bosque	10/25/2018	Robin Hamilton
Clay	10/25/2018	Gina Blevins
Freestone	10/25/2018	Karen Craddock
Hill	10/25/2018	Ida Alcalá, Tamara Harrison, Susan Swilling and Cynthia Rains
McLennan	10/25/2018	Jessica Grigsby and Hailee Gilbreath
Wise	10/25/2018	Angela Rater and Tish Wright

2nd training session was hosted by Midland County on Monday October 29, 2018. Auditors from 10 counties were in attendance.

Andrews	10/29/2018	Nancy M Jimenez
Crane	10/29/2018	Azuzena Morales
Fisher	10/29/2018	Becky Mauldin
Howard	10/29/2018	Drew Lopez
Jeff Davis	10/29/2018	Dawn Kitts
Jones	10/29/2018	Gwen Bailey
Midland	10/29/2018	Stephanie Martinez, Veronica Morales, Vivian Juarez, Adriana Madrid and Valerie Brady
Nolan	10/29/2018	Judy Kasper
Taylor	10/29/2018	Miranda Cox and Elijah Anderson
Ward	10/29/2018	Loretta Pipkin

2019 Indigent Defense Plan Submission Instructions Summary

Pursuant to Section 79.036 of the Texas Government Code, county indigent defense plans (IDPs) must be submitted to the Commission on or before Friday, November 1, 2019. Submission of an IDP is required for release of FY20 formula grant funds. After an IDP is submitted, Commission staff will review the plan for compliance with the plan requirements established by the Commission.

Staff have updated the IDP submission instructions, which is on the subsequent pages of the meeting notebook. The following are two items that require board action:

➤ **Priority Appointment of Public Defender's Office**

- Per SB 583, require local indigent defense plans (adult and juvenile) to include priority appointment for any public defender's office in the county. The revised plan requirement is proposed to read as follows:

Public Defender: Must provide for the priority appointment any public defender's office [Art. 26.04(a) & (f), CCP], include the process for appointment of any public defender's office [Art. 26.04(a), CCP], and meet the requirements in Article 26.044, CCP.

- Background: The 86th Texas Legislature passed [SB 583](#) by Sen. Hinojosa, which amends Article 26.04, Code of Criminal Procedure, to clarify the requirements related to giving priority to appointing an available public defender's office to represent indigent defendants. The bill does three main things:
 - 1) Clarifies that the priority appointment statute applies in capital case appointments;
 - 2) Requires good cause not to appoint a public defender's office; and
 - 3) Requires local indigent defense plans to include priority appointment for any public defender's office in the county.

➤ **Update Attorney Selection Plan Templates (adult and juvenile)**

- Amend the “Attorney Selection Process” plan templates to incorporate the priority appointment of public defender’s office required by SB 583. The full template showing the proposed changes follows the plan submission instruction in the meeting notebook, but the key paragraph proposed would read as follows:

Public Defender’s Office – The appointment system must provide for the priority appointment of a public defender’s office. The judges hearing criminal cases shall consult with the chief public defender to determine what constitutes priority appointment and a corresponding 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 shall be fully utilized. The public defender’s office may refuse to accept appointment to a case, if:

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

Background: Since 2009, TIDC has developed and published template language covering each of the required six sections of the indigent defense plans. These templates were designed to meet each of the required plan elements and incorporate the most common language from existing county plans. The proposed language was developed with assistance of several chief public defenders who have thought carefully about how the legislation could be implemented. Each jurisdiction is still free to choose the exact language it will use to meet the requirements of the bill. The template, however, would provide at least a way to do so.



2019 Biennial Indigent Defense Countywide Plan Instructions

September XX, 2019

NEW Case law on Fee Schedules

NEW Requirement for Public Defender Offices

2019 Biennial Indigent Defense Countywide Plan Instructions

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 on or before Friday, November 1, 2019, pursuant to Section 79.036 of the Texas Government Code. Completion of this process is necessary for your county to maintain eligibility to receive grant funds awarded by the TIDC.

Key Issues for Indigent Defense Plans

NEW Attorney Fee Schedule Information / *Wice* decision

Judges should also review and amend, as needed, their attorney fee schedules to comply with the Court of Criminal Appeals opinion *In re State ex rel. Wice v. Fifth Judicial Dist. Court of Appeals*, 2018 Tex. Crim. App. LEXIS 1121. The majority opinion by Judge Newell was issued on November 21, 2018 and is available [here](#).

The Court of Criminal Appeals held that a local rule authorizing the trial court to “opt out” of its own fee schedule conflicts with a statute (Article 26.05, Code of Criminal Procedure) that requires payment according to that fee schedule.

The decision has implications for fee schedules across the state since many would permit payments outside of the established flat or hourly fees provided. Examples of potentially suspect language in fee schedules include provisions such as the following:

- “For good cause or exceptional circumstances, an appointed attorney may request payment at a rate above the rates specified ..., subject to review and approval by the judge presiding over the case.”
- “The Court may deviate from this schedule for good cause.”
- “Judge may deviate from above schedule in Judge's discretion.”

- “In the interest of justice, for just cause, or in exceptional cases, the Court in its discretion may approve fees that differ from this schedule.”

According to the Court’s opinion in *Wice*, all portions of a fee schedule should state reasonable fixed rates or minimum and maximum hourly rates in line with Article 26.05, Code of Criminal Procedure. Judges should review their attorney fee schedules used in criminal and juvenile cases. Any fee schedules that are revised should be submitted with your indigent defense plans using the “Forms” tab.

NEW Priority Appointment of Available Public Defender’s Office

The 86th Texas Legislature passed [SB 583](#) by Sen. Hinojosa, which makes important changes to the statute that requires judges to give priority to appointing an available public defender’s office to represent indigent defendants [Article 26.04(f), Code of Criminal Procedure]. SB 583 does three main things:

- 1) Clarifies that the priority appointment statute applies in capital case appointments;
- 2) Requires good cause not to appoint a public defender’s office; and
- 3) Requires local indigent defense plans to include priority appointment for any public defender’s office in the county.

