

Texas Indigent Defense Commission
FY 2020 Indigent Defense Multi-Year Improvement Grant

Program Title: Collin County Managed Assigned Counsel Program

Estimated Program Cost: \$ 283,603

Estimated County Cash Match: \$ 56,721

Introduction (Executive Summary)

The district courts in and for Collin County seek implementation of a Managed Assigned Counsel (“MAC”) program to improve the quality and efficiency of indigent defense representation. If approved, the existing Mental Health Managed Counsel (“MHMC”) program would be subsumed by a comprehensive MAC program that provides indigent services for all criminal and juvenile cases. The MAC program would improve oversight and accountability of attorney appointments and indigent defense spending; enhance the independence of appointed-counsel representation; improve data collection and reporting; ensure that consistent and uniform standards and procedures are applied to attorney training, caseloads, performance, and compensation; and reduce the judiciary’s administrative burden.

Statement of Problem

According to the Texas Indigent Defense Commission (“TIDC”), Collin County expended \$7.12 million in FY 2018 for indigent defense services (related to 3,649 felonies, 3,992 misdemeanors, 1,166 juvenile matters, 98 appeals, and 22 capital murders). Undoubtedly, court-appointments are prodigious and the costs to taxpayers are enormous. However, the county’s obligation to provide effective indigent defense services is a necessary and foundational aspect of governance. It is therefore imperative that the costs and provision of services, as well as the constitutional rights of defendants, be shepherded with scrutiny and vigilance. Although the current system for providing indigent defense services (“Ad Hoc”) has worked adequately, going forward, Collin County is ill-equipped to ensure the requisite quality and efficient administration of services demanded by law, as well as the attentive stewardship of county funds.

Sufficient quality control and oversight are simply not possible with the current Ad Hoc system. An attorney’s “workload [should be] controlled to permit... quality representation” (ABA’s *Ten Principles of a Public Delivery System*). Presently, there is no process by which attorney caseloads are monitored or limited. In addition, an attorney’s ability, training, and experience should correspond to a case’s complexity. *Id.* Counsel should be “supervised and systematically reviewed for quality and efficiency according to nationally and locally adopted standards.” *Id.* Currently, attorneys who meet objective requirements are placed on an appointment list and assigned to cases randomly, regardless of case complexity. Due to their primary obligation to resolve the controversies pending in their courts, trial court judges simply cannot devote the time or resources necessary for the careful and deliberate review of attorney performance, requests for compensation, and for the maintenance of appointment

lists. In addition, the trial court judges cannot provide attorneys with the systematic training on policies and procedures necessary for optimal and efficient delivery of indigent defense services.

The current Ad Hoc system places responsibility for attorney screening, performance monitoring, and compensation, as well as the review and approval of defense investigators and experts, on the trial court judges, who are often constrained by their adjudicative responsibilities and not able to give administrative tasks the attention and scrutiny they deserve. As a result, administrative tasks are relegated, resulting in reduced quality and efficiency. Furthermore, criminal defense work remains dependent on, instead of independent from, the administrative decisions charged to individual judges.

Objectives

Implementation of the MAC program will improve the quality of representation for indigent defendants through the provision of more robust and comprehensive services. The program will improve oversight and accountability of indigent defense spending; enhance the independence of appointed-counsel representation; increase transparency by implementing comprehensive electronic data collection and reporting; ensure that uniform standards and procedures are consistently applied to attorney training, caseload management, effective representation, and compensation requests; and reduce the judiciary's administrative burden.

Implementation Objectives

1. Establish MAC Oversight Board by October 31, 2019.
2. Commencement of MAC program services on or before January 1, 2020.

Program Objectives

1. Ensure that attorney appointments are made within the time prescribed by Texas Code of Criminal Procedure ("CCP") Art. 1.051(c);
2. Ensure that at least 90 percent of attorney-client contact is made within the time prescribed by CCP Art. 26.04(j)(1);
3. Decrease significantly the average number of inmates' days-in-jail by expediting procedures for release on personal bond and/or reduced bond, and procedures to facilitate disposition.

