NEIGHBORHOOD DEFENDER SERVICE OF TEXAS

Proposal for a Holistic Public Defense Office and Managed Assigned Counsel Program in Hays County

EXECUTIVE SUMMARY

Neighborhood Defender Service (NDS) is the pioneer and leading provider of holistic defense services in the United States. Our innovative model improves case outcomes for clients while reducing expenditures. Home-grown, local talent and new attorneys committed to public defense aspire to work at NDS because of our commitment to high-quality defense representation. Our success in leveraging government dollars and private fundraising allows us to expand the services we provide to clients. In partnership with Hays County, NDS will establish both NDS Hays County, an institutional public defense office, and the NDS Managed Assigned Counsel Program. Each office will provide high-quality defense representation with holistic services available to every indigent defense client in Hays County and will provide specialized representation for those clients experiencing a mental or behavioral health issue. Our partnership for success will raise the quality of representation for residents and set a new standard of defense in Texas and beyond.

NDS Hays County: A Comprehensive Public Defense Office

NDS' award-winning defense model is client-centered, holistic, and community-based. Teams comprised of attorneys, social work staff, investigators, and team administrators provide comprehensive legal and social support services. By addressing various client needs, including mental health and substance abuse issues, we help clients stay out of the criminal justice system permanently. ***Our innovative holistic defense practice reduces pre-trial detention rates and improves case outcomes, thereby generating significant cost savings for local jurisdictions.*** NDS' will bring significant cost savings to the County by reducing pre-trial detention rates, providing comprehensive advocacy for mental health clients, more efficiently resolving cases, and successfully obtaining reduced or non-incarceratory sentences. NDS Hays County will handle 414 felony and 717 misdemeanor cases per year, of which 138 felony cases and 478 misdemeanors will be mental health cases. We project NDS Hays County will handle 30% of felonies and 18% of misdemeanors filed annually in Hays County.

The NDS Managed Assigned Counsel Program

NDS will implement and administer a high-quality, top-tier Managed Assigned Counsel Program for the private bar. ***Residents of Hays County, whether assigned to NDS Hays County or an appointed attorney through the NDS Managed Assigned Counsel Program, will be represented by professional, competent counsel and will have access to a holistic suite of services.*** We will monitor and evaluate the effectiveness of appointed attorneys and serve as a litigation resource. By delivering sound oversight through our Managed Assigned Counsel Program, we will promote the success of the private bar and, by extension, their clients***.*** The NDS Managed Assigned Counsel Program will oversee 70% of felonies and 82% of misdemeanors assigned to appointed attorneys.

Training, Supervision, and Mentoring

Training, supervision, and mentoring are mission critical components for delivering effective, high-quality defense representation. ***NDS has built and refined its training program for attorneys of varying experience levels for over thirty years.*** Our robust supervision program ensures that all staff members have the oversight and guidance necessary to provide excellent assistance to their clients, including those with mental or behavioral health needs. Mentoring is critical for our staff's professional development, and we have built this value into our team structure. NDS Hays County will employ our nationally recognized training, supervision, and mentoring program to ensure clients receive exceptional legal representation and social services support. This training will also be available to appointed attorneys participating in the NDS Managed Assigned Counsel Program as well.

Recruitment, Staffing, and Management

Quality defense work requires talented staff. NDS Hays County and the NDS Managed Assigned Counsel Program will employ a team of dedicated advocates and committed attorneys to staff, supervise, administer, and manage these offices. ***We will staff our office with home-grown, local attorneys and new talent from around Texas to implement a new standard of defense in Hays County.*** NDS' leadership team will oversee all aspects of recruitment, staffing, and management and will be closely involved in day-to-day personnel matters.

Governance, National Leadership, and Administration

Good governance and experienced leadership promote the health and vitality of an organization. NDS Hays County and the NDS Managed Assigned Counsel Program will operate under the auspices of NDS Texas, a limited liability company and wholly owned subsidiary of NDS, Inc. NDS Texas will have its own dedicated advisory board and will have a representative share of seats on the national board of NDS, Inc. ***Combined, our national board and leadership team have well over one-hundred years of experience, which inure to the benefit of the larger organization and local offices.*** This veteran leadership team will ensure that NDS Hays County and the NDS Managed Assigned Counsel Program are programmatically successful and fiscally responsible.

Data Management and Case Reporting

Data collection and reporting are critical for the success of any indigent defense system. ***NDS Hays County and the NDS Managed Assigned Counsel Program will employ a state-of-the-art case management system to capture case and client information.*** Management and supervisors will have access to reporting features to assess caseloads and identify trends. NDS Hays County and the NDS Managed Assigned Counsel Program will be a partner for data collection and analysis and will provide timely and comprehensive reports to Hays County and the Texas Indigent Defense Commission.

Budget Management, Financial Reporting, and Leveraged Funding

Budget management requires transparency, accountability, and fiscal responsibility, and NDS rigorously adheres to these standards**.** NDS Texas' annual budget will be drafted and overseen by the leadership team, including the Executive Director, Rick Jones, and reviewed and approved at the board level, to ensure that every dollar is allocated and accounted for in a fiscally prudent manner. ***For thirty years, we have successfully managed multimillion-dollar contracts and met or exceeded all mandated compliance standards****.* We are confident in our ability to fundraise for NDS Texas to support the growth and expansion of high-quality defense in Hays County.

Timeline

Once NDS is notified of the contract award, we will quickly begin to build NDS Hays County and the NDS Managed Assigned Counsel Program. Securing office space, hiring new staff, providing orientation and initial training, and equipping the new offices will require a six-month start-up period after which both programs can begin to accept new assignments.

