

**AGENDA ITEM**

ARF-17721

**REGULAR SESSION AGENDA**

Mental Health Public Defender **19**

**Meeting Date:** 05/05/2015

TIDC Public Defender Program Grant

**Submitted By:** Jenetha Jones, County Judge

**Department:** Mental Health Public Defender

**Type of Item:** Discussion Item

**Renewal Agreement/** No

**Reviewed by County** Yes

**Appointment:**

**Attorney's Office:**

**Multiple Originals Y/N?:** Y

**Information**

**SUMMARY OF ITEM**

Take all appropriate action on Application and Resolution to the Texas Indigent Defense Commission for a multi-year discretionary grant in the amount of \$783,346 with a cash match of \$195,837 provided by Fort Bend County for a total program cost of \$979,183 to support a Public Defender Program, and authorize County Judge to sign all documents pertaining to the application.

**SPECIAL HANDLING**

Return Resolution to Jenetha to send with grant application by May <sup>8</sup> deadline.

**Attachments**

Public Defender Resolution

Public Defender Application

**FY2016 Fort Bend County Discretionary Grant Program Application**

Official Requests for Applications (RFA) Notice on Texas Indigent Defense Commission website

(If a conflict exists between this webpage and the RFA, the RFA prevails.)

Steps in Application Process

- **Review the eligibility requirements** - Each year the Commission adopts specific measures as eligibility requirements for the discretionary grant funds. These measures are intended to encourage each county's compliance with statutory requirements or policy and standards adopted by the Commission. The compliance checklist maintained by the special counsel is shown below. Counties not meeting plan eligibility requirements should contact the Commission Special Counsel to resolve any compliance issues before May 8, 2015.

District Plan:	<u>Fort Bend District Court and County Court Plan</u>
County Plan:	<u>Fort Bend District Court and County Court Plan</u>
Juvenile Plan:	<u>Fort Bend Juvenile Board Plan</u>
County Plan Status:	Complete
The plan requirements appear to have been met.	

- **Notice to Proceed with Application** – The Grants Administrator will review all ISAs and provide a written Notice to Proceed with Application to those counties that best demonstrate that they meet the priority funding and other requirements contained in this RFA.
- **Internet Submission Required** – As with the ISA, all applications must be submitted using the Commission's Grant and Plan Management Website.
- **Resolution/Internet Submission Form** – The Resolution/Internet Submission Form (See Attachment A on RFA) must also be submitted in order for Commission staff to consider the full application. This form should be printed from the Commission's site, adopted by the County Commissioners Court, and signed by the applicant's authorized official before the deadline for applications.
  - The adopted resolution (available online) is the official authorization from the Commissioners Court for the grant request. It names the grant officials required in Texas Administrative Code Chapter §173.301. It is also a pledge to take legal responsibility for the appropriate expenditure of the funds, if they are awarded. Finally, it certifies that the information submitted in the application material is true and correct and that the county will abide by all relevant rules, policies, and procedures if awarded the grant funds by the Commission.
  - The Internet Submission Form is a separate form contained on the bottom of the Resolution Form. The Internet Submission Form must contain a confirmation number that will be generated when the application is submitted. The confirmation number may be completed by hand after the Resolution Form is approved by Commissioners Court and the application is submitted.
  - The complete Resolution/Internet Submission Form must be scanned and emailed or mailed to the Commission.
- **Court Commitment** – The judiciary is responsible for implementing indigent defense procedures within counties. Applications must include letter(s) of support from the affected judges who will participate in or implement the program (see Attachment B on RFA). Attachment B is a sample form and must be edited to describe the level and type of commitment the judges provide to the specific program in the application. All documents should be scanned and emailed or mailed together and be clearly labeled.
- **Supporting Documents** Additional material such as timelines, data collection cooperation agreements, general letters of support, or other documents that the county uses to support its application must be submitted to the Grants Administrator at the time of the final application. All supporting documents should be scanned and emailed or mailed together.
- **Due Date for Full Application** – All full applications, court commitments, and supporting documents must be submitted by 5:00 PM on May 8, 2015, on the website (<http://tidc.tamu.edu>). A confirmation number will be generated by the system for all online submissions. This is the number that needs to be entered in the Internet Submission Form portion (bottom) of the Resolution.

