

# The Right to Counsel

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James Bethke, Executive Director  
Bexar County Managed Assigned Counsel System

Kathleen Casey-Gamez  
Texas Indigent Defense Commission



# About the Bexar County MAC

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- Established in 2022 with grant funding from TIDC
- Serves the criminal district courts, county criminal courts, juvenile courts, and mental health courts
- Serves more than 275 panel attorneys
- Coordinates with the Public Defender Office
- Team consists of 16 persons

# BCMAC Team



**Jim Bethke**  
Executive Director



**Bobby Gebbia**  
Trial Division Director



**Pat Garza**  
Juvenile Division Director



**Jessica Canter**  
Professional Development & Holistic Defense Director

**[In Process]**  
Program Manager



**Valerie Granado**  
Office Manager



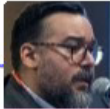
**Chad Van Brunt**  
Senior Resource Attorney



**Jonathan Chavez**  
Resource Attorney



**Hallie Pease**  
Resource Attorney



**Rocky Ramirez**  
Law & Technology Resource Attorney



**Mimi Alcocer**  
Immigration Resource Attorney

**[In Process]**

Mental Health Resource Attorney



**Brittney Phelps**  
Licensed Master Social Worker



**Jose Castellanos**  
Case Manager

**[In Process]**

Senior Data Analyst



**Stephanie Luna**  
Administrative Assistant

## Mental Health Court Collaboration



Honorable Judge Yolanda Huff  
County Court 12

Assist panel  
defense attorneys  
in identifying  
clients eligible for  
the mental health  
courts

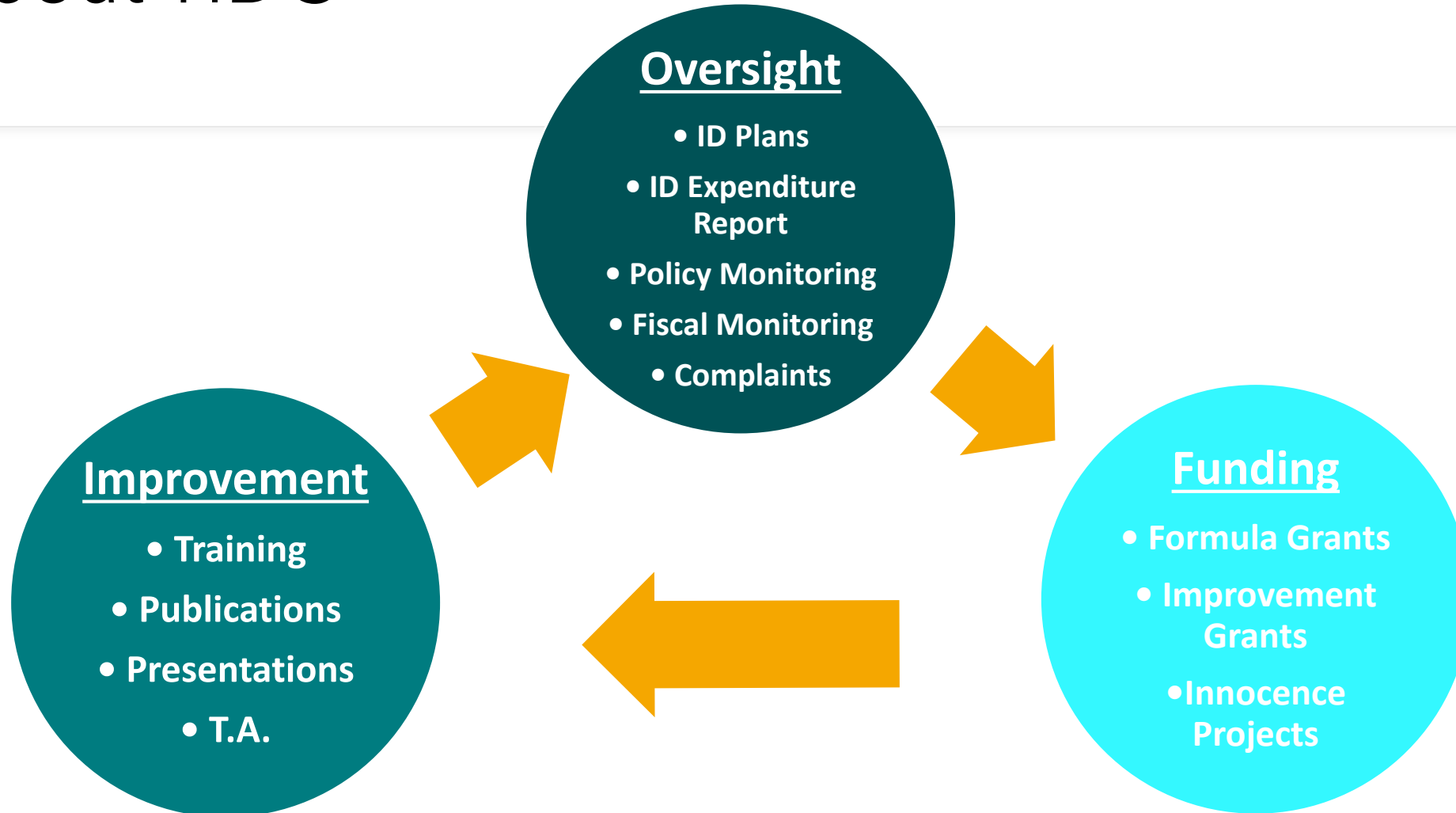
Assist clients in their  
applications and help  
set them up for  
success while in the  
program

