



MISDEMEANOR MENTAL HEALTH PUBLIC DEFENDER OFFICE PLANNING STUDY GALVESTON COUNTY

MAY 12, 2020

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SUMMARY

Since 2017, Galveston County has been evaluating its criminal justice system and implementing reforms. The County has taken a particular interest in better serving defendants with mental illness. In 2017, Galveston County requested a study of their county justice system from the Council of State Governments Justice Center.¹ Also in 2017, TIDC issued a policy monitoring report that highlighted pre-trial issues with defendants who could not make bail.² Taking the results of that study and the findings from TIDC, in 2018, Galveston County drafted a request for an Improvement Grant to create a mental health public defender and to establish council at first appearance.³ This grant request was never submitted. On February 12, 2020, County Court at Law Judge Jack Ewing requested that the Texas Indigent Defense Commission (TIDC) conduct a planning study for a misdemeanor mental health public defender office (MMHPDO) for Galveston County.

Scope: The office would handle approximately 11% of all indigent misdemeanor appointments.⁴

¹ Dr. Tony Fabelo, Jessy Tyler, et. Al. Galveston County Justice System Assessment: Preliminary Findings for Review by Local Officials. On file with TIDC.

² TIDC Limited Scope Policy Monitoring Report (2017). Available at: http://www.tidc.texas.gov/media/58319/galveston_final.pdf.

³ FY2019 Galveston County Improvement Grant Submission, Grant Narrative, on file with TIDC.

⁴ This estimate was created in consultation with Galveston County judges, who estimate that 11% of appointments in misdemeanor court are persons with a mental health diagnosis. According to the 2019 Improvement Grant submission, “about 20 percent of jail intakes in Galveston County are identified as potentially mental ill per the Texas Commission on Jail Standards intake form’s required screening.”

Staff: The county-based office would have one Chief Public Defender, two staff attorneys, one licensed clinical social worker, two case workers, and one support staff.

Costs and Benefits: The estimated cost of this office would be **\$723,342**. TIDC finds that the use of public defense services would likely improve indigent defense quality, reduce jail populations, reduce unnecessary competency evaluations, improve outcomes, and increase efficiency of case processing.⁵

Projected Costs for Creating a Misdemeanor Mental Health Public Defender Office

	Year 1	Year 2	Year 3	Year 4	Year 5
Cost Sharing	80/20	60/40	40/60	20/80	0
Total Project Budget	\$ 744,292	\$ 723,342	\$ 723,342	\$ 723,342	\$ 723,342
TIDC Grant	\$ 595,434	\$ 434,005	\$ 289,337	\$ 144,668	0
County Match	\$ 148,858	\$ 289,337	\$ 434,005	\$ 578,674	\$ 723,342

Total TIDC Grant Funding Over 4 Years
\$1,463,445

⁵ For an outline of the benefits related to a mental health public defender office, please see Appendix B.

TIDC looks forward to working with Galveston County to determine if this new indigent defense model is right for the County.

I. INTRODUCTION

County Court at Law Judge Jack Ewing asked TIDC to assess the feasibility of establishing a public defender office that provides representation in misdemeanor mental health cases. This report has five parts:

- Part I introduces the study;
- Part II explores current indigent defense practices in Galveston County;
- Part III lays out key decision points for creating a public defender office;
- Part IV models the mental health public defender office; and
- Part V concludes that a public defender office is feasible and desirable.

This report concludes that a public defender office would likely improve indigent defense quality, constitutional compliance, accountability, and budget predictability. The mental health defender is designed with similar, successful mental health defenders already in operation in Texas and would be likely to achieve similar results.⁶

TIDC stands ready to partner with Galveston County to provide technical assistance and explore financial assistance to create a PDO suited to the county.