This form is completed using the information currently available to the Commission. Please review and make any corrections necessary.

Primary County

**Fort Bend**

Fiscal Year

**2016**

- Type of Grant:  **Single-Year Discretionary Grants** - These are competitive grants - The single year discretionary grant pays up to 100% of an awarded activity on a reimbursement basis.
- Multi-year Discretionary Grants** - These are competitive grants that require a cash match as described below and are intended to last up to four years. A county will be required to re-apply for continued funding after each grant year. The multi-year discretionary grant fund will pay up to 80% of total project costs in the first year; 60% in the second year; 40% in the third year; and 20% in the fourth year. Awarded activities are funded on a reimbursement basis. The following application characteristics shall be given priority in deciding funding:
- Programs that provide direct services to indigent defendants.
  - Establishment of public defender offices.
  - Establishment of regional public defender offices.
  - Establishment of mental health defender services.

Year of Grant:

**Select counties participating in the Discretionary ID Grant Proposal**

Available Counties		Selected Counties
Anderson Andrews Angelina Aransas Archer Armstrong Atascosa Austin Bailey	<input type="button" value="Add"/> <input type="button" value="Remove"/> <input type="button" value="Add All"/> <input type="button" value="Remove All"/>	Fort Bend

State Payee Identification number

Division or unit within the county to administer the grant

**Official County Mailing Address**

Address (line 1)

Address (line 2 if needed)

City

State

ZIP

Program Title: The title should be unique to the program and simply describe its activity. Avoid titles that use only the term indigent defense (such as 'Indigent Defense of \_\_\_\_\_ County'). Use titles that provide meaning (such as 'Video Teleconferencing for \_\_\_\_\_ County' or 'Coordinator for Indigent Defense Services for \_\_\_\_\_ County'). (250 characters maximum)

Requested Grant Amount (from budget)

**Officials Designated at the County Level**

The County Judge and Financial Officer positions must be designated according to rule. The County Judge is the elected Constitutional County Judge for the county. The Financial Officer must be the County Auditor, or in the case of counties which do not have a county auditor, the County Treasurer. In order to streamline communications, all grant communication will be with the Program Director. If the information for these positions is out-of-date, click on Cancel, update these positions from the county home page, and then re-enter this application.

The County Judge is **Robert E Hebert**.

The Financial Officer is the County Auditor, **Robert Ed Sturdivant**.

**Grant Officials**

The Program Director must be an officer or employee responsible for the program operation or monitoring and who will serve as the point-of-contact regarding the program's day-to-day operations. The Authorized Official must be authorized to apply for, accept, decline, modify, or cancel the grant for the applicant county. A county judge or a designee authorized by the governing body in its resolution may serve as the authorized official. The program director and the authorized official may be the same person. The financial officer may not serve as the program director or the authorized official. *Texas Government Code §173.301(a)*

Roderick Glass  
301 Jackson St.  
Richmond, TX 77469

**Program Director**

phone: (281)238-3050  
Fax: (281)238-3055  
email: [roderick.glass@fortbendcountytx.gov](mailto:roderick.glass@fortbendcountytx.gov)



Robert E. Hebert  
Richmond, TX 77469

**Authorized Official**

phone: 281-341-8608  
Fax: 281-341-8609  
email: [ann.werlein@fortbendcountytx.gov](mailto:ann.werlein@fortbendcountytx.gov)



Resolution / Internet Submission Form: Click on link to open new window with Sample resolution. This may be printed or copied (Ctrl+A, Ctrl+C) and pasted (Ctrl+V) into Word Processing software for editing. Please note that this link will be available on the confirmation page and will contain the updated information from the submission. It is recommended that you use that version, but this is available for preview. Word Version

Printable Indigent Defense Discretionary Grant Program Cooperation Agreement

**Application Narrative**

View Instructions

Introduction (Executive Summary)

Problem Statement

Objectives

Activities

Evaluation

Future Funding

Budget Narrative and Budget Form

View All Sections

2016 Intent to Submit Application



SELECT VIEW

2016 Fort Bend County Discretionary Grant Application Narrative  
Fort Bend County Public Defender  
(Multi-Year Grant)

- INSTRUCTIONS ONLY
- APPLICATION FORM
- INTRODUCTION (EXECUTIVE SUMMARY)
- PROBLEM STATEMENT
- OBJECTIVES
- ACTIVITIES
- EVALUATION
- FUTURE FUNDING
- BUDGET NARRATIVE AND BUDGET FORM