Activities

Texas counties provide indigent services by utilizing one or more of the three methods prescribed by the CCP: 1) Ad Hoc system; 2) Public Defender's Office; and/or 3) MAC program. The circumstances of Collin County, in the year 2019, (i.e., its population, number of courts, and court caseloads) render the current Ad Hoc system onerous, inefficient, and more costly due to the burden placed on trial court judges to administer it. A Public Defender's Office would likely address many of the problems associated with an Ad Hoc system; however, despite being the most expensive and expansive of the three options, it is almost certain that a Public Defender's Office would require an Ad Hoc system to supplement the availability of qualified attorneys and ensure minimum standards of prompt and

effective assistance of counsel. The proposed MAC program endeavors to incorporate the advantages of both a Public Defender's Office and the current Ad Hoc system, while eliminating or minimizing each's flaws.

Implementation

1. Establish MAC Oversight Board

Upon notification of grant approval, the commissioners court will establish a board for oversight of the MAC program (the "Board"). The (constitutional) county judge, local administrative district judge, and local administrative statutory county court judge will comprise the Board. The commissioners court will define the powers and duties of the Board, which shall include: (a) selection and removal of the Director and other employees; (b) setting policies and procedures for the office; (c) preparing a proposed budget for the office.

2. Implement MAC Program

The board will select a Director on or before October 31, 2019. The Director will prepare a written plan of operation, which shall include the requirements prescribed by CCP Art. 26.047, on or before November 30, 2019. Performance standards will be established on or before January 1, 2020.

The MAC program, if approved, will combine and expand the MHMC program and Indigent Defense Office. The MAC program grant will fund two new positions – Director and Secretary. The two (2) will be added to the eight (8) existing positions for a total of ten (10) MAC program employees.

Concurrently with staff hiring, courthouse office space will be converted as needed to accommodate the needs of the program. Projects may include: remodeling of office and/or cubicle space; procurement and/or installation of copiers, fax machines, printers, scanners, telephones, computers, monitors, office supplies, desks, chairs, filing cabinets, trash bins, dry erase boards, desktop organizers; business cards; In addition to general operation software necessary for most computing systems, the program will need to expand the existing case management software which provides event scheduling, tasks and alerts, conflict management identification, and document editing, indexing, and searching capabilities along with reporting features.

If approved, the MAC Program will be fully operational on or before January 1, 2020.

Operation

1. Assignment of Counsel

Following indigence determination, the MAC program will appoint attorneys from public appointment lists using a system of rotation. Each list will be based on specific and objective qualifications, including minimum standards of experience and training. Appointments will be made within one working day of the indigence finding. Appointed counsel will then make

initial contact with the client no later than the end of the first working day and conduct an initial client interview no later than five business days after the date of appointment.

2. Review and Decide Requests for Investigators and Expert Assistance

The Director (or Assistant Director) will review requests for the appointment of investigators or expert assistance and decide requests within two working days of receiving the motion. An attorney who disagrees with a decision may appeal it by presenting the request to the presiding judge by filing and presenting an ex-parte motion.

3. Administrative Oversight

The MAC program will provide enhanced oversight and accountability of appointed attorneys through regular and systematic training, supervision, and performance reviews. The Director will be responsible for reviewing and deciding applications for inclusion on appointment lists. The guidelines for approval or disapproval will be applied in a uniform and consistent manner. The Mac program's plan of operation will establish specific guidelines for attorney training and performance, attorney lists, assignment of cases to attorneys, maximum attorney caseloads, conflicts of interest, complaints against attorneys, and how each shall be maintained and monitored. In addition, pertinent data will be collected and reviewed to monitor compliance with program guidelines, including date and time of initial attorney-client-contact and interview, complaints against appointed counsel, and continuing legal education and training completed by attorneys.

In addition to the foregoing, case data (e.g., number of cases assigned and disposed, disposition type, days-in-jail, compensation paid), will also be collected and reviewed for irregularities and trends. MAC program staff will prepare monthly, quarterly, annual and ad-hoc reports, as required by TIDC, or as directed by the oversight board, a presiding judge, the commissioners court, the court administrator, and the county administrator, to ensure that the program is operating as it should.