⁶ According to 2001 report evaluating the Travis County Mental Health Public Defender, “[t]he cost-benefit analysis looked at these cases and associated appointments and has concluded that MHPD has successfully achieved most of its original goals including a reduction in jail bed days, an increase in dismissals, a reduction in recidivism and enhanced knowledge about persons with mental illness.” MENTAL HEALTH PUBLIC DEFENDER OFFICE: COST BENEFIT ANALYSIS, PART I, available at: https://www.traviscountytexas.gov/images/criminal_justice/Doc/cost_ben_MHPD_110922.pdf

II. BACKGROUND

Galveston County has a population of approximately 320,000. Located on the Gulf Coast, the County began to evaluate its justice system in 2017 with assistance from Dr. Tony Fabelo and the Council of State Governments Justice Center.⁷ TIDC issued a policy monitoring report that same year. In 2018, the county submitted a draft plan for a TIDC grant to create a public defender office to address ongoing issues related to bail and increase compliance with Article 17.032 of the Code of Criminal Procedure (covering personal bonds for defendants with mental health issues).⁸

The 10th, 56th, 122nd, 212th, and 405th District Courts operate in Galveston County. There are three county Courts-at-Law. The District Courts hear capital and adult non-capital felony cases. The County Courts-at-Law hear misdemeanor cases. The county also has a dedicated Juvenile Court.

Currently, indigent defendants are represented by private assigned counsel. For death-eligible capital murder cases, Galveston County is a member of the Regional Public Defender Office for Capital Cases (RPDO). In FY2019, when considering attorneys who represent clients in multiple counties, 31 attorneys had caseloads above TIDC Guidelines (128 felony cases, 226 misdemeanor cases, or 31 appeals). This does not count juvenile or capital cases. Eight attorneys had caseloads more than twice that recommended by the Guidelines (one attorney more than four times the Guidelines). For appointments solely within Galveston, 16 attorneys had caseloads above our guidelines. Of these, ten stated that appointments in Galveston constituted 50% or less of their total practice time.

⁷ Dr. Tony Fabelo, Jessy Tyler, et. al. GALVESTON COUNTY JUSTICE SYSTEM ASSESSMENT: PRELIMINARY FINDINGS FOR REVIEW BY LOCAL OFFICIALS (2017). On file with TIDC.

⁸ FY2019 Galveston County Improvement Grant Submission, Grant Narrative, on file with TIDC. Galveston County ultimately decided not to pursue the grant.

In FY2019, Galveston County had \$2,950,054 in indigent defense expenditures. The county was awarded \$234,623 in formula grant funding from TIDC in FY2019. Since FY2016, indigent defense spending has increased. In the “Grant Narrative” from the draft FY2019 proposal, the county noted increased jail costs related to the medical care for mentally ill defendants.⁹

Estimated Misdemeanor Rates, FY2016-2019

Galveston County has seen an increase in misdemeanor appointment rates since 2016. In FY2019, the statewide average misdemeanor appointment rate was 47%; it was 50% in Galveston County. The three-year average for Galveston County (2017 – 2019) was 48%. In FY2019, Galveston County paid \$521,354 in appointed counsel fees for misdemeanor cases.

Category	Statewide FY 2019	FY2019	FY2018	FY2017
% Misdemeanor Charges Defended with Appointed Counsel	46%	50%	47%	48%

Mental health is important to Galveston County. In their FY2019 draft grant submission to TIDC, the county advocated for an office that would:

provide prompt legal resources to advocate for MH PR Bond release and then work with staff social workers to determine the most appropriate outcome for the case that will increase public safety, decrease resource utilization, and connect defendants to community resources for long term treatment instead of allowing them to get stuck in a revolving door of incarceration.¹⁰

⁹ *Id.*

¹⁰ See *supra* n. 3.

Galveston County has recognized an issue that impacts all of Texas and approximately 40% of persons booked into county jails in Texas.¹¹ Nine other counties have invested in specialized mental health defenders, either in a separate division or office.¹² By investing resources in these high-needs individuals, Galveston County will lower the overall burden on the criminal justice system, reduce the need for pretrial incarceration, and lower recidivism rates for the County.