Conclusion

Hays County has recognized the need to dramatically improve its public defense system and has already begun taking steps to address it. NDS Hays County and the NDS Managed Assigned Counsel Program will bring high-quality representation and meaningful reform. ***Our experience, leadership, and expertise will raise the standard of public defense representation while increasing efficiency and saving costs in the local criminal justice system.*** We are confident that we will provide the same world-class service to the people of Hays County that we have provided for the past thirty years in Harlem and, most recently, in Detroit.

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I. Introduction

Neighborhood Defender Service, Inc. (NDS) is a well-established and respected public defender provider with offices in Detroit and New York City. In October, 2018, the National Association for Public Defense awarded NDS its inaugural NAPD Defender of Justice Award, recognizing NDS as the public defense office that best exemplifies, nationally, NAPD's mission "to provide a voice to advocate for those who cannot afford a lawyer and to provide support, training and resources in either federal, state or local justice systems." NDS has been providing the highest quality trial-level legal defense representation and social work to indigent residents of Northern Manhattan for thirty years, and opened a successful office in Detroit, Michigan on October 1, 2019. Each of these communities has its own unique characteristics and cultures, and our experience working in these expansive and varied geographic regions and neighborhoods has equipped us to easily translate and implement our defense model to a new region. NDS is extremely well-suited to provide the same high-quality representation to the residents of Hays County.

NDS proposes to establish NDS Texas, which will house two independent offices in Hays County: NDS Hays County ("NDSHC") and the NDS Managed Assigned Counsel Program ("NDS MAC Program"). NDSHC will be a high-quality, holistic public defense office providing mental health and trial-level indigent defense representation to clients. NDSHC will handle 414 felonies and 717 misdemeanors per year, of which 138 felony cases and 478 misdemeanors will be mental health cases. Overall, we estimate that NDSHC will handle approximately 30% of felonies and 18% of misdemeanors annually in Hays County.

The NDS MAC Program will ensure that appointed attorneys have access to a holistic defense team and the legal and administrative support necessary to provide high-quality defense representation to their clients, including comprehensive mental health representation. The NDS MAC Program will handle 70% of felonies and 82% of misdemeanors. With the establishment of NDSHC and the NDS MAC Program, clients and their families will have access to high-quality defense representation.

For thirty years, NDS has designed and administered an effective program and management structure to ensure its success and the success of its clients. We have refined our recruitment and staffing strategies; training, supervising, and mentoring program; leadership, oversight, and governance; financial capacity and fiscal responsibility; and our ability to leverage governmental funding and pursue aggressive fundraising strategies. We are committed to helping Hays County achieve its goal—implementing a high-quality indigent defense system—and our knowledge and experience will help realize the County's objective.

NDS is very well-suited to provide exceptional legal and social services to residents of Hays County in a manner that is both consistent with nationally recognized best practices and cost-effective. An institutional public defense office produces notable cost savings at each stage of a criminal case and improves the likelihood of clients becoming thriving, productive, tax-paying members of the community. NDS is confident that it will bring these same benefits to Hays County.

A large pre-trial detention population is a significant driver of government spending in any jurisdiction. In the era of COVID-19, expenditures for detention facilities have increased due to the cost of personal protective equipment for jail staff, frequent testing,

and medical care for those detained. Studies have found that providing early entry representation to 3,602 clients through a traditional public defense office produced cost savings of at least $420,000 for one jurisdiction and projected at least 11,200 saved jail-bed-days per year in another.[1]

NDSHC, as the institutional defense provider, will realize even greater savings for Hays County at the earliest stage in a case by supporting the release of those from pre-trial detention who do not pose a threat to public safety. With an average length of stay of 196 days at the Hays County Jail, at a cost of $66.52 per day, housing individuals is costly to taxpayers, and by extension, the County. NDS conservatively estimates that each additional client who is released pre-trial will save the County an average of $9,844.96. These savings double with each additional individual released.

Untreated behavioral health issues for residents significantly impacts local detention costs, and a holistic public defense office can help address this need. Rather than leaving those with serious mental health issues to languish in jails and drain county resources, NDSHC will ensure that those who require placement in an in-patient or out-patient mental health program receive treatment. Public defenders in Bexar County have secured a greater number of mental health personal bonds, saving 3,615 jail days per year.[2] For Hays County, this could translate to a savings of $240,469 per year. Likewise, Travis County's Mental Health Public Defender Office achieved a 47% dismissal rate compared with 19% for assigned counsel, and Bexar County achieved an even higher dismissal rate of

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1 *See* Impact Justice, *Representation at Arraignment: The Impact of "Smart Defense" on Due Process and Justice in Alameda County* (Dec. 2018); Alena Yamosky, *The Impact of Early Representation: An Analysis of the San Francisco Public Defender's Pre-trial Release Unit*, California Policy Lab 1 (June 2018).

2 *See* Eure et al., Bexar County Public Defender's Office, *Central Magistrate Mental Health PR Bond: Year 2 Report* (2017).

52% for mental health clients facing a misdemeanor charge and a 64% dismissal rate for mental health clients facing a felony charge.[3]

Public defense offices have been found to produce greater dismissal rates across practices as well, irrespective of a client's mental health status. In Southern California, one public defense office had a dismissal rate of 40% at arraignment, compared with individually practicing attorneys who had a rate of 25%.[4] In Bexar County, the average dismissal rate for the entire office, at any stage of a case, is 65%.[5] Exceptional dismissal rates alleviate inefficiencies and curtail rising costs by reducing caseloads for courts and district attorneys, lowering the pre-trial detention population, and rerouting clients to social service providers for treatment and counsel.

