

July 30, 2019 Commissioners Court

Caseload and Additional Monitoring Information for CAPDS Related Enhancements to Indigent Defense in the Application to TIDC

Update for TIDC Grant

Caseload Limits for TIDC Grant

To improve quality and ensure attorneys have adequate time to represent assigned clients, Travis County will move from caseload limits based on a carrying caseload to an annualized caseload based on the TIDC Weighted Caseload Study. Travis County will phase in caseload controls during this grant, to be fully implemented by the end of the grant, ensuring attorneys' yearly caseloads do not exceed the TIDC guidelines by more than 10%, unless demand on a specific panel requires an exception. For example, if there are too few attorneys active on the Felony MH wheel, CAPDS may assign an attorney qualified to represent a Felony Mental Health defendant who has reached their caseload limits for the time period specified. CAPDS will also work with the attorneys and the court's data scientist to determine limits for those who take cases other than Travis County appointed cases. During the phase in, any case that is part of the hourly pilot program will count at 100% toward the caseload limit for the attorney. Cases not subject to the pilot, such as flat fees, may be counted at a reduced rate in order to maintain the viability of all panels during the phase-in process.

Travis County and CAPDS will create a dynamic caseload monitoring program to effectively manage an annualized caseload limit while ensuring the viability of all panels. CAPDS will provide the details of implementation and its caseload monitoring plan no later than October 15, 2019. Caseload monitoring will be further developed and monitored by CAPDS staff during the implementation of the pilot. CAPDS will work with Travis County to create automated caseload controls through the Indigent Defense Application (IDA) after a period of manual monitoring resolves any challenges or concerns with the operation of the dynamic caseload controls.

Enhanced Oversight of Attorneys Receiving an Hourly Rate

One key to improving representation in Travis County for indigent defendants is to improve the quality provided by Managed Assigned Counsel (MAC) attorneys through the CAPDS. This grant will aid in two key ways: through increased CAPDS staff for case support and attorney monitoring, and through a new fee structure that does not disincentivize quality representation. Currently, attorneys are compensated by a flat-fee system, creating a perverse incentive for attorneys in which compensation decreases the harder and longer an attorney works. By moving to an hourly payment system, the attorney's incentives are more closely aligned with those of the client, leading to improved representation. In addition to aligning the incentives between clients and attorneys, the move to an hourly-payment system will lead to improved data collection and allow for more detailed monitoring of the attorneys and the time that they spend on activities related to representation. Attorneys will be required to categorize their

activities in a manner consistent with the TIDC timekeeping study enabling the consolidation of all activities into TIDC main categories: Client communications, negotiation and meetings, discovery, attorney investigation, legal research and trial preparation, court time, social work and case management, and case specific office support. By monitoring the time spent on key activities, CAPDS can identify the areas where individual attorneys or groups of attorneys do not align with best practices. CAPDS can target interventions both individually and collectively to these areas in order to improve performance. This increased data collection and additional staff for support and supervision creates a new vision into representations and new opportunities to evaluate attorney performance. Detailed voucher submission provides CAPDS with a more robust tool than previously available.

Currently, CAPDS and Travis County closely monitor attorney outcomes. But outcomes do not tell the whole story. With the detailed and structured data submission that will be required of attorneys paid an hourly amount, CAPDS and Travis County will be able to better pinpoint where attorneys are not spending sufficient time on activities. Using categories from the TIDC time sufficiency study, CAPDS can identify where an attorney's practice differs from guidelines and target its limited resources at appropriate remediation.

For example, one area that has a large effect on a client's perception of their representation is the amount of time spent communicating with the client and family members. It is not possible, however, to directly evaluate the frequency or quality of those communications using outcomes. Increasing the amount of information that attorneys report will permit better monitoring of the frequency of communication an attorney has with the client and provide contextual clues into the quality and appropriateness of the amount of communication. Currently, CAPDS only is able to track the dates of first client contact and first face-to-face meeting with a client, but not the duration of these interactions or any subsequent meetings. With hourly timekeeping, attorneys will record their meetings and CAPDS supervisory staff will be able to compare the frequency and duration against TIDC standards and Travis County averages to spot attorneys that are deficient in their client communication. This will allow CAPDS to work with attorneys to improve their interactions and ultimately adopt additional standards to guide attorneys and provide new benchmarks for evaluation. Communication is just one example of how improved data collection through attorney time tracking will allow CAPDS to better monitor attorneys and improve the services available to clients. Other areas that CAPDS will monitor to better understand and evaluate the work that attorneys are performing are investigation by the attorney, legal research, social work performed by the attorney, and increased understanding of hearings and motion practice. Understanding how attorneys are spending their time provides CAPDS with new tools and opportunities to improve quality.

In addition to time tracking, this grant will permit the development a complaint tracking system tied to Indigent Defense Application ("IDA"). Currently CAPDS receives client complaints and acts on them when appropriate; however, its resources and current case tracking system does not permit comprehensive review, coding, and tracking of complaints and responses. By moving complaint and response tracking into IDA, CAPDS will better be able to see patterns of behavior and cross-reference assignments, clients, and cases. By developing a view into total attorney performance, CAPDS can consolidate complaints, responses, observations, and data metrics to create a more comprehensive view of attorney performance. With the addition of two supervising attorneys, CAPDS will increase its capacity to proactively monitor performance and responding to client concerns, improving the services that clients receive.

CAPDS is committed to increased monitoring and supervision of its attorneys utilizing the new resources of this grant. CAPDS already uses a large amount of data to track case outcomes, bonding work, and jail visits. However, this information only scratches the surface of what can be learned from data about the quality of services being provided to clients. By moving to hourly billing, not only do we better align the incentives between clients and attorneys, we also increase the amount of visibility that CAPDS has into the activities taken by the attorneys. By better understanding where attorneys are spending their time in representing clients, CAPDS can target trainings and mentoring to those areas where deficiencies are observed. This increase in data availability and new staff will help CAPDS to improve representation of the clients they are charged with representing.