III. DECISION POINTS

Creating a public defender office requires several key decisions. This section explains (1) key decision points, and (2) the assumptions built into the models below. The assumptions built into the models below are generally recommendations, not requirements, unless otherwise noted. Wherever possible, TIDC cites applicable laws, standards, or studies.

A. GOVERNANCE AND LEADERSHIP

Should the public defender have an oversight board?

Model Assumption: Yes. A mental health public defender office should have a board to oversee the performance of the contract.

TIDC requires an oversight board for any public defender office established with TIDC grant funds.¹³ An oversight board also prevents the concentration of power

¹¹ “[O]ver 40% of individuals booked into Texas county jails have previously encountered the public mental health system.” TIDC, TEXAS MENTAL HEALTH DEFENDER PROGRAMS 1 (Oct. 2018), http://www.tidc.texas.gov/media/58014/tidc_mhdefenders_2018.pdf.

¹² *Id.*

¹³ TEX. CODE CRIM. PROC. ART. 26.045 states that the “commissioners court of a county . . . may establish an oversight board for a public defender’s office created or designated in accordance with this chapter.” ⁷ See Principle 1, American Bar Association, *Ten Principles of a Public Defense Delivery System* (2002) (hereinafter “ABA Ten Principles”). The *Ten Principles* are the leading national standards for designing an indigent defense system that delivers competent, effective

in the hands of a single individual and may incorporate diverse perspectives that help guide the office. For these reasons, every public defender office created since passage of the Fair Defense Act has included an oversight board.

A mental health defender can provide the opportunity to coordinate with other county agencies to address the unique cross-system challenges presented by mental health defendants. Just as addressing the needs of a mentally ill defendant may require the coordination of medical, social services, and legal aspects, so too should the board consider seats on the board for these same agencies. The board should meet at least quarterly to discuss issues, such as accomplishments, challenges, caseloads, and budget.

B. ATTORNEY CASELOADS

Question: What should the maximum attorney caseload be?

Model Assumption: Attorneys should handle no more than 239 misdemeanor cases per year.

When attorneys represent too many clients, they must often jettison core legal tasks, including research, investigation, client communication, and filing pertinent motions.¹⁴ This danger is especially present in the mental health context, where an attorney may have to meet with a client repeatedly to establish trust and fully communicate with the client. Given a salary and benefits, public defenders do not face the same economic incentives as private assigned counsel—assuming that caseloads are controlled. Texas public defender offices are required to identify

representation. The Texas Fair Defense Laws, which detail the basic requirements for every indigent defense system in Texas, track the *Ten Principles* in many respects. See TIDC, *Fair Defense Laws 2017-2019*, <http://www.tidc.texas.gov/media/57918/tidc-fairdefenselaws-fy17-19.pdf>.

¹⁴ ABA Principle 5.

maximum allowable caseload limits for each attorney in the office¹⁵ and to refuse appointments that would violate these limits.¹⁶

TIDC has published evidence-based *Guidelines for Indigent Defense Caseloads*.¹⁷ The model below follows TIDC’s Guidelines and assumes that each attorney in the mental health defender office will handle no more than 239 misdemeanor cases per year.

Based on mental health caseload figures provided by Galveston County, the public defender office will handle 439 cases annually. Using TIDC Caseload Guidelines, this requires 1.8 full-time attorneys to handle the caseload. This leaves some available caseload capacity between the three attorneys proposed for the office.

This report suggests that Galveston County consider using this additional capacity to achieve some of the goals set forth in the FY2019 Improvement Grant draft proposal. Attorneys from the mental health defender should have the capacity to staff arraignments and assist with Article 17.032 bail hearings to ensure that mentally ill defendants are identified early so that they can use the resources of the mental health public defender office to connect with services and begin the process of stabilization.

C. ATTORNEY STAFFING

Question: What proportion and types of cases should the office handle?

Model Assumption: The office will represent 100% of seriously mentally ill misdemeanor defendants, or approximately 11% of all indigent misdemeanor defendants who are appointed counsel.