Additionally, public defense offices decrease the average duration of cases, further eliminating unnecessary continuances and avoiding unnecessary lags in the administration of the justice system. For criminal cases handled by public defenders in Bowie County, there were 43 fewer days for a misdemeanor case and 176 fewer days for a felony on the court's docket.[6] A reduction of 43 days for a single client held on a misdemeanor charge in the Hays County Jail would produce $2,860.36 in savings while a reduction of 176 days for a single client held on a felony in the Hays County Jail would produce $11,707.52 in pre-trial detention savings. There would be additional savings recognized by the court system as a result of the more efficient resolution of cases.

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3 *See* Travis County Justice Planning, *Mental Health Public Defender Office Cost Benefit Analysis, Part 1: Analysis of Performance of the Texas Task Force on Indigent Defense Grant* (2011); Bexar County Public Defense Office, *FY 19-20 Performance Indicators MMH* (2020).

4 *See* Harris, Heather, *Building Holistic Defense: The Design and Evaluation of a Social Work Centric Model of Public Defense*, Crim. Justice Policy R. Vol. 31(6) 800-832 (2020).

5 *See* Bexar County Public Defense Office, *FY 19-20 Performance Indicators MT2* (2020)

6 *See* Texas Indigent Defense Commission, *Bowie & Red River County Discretionary Grant Closeout Evaluation Public Defender Initiative* (2013).

While traditional public defender offices deliver cost savings for jurisdictions as discussed above, holistic public defense offices yield even more significant savings. Bench warrants for failure to appear plummet with the implementation of the holistic defense model. In one study, those clients who received holistic defense representation from a public defense office did not have a single bench warrant issued for failure to appear over a year and half period.[7] Moreover, holistic defense representation has been shown to reduce the length of prison sentences by 50%, thereby generating exponential cost savings for the state at large.[8]

NDS' holistic defense model produces significant savings for jurisdictions and improves case outcomes for clients. Over its first eight months, NDS Detroit had an average dismissal rate of 37%, and for two months, the dismissal rates of 48% and 49% outpaced the overall plea rate. Pre-trial detention release rates are a notable data point as well for NDS Detroit. From March 13, 2020, to January 19, 2021, as COVID-19 has caused a virtual shutdown of the criminal justice system, creating significant case backlogs, NDS Detroit secured the release of 840 individuals. We can achieve similar dismissal and release rates in Hays County, thereby generating significant cost savings throughout the local criminal justice system.

The NDS holistic defense model provides a substantial suite of services, including specialized mental health and civil defense representation, and the beneficial impact of this model extends long after the conclusion of a criminal case. By lowering the pre-trial

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7 *See* Harris, Heather, *Building Holistic Defense: The Design and Evaluation of a Social Work Centric Model of Public Defense*, 31 CRIM. J. POLICY R. 820, 832(2020).

8 *See* Harris, supra, note 9; James M. Anderson, Maya Buenaventura, and Paul Heaton, *Effective Assistance of Counsel: The Effects of Holistic Defense on Criminal Justice Outcomes*, 132 HARV. L. REV. 819, 883 (Jan. 2019).

detention population, generating an increased dismissal rate and a decreased conviction rate, and reducing prison lengths, NDSHC will help clients maintain economic and social stability over their lives. Clients, therefore, are less likely to be rendered homeless, unemployed, and broken, and are more likely to stay housed, employed, and productive, taxpaying citizens. As a result, recidivism rates decrease and tax dollars that would otherwise be spent on the criminal justice system are saved. NDS is confident it will bring a host of cost savings and economic benefits to the Hays County community, realized both immediately and in the long term.

II. NDS Hays County: A Holistic Public Defense Office

An Overview of Holistic Defense Representation

NDS' model is client-centered, collaborative, and community-based. In contrast to a traditional public defense office, NDS clients have an entire team fighting on their behalf, including criminal, civil and family defense attorneys, client advocates, social workers, investigators, paralegals, law school and social work interns, and pro bono attorneys. Recognizing that legal issues are rarely confined to one area of the law, NDS attorneys are trained to recognize the implications of a case beyond their practice area and to collaborate with team members seamlessly. This defense model produces a multitude of benefits for the client and the criminal justice system: increased attention to, and the resolution of, mental health and substance abuse issues; higher job participation and employment rates; improved housing and family stability; reduced recidivism; a lower jail population; overall efficiency for the judicial system; fewer expenditures for the justice system; and elevated standards for the delivery of court-appointed indigent defense representation.

NDSHC will provide a broad scope of legal and social services in an efficient and effective manner through our innovative team-based model of service. We will staff a fully integrated defense team at NDSHC. This team will include a Supervising Attorney, a Senior Trial Attorney, five Staff Attorneys, two Social Workers, two Investigators, and one Team Administrator. A front-desk Receptionist will provide administrative support to the defense team as needed.

The Supervising Attorney will ensure that each team member receives the necessary support and guidance to provide high-quality defense representation. The Senior Trial Attorney will assist the Supervising Attorney with supervising team members and will provide critical mentoring skills as well. The Staff Attorneys will have varying levels of experience with at least two Staff Attorneys equipped to handle every type of case up to and including first degree felonies and three Staff Attorneys devoted to assisting those clients who have mental health needs. The assigned Staff Attorney will serve as the team leader for a particular client.

The Managing Director of NDS Texas and the NDS, Inc. Chief of Staff will provide further ongoing support, supervision, and oversight of NDSHC, as discussed in greater detail in Sections V and VI below. These executive level roles are critical to ensure the effective delivery of high-quality defense representation and the efficient administration of NDSHC and the NDS MAC Program.

Client-Centered

NDS' client-centered practice is based upon the premise that our job is to represent people—not to simply resolve cases. The importance of building a relationship of trust between the client and their legal team cannot be overstated. Clients who trust their attorneys are more forthcoming with information about themselves and are more likely to make better informed decisions about their cases.