The last requirement has now been added to the list of required plan elements for both criminal and juvenile indigent defense plans, which can be found at the end of these instructions. The plan templates promulgated by TIDC for the attorney selection process for counties with public defender offices have been updated to include priority appointment of such offices. The adult plan template is [here](#) and the juvenile plan template is [here](#).

Contract Defender Systems

Judges who have contract attorneys providing representation to indigent defendants in any cases need to upload the current, executed contracts on the “Forms” tab of the website.

Plan Submission Instructions

To make plan submission easy, we will send an email to each of the judges responsible for submitting an existing plan (or set of plans) with a hyperlink directly to their plan (or plans) after logging into the system.

Summary of Steps to Submitting/Verifying the 2019 Countywide Indigent Defense Plan

1.	<p>Click the hyperlink in the email from the TIDC. Please follow the <u>Alternative Instructions</u> in the next section if you do not have an email address on file with us or if you want to submit your plan before receiving the email.</p>
2.	<p>Enter your username and password. To obtain username and/or password information, review the <u>User Profile Management</u> section following this summary.</p>
3.	<p>Update contact information for local officials as needed and ensure that out-of-county arrest contacts are listed. To effectively implement Article 15.18(a-1), Code of Criminal Procedure, accurate entry of out-of-county arrest contacts is critical. Providing contact information for the out-of-county arrest contacts allows other counties to timely relay out-of-county requests for counsel.</p> <p>NOTE: If you are no longer the administrative judge/juvenile board chair connected to a plan, please contact Heather Caspers at PPRI via e-mail (hcaspers@ppri.tamu.edu) or telephone 979-845-6754 so that the materials and email may be sent to the new judge to complete the submission process.</p>
4.	<p>Click the “Edit/Submit Plan” button to edit the plan/submit the plan.</p>
5.	<p>Click the appropriate tab for each section of the plan to be amended and enter text.</p>
6.	<p>Click the Forms tab to upload a new or revised form.</p> <p>NOTE: Because plan forms are public records, <u>they cannot be deleted</u>. Documents in need of removal from the Forms tab must be archived by PPRI. In some cases, archival takes place automatically: when a replacement form is saved in the place of an existing form and the files share the exact common name and type (e.g., .doc or .docx), the new document will appear in place of the old file. For archival-related questions or to request the archival of a document, please contact Jim VanBeek (jvanbeek@ppri.tamu.edu).</p>
7.	<p>Click the “Submit” button on the plan submission tab and you are finished.</p> <p>NOTE: <u>In cases where a plan covers more than one county</u> there may be multiple officials designated to complete the submission (e.g. different local administrative district judges for the counties covered by a single plan). All the officials will be listed on the plan submission website.</p>

User Profile Management

The Texas A&M University Public Policy Research Institute (PPRI) manages the collection, storage, and retrieval of data for the TIDC. PPRI is available to assist local officials with completing the plan submission/verification process, as well as with updating contact information and local officials listed on the website. If a person other than the recipient of this letter needs to obtain a user name and password please contact Heather Caspers at PPRI via e-mail (hcaspers@ppri.tamu.edu), by telephone at 979-845-6754, fax at 979-845-0249, or mail at:

Heather Caspers
Public Policy Research Institute
4476 TAMU
College Station, TX 77843-4476

Please be aware that PPRI will not provide user names and passwords over the phone. Individuals using personal e-mail accounts may be asked to provide additional information to verify their identity.

Alternate Submission Instructions

Follow these instructions if you wish to submit a plan without waiting for the email or do not have an email address on file with the TIDC:

- 1) Log onto <http://tidc.tamu.edu>.
- 2) Enter your username and password (see User Profile Management, above, on obtaining this information from PPRI).
- 3) Update contact information for local officials and out-of-county arrest contacts as needed.
- 4) Under the “ID Plan” heading on the left side of screen click “Verify/Amend County/District/Juvenile Plan,” as appropriate.
- 5) Click the appropriate tab for the section of the plan to be amended and enter the text
- 6) Click the “Forms” tab and upload forms.
- 7) Click the “Plan Submission” tab and then click the “Submit” button. This completes the plan submission.

Detailed Instructions

Below are detailed instructions on how to complete the plan submission process:

- 1) **Log into <http://tidc.tamu.edu> or click link from email and log in.**

- Enter your Username and Password
 - If you do not know your username or password, you may use the username and password recovery options on the homepage of the website, <https://tidc.tamu.edu>. Please contact Heather Caspers at PPRI through e-mail (hcaspers@ppri.tamu.edu) or by phone at 979-845-6754 for technical assistance using the website.
- Sign in
 - The official responsible for submission of the plan (Local Administrative District Judge, Local Administrative Statutory County Court Judge/County Judge, or Chair of the Juvenile Board) must log in to the PPRI website using his/her unique username and password. This official is the only one who may complete the submission process; however, a designee may make updates to the plan at the official's direction. Once the designee submits changes to the plan an email will be sent to the appropriate official or officials for them to approve the submission.

2) Update contact information for local officials as needed and ensure that correct out-of-county arrest contacts are listed.

- Verify and update the contact information for the officials responsible for the plans.
 - Use the “Change” button when the person listed is no longer the designated official and to change contact information for a person.
- Ensure that the out-of-county arrest contacts are listed.
 - The out-of-county arrest contact is the person who should be contacted to arrange for appointment of counsel in your county when a person is arrested in another county based on an arrest warrant or directive to apprehend issued in your county on behalf of your jurisdiction (District, County, or Juvenile Courts) as described at the top of these instructions. This information is posted on the TIDC's website for easy access by magistrates who are now required to forward counsel requests to the appointing authority in the county issuing the warrant under Article 15.18(a-1), Code of Criminal Procedure. A county may wish to set up a general email account for this purpose.