¹⁵ TEX. CODE CRIM. PROC. art. 26.044(c-1)(3). To receive grant funding from TIDC, a public defender office “must have defined caseload/workload standards.” FY2021 Indigent Defense Improvement Grant Request for Applications (RFA), at 14, <http://www.tidc.texas.gov/media/58384/fy21-improvement-grant-rfa.pdf> (hereinafter “FY21 Discretionary Grant RFA”).

¹⁶ Tex. Code Crim. Proc. art. 26.044(j).

¹⁷ Carmichael et al., Public Policy Research Institute at Texas A&M University, *Guidelines for Indigent Defense Caseloads* (2015), http://www.tidc.texas.gov/media/31818/150122_weighteddel_final.pdf.

Galveston County has requested that the TIDC model be limited to indigent misdemeanor mental health defendants. The model below assumes that the office will represent 100% of seriously mentally ill misdemeanor defendants, which is approximately 11% of all indigent defendants charged with misdemeanors.¹⁸

D. SALARIES AND STAFFING

1. What should staff be paid?

Model Assumption: Public defender employees will be paid salaries similar to the Galveston County District Attorney's Office.

2. What should the staffing levels for investigators, caseworkers, support staff, and managers be?

Model Assumption: Staffing ratios will follow national and state norms. This model calls for 4 staff in addition to attorneys.

The model uses the following salaries to establish a budget for a county-based office:

- Chief Public Defender: \$113,000¹⁹
- Misdemeanor Defender: \$80,000²⁰
- Licensed Clinical Social Worker: \$62,700
- Caseworkers: \$48,000
- Support Staff: \$41,832²¹

¹⁸ This number was provided by Galveston County officials familiar with the percentage of seriously mentally ill defendants in court on a monthly basis.

¹⁹ Based on information provided by Galveston county, these salaries are comparable to salaries from the D.A.'s office.

²⁰ *Id.*

²¹ *Id.*

Galveston County's fringe benefit rate is 22.535%, plus a health insurance budget of \$13,500 per person. TIDC usually recommends that any new public defender office retain an investigator as a staff member. Investigation is a critical part of the defense function. Galveston County spent \$1,000 on investigation expenses for misdemeanors in FY2019.²² The model includes \$5,000 to cover investigative expenses as a budget line-item rather than employee. After the office has been operational for a year, the Chief should have a better sense of whether a full-time investigator needs to be hired.

This model includes a 1:1 ratio of social worker or caseworker to attorney because of the specialized nature of mental health cases. Social workers and caseworkers can complete such essential tasks such as identifying mental health and social services, developing "safety plans" or treatment plans, and liaising with the state hospital for competency restorations more effectively than attorneys. This saves more expensive attorney time to work on the legal aspects of the case and more effectively represent more clients.

²² Galveston County Indigent Defense Expenditure Report. On file with TIDC.

E. OPERATIONS

1. What should be the budget for operating expenses, including office space, equipment, training, travel, technology, and expert witnesses?

Model Assumption: Operating expenses are included in the model.

2. Will there be a buildout or use existing office space?

Model Assumption: The model uses a standard formula to estimate ongoing costs for rent and utilities. Galveston County may have other plans to build out office space that are not budgeted in this model.

Operating expenses have been estimated using a combination of local Galveston data and reasonable estimations based on similar offices. A full detail of annual operating costs are included in the budget, detailed in Appendix A. Following is a description of some of those expenses.

Start-Up Costs: Establishing a new office will entail one-time expenditures for computers, printers, desks, chairs, and miscellaneous office supplies. TIDC would fund 80% of the start-up costs of the office. This model assumes a one-time startup costs of \$20,950, including \$10,500 for computers, \$2,400 for printers, \$5,600 for desks and chairs, and \$2,450 for miscellaneous supplies.

Office Space and Utilities: Galveston County should decide where is the best, most economical location of an office to service the County. In this model, office space and utilities are budgeted at 150 square feet per staff, at \$15 per square foot per year. This amounts to a budget of \$15,750 per year.²³

²³ Discussions with Galveston County officials indicate that the county intends to submit costs for a buildout, amounting to \$680,000. In this planning study, staff can estimate the ongoing rent and utility costs but cannot evaluate the cost-effectiveness of a buildout. Buildout costs are not included in the final budget in this planning study.