Fostering a strong attorney-client relationship requires timely communication, preparedness, and engagement with clients to develop case goals and strategies. Through multiple checks and safeguards, our team-based approach ensures that attorneys have the necessary support to effectively develop a strong attorney-client relationship from the beginning. We deploy investigative resources to gather critical information for a client's case early, often before the first client interview. We prepare for the client's needs outside of the criminal case such as mental health, substance abuse, immigration, housing, and employment concerns. And we strive to make initial client contact within twenty-four hours of appointment. Our offices are open to clients with multiple client-interview rooms. For those who are held in custody, we schedule in-person or video visits with clients in accordance with a facility's safety and security protocols. These simple yet critical steps help forge a trusting attorney-client relationship. Clients know that we seek outcomes to best help them and they are eager to be a part of the decision-making process.

A trusting attorney-client relationship generates an array of positive results for the client and the criminal justice system. Since clients trust their attorney, they are more receptive to advice and guidance regarding their case and social and economic welfare. Clients are more likely to enroll in educational and vocational programs and become

productive, taxpaying citizens. They are more likely to take positive steps to address their needs, including participating in therapeutic services, substance abuse programs, and parenting classes. Overall, clients become less likely to have future engagement with the criminal justice system. Arrest rates and case filings stabilize while expenditures decrease for local law enforcement, district attorneys, and the courts.

NDSHC will adhere to the NDS core value of developing a trusting attorney-client relationship, thereby improving the community's faith in Hays County's indigent defense system. Visits will be held at the office and the Hays County Detention Center. Clients will be able to frequently contact their attorney. Non-attorney team members will be actively involved in a client's case and available to answer any non-legal questions and will provide specialized assistance for clients living with behavioral health needs. These multiple points of contact for clients represented by NDSHC will reduce anxiety, confusion, and concern on the part of the client while cultivating their trust and rapport to help foster their future stability and success.

Collaborative

NDS provides team-based social and legal defense services to clients to address the range of issues impacting a client's case and well-being. Interdisciplinary teams address the criminal case, any collateral civil consequences of the criminal charge, and any underlying life circumstances of the client that contributed to the client's contact with the criminal justice system. This requires NDS to represent clients in a wide variety of civil cases, including immigration, housing, family, benefits, employment, forfeiture, and school suspension matters. Each NDS defense team works with a client early, when possible even before an arrest or an arraignment, and continues to assist the client after the criminal

matter has concluded. NDS' defense model extends well beyond the courtroom, with robust social services and comprehensive legal teams focused on helping clients address their mental and behavioral health needs and leave the criminal justice system permanently.

The ability to resolve a client's pending civil and criminal matters within one office produces greater overall efficiency throughout the legal system. Rather than having various attorneys spread among a number of offices working on multiple, intersecting cases separately, a team of dedicated staff members address all pending legal issues within one office. Team members are well-versed in the various proceedings for each client and are well-positioned to identify potential scheduling conflicts across court calendars. As a result, staff are equipped to help courts and court staff keep dockets manageable and reduce any unnecessary delays.

Immediately upon the establishment of NDSHC as the public defender office, we will begin seeking the resources necessary to build a civil defense practice. Clients will ultimately have access to legal representation not only on current or impending criminal cases, but also on related, collateral civil matters. In our experience, the consequences to clients on these related civil matters are often more important than the direct consequences of their criminal cases. We will represent clients in a wide variety of civil cases including behavioral health, immigration, housing, family, benefits, employment, forfeiture, school suspensions, and more. As discussed in Section VIII below, we will leverage government funding from the Texas Indigent Defense Commission and Hays County to secure additional revenue to support NDSHC's civil defense practice. We anticipate NDSHC will have an established civil practice within five years of opening, depending upon the availability of funds.

Mental Health and Social Work Services

Mental health is a significant issue for many people in the criminal justice system and we recognize this reality. NDS pioneered the use of Social Workers on the defense team and training attorneys to work closely with mental health treatment providers. We consider mental health treatment essential to achieving meaningful case outcomes and pivotal for deterring clients from repeatedly cycling through jails and generating unnecessary expenses for local jurisdictions.

NDSHC will provide specialized legal and social services to clients suffering from behavioral health issues. NDS will provide specialized services through three dedicated Staff Attorneys and two Social Workers. In providing these important services, NDSHC will ensure that the local criminal justice system complies with the specific mental health mandates outlined in the Sandra Bland Act of 2017, Senate Bill 1326, and the Texas Code of Criminal Procedure, Articles 16.23 and 17.032, each of which aim to address the needs of those with a mental health issue who have contact with the criminal justice system.

Skillful identification of a behavioral health issue is imperative for any public defense office, and NDS is well-versed in this important aspect of comprehensive representation. The entire staff of NDSHC will be equipped to identify clients who are experiencing varying degrees of mental health difficulties, beginning at the earliest possible point in a case. This knowledge and identification process will ensure that clients with a behavioral health issue receive the immediate attention that they require, including substance abuse treatment, psychiatric and medical care, therapeutic services, specialized case management, and appropriate supportive housing. Each mental health attorney will represent clients in their criminal cases, including bond condition, community supervision,

and medical release hearings and in any collateral forums related to their mental illness. Attorneys will work closely with psychologist consultants and Social Workers to identify and treat these clients' mental health needs.

For every client, NDSHC will also provide substantial social work services in an effort to confront the issues that brought a client into contact with the criminal justice system in the first place. This work will include seeking alternatives to detention and alternatives to incarceration options for clients, promoting diversion for those who are eligible, providing advocacy in the form of pre-pleading and pre-sentencing reports, and initiating referrals for social service programming where appropriate, even when those services are not mandated by the court. We will secure short-term or long-term housing options for them and help them solidify their ties to the community. We will promote their participation in GED and vocational courses and direct them to employment agencies to assist with job readiness skills. In the event of incarceration upon sentencing, we will coordinate with community partners devoted to re-entry and serving returning citizens to deter recidivism among clients. We have seen the impact effective social work makes, both for case outcomes and for our clients' lives. By resolving the collateral civil legal needs of clients, as well as their social work needs, we will achieve more meaningful and lasting outcomes for our clients and the community of Hays County.

