



## TEXAS TASK FORCE ON INDIGENT DEFENSE

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CHAIR:  
THE HONORABLE SHARON KELLER  
Presiding Judge, Court of Criminal Appeals

DIRECTOR:  
MR. JAMES D. BETHKE

VICE CHAIR:  
THE HONORABLE OLEN UNDERWOOD

July 7, 2010

The Honorable Robert E Hebert  
Fort Bend County Judge  
Via E-mail: [hebertb@co.fort-bend.tx.us](mailto:hebertb@co.fort-bend.tx.us)

Dear Judge Hebert:

I am pleased to inform you that the Texas Task Force on Indigent Defense has awarded Fort Bend County a FY2011 Continued Multi-year Discretionary Grant in the amount of **\$406,853** in response to your application titled **"Fort Bend County Mental Health Defender Program"**. Your Statement of Grant Award for fiscal year 2011 is attached. Please sign and return via fax the first two pages of the Statement of Grant Award to fax number 512-475-3450 on or before **August 6**, 2010. You do not need to mail a copy.

Congratulations to Fort Bend County on taking the lead in Texas by developing this new indigent defense program. If you have any questions or need clarification on the information contained in this letter or attached Statement of Grant Award, please contact Bryan Wilson, the Task Force Grants Administrator at (512) 936-6996.

Sincerely,

Sharon Keller  
Chair, Task Force on Indigent Defense  
Presiding Judge, Court of Criminal Appeals

**FAXED**

8/12/10 10:35 am

Copy:

Mr. Roderick Glass, Director mental health Public Defender, [roderick.glass@co.fort-bend.tx.us](mailto:roderick.glass@co.fort-bend.tx.us)  
Mr. Robert Ed Sturdivant, County Auditor, [sturdrob@co.fort-bend.tx.us](mailto:sturdrob@co.fort-bend.tx.us)  
Mr. J.C. Whitten, County Administrator, [whitejc@co.fort-bend.tx.us](mailto:whitejc@co.fort-bend.tx.us)



**Task Force on Indigent Defense  
Statement of Grant Award  
FY2011 Discretionary Grant**

Grant Number: 212-01-D18  
Grantee Name: Fort Bend County  
Program Title: Fort Bend County Mental Health Defender Program  
Grant Period: 10/1/2010-9/30/2011  
Grant Award Amount: \$406,853

The Task Force on Indigent Defense (Task Force) has awarded the above-referenced grant to Fort Bend County for indigent defense services. The authorized official named on the grant application must sign this Statement of Grant Award and return it to the Task Force by **August 7 , 2010**. The grantee will not receive any grant funds until this notice is executed and returned to the Task Force. Funding is provided as listed in the categories in the table below:

Direct Costs:	
1) Personnel (Total Number of FTEs: __)	\$362,000
2) Fringe Benefits	\$175,280
3) Travel and Training	\$4,500
4) Equipment	\$0
5) Supplies	\$3,500
6) Contract Services	\$25,000
7) Indirect Costs	40,000
Total Proposed Costs	\$610,280
Less Cash from Other Sources	\$203,427
Total Amount Funded by Task Force	\$406,853

**Standard Grant Conditions:**

- The authorized official for the grantee accepts the grant award.
- The authorized official, financial officer, and program director, referred to below as grant officials, must comply with the terms of the grant as written in the Request for Applications issued on December, 2009, including the rules and documents adopted by reference in the Task Force on Indigent Defense's Grant Rules in Title 1, Part 8, Chapter 173, Texas Administrative Code.
- The grant officials understand that a violation of any term of the grant may result in the Task Force placing a temporary hold on grant funds, permanently deobligating all or part of the grant funds, requiring reimbursement for funds already spent, or barring the organization from receiving future grants.
- Disbursement of funds is always subject to the availability of funds.
- The grant officials agree to follow the grant terms contained in the "Required Conditions and Report" contained in Attachment A.
- Any indigent defense plan documents submitted to the Task Force must continue to meet all grant eligibility requirements.

- The Judges hearing criminal and juvenile matters must maintain amendments to the Indigent Defense Plans to include the program funded under this award.