3) Click the “Edit/Submit Plan” button to make changes to and then submit the plan (if you clicked the link in the email).

- If you logged on to the website directly, select “Verify/Amend County/District/Juvenile Plan,” depending on which plan(s) you are responsible for submitting.

4) Click the appropriate tab for the section of the plan to be amended and enter text.

- Select the plan section tab(s) where you want to make changes to your plan.

5) Click the “Forms” tab to upload a new or revised form(s).

- Select the type of form(s) to be uploaded, click “Browse” to locate the document on your computer, and then click “Upload”.
 - Use this function to upload the new documents if applicable to your jurisdiction and to upload revised forms (such as new attorney fee schedules or contracts for indigent defense services).
 - Forms are public records and they cannot be deleted. Documents in need of removal from the Forms tab must be archived by PPRI.
 - In some cases, archival takes place automatically: when a replacement form is saved in the place of an existing form and the files share the exact common name and type (e.g., .doc or .docx), the new document will appear in place of the old file.
 - For archival-related questions or to request the archival of a document, please contact Jim VanBeek (jvanbeek@ppri.tamu.edu).

6) When you complete all updates go to the “Plan Submission” tab and click the “Submit” button.

7) Approval/Verification of plan by statutorily designated official.

- If the person who completes the submission process is not the official designated by statute to make the submission, an email will then be generated to that official with a link to this page that the official must click to approve the submission.
- The following are the officials designated to submit the plans:

- The local administrative district judge is the designated official to submit the plan for the district courts trying felony cases.¹
 - The local administrative statutory county judge (or county judge if no statutory county judge) is the designated official to submit the plan for the county courts trying misdemeanor cases.²
 - If the two levels of court submit a joint plan, then the local administrative district judge is the designated official to submit the plan.³
 - The chair of the juvenile board is the official designated to submit the juvenile board's plan.⁴
- In cases where a plan covers more than one county there may be multiple officials designated to complete the submission.
- For example, if a plan is submitted for three counties but the submitting judge is the local administrative district judge in only two of the counties, then the local administrative district judge of the third county would also have to approve the submission. This would be done via an automatic email to that judge in the process described above.

8) Plan Amendments and New Forms

- We want to make sure the information we publish on our website is current. Although the mandatory plan submission process is only every other year, we strongly encourage you to continue to submit any changes to your plan or forms as they occur.
- You may do so in the same manner as the original plan submission by selecting the appropriate section(s) of your plan to amend or form to replace.
 - Whenever a change is submitted, the system will automatically archive the prior version for later reference and note the date of the change and who made it.

¹ TEX. GOV'T CODE § 79.036(b)(1)

² TEX. GOV'T CODE § 79.036 (b)(2)

³ TEX. GOV'T CODE § 79.036 (c)

⁴ TEX. GOV'T CODE § 79.036 (d)

- As with the original submission, if the person submitting the change is not the designated official, an email to that official will be generated so that they may approve the submission.

Notes related to making changes to your plan:

- **Minimum Plan Requirements** — If you make changes to your plan, please be sure to review the minimum plan requirements for that section. These will appear above the text boxes for each section. TIDC staff will review all amended sections to make sure they still meet these requirements. A complete listing of requirements for both adult and juvenile plans follows these instructions.
- **Caseload Standards** — While not mandatory, a local plan may wish to reference the indigent defense caseload guidelines published by the TIDC when setting maximum allowable attorney caseloads.⁵ The guidelines, which resulted from caseload studies mandated by the 83rd Texas Legislature, help establish maximum allowable caseloads that allow an attorney to give each indigent defendant the time and effort necessary to ensure effective representation.
 - The following links will direct officials to the guidelines for misdemeanor/felony cases, juvenile cases, and appellate cases:
 - [Guidelines for Indigent Defense Caseloads](#)
 - [Juvenile Addendum](#)
 - [Appellate Addendum](#)
- **Review Plan Templates** — Immediately below the required elements are a listing of “Available Templates.” These templates provide sample language that meet the requirements for that plan section and were created based on a review of all existing indigent defense plans. For counties that participate in the Regional Public Defender for Capital Cases (RPDO), we have provided sample language under the “Attorney Selection” heading to account for assignment of capital cases to the RPDO. Click “View” and a new window will appear with the text for your review and to potentially copy and paste into your plan. If you use the plan templates, be sure to insert text in

⁵ For certain indigent defense delivery systems, the Code of Criminal Procedure and TIDC rules require the setting of maximum allowable caseloads. See TEX. CODE CRIM. Proc. arts. 26.044(c-1)(3), 26.047(c)(3), and 1 TAC §174.121.

the blanks to indicate your policy decision, such as the number of CLE hours required for attorneys.

- **Enter Text into Appropriate Plan Sections** — Edit the text of your plan in the text box shown below the plan requirements and plan templates. When you have completed entering the text for a section, save it by clicking the  button on the left side of the toolbar. Continue to the next section you wish to review or edit by clicking the appropriate tab. You may leave the plan submission page and come back later to complete the process prior to submitting- just be sure you have saved the text in each section using the  button.
- **Upload Forms Used in the Indigent Defense Process** — Upload forms by clicking the “Forms” tab.
 - There are nine categories of forms plus an “other” category:
 - Magistrate’s Warning Form
 - Affidavit of Indigence
 - Attorney Application for Appointment
 - Attorney Fee Schedule
 - Attorney Fee Voucher
 - Waiver of Counsel
 - Public Defender Plan or Proposal
 - Managed Assigned Counsel Plan of Operation
 - Contracts for Indigent Defense Services
 - Other Forms
 - As with the text in the plans, we have provided a variety of sample form templates that you may adopt and use as part of your own plan. Click “View” and a new window will appear with the form for your review. You may also save the form to your own computer if you would like to alter it in some way prior to uploading it. Click “Insert name Template” to upload and use the template form.
 - You may also upload a form directly from your computer by first selecting the appropriate document type for each form to be uploaded by clicking the bubble adjacent to that category (e.g. attorney fee voucher). Then click “Browse” to