4. Approval of Compensation Requests

In an effort to reduce the administrative burden on the presiding judges and improve the independence of the indigent defense representation, the MAC program director or (assistant director) will review and approve compensation requests presented by appointed attorneys, investigators, and experts within five business days of receipt. By transferring the review and approval or disapproval of payment requests from the presiding judges to the MAC program, payment processing will be more efficient and accurate, and payment guidelines will be applied in an objective, uniform, and consistent manner. An attorney who disagrees with a payment decision may appeal it to the presiding judge of the administrative judicial region in accordance with CCP Art. 26.05(c).

Evaluation

Successful implementation will depend on the completion of each benchmark within the designated timeframe. Reportable data will include:

- Date Oversight Board is established
- Date job descriptions are completed
- Date Director and other staff begin employment
- Date performance standards are completed
- Date program launches

Successful operation will depend on the timeliness of dispositions, reduction of days-in-jail, reduction of attorney complaints, timeliness and accuracy of compensation request processing, and program costs versus historical indigent defense costs. Reportable data will include:

- Number of cases assigned to MAC program
- Number of cases disposed
- Number of cases assigned per attorney
- Average caseload per attorney
- Average cost per case
- Number of days from appointment to first contact
- Number of days from appointment to first interview
- Number of days in jail from arrest to disposition
- Number of days in jail from arrest to release on bond
- Number of communications from jail regarding bond eligibility
- Number of complaints made against attorneys
- Number of cases by disposition type (dismissal, agreed plea, trial, etc.)
- Number of convictions and acquittals
- Number of hours of attorney CLE and training
- Number of compensation requests processed
- Percentage of compensation requests decided within 5 business days of receipt

Data will be collected from the county's criminal justice case management system (Odyssey), as well as from the MAC program's case management software. Reported data will be analyzed to determine program effectiveness.

Future Funding

Over the four-year grant period, it is expected that program accomplishments will evidence a higher quality of indigent defense services, increased transparency, improved efficiencies, and more accountability for all interested parties. If successfully implemented and proven effective, Collin County will make a good faith effort to continue funding the MAC program.

Budget and Budget Narrative

Category	Description	Cost
Personnel	Director - \$121,921 salary + \$34,039 benefits	\$ 155,960.00
	Secretary - \$36,596 salary + \$20,167 benefits	\$ 56,763.00
	Travel reimbursement, seminar registration, etc.	\$ 7,000.00
Travel & Training	Professional memberships	\$ 1,500.00
	Computer & peripherals, county standard - 2 @ \$2,100	\$ 4,200.00
Equipment	Software - 2 @ \$650	\$ 1,300.00
	Printer, county standard - 2 @ \$525	\$ 1,050.00
	Scanner, county standard - 2 @ \$975	\$ 1,950.00
	DVD copier, county standard - 1 @ \$200	\$ 200.00
	Copier, county standard - 1 @ \$1,100	\$ 1,100.00
	Desks - 2 @ \$2,800	\$ 5,600.00
	Office and client chairs - 2 @ \$450, 4 @ \$250	\$ 1,900.00
	Filing / storage cabinet - 2 @ \$850	\$ 1,700.00
	VOIP phone, county standard - 3 @ \$690	\$ 2,070.00
	Conference table and chairs - 1 @ \$1,000, 12 @ \$380	\$ 5,560.00
	White board, other office equipment	\$ 1,000.00
	Partitions/cubicle workspace - 2 @ \$6,000	\$ 12,000.00
	Office supplies	\$ 1,500.00
Supplies	Publications for staff	\$ 1,000.00
	Printing costs (e.g., business cards, letterhead, forms, etc.)	\$ 250.00
	Case management software licenses and monthly fees	\$ 20,000.00
		\$ -
Contract Services	---	\$ -
Indirect	---	\$ -
Total Project Cost		\$ 283,603.00
Required County Match		\$ 56,720.60
TIDC Grant Funding		\$ 226,882.49

Personnel = \$212,723

Although the MAC program will consist of ten full-time employees, only two will be paid with these grant funds. The remaining eight are already county employees (for the indigent defense office and MHMC program). The Director who will be responsible for the implementation, development, and administration of the program. The Director will also provide guidance, mentoring, and legal counsel to court-appointed attorneys. The Secretary will provide administrative support for the Director; assist with the review and processing of compensation requests; assist attorneys, clients, and the public; and assist with the preparation of reports.