Community-Based

NDS is located in the communities we serve. One important aspect of our community-based model is our ability to provide pre-arrest and pre-arraignment services to community members through community intake. Representation at these key stages of a criminal case is available to anyone who can afford an attorney, but is not generally available to those who cannot afford an attorney.

Community intake improves case outcomes for clients while promoting public safety, greater efficiency, cost savings, and compliance with mental health mandates. When contacted by a client who is facing arrest, we negotiate with the police department in an attempt to avoid an arrest. If unsuccessful, we arrange a peaceful surrender, thereby avoiding a highly stressful and potentially dangerous confrontation between the police and our client in the community. For those clients who exhibit behavioral and mental health needs and consent to releasing this information, we will inform law enforcement to ensure that the sheriff's office properly notifies the magistrate within 12 hours to promote compliance with Senate Bill 1326.

By increasing the number of peaceful surrenders, we improve public safety and ensure that law enforcement resources can be allocated to cases requiring investigative attention. We communicate with the district attorney's office to assess whether an arrest or filing of charges is an appropriate action, and we convey if the client is better served through community programs for mental health and substance abuse. We help reduce the number of cases filed since the need for filing after arrest is mitigated. In turn, the court's efficiency increases, and judges hear cases that truly require judicial intervention to resolve. We secure personal bonds when warranted to help reduce the pre-trial detention

population, particularly in those instances when a client has a mental or behavioral health need. We provide a resource for those with an active warrant to resolve their pending legal issue under the guidance of counsel and to preserve scarce law enforcement and judicial resources.

NDSHC's community intake practice will be an extremely valuable service for the residents Hays County and will complement the County's efforts to ensure that those who are eligible for court-appointed representation receive quality counsel as mandated by the Sixth Amendment.

Several operational measures will be in place that will allow us to immediately provide meaningful representation while maintaining compliance with the Texas Disciplinary Rules of Professional Conduct and the indigent defense plans from the Hays District Court and the Hays County Court at Law. While community intake will be available to the residents of Hays County, we expect that these cases will account for a small portion of the overall criminal caseload and that the majority of our assigned cases will come through court appointment.

When a potential client contacts NDSHC for community intake, he or she will be greeted by the Receptionist who will record the individual's information and briefly explain the intake process. The Receptionist will relay the potential client's information to the Team Administrator to then complete a conflict check and confirm whether the person is eligible for NDSHC's services. If so, he or she will promptly inform the Staff Attorney assigned to community intake for the week while concurrently inputting the case information into the case management system. The Staff Attorney will contact the potential client and begin working on the case.

If NDSHC is unable to accept the case, staff will inform the individual of the process for requesting counsel, thereby helping reduce the number of indigent community members who unknowingly forgo court-appointed representation. For any potential capital cases identified between the Staff Attorney and the Supervising Attorney, NDSHC staff will inform the individual that they are unable to accept the case to ensure all capital cases are routed to the Regional Public Defender's Office.

If the case is scheduled for magistration, indictment, or arraignment, the Team Administrator will promptly notify jail and court staff. To confirm that all case assignments remain in compliance with the rotation system for assigning cases, we will count the community intake cases as those among the percentage of clients that we will represent in felony and misdemeanor matters.

NDSHC will have programmatic features to support its community intake advocacy. Staff members will be trained about community intake and the internal process by an NDS staff member experienced with this innovative practice. All team members will have immediate access to the case information, including mental and behavioral health issues, in order to effectively represent the client. Specific resources will be dedicated to community intake, including social workers, investigators, and civil defense attorneys so that the Staff Attorney will know precisely who to call as the need for those services is identified, and those additional resources will be quickly and effectively deployed as needed. The services that we will provide through this practice will make a huge difference in our clients' cases and will promote the smooth, efficient, and cost-effective administration of the criminal justice system in Hays County.

Representation at Magistration and Arraignment

NDS is committed to getting involved at the earliest possible stage of a case, either at magistration and arraignment, or before. Often, individuals who are eligible for court-appointed counsel may become overwhelmed by the rapid process and unknowingly waive their right to counsel. Bond amounts remain high, counties dollars are wasted on unnecessary jail beds, and individuals lose their housing and income. Representation at first appearance can dramatically change the outcome of a client's case, reduce government spending on pre-trial detention, and properly route clients to the appropriate treatment programs.

Staffing the felony and misdemeanor magistration and arraignment shifts with Staff Attorneys as discussed above will provide the attorneys sufficient time and resources to handle the cases they are assigned. We will ensure that the Staff Attorneys at each magistration or arraignment shift have the appropriate level of experience, so that each client will be represented by an attorney who will be fully qualified to handle his or her case. These Staff Attorneys assigned to the magistration and arraignment shifts will begin representing their clients immediately upon their assignment to the case to avoid any case delays, and to the extent possible they will continue to represent that client through the conclusion of the case. For any clients who exhibit a mental or behavioral health issue, Staff Attorneys will coordinate with Social Workers to provide appropriate documentation at magistration to ensure clients are enrolled in treatment programs rather than languishing in pre-trial detention.

Vertical Representation

Vertical representation is an integral part of our defense representation model. Clients are best served when the same attorney appears each time with a client, from magistration through the ultimate disposition of the case (vertical representation). Vertical representation further strengthens the attorney-client relationship as clients know their attorney will remain with them throughout the pendency of the case. Defense attorneys are better informed about the strength and status of a case and better equipped to determine if it is appropriate for dismissal, plea negotiation, or trial.