locate the file containing the form on your computer or network. The forms will be automatically labeled based on the type you select. If you upload a form in the “Other Forms” category, please provide a description of the form in the text box provided. This, along with the county name and court level, will be used as its name when displaying the form on the website. Then click “Upload” and the form will be uploaded and immediately appear below under “Plan Document Folder” heading. Based on prior submissions we anticipate forms being submitted in at least the first six categories for most adult plans submitted and first five categories for juvenile plans. An attorney fee schedule⁶, an attorney fee voucher⁷, and an affidavit of indigence⁸ are required by statute or administrative rule and must be included as part of your plan submission. Additionally, a public defender plan or proposal⁹, managed assigned counsel plan of operation¹⁰, and any contracts for indigent defense services¹¹ are required to be submitted if your jurisdiction uses those service delivery systems. If you do not have an electronic copy of a form, then you may scan it into a PDF file and upload it in the manner described above.

⁶ TEX. CODE CRIM. PROC. art. 26.05(b).

⁷ TEX. CODE CRIM. PROC. art. 26.05(c).

⁸ 1 TAC § 174.51.

⁹ TEX. GOVT CODE § 79.036(a)(2)

¹⁰ TEX. GOVT CODE § 79.036(a)(3)

¹¹ TEX. GOVT CODE § 79.036(a)(4)

Adult Minimum Plan Requirements

1. Conduct prompt and accurate magistration proceedings.
 - Accused must be brought before magistrate within 48 hours of arrest* [Art. 14.06(a), CCP]
 - Magistrate must inform and explain right to counsel and right to appointed counsel to accused [Art. 15.17(a), CCP]
 - Magistrate must ensure that reasonable assistance in completing forms necessary to request counsel is provided to the accused. [Art. 15.17(a), CCP]
 - Record must be made of:
 - Magistrate informing the accused of the accused's right to request appointment of counsel [Art. 15.17(e)(1), CCP]
 - Magistrate asking whether accused wants to request appointment of counsel [Art. 15.17(e)(2), CCP]
 - Whether the person requested court appointed counsel [Art. 15.17(e)(3), CCP]
 - If authorized to appoint counsel, magistrate must do so within 1 working day after receipt of request for counsel in counties with a population of 250,000 or more and within 3 working days in counties under 250,000 [Art. 15.17(a), CCP]
 - If not authorized to appoint counsel, magistrate within 24 hours must transmit or cause to be transmitted to the appointing authority an accused's request for counsel [Art. 15.17(a), CCP]
 - For a person arrested on an out-of-county warrant, the magistrate must ask if the person wants to request counsel, inform the person of the procedures for requesting counsel, and ensure the person is provided reasonable assistance in completing the necessary forms for requesting counsel in the county issuing the warrant. [Art. 15.18(a-1), CCP]
 - Requests for counsel made by persons arrested on out-of-county warrants must be transmitted to the appointing authority of the county issuing the warrant within 24 hours of the request being made. [Art. 15.18(a-1), CCP]

* Note: Person arrested for misdemeanor without a warrant must be released on bond in an amount no more than \$5,000 not later than 24 hours after arrest if a magistrate has not determined probable cause by that time [Art. 17.033, CCP]

2. Determine indigence according to standards directed by the indigent defense plan.
 - Detail procedures used to determine whether a defendant is indigent [Art. 26.04(l)-(r), CCP]
 - State financial standard(s) to determine whether a defendant is indigent [Art. 26.04(l), CCP]
 - List factors courts will consider when determining whether a defendant is indigent [Art. 26.04(m), CCP]
3. Establish minimum attorney qualifications.
 - Establish objective qualification standards for attorneys [Art. 26.04, CCP]

- Standards must require attorneys to complete at least 6 hours of continuing legal education pertaining to criminal law during each 12-month reporting period (see 1 TAC §§174.1-174.4)
- Standards must require attorneys to submit by October 15 each year the percentage of the attorney's practice time that was dedicated to work based on appointments accepted in this county for adult criminal and juvenile delinquency cases. The report must be made on a form prescribed by the Texas Indigent Defense Commission for the prior 12 months that begins on October 1 and ends on September 30 [Art. 26.04(j)(4), CCP]
- Attorneys must be approved by majority of judges to be placed on the appointment list [Art. 26.04, CCP]

4. Appoint counsel promptly.

- Incarcerated persons: After receipt of request for counsel, counsel must be appointed within 1 working day in counties with a population of 250,000 or more and 3 working days in counties under 250,000 [Art. 1.051(c), CCP]
- Persons out of custody: Counsel must be appointed at defendant's first court appearance or when adversarial judicial proceedings are initiated, whichever comes first [Art. 1.051(j), CCP] (See also, *Rothgery v. Gillespie County*)
- Persons arrested in other counties on local warrants must be appointed counsel within 1 working day of receipt of the request in counties with a population of 250,000 or more and within 3 working days of receipt of the request in counties under 250,000. [Art. 1.051(c-1), CCP]
- Persons arrested on out-of-county warrants must be appointed counsel if the person has not been transferred or released to the custody of the county issuing the warrant before the 11th day after the date of the arrest. [Art. 1.051(c-1), CCP]
- Procedures for defendants to obtain the necessary forms to request counsel and to submit these forms to the appointing authority at any time after the initiation of adversary judicial proceedings. [1 TAC § 174.51]
- Advise unrepresented defendants of the right to counsel and procedures for obtaining counsel [Art. 1.051(f-2), CCP]