Training: Public defender offices can use their staff and facilities to provide in-house continuing legal education to their attorneys and to the wider legal community. A public defender can be an institutional resource and hub for learning that improves the quality of representation provided by appointed counsel.³⁰ Defenders working together in an office benefit from informal mentoring, case consultation, and day-to-day observation. A close professional network helps newer attorneys, especially, improve their skills and avoid costly mistakes.

While in-house training is important and necessary, attorneys, investigators, and caseworkers should also attend trainings outside the office to stay abreast of current developments in law and practice. The model budgets \$900 per year per attorney and \$500 per year per social worker, casework, and support staff for staff training.

Travel: Because this is a single-county, limited-scope public defender office, travel expenses should be less than in more rural offices. The model budgets \$7,200 per year for office travel.

Technology: The structure of a public defender office lends itself to ongoing, standardized performance reviews of all staff. An office that uses an up-to-date case management system can make more rigorous, data-driven assessments of quality and costs, which allow the oversight board and the county to scrutinize performance and funding requests thoroughly. Investment in technology can also create savings by automating tasks and saving valuable staff time. This budget includes \$500 per year, per person for IT and Admin services.

Expert Witnesses: Stakeholders developing a public defender plan need to determine what the office budget will be for expert witnesses, or if all expert funding will come from the courts on an as-needed basis. The model suggests a budget of \$10,000 given that there will likely be expert expenditures related to mental health cases in the future.

Annual Operating Expenses	
Rent/Utilities	\$ 15,750
Travel	\$ 7,200
Misc. Supplies	\$ 2,450
Admin/IT	\$ 3,500
Training	\$ 4,700
Total	\$ 33,600

IV. MODEL

Based on the assumptions above, TIDC has modeled a misdemeanor mental health public defender office. Many of the factors explored in the previous section and the estimates incorporated into the draft budgets are variable and can be adjusted to strike the proper balance between cost-effectiveness and quality representation.

The model assumes that misdemeanor appointment rates will be 50% (the FY2019 indigency rate) and the percentage of mentally ill defendants that would qualify for representation by the office would be 11% of that subtotal. The office will represent indigent defendants in 11% of indigent defense appointments that are identified as having a mental illness or disability.

The model includes the following staff:

Galveston County Mental Health Public Defender Office

7 Proposed Staff Positions

- 1 Chief Public Defender
- 2 Misdemeanor Defenders
- 1 Licensed Clinical Social Worker
- 2 Caseworkers
- 1 Support Staff

It would cost approximately \$744,292 to establish the office, which includes \$20,950 in start-up costs. TIDC would fund 80% of the office in the first year, or \$595,434. Galveston would then see a step-down grant that would pay for 60% in year two, 40% in year three, and 20% in the final year of the grant before the public defender would become the sole funding responsibility of Galveston County. Over four years, the county would receive about \$1.46 million in state funding under this model. TIDC grants are contingent on available funding, approval by a grant review committee, and a vote of the full TIDC board.

The following is an estimate of the costs that TIDC could reimburse based on a public defender office with a \$723,342 annual budget:

Estimated Improvement Grants Award for a Galveston Mental Health Public Defender Office

Grant Year	State Improvement Grants
Year 1 (80%)	\$ 595,434
Year 2 (60%)	\$ 434,005
Year 3 (40%)	\$ 289,337
Year 4 (20%)	\$ 144,668
Total over 4 Years	\$ 1,463,445

While the county will be responsible for the full costs of the office in year 5 and beyond, the services provided by the office should be better than the current system, including a social worker and caseworkers who can improve access to mental health and social services; improved attorney oversight; accountability and quality controls; and better data collection.³⁴ The above estimates also do not reflect reduced costs for assigned counsel resulting from the public defender office representing 439

misdemeanor defendants with mental illness. Assuming that the current cost-per-case for misdemeanors under the assigned counsel system is \$527 per case, the estimated savings from assigned counsel costs are: \$231,450. This amount offsets the overall outlay by the county for establishing the new office.