Vertical representation also leads to the efficient resolution of cases and produces substantial cost savings for local jurisdictions. Appearance rates increase since clients have an established rapport with their counsel. An increase in the number of clients appearing at their court dates results in a decrease in the number of warrants issued for failure to appear, thereby shrinking the jail population and saving law enforcement resources. Prosecutors are able to negotiate a case with a single attorney, which improves the ability on the part of both attorneys to determine fair plea terms and appropriate dismissals. Judges know who to hold accountable on a case, in turn minimizing inefficiencies and promoting compliance. We are committed to providing vertical representation to our clients—it is efficient and cost effective, and it is crucial to providing high-quality, client-centered representation.

Conflicts of Interest

A succinct and practical process for identifying conflicts of interest is not only mandated by the rules of professional conduct, but is also critical to help reduce case delays in the criminal justice system. NDSHC will employ a conflict check system to maintain

compliance with ethical and professional standards. Upon intake, whether a case is assigned by the court or retained through community intake, the Team Administrator will input the case into the case management system and enter each and every identifiable name. This process will be repeated on an ongoing basis over the life of a case. Where a conflict of interest requires the assignment of new counsel, we will immediately notify the court and ask for reassignment of counsel due to conflict. Upon the assignment of a new attorney, we will provide the file and any other relevant information and documents that are required. Our conflict-of-interest procedure will ensure that there are limited case delays and that cases remain on track with the court's calendar. Our case management system, defenderData, is described in greater detail in Section VII, below.

III. The NDS Managed Assigned Counsel Program

To ensure that every resident in Hays County has access to high-quality counsel, NDS Texas will run a state-of-the-art Managed Assigned Counsel Program. NDS has cultivated strong ties between the private bar and institutional public defenders to raise the quality of representation and to support the legal community at large in both New York and Detroit, and we will create this same environment for the legal community of Hays County. The NDS MAC Program will be staffed by a dedicated Supervising Attorney, Team Administrator, Investigator, and Social Worker. The NDS MAC Program will share access to additional staff with NDSHC, including the Managing Director, Office Manager, Training Director, and Receptionist. NDS will maintain the NDS MAC Program with the same level of skill and commitment as we will for the NDSHC public defender office, including the deployment of specialized mental health representation.

Oversight and Guidance for Effective Representation

A successful managed assigned counsel program requires an experienced and skillful leader, the MAC Program Supervising Attorney. To oversee and direct the NDS MAC Program, NDS will employ a dedicated and committed Supervising Attorney with substantial experience providing trial-level defense representation and training and supervising attorneys. This Supervising Attorney will also serve an important role in building relationships with stakeholders in the criminal justice community of Hays County and throughout Texas. A Team Administrator experienced in assisting with the administrative needs of a public defender office will assist the new NDS MAC Program and the effective delivery of high-quality representation, and NDS recognizes this key component.

The Managing Director of NDS Texas and the NDS, Inc. Chief of Staff will provide further ongoing support, supervision, and oversight of the NDS MAC Program, as discussed in greater detail in Sections V and VI below. These executive level roles are critical to ensure the effective and efficient administration of the NDS MAC Program.

The Supervising Attorney will use quantitative and qualitative assessment tools to evaluate the performance of appointed attorneys. Basic metrics will include the timing of the initial client interview and ongoing client communication; the number of motions filed and bond arguments made; the average duration of a case; case outcomes including rate and timing of plea agreements and trials held; the deployment of resources such as investigators and experts; and the number of referrals to *myPadilla*, a Texas-based program where attorneys representing non-citizen clients may obtain advice regarding the immigration consequences that flow from a plea agreement, as mandated by the United

States Supreme Court. This level of supervision, along with periodic case reviews, will allow the Supervising Attorney to assess, on an ongoing basis, an appointed attorney's ability to handle his or her caseload.

The Supervising Attorney will regularly appear at criminal courtrooms throughout Hays County to observe appointed attorneys and evaluate their strengths and weaknesses. Court observations will help the Supervising Attorney gain insight into an appointed attorney's litigation techniques and strategies, from witness examinations to selecting jurors, as well as his or her demeanor and counsel of indigent clients. These factors are difficult to capture through data collection, but are critical for the Supervising Attorney's evaluation of appointed attorneys and to bolster the quality of representation provided.

The Supervising Attorney will also serve as an important lawyering resource for appointed attorneys. When an attorney practices law in isolation, he or she can be limited in their ability to test and moot case arguments, accurately assess when to deploy an investigator or request an expert, or identify lurking ethical issues ripe for malpractice. A collaborative atmosphere among multiple attorneys alleviates these burdens for solo practitioners. The Supervising Attorney will establish a working relationship with appointed attorneys to support a participatory atmosphere and will have an open-door policy to assist attorneys. Appointed attorneys will be able to access the Supervising Attorney during weekly office hours and frequently via e-mail, text, telephone, or in-person. By engaging with appointed attorneys through many points of contact, the Supervising Attorney will be able to gauge which attorneys require more assistance and oversight. These interactions will raise the bar of representation in Hays County and will promote greater accountability for practitioners.

Holistic Support Team

Appointed attorneys will have access to a staff Investigator and a staff Social Worker to address investigative and mental health needs. When an attorney believes these resources are necessary, they will simply submit a request to the NDS MAC Program. These requests will be assessed by the Supervising Attorney who will approve the request, deny the request, or seek more information from the attorney before making a decision. By staffing these positions within the NDS MAC Program, we can ensure that a greater percentage of the cases that require such support will get access to these services and that this support can be provided in a responsible, cost-effective manner. While we will not have expert witnesses on staff, appointed attorneys will be able to ask for the support of expert witnesses on their cases. When such a request is made, it will be reviewed similarly by the Supervising Attorney.