5. Institute a fair, neutral, and non-discriminatory attorney selection process.

- Rotational method: Must appoint attorneys from among next five names on 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 [Art. 26.04(a), CCP]
- Public Defender: Must provide for the priority appointment any public defender's office [Art. 26.04(a) & (f), CCP], include the process for appointment of any public defender's office [Art. 26.04(a), CCP], and meet the requirements in Article 26.044, CCP.
- Alternative method [Art. 26.04(g)-(h), CCP]:
 - Must be established by vote of two-thirds of the judges
 - Must be approved by presiding judge of administrative judicial region
 - Must allocate appointments reasonably and impartially among qualified attorneys

- For contract defender program, must meet contract defender standards (see 1 TAC §§174.10 – 174.25)

6. Fee and expense payment process.

- Payments shall be in accordance with a schedule of fees adopted by the judges [Art. 26.05(b), CCP]
- No payment shall be made until judge approves payment after submission of attorney fee voucher [Art. 26.05(c), CCP]
- If judge disapproves the requested amount of payment, the judge shall make written findings stating the amount that the judge approves and each reason for approving an amount different from the requested amount. [Art. 26.05(c), CCP]
 - An attorney whose request for payment is disapproved or is not acted upon within 60 days of submission may appeal the disapproval or failure to act by filing a motion with the presiding judge of the administrative judicial region
- Expenses incurred without prior approval shall be reimbursed if expenses are reasonably necessary and reasonably incurred. [Arts. 26.05(d) & 26.052(h), CCP]

7. Forms.

- Magistrate’s Warning Form
- Affidavit of Indigence [1 TAC § 174.51]
- Attorney Application for Appointment
- Attorney Fee Schedule [Art. 26.05(b), CCP]
- Attorney Fee Voucher [Art. 26.05(c), CCP]
- Waiver of Counsel
- Public Defender Plan or Proposal [Sec. 79.036(a)(2), GC]
- Managed Assigned Counsel Plan of Operation [Sec. 79.036(a)(3), GC]
- Contracts for Indigent Defense Services [Sec. 79.036(a)(4), GC]
- Other Forms

CCP=Code of Criminal Procedure

GC=Government Code

TAC=Texas Administrative Code

Juvenile Minimum Plan Requirements

1. Conduct prompt detention hearing if child not released by intake.
 - If child taken into custody, then must hold detention hearing by second working day, or first working day if detained on Friday or Saturday [Sec. 54.01(a), FC]
 - Prior to detention hearing, court must inform child's parent or other person responsible for child's support of child's right to appointed counsel if they are indigent [Sec. 54.01(b), FC]
2. Determine indigence according to standards directed by the indigent defense plan.
 - Detail procedures used to determine whether a child's parent(s) or other person(s) responsible for child's support are indigent [Sec. 51.102(b)(1), FC & Art. 26.04(l)-(r), CCP]
 - State financial standard(s) to determine whether a child's parent(s) or other person(s) responsible for child's support are indigent [Art. 26.04(l), CCP]
 - List factors courts will consider when determining whether a child's parent(s) or other person(s) responsible for child's support are indigent [Art. 26.04(m), CCP]
3. Establish minimum attorney qualifications.
 - Establish objective qualification standards for attorneys for three levels of conduct [Sec. 51.102(a),(b)(2), FC]:
 - Conduct indicating a need for supervision or delinquent conduct (no TJJD possible);
 - Delinquent conduct (TJJD possible); and
 - Determinate sentence or discretionary transfer to criminal court proceedings has been initiated.
 - Standards must require attorneys to complete at least 6 hours of continuing legal education pertaining to juvenile law during each 12-month reporting period (see [1 TAC §§174.1-174.4](#))
 - Standards must require attorneys to submit by October 15 each year the percentage of the attorney's practice time that was dedicated to work based on appointments accepted in this county for adult criminal and juvenile delinquency cases. The report must be made on a form prescribed by the Texas Indigent Defense Commission for the prior 12 months that begins on October 1 and ends on September 30 [Art. 26.04(j)(4), CCP]
 - Attorneys must be approved by a majority of the Juvenile Board to be placed on the appointment list [Sec. 51.102(a), FC & Art. 26.04, CCP]
4. Appoint counsel promptly.
 - Unless the court finds that the appointment of counsel is not feasible due to exigent circumstances, the court shall appoint counsel within a reasonable time before the first detention hearing is held to represent the child at that hearing [Sec. 54.01(b-1), FC]
 - If the child was not represented by an attorney at the detention hearing and a determination was made to detain the child, the child shall immediately be entitled to representation by an attorney [Sec. 51.10(c), FC]

- If not detained, attorney must be appointed on or before 5th working day after the date the petition for adjudication, motion to modify, or discretionary transfer hearing was served [Sec. 51.101(c)-(d), FC]
5. Institute a fair, neutral, and non-discriminatory attorney selection process.
- Rotational method: Must appoint attorneys from among next five names on 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 [Art. 26.04(a), CCP]
 - Public Defender: Must provide for the priority appointment any public defender's office [Art. 26.04(a) & (f), CCP], include the process for appointment of any public defender's office [Art. 26.04(a), CCP], and meet the requirements in Article 26.044, CCP.
 - Alternative method [Art. 26.04(g)-(h), CCP]:
 - Must be established by vote of two-thirds of the juvenile board
 - Must be approved by presiding judge of administrative judicial region
 - Must allocate appointments reasonably and impartially among qualified attorneys
 - For contract defender program, must meet contract defender standards (see 1 TAC §§174.10 – 174.25)
6. Fee and expense payment process.
- Payments shall be in accordance with a schedule of fees adopted by the Juvenile Board [Art. 26.05(b), CCP]
 - No payment shall be made until judge approves payment after submissions on court's attorney fee voucher [Art. 26.05(c), CCP]
 - If judge disapproves the requested amount of payment, the judge shall make written findings stating the amount that the judge approves and each reason for approving an amount different from the requested amount [Art. 26.05(c), CCP]
 - An attorney whose request for payment is disapproved or is not acted upon within 60 days of submission may appeal the disapproval or failure to act by filing a motion with the presiding judge of the administrative judicial region
 - Expenses incurred without prior approval shall be reimbursed if expenses are reasonably necessary and reasonably incurred [Arts. 26.05(d) & 26.052(h), CCP]
7. Forms.
- Affidavit of Indigence
 - Attorney Application for Appointment
 - Attorney Fee Schedule [Art. 26.05(b), CCP]
 - Attorney Fee Voucher [Art. 26.05(c), CCP]
 - Public Defender Plan or Proposal [Sec. 79.036(a)(2), GC]
 - Managed Assigned Counsel Plan of Operation [Sec. 79.036(a)(3), GC]
 - Contracts for Indigent Defense Services [Sec. 79.036(a)(4), GC]
 - Other Forms