Work with court  
case managers on  
resources, client  
self-sufficiency, and  
continuum of care

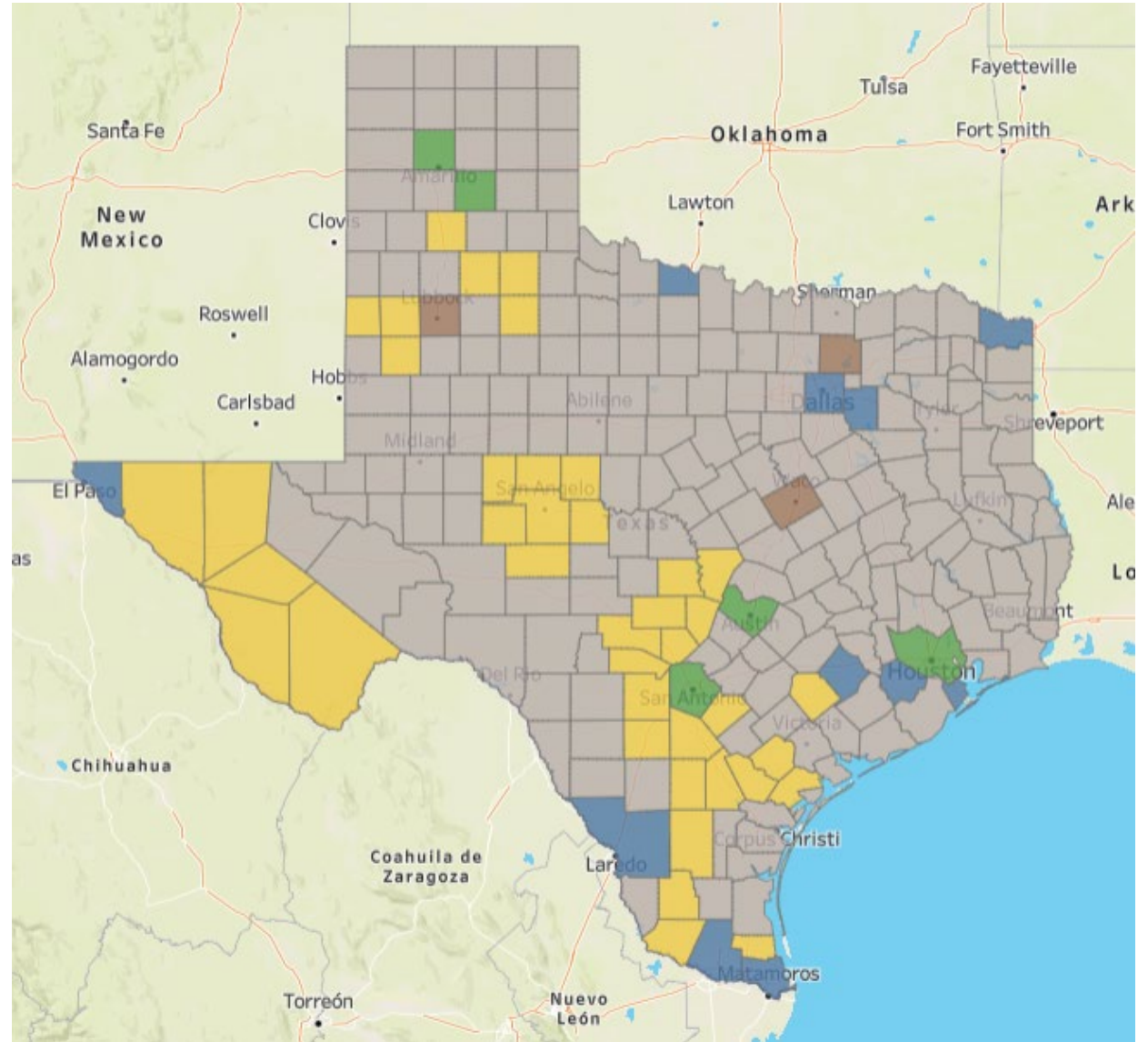
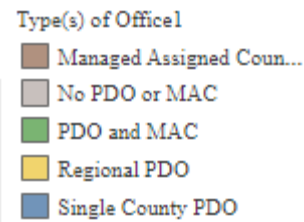