Finally, the estimates do not reflect the changes to formula grants based on the county's reduced expenditures, but we anticipate the reduction to be nominal. TIDC's Board increased Formula Grant funding for FY2020, with the baseline going from \$5,000 to \$15,000. Between FY2018 and FY2019, Galveston County's Formula Grant went up from \$220,905 to \$234,623.

IV. CONCLUSION

An MMHPDO should improve indigent defense quality, constitutional compliance, accountability, and budget predictability. The MMHPDO also stands to create ongoing benefits to the community, including reduced recidivism, and lower jail populations.²⁴ TIDC stands ready to partner with Galveston County to provide technical assistance and explore financial assistance to create a mental health PDO suited to the county.

²⁴ According to a 2016 study of the Travis County Mental Health Public Defender, lower recidivism rates as well as lower total jail bed days were positive outcomes seen from the operation of the office. Travis County Mental Health Public Defender Office, 4. *Available at:* https://www.traviscountytexas.gov/images/criminal_justice/Doc/mhpd_evaluationfeb-2016.pdf.

V. BUDGET

	Staff	Total
Total Staff Salaries	7	\$ 473,532
Chief Defender (\$113,000 salary)	1	\$ 113,000
Misdemeanor Defender (\$80,000 salary)	2	\$ 160,000
Licensed Clinical Social Worker (\$62,700)	1	\$ 62,700
Caseworker (\$48,000 salary)	2	\$ 96,000
Support Staff (\$41,832 salary)	1	\$ 41,832
Fringe (22.535%)		\$ 106,710
Health insurance (\$13,500/person)		\$ 94,500
Experts Budget		\$ 10,000
Investigator (contract)		\$ 5,000
Operating Costs (\$500/yr Tech, \$350/supply per employee)		\$ 5,950
Training (\$900 per atty; \$500 per social worker, investigator and caseworker and support staff)		\$ 4,700
Travel (\$100/attorney, investigator and caseworker)		\$ 7,200
Rent & Utilites (150 sq.ft./staff @ 15 sq. ft. per year)		\$ 15,750
Estimated Total Cost for Public Defender		\$ 723,342
Additional Year-One Expenditures		
Computers		\$ 10,500
Printers		\$ 2,400
Desks & Chairs (7)		\$ 5,600
Misc Supplies (startup)		\$ 2,450
Total Startup Costs for Year One		\$ 20,950

VI. APPENDIX B: BENEFITS OF MENTAL HEALTH DEFENDER PROGRAMS

Defense attorneys are key stakeholders in many of the areas described above. At each “intercept” in the criminal justice system, defense counsel can support efforts to identify people with mental illness and divert them appropriately. This is especially true in the 14 counties that have specialized indigent defense programs for mental health matters. This section describes how specialized, team-based representation benefits these programs’ clients, communities, and criminal justice systems.

A. Reduce Jail Populations

Public defender offices and managed assigned counsel programs can reduce jail populations by:

- Ensuring that defendants are promptly appointed counsel;
- Ensuring lawyers and defense team social workers meet with clients in jail to improve medication compliance and reduce decompensation;
- Developing “safety plans” or treatment plans to obtain a mental health personal bond under Code of Criminal Procedure art. 17.032; and
- Advocating for earlier release under mental health personal bonds.

Mental Health Defender Programs Reduce Jail Populations, Save Counties Money

Bexar Co. Public Defender’s Office (BCPDO): An estimated 3,615.5 days of confinement were avoided in FY2016-2017 thanks to the office’s program representing defendants with mental illness at magistration. Since 2015, approximately 6,255 days of confinement were avoided.

Ft. Bend Co. Mental Health Public Defender’s Office: The office reduced jail days from 56.9 days to 19.4 days for misdemeanor defendants with mental illness. Savings ranged from \$32.26 per case to \$734.51 per case.