To maintain consistent, high-quality defense representation for indigent clients, it is important to consistently evaluate attorney caseloads. On a bi-weekly basis, the Supervising Attorney and Office Manager will review and evaluate the caseloads for appointed attorneys to verify that caseloads remain manageable. If feasible, this analysis will review appointed cases across counties. In the event that we believe an attorney is approaching a caseload in excess of the Texas Indigent Defense Commission's caseload guidelines, the Supervising Attorney will schedule a conversation with the attorney and assess, in collaboration with the Indigent Defense Coordinator, when the attorney will be able to accept new cases.

Case Management Program

The NDS MAC Program will employ a robust case management system to ensure that appointments are impartial and timely for clients who receive representation from assigned counsel. NDS has successfully negotiated long-term contracts with JusticeWorks, the creator of defenderData, to implement a case management system for each of its current offices. NDS will work in collaboration with JusticeWorks to build out a defenderData platform to assist with the unique needs of the NDS MAC Program.

All information entered into defenderData for MAC Program clients will be distinct and separate from NDSHC and will serve the needs of appointed attorneys. The NDS MAC Team Administrator will be responsible for entering initial case information upon receiving the client's request for appointed counsel from the Indigent Defense Coordinator and for archiving cases upon disposition. The case management portal will be accessible for appointed attorneys to obtain information about their newly appointed case, to enter information throughout the duration of the case, to request an Investigator, Social Worker, or expert, and to submit a request for payment at the conclusion of a case. On a monthly basis, the Team Administrator will generate a report to track attorney payments to ensure attorneys are properly paid for their cases.

Trainings and Continuing Legal Education for Assigned Counsel

Attorney participation in continuing legal education programs and training is critical for high-quality defense representation, particularly as litigation techniques must evolve to meet new technologies and as courts update their policies and procedures to improve attorney standards. The Training Director will develop and implement a high-quality training curriculum for the NDS MAC Program staff and appointed attorneys, which

will align with the training programs provided at NDSHC. The Training Director will notify appointed attorneys of additional training opportunities through NDSHC, local and state bar associations, and national organizations such as the National Association of Criminal Defense Lawyers and the National Association for Public Defense.

The NDS MAC Program will track continuing legal education credits for each appointed attorney to verify the completion of at least six hours of criminal defense training annually. For any attorneys who do not submit their certificates by their birth month, in accordance with the State Bar of Texas' guidelines for reporting continuing legal education, the Supervising Attorney will notify the attorney of the potential to be revoked from the appointed roster list.

A new, innovative defense program is most successful when attorneys are well-informed and well-prepared. Before launching the NDS MAC Program, the Training Director will design introductory workshops for appointed attorneys. These workshops will help private attorneys understand how the NDS MAC Program will support their success. Sessions will discuss the role of the NDS MAC Program and how it will differ from the institutional public defense office, working with investigators and social workers, representing mental health clients, conflict checks, caseload standards and oversight, the case management portal, voucher payments, training newsletters, and continuing legal education requirements. These sessions will highlight the NDS MAC Program's role as a source of guidance for appointed attorneys, from discussing case strategies and litigation techniques to new developments in the law.

Voucher Process

The NDS MAC Program will streamline the payment process for appointed attorneys who are providing representation on felony and misdemeanor cases (vouchers). Rather than completing a form to submit the courts, appointed attorneys will submit vouchers directly to the NDS MAC Program at the conclusion of a case to be reviewed by the Office Manager. Vouchers that fall within the range that is presumptively appropriate for the severity of the charge will be passed along to the Controller for processing and payment. If the voucher is higher than the presumptively appropriate cost, the Supervising Attorney will follow up with the appointed attorney to review the voucher and the file. Following that meeting, the voucher will either be accepted or modified and passed along to the Controller for processing and payment. We believe that this process will bring transparency and equity to the vouchering process, while preserving the MAC Program's ability to control the costs of these services.

IV. Training, Supervision, and Mentoring

Training, supervision, and mentoring are necessary to consistently provide high-quality legal representation for public defender clients. NDS is heavily invested in training attorneys, actively supervising them, and otherwise supporting their professional development. A comprehensive training program provides wide sweeping benefits for local jurisdictions, provides oversight and accountability, and raises the quality of legal defense representation provided by Staff Attorneys and the private bar. NDS will employ our nationally recognized training, supervision, and mentoring program for the entire staff of NDSHC and the NDS MAC Program as well as appointed attorneys to ensure clients receive high-quality defense representation, irrespective of appointment. We have little doubt that,

once underway Hays County will be a model for training, supervision, and mentoring in the State of Texas, and beyond.

Training

We are committed to providing a robust training program. Matt Knecht, NDS Chief of Staff, a successful practitioner with over twenty years of criminal defense experience, will coordinate trainings with the Managing Director and the Training Director of NDS Texas. Additionally, many NDS staff members are recognized as leaders in the public defense community and are invited to participate as trainers and presenters at continuing legal education classes and other events. The Training Director will work with these experienced trainers, who will serve an important role as a training resource for both NDSHC and the NDS MAC Program.

Prior to launching NDSHC and the NDS MAC Program, we will administer an introductory training and orientation session for all staff members. We will provide an overview of NDS, will introduce our holistic model, and will highlight the array of services that are available. By having all NDS staff members attend the introductory training and orientation session, we will ensure that each office provides the same standard of holistic services to clients. NDS will provide a substantive overview of what is required to represent clients in Hays County's criminal courts; community intake and early entry representation; successful bail arguments and pre-trial motion practice; effective client interview techniques; properly identifying mental and behavioral health needs; comprehensive representation for mental health clients; deploying resources in the community for mental health, substance abuse, housing, and employment issues; litigation tactics including evidence and discovery methods; and providing effective representation

during an emergency response period. For entry-level attorneys, the introductory training program will be four to six weeks long.