Honorable Judge Ron Rangel  
379<sup>th</sup> Criminal District Court

# About TIDC



73 of Texas' 254 counties are, or soon will be, served by a public defender or managed assigned counsel office





# THE FAIR DEFENSE ACT



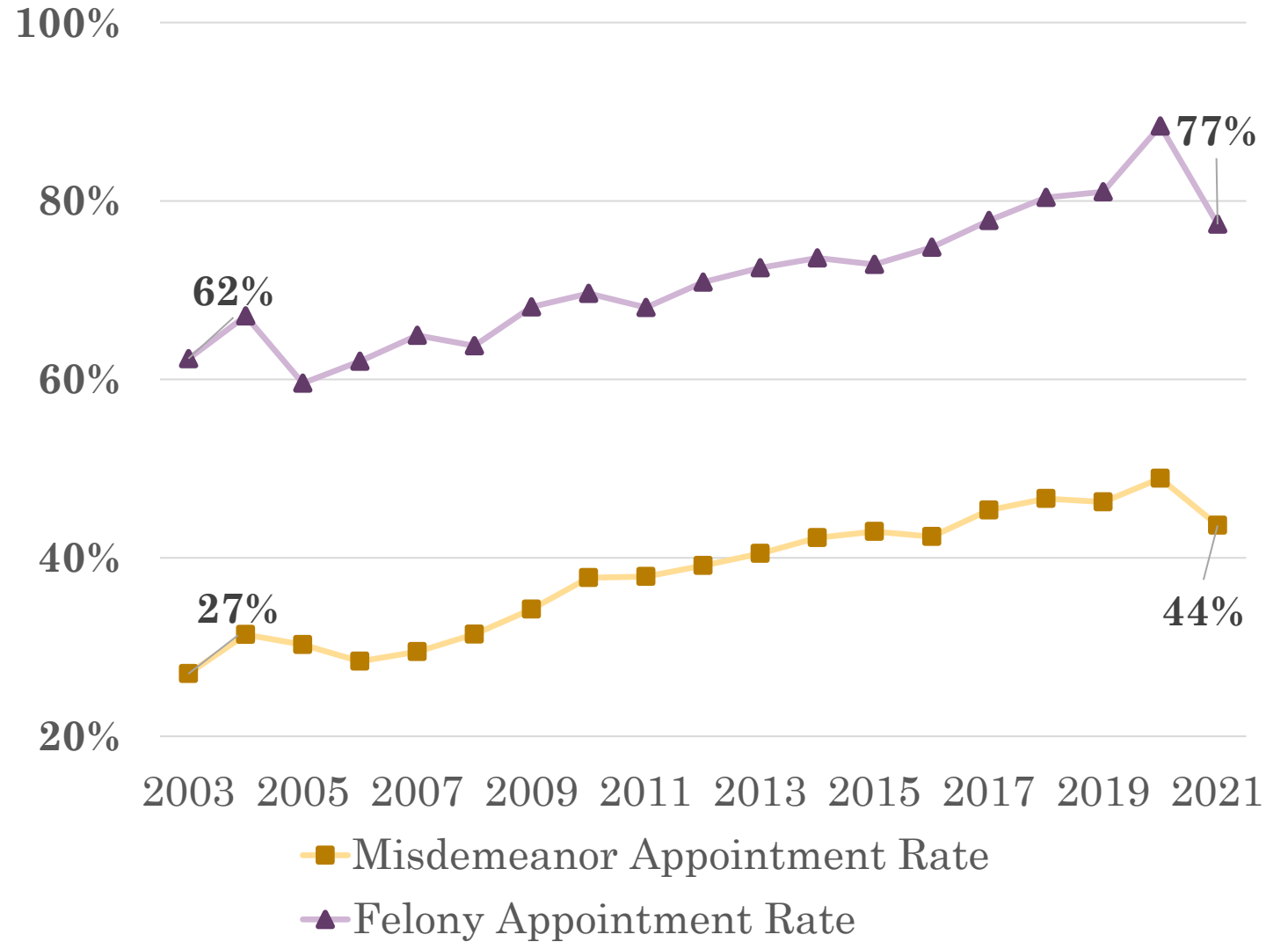
# History of the Fair Defense Act

- 1791 - Bill of Rights + 6<sup>th</sup> Amendment
