

## Monika Arris

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**From:** Judge Ray Wheless  
**Sent:** Monday, February 11, 2013 1:41 PM  
**To:** Monika Arris; Judge Cyndi Wheless  
**Subject:** RE: Drug Court Question

Hi Monika,

As you probably know, every Texas County with a population over 200,000 is required to establish a drug court program. (See, Sec. 469.001 Texas Health and Safety code. And the program established must have procedures to include DWI offenses.

At the present, we have one felony drug court program, two misdemeanor drug court programs (with a third under consideration), one juvenile drug court program and one veteran's court program. Because of the jurisdictional differences between felony, misdemeanor and juvenile cases, it is important to have one felony drug court program, one misdemeanor drug court program, one juvenile court program and one veteran's court program.

It is my understanding that presently none of these five programs are full. Therefore, it is difficult to see how we need two, and certainly not three, misdemeanor drug court programs. We certainly do not need another felony drug court program. If another District Judge wanted to start one, I would transfer my caseload to his or her program.

At the present time, the Drug Court fund is divided among five drug court programs. If every Judge decided to have a drug court program, that fund could eventually be divided among fourteen different drug court programs. Since the County provides zero funding for drug court programs, the more drug court programs we have, the less each program has to spend.

My recommendation is that at the present time, Collin County should authorize one felony drug court program, one misdemeanor drug court program, one veteran's court program and one juvenile court program. If and when all of these programs are at maximum capacity, and are forced to turn people away, then additional programs can be considered.

Every drug court program is required by law to have a prosecutor and a defense attorney:

§ 469.001. Drug Court Program Defined; Procedures for Certain Defendants

(a) In this chapter, "drug court program" means a program that has the following essential characteristics:

(1) the integration of alcohol and other drug treatment services in the processing of cases in the judicial system;

(2) the use of a nonadversarial approach **involving prosecutors and defense attorneys** to promote public safety and to protect the due process rights of program participants;

The Prosecutor is obviously paid for by the County. In cases where the defendant is indigent (probably 90% of our cases), the Constitution and the Supreme Court case of *Gideon v. Wainwright*, requires the County to pay for a court appointed attorney. When a case is pled out or tried, the defense attorney submits a pay request. That fee is added to the defendant's court costs. If a motion to revoke is filed because the probationer violates conditions of probation, that attorney is re-appointed to the case. The fee for representing someone on a probation violation is \$750.00. By having a defense lawyer on the drug court team, we rarely file motions to revoke probation. Since 10-1-10, we have had 21 people commit probation violations that we did not file on. Had we filed on those people, the cost to the County for court appointed attorney's fees would have been approximately \$13,500.00. Instead, we have not filed on those people because the drug court defense attorney resolved the issues within the context of drug court.

The Defense Attorney should be paid for out of the General Revenue Fund, as are all court appointed attorneys. Because the Commissioners Court would not approve payment for the defense attorney assigned to drug court, I have been forced to use the court costs generated by drug court participants to pay our defense attorney \$5,000.00 per year. In other words, I am using funds intended for treatment for an expense the County is legally obligated, but refuses, to pay.

While it would be preferable to have a line item for an expense called "Defense Attorney" in our budget, and to have that expense paid for by the County, that is not the case. Instead, it is paid out of the fund called "Alcohol/Monitoring." Our defense attorney attends every drug court staffing and every drug court meeting, so she gets paid about \$52.00 per hour, or half of what lawyers are normally paid for indigent defense.

Please let me know if you have any additional questions.

*Ray Wheless*

JUDGE, 366TH DISTRICT COURT  
COLLIN COUNTY, TEXAS

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**From:** Monika Arris  
**Sent:** Monday, February 11, 2013 11:22 AM  
**To:** Judge Ray Wheless; Judge Cyndi Wheless  
**Subject:** Drug Court Question

Judge Wheless & Judge Wheless,

How is the Defense Attorney on the Drug Court team paid (or are they)? A while back, you, Judge Ray Wheless had asked for a \$5,000 budget from the Drug Court Fund to pay for a Defense Attorney for his Drug Court. It did not pass. I now understand from Judge Walker that a defense attorney is required to be present if the defendant is sentenced to jail time. In your drug court, is this person a volunteer? Are they always present for Drug Court when you need them?

The reason I ask is I have received a request to establish the \$5,000 budget to pay for a Defense Attorney for Judge Walker's Drug Court (prorated for FY 2013). It would be payment of \$100 a week for the year, the same that was asked for a while back. Funding would come from the Drug Court fund. I'm checking with each of the Drug Court Judges to ask if they would also like to be on the same agenda request. Any supporting documentation on this request (something showing what all this attorney is required to do and why it is needed) would be greatly appreciated.

Regards,

***Monika Arris, CGFO, CIO***  
Director of Budget & Finance  
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## Monika Arris

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**From:** Judge Mason  
**Sent:** Monday, February 11, 2013 10:59 AM  
**To:** Monika Arris  
**Subject:** RE: Drug Court question

Monika,

I paid my defense attorney team member \$3,000 last year and will probably do so again and I may increase the amount to \$5,000. Our defense team member comes to court periodically and always when requested. He is a resource for defendant's in the program, not as their attorney, but to answer any questions. He is also a resource for the drug court when issues arise. A defense attorney is required as part of the model. The reason I decided to use drug court funds to pay him is because that of all the members of the team, he is the only one that actually loses money when he participates in the program. Everyone else is still paid for their time either by their employer or by drug court participants.

I think a \$5,000 budget is a great idea. Why do we need to budget for this if it is coming out of drug court funds?

Corinne

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**From:** Monika Arris  
**Sent:** Monday, February 11, 2013 10:29 AM  
**To:** Judge Mason; Judge Danny Wilson  
**Subject:** Drug Court question

Judge Mason, Judge Wilson,

How is the Defense Attorney on the Drug Court team paid (or are they)? A while back, Judge Ray Wheless had asked for a \$5,000 budget from the Drug Court Fund to pay for a Defense Attorney for his Drug Court. It did not pass. I didn't have any other information other than the person was part of the team at the time the agenda went before Commissioners Court. I now understand from Judge Walker that a defense attorney is required to be present if the defendant is sentenced to jail time. In your drug court, is this person a volunteer? Are they always present for Drug Court when you need them?

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## Monika Arris

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**From:** Judge Danny Wilson  
**Sent:** Monday, February 11, 2013 10:49 AM  
**To:** Monika Arris  
**Subject:** RE: Drug Court question

Sure, I don't see why my court would need to be on that agenda. Thanks

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**From:** Monika Arris  
**Sent:** Monday, February 11, 2013 10:47 AM  
**To:** Judge Danny Wilson; Twyla Caton  
**Subject:** RE: Drug Court question

Judge Wilson,

Would you like me to leave your Court off the agenda item requesting the funding?

Regards,

***Monika Arris, CGFO, CIO***  
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**From:** Judge Danny Wilson  
**Sent:** Monday, February 11, 2013 10:34 AM  
**To:** Monika Arris; Twyla Caton  
**Subject:** RE: Drug Court question

I do not pay a defense attorney. She, Sharon Curtis, is a volunteer because she believes in the program.

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