CCP=Code of Criminal Procedure FC=Family Code
 GC=Government Code TAC=Texas Administrative Code

V. Attorney Selection Process for Adults (Rotation and Public Defender)

- A. The appointing authority will identify which of the appointment lists, discussed in the Section III (attorney qualifications), is most appropriate based on the accusations against the defendant and will appoint the attorney whose name is first on the list, unless the court makes a finding of good cause on the record for appointing an attorney out of order. Good cause may include:
- i. The defendant requesting counsel does not understand English, in which case the judge will appoint the lawyer whose name appears next in order and speaks the clients' language, if one is available;
 - ii. 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
 - iii. Other good cause exists for varying from the list.
- B. Once appointed, with the exception of the County Public Defender's Office, an attorney's name will be moved to the bottom of the appointment list. 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.
- C. Public Defender's Office – The appointment system must provide for the priority appointment of a public defender's office. The judges hearing criminal cases shall consult with the chief public defender to determine what constitutes priority appointment and a corresponding 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 shall be fully utilized. The County Public Defender's Office will appear every _____ name on each list so that it receives _____% of cases for each category of offense. The District and County Judges may, from time to time, adjust the percentage of cases received by the County Public Defender's Office. The County Public Defender's Office may be removed from a specific list by the judges, if it is determined that the office will no longer handle that category of cases. In such cases, the public defender's appointment rates will be increased for the other categories of offenses to maintain an adequate workload. The public defender's office may refuse to accept appointment to a case, if:

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

D. Judicial Removal from Case:

- i. The judge presiding over a criminal case may remove appointed counsel upon entering a written order showing good cause for such removal, including without limitation, the following:
 1. Counsel's failure to appear at a court hearing;

2. Counsel's failure to comply with the requirements imposed upon counsel by this plan;
 3. Current information about the defendant and the charges against the defendant indicate that another qualified attorney is more appropriate for the defendant under these rules;
 4. Replacement of appointed counsel in a death penalty case is required under Article 26.052(e), Texas Code of Criminal Procedure;
 5. The appointed counsel shows good cause for being removed, such as illness, workload or scheduling difficulties;
 6. The defendant requests an attorney, other than trial counsel, for appeal; or
 7. The defendant shows good cause for removal of counsel, including counsel's persistent or prolonged failure to communicate with the defendant.
- ii. Appointment of Replacement Counsel - Whenever appointed counsel is removed under this section, replacement counsel shall immediately be selected and appointed in accordance with the procedures described in this plan.

Summary of Recent Policy Monitoring Activity

County	Dates Visited	Status	Issues / Recent Activity
Chambers	Limited Scope Review: 10/30 – 11/1/18; 12/10 – 12/11/18	Report issued: 4/12/19 Response received: 8/16/19	Claire Buetow, Morgan Shell, and Joel Lieurance conducted a limited scope monitoring review to examine procedures for appointing counsel in misdemeanor cases. The report made findings regarding magistrate warnings, timely appointment of counsel, and methods for taking requests for counsel.
Childress	2 nd Follow-up Review: 8/20/19	Draft Pending	Kathleen Casey-Gamez and Scott Ehlers conducted a second follow-up review to address issues raised in the 2017 report.
Collin	2 nd Follow-up Review: 7/30 – 7/31/19	Draft Pending	Kathleen Casey-Gamez and Scott Ehlers conducted a second follow-up review to address issues raised in the 2016 report.
Deaf Smith	2 nd Follow-up Review: 8/21/19	Draft Pending	Kathleen Casey-Gamez and Scott Ehlers conducted a second follow-up review to address issues raised in the 2017 report.
Fisher	Limited Scope Review: 7/16/19	Draft Pending	Claire Buetow and Joel Lieurance conducted a limited scope review to examine procedures for requesting and appointing counsel in misdemeanor cases.
Fort Bend	2 nd Follow-up Review: 2/21 – 2/22/19	Report issued: 6/18/19 Response due: 10/18/19	Claire Buetow and Joel Lieurance conducted a second follow-up review. The report made a finding regarding the attorney-of-the-day appointment system.
Goliad	Follow-up Review: 2/19 – 2/20/19	Report issued: 4/30/19 Response received: 7/3/19	Claire Buetow and Joel Lieurance conducted a follow-up review. The report made findings regarding transmittals of counsel requests and timely appointments of counsel.
Jefferson	Follow-up Review: 4/1 – 4/3/19	Draft Pending	Scott Ehlers, Kathleen Casey-Gamez, and Joel Lieurance conducted a follow-up review to address issues raised in the 2014 report.
Jim Wells	Initial Review: 5/13 – 5/16/19	Draft Pending	Kathleen Casey-Gamez and Joel Lieurance conducted an initial policy monitoring review.