- 1876 - Art. 1, Sec. 10 & Texas Constitution's Bill of Rights
- 1963 - *Gideon v. Wainwright*
- 1999 - Study of TX Indigent Defense
- **2001 - Fair Defense Act and Task Force**
- 2011 - Texas Indigent Defense Commission



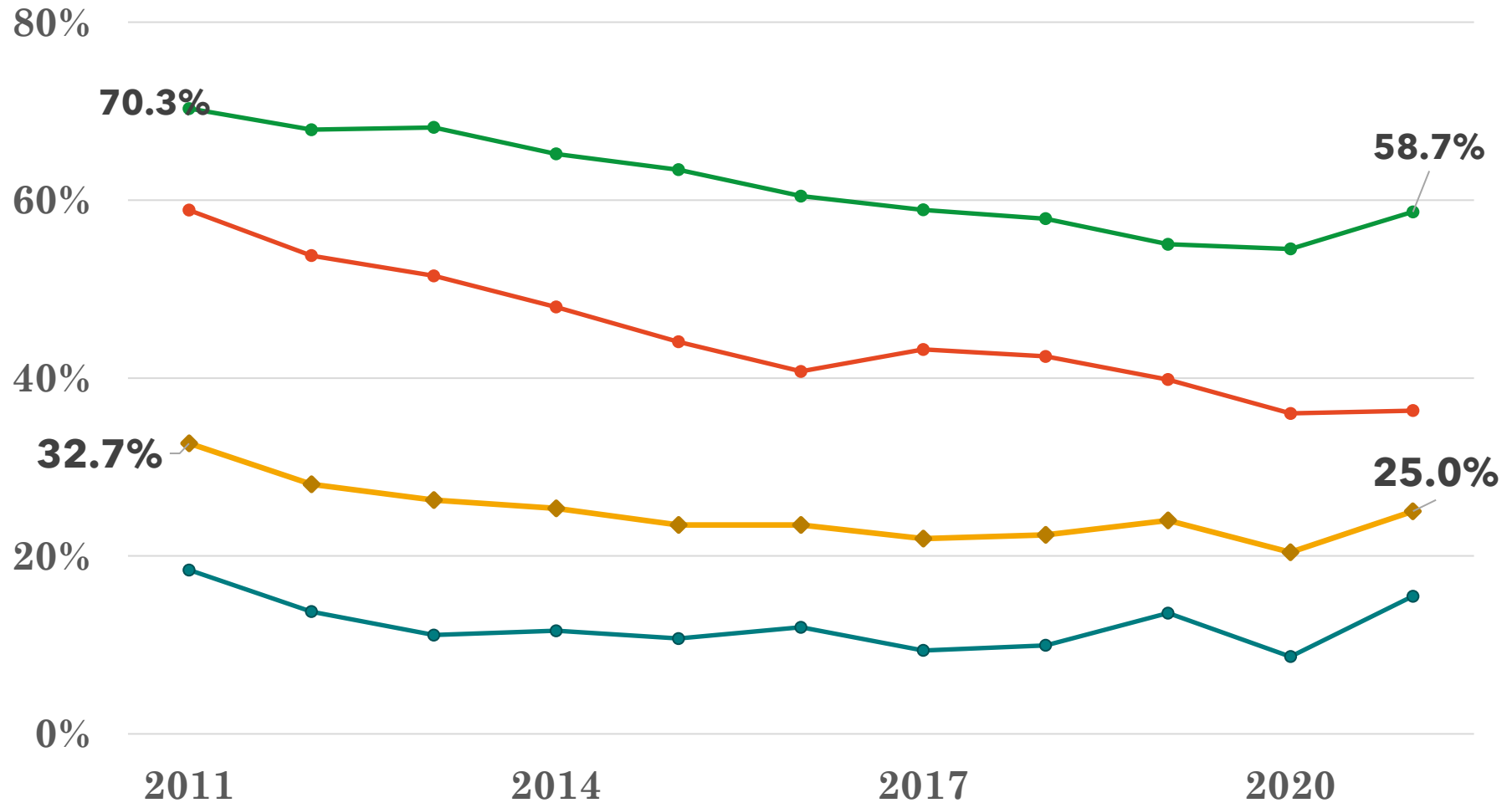
# Since Passage of the FDA, Appointment Rates Have Increased

