

# Texas Indigent Defense Commission FY 2016 Discretionary Grant

**Program Title:** Collin County Managed Assigned Counsel Program

**Estimated Program Cost:** \$342,740

**Estimated County Cash Match:** \$68,548

## **Introduction (Executive Summary)**

Collin County seeks to improve the quality of representation for indigent defendants through the provision of more robust and comprehensive services through the implementation of a Managed Assigned Counsel (MAC) Program. This program would expand the existing Collin County Mental Health Managed Counsel (MHMC) program to juvenile and felony cases. The program would improve oversight and accountability of indigent defense; enhance independence of the defense function; improve data collection; ensure consistent standards/procedures are applied to attorney training, caseloads, performance, and compensation; and reduce judicial administrative burden.

## **Problem Statement**

Collin County appoints attorneys for indigent persons in a significant amount of cases and is committed to providing quality indigent defense. In FY 2014, according to TIDC data, Collin County expended \$2.4 million providing court-appointed indigent defense services for 2,121 felony and 838 juvenile cases. While the current Collin County assigned counsel (“ad hoc”) program seemingly works well, the county is unable to guarantee that we are providing the best possible defense services for indigent defendants appointed with counsel.

According to the American Bar Association’s *Ten Principles of a Public Delivery System*, defense counsel’s “workload [should be] controlled to permit the rendering of quality representation” (Principle 5) while their “ability, training, and experience [should] match the complexity of the case” (Principle 6). Counsel should also be “supervised and systematically reviewed for quality and efficiency according to nationally and locally adopted standards” (Principle 10). Currently, attorneys, meeting specific requirements, are placed on a wheel and assigned randomly, regardless of case complexity. Additionally, the lack of systematic training, supervision, and performance standards for attorneys, along with the dearth of caseload data, may be resulting in gaps in services. Unfortunately, the current system does not lend itself to significant quality control and oversight.

The current indigent defense process spans multiple departments, resulting in administrative burden, duplicative efforts, and inefficiencies. In addition, the judicially-managed “ad hoc” system places the responsibility for attorney screening and compensation, as well as approval for investigators and experts, on the already overburdened courts. This not only results in the defense function not being independent from the judiciary, but also causes thousands of hours of administrative work for judges and their court coordinators that could be shifted to a managed assigned counsel program.

## **Objectives**

Implementation of a Collin County Managed Assigned Counsel (MAC) Program will improve the quality of representation for indigent defendants through the provision of more robust and comprehensive services. The program should improve oversight and accountability of indigent defense; enhance independence of the defense function; improve data collection; ensure consistent standards/procedures are applied to attorney training, caseloads, performance, and compensation; and reduce judicial administrative burden.

## Implementation Objectives

1. Establish a selection committee by September 15, 2015.
2. Select and hire MAC Chief Defender by October 30, 2015.
3. Implement full functional MAC program and begin serving clients by January 15, 2016.

## Program Objectives

1. Ensure, at minimum, 90% of counsel appointments are timely per Texas Code of Criminal Procedure article 1.051(c).
2. Ensure, at minimum, 90% of counsel contact with clients is timely per Texas Code of Criminal Procedure article 26304(j)(1).
3. Decrease average number of jail days by expediting cases.
4. Increase timeliness of PR bonds.
5. Reduce the number of attorney complaints filed by defendants by 50%.

## **Activities**

Establishment of a Managed Assigned Counsel program would put Collin County indigent defense services more in line with the American Bar Association's *Ten Principles* for the delivery of indigent criminal defense. This type of program, authorized under Texas Code of Criminal Procedure Article 26.047, would allow Collin County to blend the advantages of both the assigned counsel and public defender systems while minimizing the weaknesses of each.

## Implementation

1. Establish selection committee  
Immediately upon notification of grant award and acceptance, Collin County will form a selection committee consisting of the Program Managing District Judge, Juvenile Court Judge, Court Administrator, a Collin County Commissioner, and the President or designee of the local defense bar. The committee will develop the job description, interview, and select the MAC Chief Defender, who, at minimum, will meet the requirements set forth in Article 26.047.
2. Implement MAC Program  
The selection committee will select and hire the MAC Chief Defender by October 30, 2015. The Chief Defender will develop a written plan of operation, including the information required in Article 26.047 and any other requirements in the Indigent Defense Plan, by December 1, 2015. Attorney, investigator, and expert performance standards will be established by December 15, 2015.