County	Dates Visited	Status	Issues / Recent Activity
Kleberg	Follow-up Review: 7/22 – 7/23/19	Draft Pending	Claire Buetow and Joel Lieurance conducted a follow-up review to address issues raised in the 2016 report.
Randall	2 nd Follow-up Review: 12/12 – 12/14/18	Report issued: 5/30/19 Response due: 10/1/19	Scott Ehlers and Joel Lieurance conducted a follow-up review to address issues raised in the 2016 report. The report made findings regarding magistrate duties and the timeliness of juvenile appointments.
Rusk	Initial Review: 6/24 – 6/27/19; 7/19/19	Draft Pending	Claire Buetow and Joel Lieurance conducted an initial policy monitoring review.
Scurry	Limited Scope Review: 7/15/19	Draft Pending	Claire Buetow and Joel Lieurance conducted a limited scope review to examine procedures for appointing counsel in misdemeanor cases.
Smith	Limited Scope Follow-up Review: 4/10 – 4/13/18; 5/25/18	Report issued: 12/7/18 Response received: 4/16/19	Debra Stewart, Scott Ehlers, and Joel Lieurance conducted a follow-up review. The report made findings regarding methods for determining indigence, prompt appointment of counsel, waivers of counsel, attorney payments, and data reporting. Staff met with the statutory county judge on 6/24/18 to clarify Smith County's action plan going forward.
Waller	Follow-up Review: 2/28 – 3/1/2019; 5/6 – 5/7/19	Draft Pending	Debra Stewart, Claire Buetow and Joel Lieurance conducted a follow-up review to address issues raised in the 2016 report.

Drop-in Reviews

County	Population (2018)	Date Visited	Misd. Cases Paid / Cases Added	% Cases Paid / Cases Added
Briscoe	1,523	8/22/2019	0 / 21	0%
Donley	3,248	8/22/2019	1 / 111	1%
Hall	3,149	8/22/2019	1 / 61	2%
Sabine	10,715	7/18/2019	8 / 343	2%
San Augustine	8,362	7/18/2019	0 / 183	0%
Somervell	9,331	7/17/2019	16 / 157	10%

Update of Dallas County Misdemeanor Appointments

- TIDC began a policy monitoring review in FY2007. During this review process, several issues were identified. One item remains to be verified as having been addressed: the distribution of misdemeanor appointments in cases without a foreign language designation.
- At its June 29, 2017 meeting, the Board passed a motion to request quarterly misdemeanor appointment data from Dallas County. This data will be presented at future Board meetings.
- TIDC Policy Monitoring Rules presume a jurisdiction’s appointment process is fair, neutral, and non-discriminatory if the top 10% of recipient attorneys receive less than 3.0 times their representative share of appointments.

Distribution of Misdemeanor Cases Paid

- For the period between October 2018 and June 2019, the **top 10% of recipient attorneys** (without a foreign language designation) **received 2.8 times their representative share** of appointments.
- This distribution is within our threshold (for the second time) and is the most even that Dallas County has reported since we required quarterly reports in 2017.

Wheel Management Reports

- Dallas County has also submitted wheel management reports for each quarter. From these reports, the monitor created summary tables shown on the next page.
- We inquired about the ad hoc reasons for skipping the top attorney. See below.

Ad hoc Reason Description	Ad hoc Count
Attorney declines appointment	53
Attorney did not respond to contact attempts	25
Attorney fails to appear without notice	6
Attorney no longer on wheel	10
Conflict of interest	87
Case requires special skills or abilities	190
Defendant facing immediate incarceration	1
PD no longer in Court	2
Order MTW granted	10
Requires Special Language	12

Wheel and Ad Hoc Appointments by Court

April 2019 to June 2019				
Court	# Wheel Appts	# Ad Hoc Appts	Sum of Wheel and Ad Hoc Appts	% Following Wheel (Wheel Appts / Sum of Wheel and Ad Hoc Appts)
MA	27	20	47	57%
MB	241	13	254	95%
MC	100	16	116	86%
MD	6	1	7	86%
ME	166	40	206	81%
MF	160	16	176	91%
MG	137	12	149	92%
MH	248	42	290	86%
MJ	155	48	203	76%
MK	162	12	174	93%
ML	197	23	220	90%
MM	65	46	111	59%
MN	326	16	342	95%
Total	1,990	305	2,295	87%

July 2018 to June 2019				
Court	# Wheel Appts	# Ad Hoc Appts	Sum of Wheel and Ad Hoc Appts	% Following Wheel (Wheel Appts / Sum of Wheel and Ad Hoc Appts)
MA	113	65	178	63%
MB	995	48	1,043	95%
MC	388	154	542	72%
MD	44	6	50	88%
ME	1,141	83	1,224	93%
MF	788	123	911	86%
MG	597	71	668	89%
MH	758	194	952	80%
MJ	836	79	915	91%
MK	702	61	763	92%
ML	1,369	88	1,457	94%
MM	218	126	344	63%
MN	826	116	942	88%
Total	8,775	1,214	9,989	88%

Summary Attorney Appointment Management Report

From: 4/1/2019 To: 6/30/2019

Run Date: 08/02/2019

(1) Total Appointments from Wheel	(2) Total Wheel Replacements	(3) Total AdHocs Assignments	(4) Total Misdemeanor Assignments
1990	176	305	6542
(5) Total AdHocs W/O Exceptions		% of District Court Assignments not Following Wheel (5) / (4)	
305		4.66	