Wichita Co. Public Defender’s Office: An estimated 730 jail bed days were averted in the first 15 months of the program by identifying mentally ill defendants sooner and sending them more quickly to North Texas State Hospital. This saved the county an estimated \$48,000.

Collin Co. Mental Health Managed Counsel Program: The program saved the county an estimated \$176,133 in 2013 and \$630,406 in 2014 by reducing jail bed days for clients released on mental health personal bonds and reducing jail days for clients who need to be restored to competency. Additional jail savings that weren’t quantifiable include savings in multi-county cases due to effective case management and early case disposal.

Source information for statistics about public defender outcomes in this chapter are cited in the descriptions of the offices in Chapter IV, Mental Health Defender Programs in Texas.

B. Reduce Unnecessary Competency Evaluations

Some mental health defender programs have reported saving counties money by reducing requests for competency evaluations. Competency evaluations can be expensive and result in longer stays for defendants waiting to be evaluated. By reducing competency evaluations, savings can be realized through reduced evaluation costs and reduced jail costs.

These savings are not certain, however. If a county has a low level of competency evaluation requests, that could be indicative of the need for better trained defense counsel, magistrates, or jail personnel. Adding attorneys and social workers trained in mental health could result in more defendants being accurately identified as incompetent. Better trained attorneys will also result in better representation, which could mean advocating for a second opinion when a forensic psychiatrist fails to make such a finding.

Mental Health Defender Programs May Reduce Unnecessary Competency Evaluations

Collin Co. Mental Health Managed Counsel Program (MHMC): Stakeholders reported that the program saved the county money because fewer competency evaluations were being requested thanks to MHMC attorneys being better trained and experienced in recognizing competency issues.

Wichita Co. Public Defender’s Office: The office saved the county an estimated \$37,500 in the first 15 months of the program due to fewer competency exams being requested.

C. Reduce Recidivism

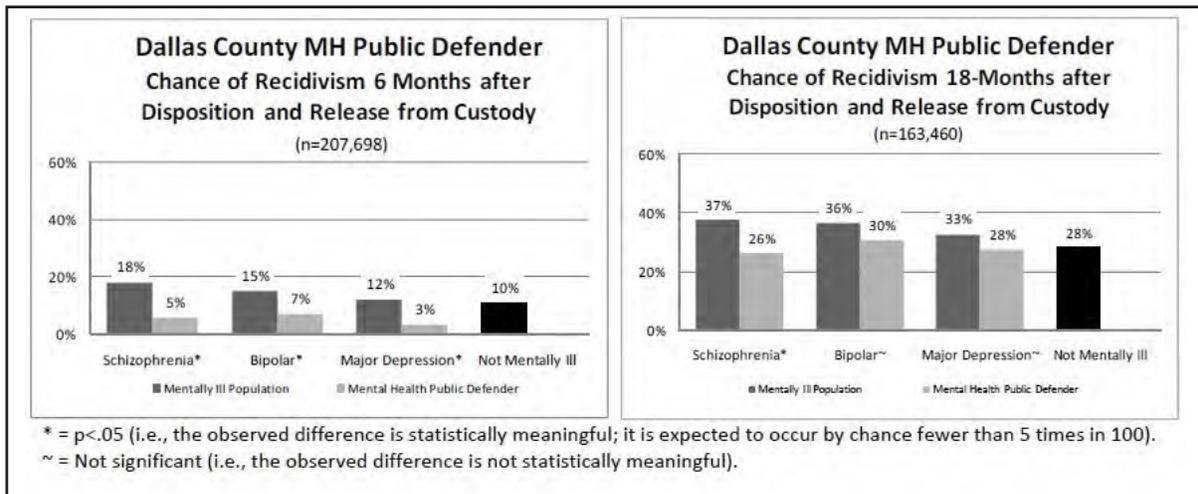
By providing quality representation, reducing incarceration, and connecting clients with mental health and social services, defense counsel can reduce recidivism. As a result, communities are safer and public resources are saved through reductions in rearrests and reincarceration.