% of Cases Receiving  
Appointed Counsel  
(Cases Paid / Cases  
Disposed)



# Self-Represented Misdemeanor Cases

% Disposed Class A & B Misdemeanor Cases without an Attorney



- ◆ Statewide
- Counties < 50k pop.
- Counties Between 50k & 250k pop.
- Counties > 250k pop.



# When the Right to Counsel Attaches



# Magistration = Initiation of Adversarial Judicial Proceedings

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A criminal defendant's initial appearance before a magistrate judge, where he learns the charge against him and his liberty is subject to restriction, marks the initiation of adversary judicial proceedings that trigger attachment of the Sixth Amendment right to counsel.

Rothgery v. Gillespie County, 554 US 191 (2008).



# Rothgery v. Gillespie County

- Gillespie Co. refused to appoint Walter Rothgery an attorney until after indictment.
- He sued the county for violating his 6<sup>th</sup> Amendment right to counsel.



# Why early representation is so important

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## Benefits to Defendants

- Reduce bail or get a personal bond and get out of jail
- Out of jail = keep job, pay rent, avoid homelessness
- Early investigation, client interview, witness interviews, evidence preservation
- Early access to treatment, services
- Better case outcomes
- Prevent wrongful convictions and collateral consequences of a conviction



Why early  
representation  
is so important

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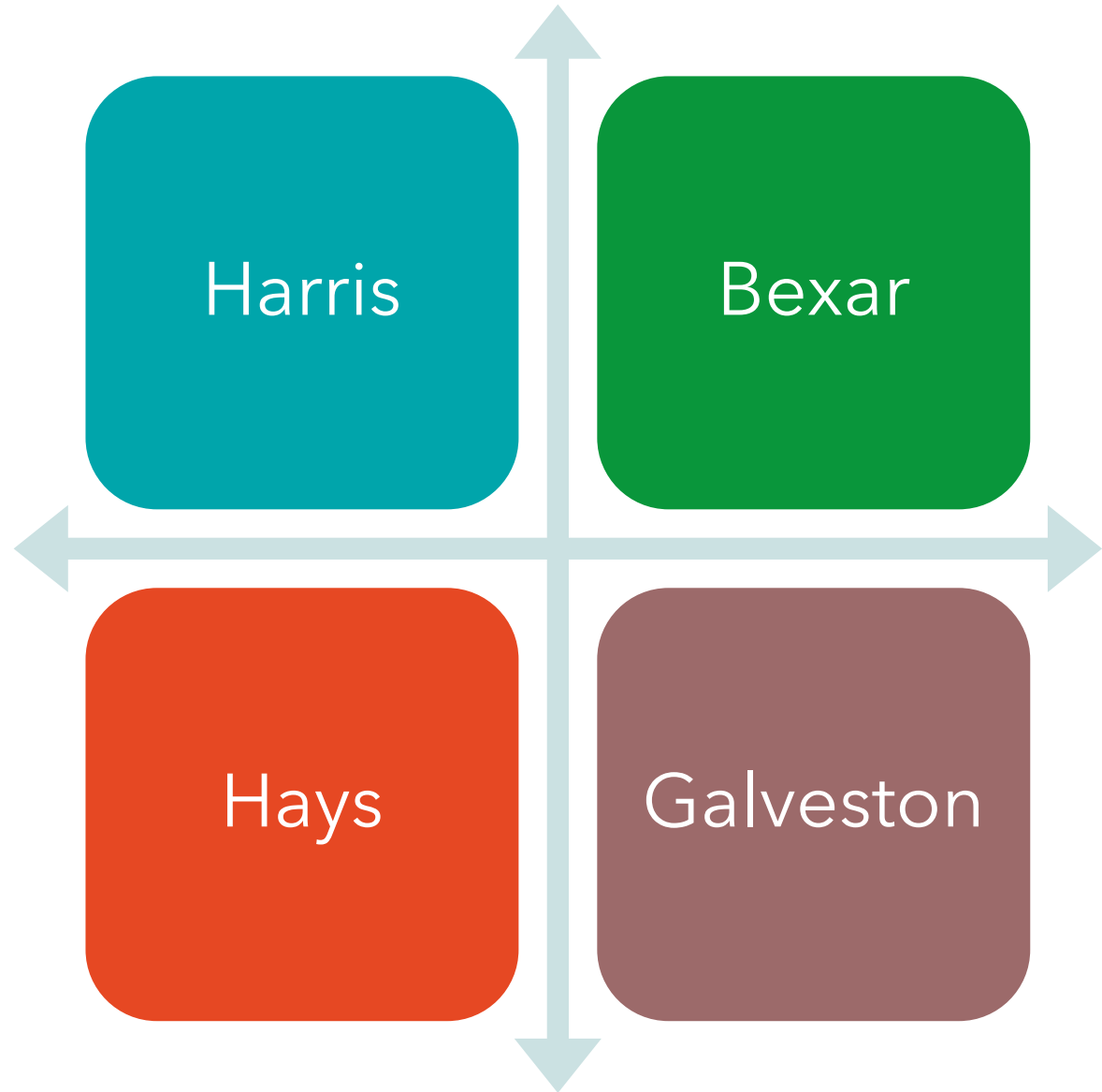
## Benefits to Counties