VIEW ALL

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APPLICATION FORM

**b. Introduction (Executive Summary)** - In one hundred (100) words or less describe the program and the main goals to be addressed. This **paragraph will be the abstract** of the project. Clearly state what the program will do and the broad goals that will be met if the program is funded. The summary will be most useful if it is prepared after the application has been developed in order to encompass all the key summary points necessary to communicate the project.

A public defender unit designed to take a specific set of cases will give Fort Bend County a hybrid indigent defense system that relies on appointed counsel as well as public defenders to provide indigent defense services in a manner that is more efficient and demonstrably effective and one that follows the principles of the American Bar Association. It would provide much needed data that could also be used to evaluate court appointed counsel. It will allow the County to anticipate the cost of indigent defense for budgetary purposes and give the County some control over the indirect costs of pretrial incarceration.

Save

Next

Cancel

SELECT VIEW

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Fort Bend County Public Defender  
(Multi-Year Grant)

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**c. Problem Statement** - Describe the issue or problem the proposed activity is intended to improve or correct. Make a clear, concise, and well-supported statement of the problem to be addressed. Provide any formal or informal data collection and analysis related to the problem. Include information about affected populations, social and economic costs of the issue, and resources currently used.

VIEW ALL

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Indigent Defense is currently handled by court appointed counsel with the exception of those mentally ill cases handled by the Mental Health Public Defender. The county pays the direct costs of court appointed attorneys and the indirect cost of pretrial incarceration in the County Jail.

District and County Court at Law dockets continually increase because of the number of cases filed each year. The increase is also due to delays, absent counsel, or excessive resetting of cases and; the County expects to add (1) County Court at Law and (1) District Court, thereby increasing the number of cases. The number of days before court appointed counsel visit their client after appointment is not currently tracked. Additionally, court appointed Attorneys are not evaluated on a regular basis throughout the year.

The majority of investigation of cases, if any, are handled by the court appointed counsel which, in turn, increases the time and expense of each case. Fort Bend County has no control over court appointed counsel and/or the number of needless resets. The county has no control over the number of days of pretrial incarceration. And, there is currently no accountability for court appointed counsel. Further, the county expense for indigent defense cannot be anticipated as it changes from year to year.

Attorney of the Day system, as it is currently implemented, does not provide continuity of representation as suggested by the Indigent Defense Commission. As the name implies, the "Attorney of the Day" represents the indigent person for only one day.

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- d. Objectives** - Develop clear targets and goals for the program to accomplish. State how the objectives address the problem stated above.
- i. Objectives must be related to the program in this application and the funds requested.
  - ii. Objectives must be time/date specific and measurable.
  - iii. Objectives are the basis for the evaluation and progress reports.
  - iv. Objectives must be consistent with the Problem Statement.

A Fort Bend County Public Defender unit would be evaluated on a regular (monthly) and transparent basis throughout the year.

The Fort Bend County Public Defender system would have a budget that can be easily anticipated and provide accountability. The county and judges would know exactly how many open and closed case are handled by the Public Defender, whether clients have been visited in jail or in the office and the length of pretrial incarceration.

A Public Defender would replace Attorney of the Day in at least one of the County Courts at Law and provide continuity of representation and place the county's indigent defense system more in compliance with the Office of Court Administration (Indigent Defense Commission) standards. Investigators employed by Public Defender system would insure that each case is investigated properly and would be available for other court appointed counsel.

A Fort Bend County Public Defender would provide closer parity of resources with the District Attorney's Office thereby insuring equality in the justice system for indigent defendants. Trained Public Defenders would provide efficient and effective assistance of counsel with proper investigation and discovery. Public Defenders would also be supervised by the Chief Public Defender and would be systematically reviewed thus ensuring that the Public Defender system would consistently give the best defense possible to indigent defendants. Moreover, it would provide accountability and much needed data that can be used for evaluating court appointed counsel.

The Fort Bend County Public Defender with Court Appointed counsel would be a hybrid system of representation. It would enhance the representation of indigent defense in Fort Bend County and provide a much needed benchmark for court appointed counsel.