The authorized official for this grant program has read the preceding and indicates agreement by signing this Statement of Grant Award below:

  
\_\_\_\_\_  
Signature of Authorized Official

Robert Hebert, County Judge, Fort Bend County  
Name & Title (must print or type)

August 12, 2010

\_\_\_\_\_  
Date

# **Attachment A**

## **Required Conditions and Reports**

### **Method of Calculation**

The budget on the Statement of Grant Award was developed under the assumption that the grant be based on a twelve month period. The schedule is intended to provide the county twelve months of funds at each of the original agreed upon funding levels. If the county has a delayed start in the beginning year (FY2009), it may necessitate an adjustment in future years to allow the county to fully expend grant funds. The intention is to still follow the four year declining schedule of 80% in the first year, 60 % in the second year, 40% in the third year, and 20% in the fourth year. The grants will remain on a fiscal year (Oct to Sept), but future awards will reflect any needed modifications to implement this policy.

### **Program Requirements**

In addition to the program requirements stated in the Request for Applications (RFA) these specific program requirements apply to this funded program:

- The county will submit reports to obtain reimbursement of expended funds based on actual expenditures. The reimbursements will be based proportional to the county's required match;
- The County must maintain a public defender board to supervise the operation of this department. The board will consist of: (1) two county commissioners or their appointees; (2) two criminal court judges; (4) one criminal defense attorney not on the Mental Health Wheel ; (5) one criminal defense attorney on the Mental Health Wheel; and (6) one mental health advocate. This public defender board must be responsible for recommending the selection and removal of the Chief Public Defender. The administrative role of this public defender board in supervising the Chief Public Defender including any fiscal authority must be decided by the Commissioners Court. The county will submit a written policy on how the members are to be selected;
- The County must maintain a written policy that includes caseload standards for each attorney and for the operation of this program. In developing caseload standards, nationally recognized standards and standards used by other states shall be taken into consideration. The policy on the caseload standard must require the Chief Public Defender to review the caseload status at least quarterly. The Chief Public Defender may make overrides or under-rides based on overall complexity of cases, overall type of cases, attorney experience, support staff experience, court needs, available technology augmenting services, or other factors affecting the delivery of services. The Chief Public Defender must notify the public defender board in writing if an exception to the caseload standards is authorized;
- The County will develop a written policy that includes a formal intake process for this program. The policy must include: 1) a procedure to refer clients from courts, public defender attorneys, and the private bar; 2) a method to screen and/or assess the defendants who are referred for representation under this program; 3) a set priority population criteria to determine which clients are to be represented if referrals are greater than caseload capacity. The priority population criteria may include factors of mental health, mental retardation, institutionalization history, medical history, seriousness of the offense, impact on the community, or other factors related to the alleged crime or personal history of the defendant. The Chief Public Defender may allow exceptions but all exceptions to the policy from the intake process must be documented and maintained;
- The County must provide to the Task Force staff the minimum job requirements and a full job description of the positions specified under this project before a person is selected;
- The County must provide a copy of the program evaluation reports developed by the independent evaluator hired by the county;

## **Activity**

### **Application Form**

Counties Represented: **Fort Bend**

Fiscal Year: **2010**

State Payee Identification Number: **2-746001969-0**

Division To Administer Grant: **Mental Health Defender Program**

Program Title: **Fort Bend County Mental Health Defender Program**

Requested Grant Amount: **\$497,824.00**

Financial Officer: **Robert Ed Sturdivant**

Program Director: **Leighton Iles**

Mailing Address: **309 S. 4th Street, Suite 719; Richmond, TX 77469**

### **Introduction (Executive Summary)**

The proposed program is designed to provide specialized, trained defense counsel and social workers to assist in early identification of mentally ill offenders and representation of these offenders through the court process. The program will provide effective and efficient delivery of services to felony and misdemeanor offenders suspected of being diagnosed with a mental illness in an effort to expedite the most appropriate legal outcome while minimizing case processing time in jail.