The MAC Program will be a new county department with six (6) full-time employees and one (1) part-time employee. This grant funding will be used for the MAC Chief Defender, Investigator, and the part-time Legal Secretary. Incorporation of the existing Mental Health Managed Counsel (MHMC) Program will bring three (3) other staff positions into the department. Additionally, an existing Indigent Eligibility Specialist from the County Clerk's Office will be moved into the MAC Program. The MAC Chief Defender shall make every attempt to hire new staff needed by December 30, 2015.

Concurrently with staff hiring, the contractor will set up office space at the Collin County Courthouse including remodeling of office and/or cubicle space, as required; equipping the program with copiers, fax machines, printers, scanners, and conference/meeting area; furnishing desks, chairs, filing cabinets, waste baskets, dry erase boards, and desk top organizers; printing of business cards, letterhead, and other program documents; and providing employees with office phones, computers, monitors, basic office supplies, and other miscellaneous start up supplies. In addition to general operation software necessary for most computing systems, the program will need to obtain case management software with event scheduling, tasks and alerts, conflict management identification, and document editing, indexing, and searching capabilities along with reporting features. Software acquisitions will meet the requirements set forth in the FY16 Competitive Discretionary Grant Program – Request for Applications (RFA) issued by the Texas Indigent Defense Commission.

The MAC Program will be fully operational and begin serving juvenile and felony clients by January 15, 2016.

## Operation

1. Assign counsel  
Following determination of indigent status, the MAC will utilize a rotating wheel system, matching attorneys with cases based upon qualification, experience, and training, to appoint eligible defendants with counsel within one

working day. Assigned counsel will make initial contact with the client no later than the end of the first working day and conduct initial interview no later than five business days after the date on which counsel is appointed.

2. Review investigator and expert assistance requests

The MAC will review requests for investigators and expert assistance and make a determination on those requests, including assignment of investigator, if applicable, within two working days of receiving the request. The full-time MAC Investigator will focus on fact investigations as part of the defense representation for indigent clients. Any attorney who disagrees with the MAC's decision may then present the request to the respective Judge via motion for final decision.

3. Oversee program administration

The MAC Program will provide enhanced oversight and accountability through systematic and consistent attorney training, supervision, and monitoring of performance. The program will be responsible for reviewing attorney wheel applications, ensuring accuracy, and maintaining appointment lists. Compliance with standards set forth in the plan of operation including attorney wheel assignments, caseloads, and conflict of interest will be monitored. In addition, the program will collect attorney performance data such as time to initial contact and initial interview, complaints filed against attorneys, and hours of CLEs completed by attorneys.

MAC Program staff will be provided with any necessary continuing education training, professional memberships, and publications to ensure members stay abreast of the latest laws, trends, and industry standards. The program will provide a centralized forum and resource center for defense attorneys from many different firms to collaborate and discuss indigent defense issues.

In addition to the information mentioned above, case data, including number of cases assigned and disposed, type of disposition, and client jail days, will also be collected and reviewed for trends. The program will prepare monthly, quarterly, and annual written performance reports as required by TIDC, Board of Judges, and Collin County Administration to ensure the program is operating as intended. Reports may include current data, statistical analysis, program challenges and successes, and any upcoming activities or concerns, as requested. The MAC will monitor compliance with established attorney, investigator, and expert performance standards at the end of the grant period and annually thereafter.

4. Approval of compensation requests

In an effort to reduce judicial administrative burden and improve independence of the indigent defense function, the MAC Program will review and approve compensation requests by counsel, investigators, and experts within 5 business days of receipt. In addition to increasing consistency, moving this process to the MAC Program should also improve the efficiency of the payment process. Any attorney who disagrees with the MAC's decision may petition the respective Judge for final decision.

5. Conduct annual survey of judges

The MAC Program will create a survey for the District Judges to evaluate their opinion of the representation quality being provided by attorneys assigned through the MAC by September 30, 2016, and annually thereafter. Results should be compiled and compared with the previous year.