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- e. Activities** - Describe the specific activity the county will conduct if funded. The activities should support the objectives.
- i. Include detailed instructions of step by step procedures that will take place to implement the program and the resources needed to complete each task.
  - ii. Make sure to incorporate the required elements for the types of programs listed on Attachment C.
  - iii. Include **startup tasks** and actual **on-going program activities** that staff will have to perform to implement the program.
  - iv. Write this section so that outsiders will know exactly what the county plans to do.
  - v. Provide justification related to effectiveness and/or economy of the method proposed. Include supporting research on this activity if available.
  - vi. Describe whether existing staff and/or contractors will perform tasks, reports, etc. or if new persons will need to be hired. If contract, include information on selection process.
  - vii. If this program is being incorporated into an existing process or program, clarify how the process is different.

Startup Tasks

- 1) Hire/appoint Chief Public Defender on or before November 1, 2015. Begin writing Policies and Procedures including case load limits and conflict policies. Expand current Mental Health Public Defender Advisory Board to include reports from Chief Public Defender.
- 2) Build out of office space complete on or before January 1, 2016. Office furniture, computers, printer, phones, and supplies ordered or received by January 1, 2016.
- 3) Hire Assistant Public Defenders, Investigator, and Support Staff on or before January 1, 2016.
- 4) Begin replacing Attorney of Day in at least one County Courts at Law on or before February 1, 2016.
- 5) Begin accepting appointments in both misdemeanor and felony courts by indigent defense coordinator on before February 1, 2016. Appointment made through indigent defense coordinator. Complete Policies and Procedure with case load limits.
- 6) Begin entering cases into Defender Data, a case management system, by February 1, 2016.
- 7) Begin reporting case data to Advisory Board and/or Commissioners Court by April 1, 2016.
- 8) Begin reporting average days clients spend in County Jail to Advisory Board and/or Commissioners Court by April 1, 2016.
- 9) Investigators to take on appointments of other indigent court appointed cases on or before April 1, 2016.

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10) June 1, 2016 begin review and evaluation of staff by Chief Public Defender.

#### On-going Program Activities

1) Public Defender to accept minimum of 10 percent of all non-capital cases. (2014 number = 458 cases); Driving While License Suspended/Invalid (DWLS/DWLI 2015 number = 180). A total of 638 or more in a mixture of misdemeanor and felony cases anticipated each year. At least one District Court and one County Court have agreed to participate. Other judges have tentatively agreed.

2) Chief Public Defender to meet with Advisory Board (Oversight Board) bi-monthly providing the Board with number of accepted cases, active case load, number of pretrial incarceration days, number of cases closed, running average of jail days, average days after appointment before first contact with client, number of cases investigated by investigator. Data collected to be used to create evaluation for court appointed counsel by judges or appropriate board.

3) Chief Public Defender to present to Commissioners Court monthly on the total number of active cases, total closed cases, number of days of pretrial incarceration for the month preceding, and the average days of pretrial incarceration.

4) Chief Public Defender to meet with counsel of judges and/or any other stake holders periodically to facilitate any problem areas or preferences in running of court dockets or in data collection.

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- f. Evaluation** - Develop reporting methods on how the proposed activity goals are measured.
- i. Evaluation must be linked directly to the objectives and activities. The evaluation must measure both the progress you make toward implementing the grant funded activity and the effect of the program once it is in operation.
  - ii. Measure the attainment of objectives in a specific and tangible manner (e.g., applications of indigency and request for appointed counsel will be accepted electronically and will be maintained in an online data management system);
  - iii. Measures must be quantifiable (e.g., count the number of requests received);
  - iv. Measures must be time specific (e.g., the applications and requests will be counted from February to January and reported monthly);
  - v. Measures must identify the manner in which they will be recorded for future review (e.g., a report or screenshot of the programming results, affidavit of acceptance of work, or summary database). Data collection cooperation agreements with other county offices and departments are strongly recommended so that the county can demonstrate it will be able to meet data collection and evaluation goals.
  - vi. The evaluation provides meaning to the program objectives. The measure of success is determined by the goals and objectives of the proposed activity. Write the method that milestones, accomplishments, and timelines will be tracked and recorded, including: Who will record, What they will record, and When they will record?
  - vii. Evaluations must demonstrate how the program impacts other county processes when applicable. The evaluation reports are submitted during and after the implementation phase and in accordance with UGMS. Evaluations are both fiscal and programmatic. Process evaluations may also be included.