- Reduced jail costs
- Fewer failures to appear
- Better case outcomes for defendants = reduced costs to society at large



Counties  
committed to  
early  
appointment  
of counsel

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Representing a client  
with mental health or  
IDD is different

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Early appointment of counsel works hand-in-hand with best practices for representing clients with MH or IDD

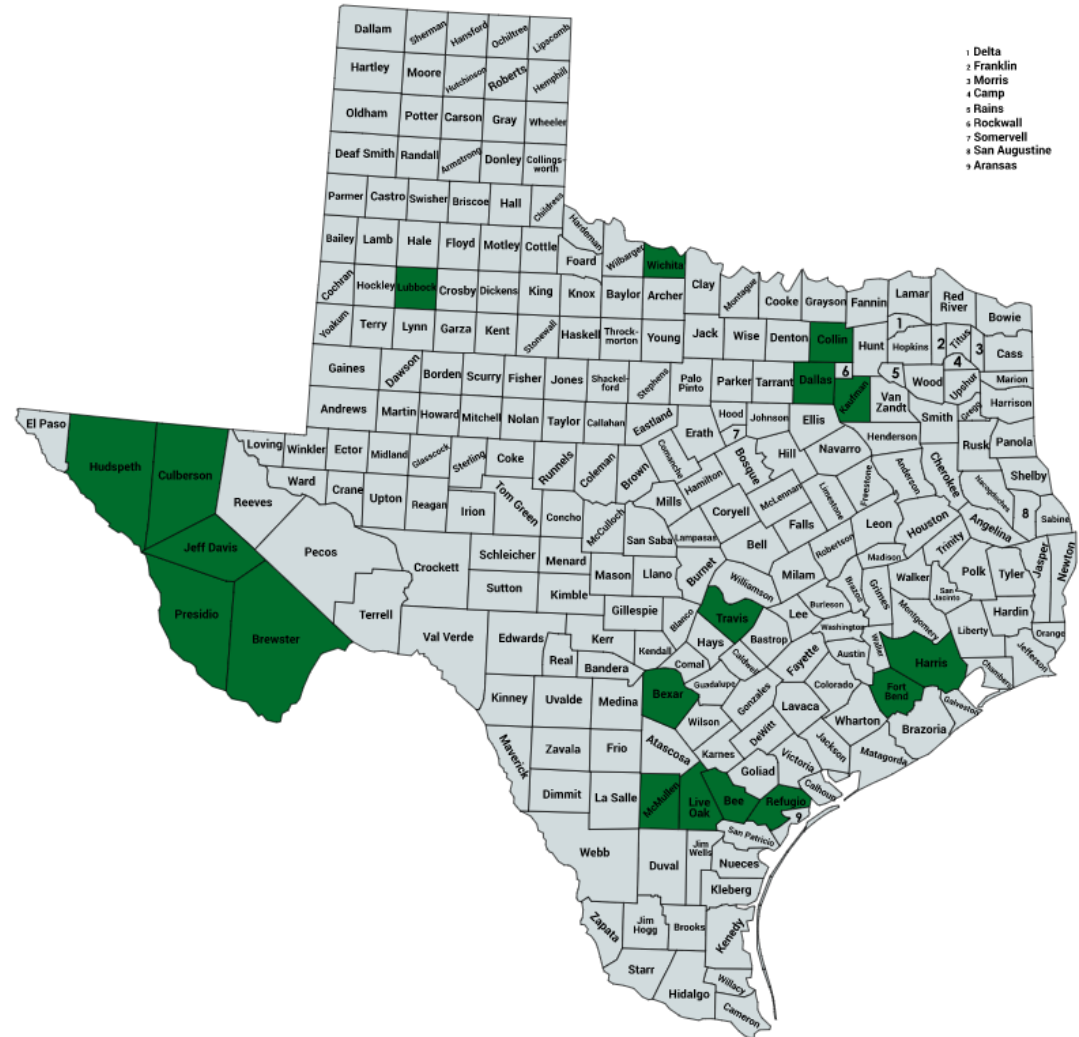




Mental health  
defender programs



# Counties with mental health managed programs



# Specialized Mental Health Defender Programs

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Can be Public Defender or Managed Assigned Counsel.

Specially trained lawyers coordinate with social workers to represent defendants with mental illness.

Programs help stabilize defendants and link them with treatment and resources.

Can generate cost savings through diversion from jail, reduced recidivism.



# MENTAL HEALTH DEFENDER PROGRAMS

Featuring the Sussex County  
Public Defender's Office



TIDC receives \$2 million a  
biennium to devote exclusively  
to mental health investments

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# Why create a mental health defender program?

Reduce	Jail Populations
Reduce	Unnecessary Competency Evaluations
Reduce	Recidivism
Improve	Quality of Representation, Case Outcomes
Improve	Efficiency of Courts, Case Processing





# Recent mental health grants from TIDC

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Galveston  
Misdemeanor Mental  
Health Public Defender  
(\$735,334)

McLennan County  
Mental Health  
Managed Assigned  
Counsel Program  
(\$169,280)

## Spotlight: Galveston county MMHPDO

Defendants represented by the office are assigned a case worker to perform mitigation case work and to engage with the GCC in developing a treatment plan.

Source: Galveston County Justice and Mental Health System Modernization Project  