***Evaluation***

Program implementation success will be based on accomplishing the tasks assigned within the designated timeframe. Data to be reported will include

- Date establishing selection committee
- Date of recommendation and employment start date for MAC Chief Defender
- Date job descriptions completed
- Dates of hire and employment start dates for MAC staff
- Date performance standards completed
- Date program begins serving clients

Ongoing program success will be assessed based on timeliness of PR bonds, reduction in jail days and attorney complaints, and evaluation of attorney performance, caseloads, and compensation. Data to be reported includes

- # cases assigned to MAC and # disposed
- # cases assigned per attorney
- Average caseload per attorney
- Average cost per case
- # days from appointment to first contact
- # days from appointment to initial interview
- # days in jail from arrest to disposition
- # days in jail from arrest to release on bond
- # email contacts made by jail advising of bond eligibility
- # attorney complaints made by defendants
- # cases by type of disposition (dismissal, plea, trial, etc.)
- # convictions and acquittals
- # fee vouchers processed, % approved within 5 business days
- # hours of attorney CLEs
- Annual judicial survey results

Data will be captured by the MAC Program from the county's criminal justice case management system (Odyssey), as well as from the MAC Program's case management software. Reports will be prepared monthly, quarterly, and annually as required by TIDC, Board of Judges, and/or Collin County Administration, and data will be analyzed to determine program effectiveness.

***Future Funding***

Over the four-year grant period, Collin County expects to obtain data demonstrating the effectiveness of the program. If successfully implemented and proven effective, Collin County will make a good faith effort to continue funding the program.

**Budget and Budget Narrative**

<b>Category</b>	<b>Description</b>	<b>Cost</b>	
Personnel	MAC Director - \$125,905 salary + \$31,250 benefits	\$ 157,155.00	
	Investigator - \$53,925 salary + \$19,547 benefits	\$ 73,472.00	
	Legal Secretary (PT) - \$20,683 salary + \$1,583 benefits	\$ 22,266.00	
Travel & Training	Travel reimbursement, seminar registration, etc.	\$ 7,000.00	
	Professional memberships	\$ 1,500.00	
Equipment	Computers, county standard - 4 @ \$2,100	\$ 8,400.00	
	Software - 4 @ \$500	\$ 2,000.00	
	Computer monitor - 4 @ \$150	\$ 600.00	
	Printer, county standard - 2 @ \$875	\$ 1,750.00	
	Scanner, county standard - 2 @ \$1,000	\$ 2,000.00	
	Copier, county standard - 1 @ \$1,500	\$ 1,500.00	
	Desks - 4 @ \$1,800	\$ 7,200.00	
	Office and client chairs - 6 @ \$335, 8 @ \$167	\$ 3,346.00	
	Filing cabinet - 6 @ \$400	\$ 2,400.00	
	Desk phone, county standard - 6 @ \$485	\$ 2,901.00	
	Conference table and chairs - 1 @ \$800, 12 @ \$225	\$ 3,500.00	
	Partitions/cubicle workspace - 6 @ \$3,000	\$ 18,000.00	
	Supplies	Office supplies	\$ 1,500.00
		Publications for staff	\$ 1,000.00
Printing costs (e.g., business cards, letter head, forms, etc.)		\$ 250.00	
Case management software licenses and monthly fees		\$ 25,000.00	
Contract Services	---	\$ -	
Indirect	---	\$ -	
<b>Total Project Cost</b>		<b>\$ 342,740.00</b>	
Required County Match		\$ 68,548.00	
TIDC Grant Funding		\$ 274,192.00	

Personnel = \$289,497

While the MAC Program will consist of six (6) full-time employees and one (1) part-time employee, only three (3) will be paid with these grant funds. Three (3) will come from the Mental Health Managed Counsel (MHMC) program, which are funded in a separate TIDC grant, and one (1) position will be moved from the County Clerk's Office. Collin County will need to hire a full-time MAC Chief Defender (annual salary \$125,905) who will be responsible for the implementation, development, and administration of the office. The MAC Chief Defender will provide guidance, mentoring, and legal counsel to court appointed attorneys. The full-time Investigator (annual salary \$53,925) will conduct investigations as needed by assigned counsel, including speaking to witnesses, obtaining written statements, finding witnesses and serving subpoenas, and performing various other investigative duties such as testifying in trials and hearings, developing exhibits, and providing assistance to defense attorneys as requested. The part-time Legal Secretary (annual salary \$20,683) will assist with assembly and filing of motions and other legal documents with the court, as well as assist in trial preparation and preparation of subpoenas, pleadings, and discovery.

As Collin County employees, the full-time positions will receive standard county benefits which include FICA/Medicare (salary x 0.0765), medical/dental/RX insurance (\$875/month), long term disability (salary x 0.0026), short term disability \$3.20/month, long term care (\$15/month), retirement (salary x 0.08), supplement death benefit (salary x 0.0025), unemployment insurance (salary x 0.001). The part-time position will include FICA/Medicare (salary x 0.0765) only.

Travel and Training = \$8,500

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

Equipment = \$53,597

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 = \$27,750

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 MAC Program case management software licenses and monthly service will be provided under this category.