1) Court appointments of indigent defendants accepted online through indigent defense coordinator. Public Defender will be added to the case rotation by the indigent defense coordinator. Number of appointments would be gathered both electronically by indigent defense coordinator and the Public Defender office database (Defender Data).

2) Public Defender will visit clients in jail within 24 hours of appointment during the week or the next business day if appointed over a weekend. (Record of first visit kept in Defender Data). Public Defender will mail letter to last known address if indigent defendant has bonded out of jail. Public Defender will keep in contact with defendant during pendency of the case (number of visits noted in Defender Data).

3) Number of jail days clients spend in jail pretrial counted before plea or trial. (That information is already shared by the Sheriff's Office). Separated by misdemeanor cases and felony cases.

4) Article 39.14 Discovery Motion filed in each case and noted in Defender Data. If Discovery Motion waived by defendant, it will also be noted Defender Data.

5) Number of clients or witnesses investigated by Investigator kept by log both electronically and physically. Number of outside court appointed cases investigator is assigned to kept both electronically and physically.

6) Total number of cases closed and active cases kept electronically by Defender Data and physically by closed file list.

7) Criminal history reports gathered by investigator kept by log (as required by TCIC) and electronically on Defender Data.

8) Number of cases investigated and type of investigation kept both physically (log) and electronically by Defender Data.

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**g. Future Funding** - Include information on how the proposed activity fits into the county's long-term indigent defense financial systems.

Fort Bend County already pays for indigent defense by paying for Court Appointed counsel. The County, however, has no control over the costs and cannot anticipate the cost during the budget season. County also has no control over the indirect of costs pretrial incarceration. There is currently no accountability.

Of the number of cases the Public Defender is proposed to take on, the county in 2014 spent approximately \$700,000 or more not including the indirect costs of pretrial incarceration spent in the County Jail. The county would use the monies that it would have spent on court appointed counsel and fund the Fort Bend County Public Defender. Any increase in cost would be offset by savings in the indirect costs of defendant's jail days.

The success of the Mental Health Public Defender program in cutting the number of days defendants spend in jail plays a large part in the County's indirect cost savings. The increase in efficiency by a Public Defender program is also expected to cut the number of days defendants spend in the County Jail.

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- h. Budget Narrative and Budget Form** - (A narrative is required in addition to completing the form.) Counties will submit an online budget form. Budgets must clearly state the cost to execute the program. The budget narrative justifies all expenses and must be consistent with the activities and objectives.
- i. Include all costs necessary to implement the proposed activity.
  - ii. Provide a narrative to justify all budgeted expenses. This narrative must correspond to the project design sections. Items in the budget not stated in the activity will be removed.
  - iii. Indicate in the budget and narrative the start-up costs or non-re-reoccurring costs for multi-year grants.
  - iv. Indirect costs are allowable, but may not be competitive if above 10%.
  - v. The equipment line requires a list of equipment to be purchased. All equipment must be purchased in the first year of the grant unless permission is granted from the Commission in writing. Otherwise, the equipment costs will not factor into the total project cost in subsequent years of funding.
  - vi. Do not budget expense items that are not part of the application.

**Proposed Budget**

Personnel Costs		\$799,319.00
Number of FTEs	9.00	
Salary	\$557,456.00	
Fringe Benefits	\$241,863.00	
Travel and Training		\$9,000.00
Equipment		\$71,140.00
Supplies		\$23,000.00
Contract Services		\$43,680.00
Indirect		
Total		\$946,139.00
Required County Match - Must update manually		\$189,228.00
Total less County Match		\$756,911.00

**Start Up Costs - 1 time costs, non recurring.**

Equipment - 9 computers - \$8,100.00; 9 desks \$25,200.00; 9 desk chairs \$3,100.00; 8 reception chairs \$500.00; 1 Printer/Copier/Fax \$5,500.00; 9 desk top phones \$6,840.00; 9 small book shelves \$3,100.00; 1 county vehicle (investigator) - \$17,800.00; 3 lateral file cabinets \$1,000.00. Total Equipment Start Up = \$71,140.00

Supplies: - extra \$2,000.00 added to supplies for 1-time purchase of permanent supplies including staplers, hole punches, desk materials, and other general office supplies for 9 FTEs.