Year Progress Report for April 2021 to April 2022.



# Early results of the office

Out of 152 appointments from April 2021 – April 2022, the office made:

**152** mental health referrals (100%)

**15** counseling services referrals (10%)

**2** medical (not mental health) referrals (1%).

**17** basic needs referrals (housing, employment, transportation) (11%)

**3** financial services referrals (4%)

**12** substance abuse treatment referrals (8%)



Mental health  
investment in existing  
public defender offices





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## Spotlight: The Far West Texas Regional Public Defender

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- Has two social workers in an area where even the hospitals don't employ social workers
- Often a place where clients seek help for mental health needs

## Spotlight: Concho Valley Regional Public Defender

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- Innovative partnership with San Angelo State to employ social worker graduate students to complete client assessments
- Working to partner with local legal aid provider to work on holistic defense for their clients





What's next



# TIDC Grant Possibilities

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- TIDC can fund improvements to your indigent defense system, for your citizens with MH and IDD, but also including:
  - Indigent defense coordinators
  - Public defender offices, both specialized and general
  - Managed assigned counsel offices
  - Technology improvements (must be indigent defense related)







# TIDC's legislative ask

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**\$50 million**  
for rural  
regional public  
defenders

- Demand for rural defender offices is more than double available TIDC funding.
- Rural defender offices lead to lower recidivism, improved mental health, and greater public safety.

Thank you!  
Contact us to learn more