### **Problem Statement**

Due to a lack of available community and residential resources for mentally ill individuals, an increasing number of mentally ill individuals are committed to the county jail for criminal offenses. On average, mentally ill offenders remain in custody longer, have specialized legal and medical issues, and require significant community resources to manage adequately. Without early identification and prompt legal resources, most mentally ill offenders remain in custody for longer periods of time and often are not properly identified and referred to appropriate resources.

### **Objectives**

The primary objective of the program is to provide specialized mental health defender services to indigent offenders with a mental health condition. This grant application seeks to establish a public defender office for misdemeanor cases while continuing to use a "wheel" of private attorneys for felony cases. Attorneys for all cases would be supported by social workers employed by the office.

Mentally ill offenders would be targeted during the jail book-in process for early identification in order to address the mental health concern with the magistrate prior to setting bond conditions. During the magistrate process, the offender would be assigned specialized counsel and a social worker to review the criminal matters as well as gather necessary medical information for proper representation to the court. Early intervention for competency matters, compliance with CCP 17.032, psychiatric referrals and evaluations could begin immediately after the magistrate process. During the court process, the case workers and master level social workers would add an important adjunct to the current process by assisting with verification of a mental health condition, contact and coordination with family members, referrals to community resources, assisting with re-entry planning and aiding the defense attorney in advocating for the defendant.

The objectives of the Mental Health Defender Program are to:

1. Increase coordination and communication with the jail staff, pretrial services, judges, assistant district attorney and Texana Center (MHMR).
2. Assist in implementing Texas Code of Criminal Procedure 17.032 where appropriate.
3. Expedite case disposition in county or district court.
4. Reduce jail time awaiting case disposition
5. Provide additional information to the assistant district attorney and judge in an effort to improve court outcomes.
6. Participate in the felony and misdemeanor mental health courts to increase compliance and successful completion of bond supervision, pretrial diversion or probation.

### **Methodology or Project Design (Activities)**

Fort Bend County is interested in establishing a Mental Health Defender program which would be responsible for the assignment and oversight of defense counsel appointments for mentally ill offenders. For misdemeanor cases, a traditional public defender employed by the county would handle a caseload of mentally ill offenders awaiting trial disposition and assisting individuals in the mental health court. A specialized defense attorney wheel of private attorneys will be used for felony cases, which will be assigned through the Mental Health Defender program. Overflow misdemeanor cases may also be assigned to a specialized defense attorney wheel as needed.

Both the public defender attorneys and specialized wheel attorneys will be supported by specially trained social workers. The social workers will assist immediately upon referral from the magistrate process. The primary responsibility for the social workers will be to gather information for defense counsel regarding the medical, psychological and psychiatric history of the offender, develop a social history and assist with referrals and resources for the individual. With the addition of social workers, it is expected cases will be assigned to a specialized misdemeanor or felony court docket promptly; thereby decreasing jail time. This process will also assist the magistrate in releasing individuals on bond with the participation of social workers obtaining community resources.

Through our planning effort for the past 18 months, Fort Bend County has invested significant effort and funding to improve service delivery for mentally ill offenders. These efforts include establishment of two specialized courts, a specialized prosecutor position and mental health coordinator position. In addition, a consultant has assisted in the planning process in conjunction with the Council of State Governments. Other efforts have also proven successful in providing additional community resources such as residential treatment. These efforts have resulted in improved screening at the jail, improved attention from the Assistant District Attorney, and increased cooperation from various agencies such as the jail and MHMR.

Despite the above accomplishments, one of the most significant gaps is providing an effective specially trained defense counsel assignment immediately after the first magistrate setting. The support and assistance of trained clinical social workers will clearly augment this process. The development of a Mental Health Defender program will provide a structured system to meet this need.