Contract Services - build out costs is \$43,680.00. Offices will be within walking distance to courthouse and jail.

Indirect Costs - moving a 5-person office out of build out space to another building so that Public Defender can be within walking distance to the courthouse.

**Operating Costs- recurring costs**

Salaries and Fringe Benefits - Salaries and Benefits are based on a minum salary. This cost may go up slightly and is an ongoing costs during the grant.

Travel and Training - Travel and Training costs include CLE for 6 attorneys and continuing education for investigator. Amount includes fee costs of the event, mileage costs, hotel costs, and meal allowance. County policy requires in-state travel only unless Commissioners Court approval is sought.

Supplies - on going supplies include toner and paper for copier, penal codes, other law books, file folders, labels, pens, paper clips, legal pads, and other general office supplies. Also included are yearly costs for Defender Data, Lexis/Nexis, ProDoc, cell phones, bar dues, TCDLA dues. Total = \$23,000.00

All purchases will comply with the Fort Bend County Purchasing Policy and State of Texas  
[Editing Help](#)



All purchases will comply with the Fort Bend County Purchasing Policy and State of Texas Procurement Act. The administration of applicants and personnel will comply with all policies adopted by Fort Bend County.

**2016 Fort Bend County Resolution**  
**Indigent Defense Discretionary Grant Program**

WHEREAS, under the provisions of the Texas Government Code Section 79.037 and 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, this grant program will assist the county in the implementation and the improvement of the indigent criminal defense services in this county; and

WHEREAS, Fort Bend County Commissioners Court has agreed that in the event of loss or misuse of the funds, Fort Bend 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 Robert Hebert is designated as the Authorized Official to apply for, accept, decline, modify, or cancel the grant application for the Indigent Defense Discretionary Grant Program and all other necessary documents to accept said grant; and

BE IT FURTHER RESOLVED that Roderick Glass is designated as the Program Director and contact person for this grant and the County Auditor is designated as the Financial Officer for this grant.

Adopted this 5 day of May, 2015.



Robert E. Hebert  
County Judge

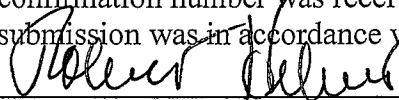
Attest:



County Clerk

**Internet Submission Form**

After submitting the discretionary grant application on-line, the following Internet submission confirmation number was received # D201607920180-507. This grant application submission was in accordance with the Commissioners Court Resolution above.



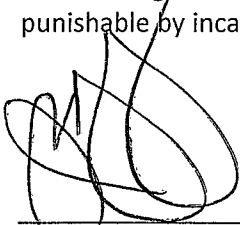
Robert E. Hebert  
Authorized Official



## FORT BEND DISCRETIONARY GRANT PROGRAM COOPERATION AGREEMENT

Fort Bend County has applied for a discretionary grant from the Texas Indigent Defense Commission (Commission) to assist in funding a public defender unit. The undersigned judges agree to support and/or participate with the program pursuant to the county's discretionary 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.

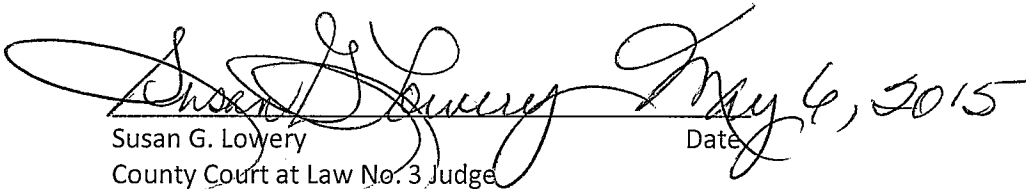
Acknowledged and Approved by local judges for their individual courts hearing criminal matters punishable by incarceration in the county:



James H. Shoemake  
434<sup>th</sup> District Court Judge

May 6, 2015

Date



Susan G. Lowery  
County Court at Law No. 3 Judge

Date