As Collin County employees, the new positions would receive standard county benefits which include FICA/Medicare (salary x 0.0765), medical/dental/RX insurance (\$1,150/month), long term disability (salary x 0.0025), short term disability \$3.20/month, long term care (\$15/month), retirement (salary x 0.08), supplement death benefit (salary x 0.0026), unemployment insurance (salary x 0.001).

Travel and Training = \$8,500

Monies have been set aside for professional development and memberships in order to ensure AC Program staff maintain high levels of professional excellence and stay abreast of the latest laws, trends, and industry standards.

Equipment = \$39,630

Provision of necessary office equipment and furnishing for the program staff will be a one-time cost. Items include computers, software, and peripherals; desks, chairs, and filing cabinets; conference table and chairs; essential program equipment; and basic office and desk supplies. Office space will be provided for all program staff at the Collin County Courthouse; however, space may need to be partitioned for functionality.

Supplies = \$22,750

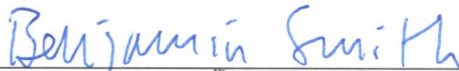
These funds will be utilized for recurring office supply needs, to include items such as paper, folders, pens, staples, paper clips, and miscellaneous items. Additionally, necessary publications, program printing costs, and case management software licenses and monthly service will be provided under this category.

**INDIGENT DEFENSE MULTI-YEAR IMPROVEMENT GRANT PROGRAM
COOPERATION AGREEMENT**

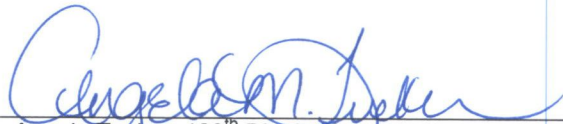
Collin County has applied for a discretionary grant from the Texas Indigent Defense Commission to assist in funding Public Defender / Managed Assigned Counsel (MAC) program. Implementation of this program will affect the courts below. The undersigned judges agree to support and participate with the program 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:



Benjamin Smith, 380th District Court Judge
Local Administrative District Judge



Angela Tucker, 199th District Court Judge



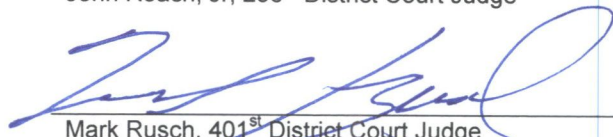
Jennifer Edgeworth, 219th District Court Judge



John Roach, Jr, 296th District Court Judge



Ray Wheless, 366th District Court Judge



Mark Rusch, 401st District Court Judge



Andrea Thompson, 416th District Court Judge



Cynthia Wheless, 417th District Court Judge
Chairman of the Juvenile Board



Piper McCraw, 469th District Court Judge



Emily Miskel, 470th District Court Judge

2020 County Resolution
Indigent Defense Improvement Grant Program

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, Collin County Commissioners Court has agreed that in the event of loss or misuse of the funds, Collin 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 the Local Administrative District Judge is designated as the Program Director for this grant and the County Auditor is designated as the Financial Officer for this grant.

Adopted this _____ day of _____, 2019.

Chris Hill
County Judge

Attest:

Stacey Kemp
County Clerk

Note: This Required Resolution is to obtain grant funds. Please do not alter it other than to fill in the optional spaces. Please direct request to alter to the Commission Special Counsel.

Internet Submission Form

After submitting the Improvement grant application on-line, the following Internet submission confirmation number was received # _____. This grant application submission was in accordance with the Commissioners Court Resolution above.

Chris Hill
County Judge