Mental Health Defender Programs Reduce Recidivism

Travis County Mental Health Public Defender (MHPD): For clients with disposed cases between FY2009-13, 39 percent of MHPD clients were rearrested, as compared to 50 percent of defendants represented by counsel from the mental health wheel.⁴⁸

Dallas County Mental Health Public Defender (DCMHPD): An evaluation of the DCMHPD found that six months after case disposition, the office’s clients experienced significantly lower rates of recidivism compared to a control population not represented by the office. Re-arrest rates for DCMHPD clients with schizophrenia and major depression were about two-thirds lower than the control group, and about half lower for persons with bipolar disorder. Recidivism was still significantly lower 18 months after case disposition for persons with schizophrenia who were represented by the DCMHPD.⁴⁹

Figure 3. Recidivism Rates of Dallas County Mental Health Public Defender Clients at 6 and 18 months



D. Improved Quality of Representation and Case Outcomes

Mental health defender teams include attorneys, social workers, investigators, and support staff who specialize in representing defendants with mental illness or intellectual disabilities. This specialty team approach results in better, more efficient representation and better case outcomes, because each team member is specialized in his or her area of practice while also benefiting from interdisciplinary collaboration: attorneys are well-versed in relevant law; social workers assist attorneys in finding available services and developing treatment plans; and all staff are trained in working with clients with special needs. Dedicated teams can also build rapport with prosecutors and the judiciary that can result in favorable case dispositions.

Mental health defender programs also train the private defense bar to improve the quality of representation for defendants with mental illness who are not represented by the mental health defender program due to a conflict of interest or a lack of capacity by the defender office.

Mental Health Defender Programs Improve Representation and Case Outcomes

Ft. Bend Co. Mental Health Public Defender's Office: Over 85% of the office's clients who were surveyed reported being satisfied or very satisfied with the quality of the office's services.

Harris Co. Public Defender's Office (HCPDO): Misdemeanor dismissals were almost five times more likely for HCPDO clients with mental health diagnoses than for a similar group of defendants with assigned counsel. HCPDO secured dismissals for 27% of clients vs. 6% in the match group. County court judges who refer cases to the Mental Health Division reported being "thrilled with the office's work and said attorneys were 'extremely professional.'"

Travis Co. Mental Health Public Defender Office: Clients were more likely to receive dismissals compared to assigned counsel on the mental health wheel. The office received dismissals in 47% of their cases, compared with 19% of assigned counsel cases. The office also provides training opportunities on mental health issues to members of the private bar, including those on the mental health wheel.

Capital Area Private Defender Service (CAPDS; Travis Co.): In the first quarter of FY2018, CAPDS reported completing 30 attorney requests for mitigation assistance, which can result in cases being dismissed or other favorable case dispositions. The office has provided many mental health CLEs and trainings for its panel attorneys, investigators, and mentees. The social workers also host an annual CAPDS Resource Fair in the courthouse to expose court personnel to available social services for diversion, pretrial services, probation, and reentry.

E. Improved Efficiency of Courts and Case Processing

Mental health defender programs coordinate legal, treatment, and social services. Multidisciplinary coordination leads to quicker case disposals and earlier access to treatment and social services, as well as additional cost savings.

Mental Health Defender Programs Improve Efficiencies

Collin Co. Mental Health Managed Counsel Program (MHMC): The office identified various cost savings that were not quantifiable but nonetheless occurred due to efficiencies created by the office. The office noted jail and medical cost savings due to effective case management, expedited dispositions, and release of defendants; transportation, jail, and court savings due to MHMC acting as a liaison with the state hospital; and medical savings due to MHMC court liaison activities.

Travis Co. Mental Health Public Defender (MHPD): The office's cases were disposed quicker, on average, than assigned counsel cases. The MHPD disposed a case in an average of 51.09 days, while assigned counsel took an average of 91.49 days, a difference of 40.40 days per case.

Wichita Co. Public Defender's Office: The mental health case manager saved the county approximately \$7,500 by reducing time that private appointed counsel spent on cases involving defendants with a mental illness.