**Activities:**

1. Immediately upon notice that the county has been awarded the grant, an advisory board will be formed to provide recommendations to commissioner's court concerning the establishment and operation of the office. The board will consist of a representative from the Fort Bend County Board of District Judges and Board of County Court at Law Judges, Commissioners Court, Criminal Defense Lawyers' Association and a community based mental health agency providing services in Fort Bend County.
2. Temporary office space will be secured while construction on the permanent office facility is complete (estimated at 90 days). Contingent on award notification, office renovations should be completed by December 1, 2009.
3. Depending upon notification of the award, the county will hire an attorney/department head to begin employment on or about October 1, 2008.
4. All staff should be hired by December 1, 2009.
5. Case appointments should begin no later than December 15, 2009
6. The Department Head shall complete all policy and procedures by December 15, 2009.
7. Caseworkers and social workers shall assist daily with gathering information on jail inmates, cross referencing information and providing social histories to the magistrate judge no later than December 1, 2009.
8. Case workers and social workers (and the public defender attorney for misdemeanor cases) shall begin participation in felony and misdemeanor mental health court no later than December 15, 2009
9. The Department Head shall provide quarterly reports to the advisory board beginning December 1, 2009.

The program shall establish a software data base for tracking and case management no later than March 31, 2010.

**Evaluation**

Based upon information collected by the office and recorded in the software data base, the Mental Health Defender Office will evaluate the following measures as indicators of success related to program activity:

Issue or Task	Definition	Detail
Total number of people receiving services of program	These are the people that entered the program during the month specified.	Total
		Felony
		Misdemeanor
		Juvenile
Total number screened, assessed or interviewed by a case worker, social worker or an investigator		Total
		Felony
		Misdemeanor
		Juvenile
Department Cases Active	Each month count the total number of cases that are still active on the department's assignment log as of the last day of each month.	Total
		Felony
		Misdemeanor
		Juvenile
Department Cases Closed	Each month count the total number of cases that were closed from the department's assignment log during the month.	Total
		Felony
		Misdemeanor
		Juvenile
Average Attorneys Caseload	Use the total department active caseload and divide by total number of attorneys that were employed representing clients during the month.	
Total Manhours	Report the total number of manhours by type of employee by month.	Attorney
		Caseworker
		Staff
Average length of time between arrest and case resolved.	Calculate this each month for the cases that were resolved during the month by disposition or by finding of incompetency: 1) Record the date of arrest for each defendant; 2) Record the date case was resolved; 3) calculate the total number of days between arrest and case resolution for each client; 4) divide the sum of days between arrest and case resolved by the total number of cases resolved for the month.	
Average number of days from the notice of court appointment received to the day the assessment or interview is complete.	Calculate the number of days from the notice of court appointment received (or first notice if from other source) to the day the assessment or interview is completed by PD staff/caseworker on each case. The calculation will be performed on all cases that had an assessment for each	

	month. Then an average will be computed.	
Training	Report the total number of trainings that staff provided to any group about the program or processes.	
Average pretrial confinement for clients.	Document total number of days all clients were in custody prior to case resolved by disposition or by finding of incompetency. For each month calculate sum of days incarcerated on all cases resolved for that month divided by total number of clients whose cases were closed.	
Total number of consultations	Report the total number of times a caseworker/social worker provides a consultation about a client to an attorney or with any other mental health professional.	
Count the referrals received from all sources.	This measure reflects interaction with agencies referring to the program. Report the number of referrals by type.	Total
		Court
		PD Office
		Private Bar
		Community Referrals
Count the number of community connections that defendants were provided.	Community connection is a referral made by PD / attorney /caseworker (CW) and the defendant made initial contact. The defendant may not have followed through with the program. Count the times the PD/atty/CW refered someone to a service, and whether the defendant was connected to any community resources or social services and, if so, what those resources and services were. List the connections by type.	Government / Federal
		Transportation
		Financial Assistance
		Substance Abuse Treatment
		Other Necessities
Average Days to first contact	Steps to calculate this average number are: 1) Record the date and time each referral was received for each month regardless of source; 2) Record the date and time the attorney or staff made first contact with each defendant during each month; 3) Calculate the total number of hours or days between 1 and 2 above for each defendant in the month. 4) Add all of the days or hours and divide by total number of defendants contacted for each month to determine the monthly average time to first contact.	
Average number of days from referral received to the day the assessment _____ or	Calculate the number of days from the day the referral is received to the day the assessment or interview is completed by PD staff/caseworker on each case. The calculation will be performed on	



interview is complete.	all cases that had an assessment for each month. Then an average will be computed.	
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Issue or Task	Definition
Summary of work or issues during the quarter	Provide a summary of accomplishments the staff and program made during the quarter
Problem areas and resolution:	Identify problems encountered. Write the solutions or proposed solutions made.
Activities scheduled during next reporting period:	Identify the major activities schedule for the next quarter
Staff changes	Relate any grant staff changes made during the quarter

#### **Process measures**

During the first six months of implementation, the Attorney/Department head will report to the advisory board on a monthly basis. Information conveyed to the advisory board will include progress related to department implementation, staffing, policy and procedures, and other matters which materially affect the operations.