Court	(1) # Wheel Appts	(2) # Wheel Rplcmnts	(3) # AdHoc Appts	(4) # PV Appts	(5) # PD Appts	(6) Total Assignment for this Court (1)+(2)+(3)+(4)+(5)	% not Following Wheel (3)/(6)	# of Skips
MA	27	2	20	0	556	605	3.31	3
MB	241	11	13	0	353	618	2.10	20
MC	100	13	16	0	621	750	2.13	7
MD	6	6	1	0	260	273	0.37	8
ME	166	3	40	0	314	523	7.65	0
MF	160	3	16	0	311	490	3.27	26
MG	137	13	12	0	366	528	2.27	18
MH	248	19	42	0	371	680	6.18	29
MJ	155	14	48	0	280	497	9.66	10
MK	162	11	12	0	308	493	2.43	3
ML	197	17	23	0	6	243	9.47	190
MM	65	11	46	0	316	438	10.50	14
MN	326	53	16	0	217	612	2.61	11
Totals	1990	176	305	0	4279	6750	4.52	339

Wheel	Total Attorneys on Wheel	Total Wheel Assignments
MISD A	142	1107
MISD B	142	675
Totals		1782

Update on Policy Monitoring Process Review

TIDC's policy monitors visit counties to determine if they are following local indigent defense plans. Monitors assess six core requirements of the Fair Defense Act by reviewing records, observing court proceedings, and interviewing officials. If a county is not in compliance, monitors will make follow-up visits and offer technical assistance. There are currently:

- 32 counties under review
- About 20 counties visited per year
- 4 members of the policy team devoting some of their time to monitoring

TIDC will soon add four policy monitors and move one current monitor to a new public defense improvement team. TIDC is reviewing its monitoring process so that the new policy team is using their time on- and off-site most effectively. By streamlining current practices for assessing access to counsel, monitors can reach more counties and expand reviews to include assessing quality of counsel.

So far, the policy team has taken these steps:

- Determined overall goals for process improvements
- Documented current processes in a monitoring manual, process map (flowchart), and expanded checklist
- Identified common slow-downs and some quick fixes
- Researched technology improvements for tracking reviews
- Discussed new benchmarks for assessing quality of counsel

Some changes—like communication among team members and with courts and counties—are relatively small and are already being implemented. Other changes may require updates to the policy monitoring rules (beginning at Title 1 Texas Administrative Code Sec. 174.26). **All of the monitoring rules need to be reviewed and readopted this year** per Government Code Sec. 2001.039, requiring all state agencies to review their rules every four years. The policy team will bring any proposed rules changes to the Policies and Standards Committee and then to the full Commission at its December meeting, along with proposed monitoring process improvements.

Summary of Recent Complaints

Complaint Statistics

Since the June 6, 2019 Board Meeting:

- TIDC received 11 new complaints from 12 individuals.
- 3 new complaints remain open, pending further investigation.
- 8 complaints were resolved via letter, e-mail, or no further response. *
 - 0 was forwarded to local officials.
 - 4 were provided information on Innocence Projects.
 - 0 was forwarded to the Texas Fair Defense Project.
 - 1 were provided information on self-serve legal resources.
 - 2 were referred to the State Bar-Grievance System.
 - 1 were referred to the State Commission on Judicial Conduct.
 - 1 was closed, pending response from complainant

**Note: One response may have contained referrals to more than one entity.*

Relevant Complaints

Complaint #1: Excessive caseload complaint against judge and attorney

Date: 8/9/19

Contact Title: Drew Willey

County: Harris County

TIDC Contact: Kathleen Casey-Gamez

SUMMARY:

Drew Willey makes the following complaint on behalf of his client against **Judge Amy Martin** (263rd District Court, Harris County) and attorney **Jerome Godinich**. He has filed a writ of mandamus which is pending the 14th Court of Appeals. In an e-mail to TIDC Mr. Willey alleges:

- Jerome Godinich's excessive caseload is preventing him from meeting with clients as required by Tex. CCP 26.04(j)(1), and that his excessive caseload is forcing him to violate Tex. Disc. Rules of Prof. Conduct 1.01, 1.02, and 1.03. (see attached ABA Formal Opinion).

- Judge Martin's system of public defense violates at least 5 of ABA's 10 principles (#1,2,5,8 & 10), she is not giving the Harris County Public Defender Office priority to appointments, as required by Tex. CCP 26.04(f), and she is failing to use discretion in replacing attorneys, namely, Jerome Godinich, according to Tex. CCP 26.04(k).

RESOLUTION:

Kathleen Casey-Gamez responded to Mr. Willey via e-mail on 8/15 and requested a date and time to speak with the complainant. Kathleen then followed up with a phone call on 8/18/18 but have not yet established a date and time for an interview. TIDC staff will continue to investigate this complaint.

Complaint #2: Excessive caseload complaint

Date: 7/7/2019

Contact Title: Jerry Curtis

County: Several (including Dawson, Gains, Lynn, Garza, Howard, Crosby, Lockney, Lubbock, and Hale)

TIDC Contact: Kathleen Casey-Gamez

SUMMARY:

Writing on behalf of himself and other defendants, Mr. Curtis contacted TIDC with a complaint about the conduct of attorney **Arthur "Artie" Aguliar**. In his letter he alleges "[t]here is an [sic] report about this attorney's caseload and the issue raised of innocent people being guilty because of his overloaded case load."

RESOLUTION:

TIDC Staff is in the process of writing a letter to Mr. Curtis and informing him of the complaint procedure for attorney misconduct.

Complaint #3: Removal of attorneys

Date: 7/7/2019

Contact Title: Ricardo (Richard) De Los Santos AND Reynaldo (Rey) De Los Santos

County: Johnson County

TIDC Contact: Kathleen Casey-Gamez

SUMMARY:

According to their online complaint, the attorneys allege that “were removed or allowed to be removed from all indigent juvenile defense attorney court appointment lists by two County Court at Law Judges which were in violation of the January 1, 2018 Johnson [County, Texas] Juvenile Board [Indigent Defense] Plan. Both Judges failed to document and never documented any reason of good cause to substantiate these removals.”

RESOLUTION:

The complainants submitted a large volume of documentary material. Kathleen Casey-Gamez has spoken to the attorneys and is in the process of reviewing the material in order to determine next steps.