

Improving Indigent Defense in Appointed Counsel Systems through Client Choice and Professional Development: A Demonstration Project for Comal County, Texas

TIDC has provided Comal County with a technical support grant to design and implement a countywide pilot project that will allow indigent defendants to select the qualified attorney of their choice, rather than having attorneys appointed by judges or court administrators. To ensure that indigent defendants have ample choices of well qualified attorneys, the project will also include a new training and paid mentoring program for the private bar that will enhance the organizational structure of the local defense community and ensure that defendants have ample choices of well-qualified attorneys.

Goals and Objectives:

- *To enhance the independence of the defense function.*
- *To improve the quality of legal representation provided to indigent defendants.*
- *To strengthen the skills and support network of the private bar representing indigent defendants.*
- *To create a defense delivery system in Comal County predicated upon client selection of counsel.*
- *To institute a training and mentoring program to improve the quality of representation.*
- *To ensure that the client choice, attorney training, and mentoring components are evidence-based by rigorously assessing the implementation process and outcomes.*

By providing indigent defendants with the option to choose their attorney, independence from the judiciary is enhanced and incentives for attorney performance will be realigned to make lawyers more directly beholden to the interests of their clients, rather than judges or court administrators. These market-based incentives introduce a new dimension of accountability that is expected to improve representation and enhance attorney-client relationships. The project is intended to develop a new, cost-effective strategy for improving assigned counsel systems which can help to realize the promise of *Gideon* and the ABA's Ten Principles. The County will contract with highly qualified and nationally recognized indigent defense experts who will assess the current indigent defense system and map its processes, design the client choice program and attorney mentoring programs in close consultation with the County and an expert advisory panel, and conduct a professional impact evaluation study to include qualitative and quantitative analysis of the impacts of the program.

Client choice aligns attorney incentives with the interests of their indigent clients by creating a market in which a reputation for poor quality representation will lead to fewer or perhaps no cases at all, thus introducing the "accountability of the marketplace." Although never before tested in the United States, there is empirical evidence of the effectiveness of client choice from other countries. Client selection of counsel is standard practice abroad, including in Australia,

Canada, England, New Zealand, Scotland, and Wales. In these countries, indigent defendants are able to choose their own lawyers just as persons of financial means select their own medical professional, plumber, and countless other persons who provide services for compensation