#### **Outputs**

1. Number of offenders booked into the jail, identified as mentally ill and referred to the Mental Health Defender Program.
2. The number of case histories submitted by the caseworkers to the magistrate judge or assigned court judge, defense counsel and prosecutor detailing a mental health history.
3. The number of cases released on bond pursuant to CCP 17.032.
4. The number of attorney contacts within 48 hours of the magistrate setting
5. The number of cases participating in a mental health court docket and assigned to the Mental Health Defender Program.

#### **Outcomes**

1. The decrease in jail days awaiting the first court setting
2. The decrease in jail days awaiting case disposition.
3. The number of cases participating in mental health court dockets and successfully completing bond supervision, pretrial diversion or probation sentences.

The above measures will be tracked and reported monthly to the Department Head and available upon request.

#### **Future Funding**

Through the experience of the Mental Health Defender Program over the next four years, the courts expect to utilize the social workers/case workers in an effort to reduce attorney time and expedite case processing. This experience should prove meaningful in reducing jail time for mentally ill offenders awaiting trial. If successful implemented to provide more appropriate resources, it is expected the Mental Health Defender Program would be fully funded by Fort Bend County after the fourth year of this grant.

#### **Budget**

The office will be staffed with seven employees including: one Attorney/Department Head, one staff attorney, two master level social workers, bachelor level case workers, and one office manager. Proposed salaries have been developed in line with other similar positions with the Fort Bend County pay structure. Since at least four of the staff positions are required to maintain certifications, \$4,500 has been budgeted to provide sufficient training resources. This amount also includes the travel allowance for the year to attend mandatory meetings on indigent defense matters.

**Contract Services for evaluation: \$25,000**

Indirect cost submitted in the budget is actually office space that will be provided in a county office location near the courthouse complex. The office space must be built out prior to full implementation of

this initiative. The county will contribute a total of \$40,000 (in-kind labor and provide materials) for this office space. As of the date of this application, the office space is only a shell building on the second floor of a newly constructed building.

Office supplies include basic office necessities such as staplers, pens, paper, file folder, etc...Also included in this category is the cost of legal software.

<b>Direct Costs:</b>	
<b>1) Personnel (Total Number of FTEs: 7 )</b>	<b>\$362,000</b>
<b>2) Fringe Benefits</b>	<b>\$175,280</b>
<b>3) Travel and Training</b>	<b>\$4,500</b>
<b>4) Equipment</b>	<b>\$0</b>
<b>5) Supplies</b>	<b>\$3,500</b>
<b>6) Contract Services</b>	<b>\$25,000</b>
<b>7) Indirect Costs</b>	<b>40,000</b>
<b>Total Proposed Costs</b>	<b>\$610,280</b>
<b>Less Cash from Other Sources</b>	<b>\$203,427</b>
<b>Total Amount Funded by Task Force</b>	<b>\$406,853</b>

### **Timeline for Reporting and Fund Distribution**

Reports will be submitted on-line over the Internet.

<b>Reporting Period</b>	<b>Type Report Due</b>	<b>Date Report Due</b>	<b>Fund Distribution Date</b>
October 2010 through December 2010	Budget Status Report Progress report	January 17, 2011	January 2011
January 2011 through March 2011	Budget Status Report Progress report	April 15, 2011	April 2011
April 2011 through June 2011	Budget Status Report Progress report	July 15, 2011	July 2011
July 2011 through September 2011	FINAL Expense Report Final Progress Report and Conclusion.	November 15, 2011	November 2011