NDSHC and the NDS MAC Program will provide ongoing trainings to support the professional development of Staff Attorneys and appointed attorneys. Both will have an opportunity to moot magistration, bond arguments, and other court appearances in a safe space before doing it before the court, on the record, where clients face actual consequences. When we identify quality opportunities to train on a particular issue, we will take advantage of them. Outside experts will provide substantive legal training on a wide variety of topics that include ethics, evidentiary issues, and handling particular types of cases such as DUI or mental health cases.

For the attorneys of NDSHC and the NDS MAC Program, we will ensure that they can satisfy their annual continuing legal education requirements with relevant topics at no cost to the attorneys. We will provide CLE opportunities for the attorneys on an ongoing, consistent basis and will publicize upcoming trainings throughout Texas. If local training is unavailable, we will send our NDSHC Staff Attorneys to training programs provided by the National Association of Criminal Defense Lawyers, the National Legal Aid and Defender Association, and the National Association for Public Defense. We will also send our attorneys to trial advocacy "camps" such as the National Criminal Defense College in Vermont. The Training Director will notify appointed attorneys of these training opportunities and will encourage them to attend. NDS management and staff hold significant leadership and faculty positions in each of these organizations and are well-positioned to determine which training opportunities would best serve the needs of NDSHC's staff members.

Supervision

At NDS, we employ an active supervision model. We take attorney supervision seriously and view it as an essential part of providing high-quality defense representation and necessary to promote oversight and accountability.

NDSHC will have several key policies in place to ensure that regular, effective attorney supervision occurs. The Supervising Attorney will be given the organizational support he or she needs to effectively supervise the Staff Attorneys on their team. We will require the Supervising Attorney to carry a reduced caseload. Consistent with best practices, that caseload will be 10% of a full caseload.

While it is important for the Supervising Attorney to carry a small caseload, we have found that a Supervising Attorney's time is most effectively spent working directly with the Staff Attorneys and non-attorney staff on his or her team. We will further support the Supervising Attorney by ensuring that he or she meets regularly with the Managing Director. Consistent communication between the Managing Director and the Supervising Attorney will allow NDSHC to provide additional support to the Supervising Attorney and to take corrective actions when required.

Since the Supervising Attorney of NDSHC will receive organizational support from the Managing Director, he or she will be able to actively supervise the Staff Attorneys on the team. The Supervising Attorney will have daily, informal interaction with the Staff Attorneys. He or she will be in court and in the office with the Staff Attorneys, and after hours will be available via text, e-mail, or telephone. Access is one of the most important traits of an effective Supervising Attorney, and our Supervising Attorney will employ an open-door policy, ensuring their accessibility to their teams.

In addition to these regular, informal contacts with Staff Attorneys, the Supervising Attorney will also hold regular team meetings, where the entire team will meet to discuss team-wide issues. Team meetings will provide an excellent opportunity for the Supervising Attorney to check in with the team, implement team-wide policies, and handle any team-wide issues that need to be addressed. These meetings will also provide an opportunity to brainstorm cases and will allow the Supervising Attorney to see how the team is working together and to implement corrective measures if necessary.

The Supervising Attorney will also conduct regular, formal case reviews with the Staff Attorneys. These case reviews provide an opportunity for the Supervising Attorney to meet individually with each Staff Attorney and to review and discuss current or recently closed cases. Using actual cases and case files in conjunction with reports generated by the case management program, the Supervising Attorney will gain tremendous insight into the individual practices of each Staff Attorney.

Staff Attorneys in their first year at NDSHC will be subject to quarterly case reviews, and they will have regular opportunities to brainstorm, strategize, and conference their cases with the Supervising Attorney and the Senior Trial Attorney in the office. These formal case reviews will be comprehensive in scope, and in their second year Staff Attorneys will participate in two formal case reviews. In subsequent years, these regular, formal case reviews will be conducted annually. These case reviews will be critical to the continuing development of these attorneys.

The most important resource required to provide excellent legal representation is time, and we will work hard to ensure that both attorney and non-attorney staff have sufficient time with their Supervising Attorney to ensure they are providing excellent

representation to clients. We will adhere to the Texas Indigent Defense Commission's caseload guideline of 138 felonies and 239 misdemeanors. While intake numbers are important, we will also monitor the number of pending cases when reviewing attorney caseloads.

Providing leadership and supervision to all staff members within a public defender office is critical for its success. The Managing Director, in conjunction with the Chief of Staff, will serve an important role in assuring the quality of services provided to clients in Hays County. The Managing Director will meet regularly with the Supervising Attorney on an individual basis to discuss the operations of the team and whether the team is achieving NDS' goal of providing client-centered legal services of the highest quality. The Managing Director will also meet regularly with staff to discuss office-wide issues; to ensure that everyone is working consistently with respect to office policies and priorities; and to affirm that the NDSHC team is working in collaboration to achieve the organization's goals. The NDS Texas Managing Director will also be a member of the NDS National Executive Team and will benefit from all resources therein.

Mentoring

For NDS, mentoring is the final critical component for promoting high-quality, client-centered advocacy. NDS' mentoring program entails fostering important lawyering skills for attorneys including developing trusting attorney-client relationships, engaging in client communication, conducting initial client interviews, spotting legal issues, developing a case strategy, and preparing for trial. Mentoring allows novice attorneys, who otherwise may be intimidated by more senior counsel, and the pressures of the public defense office,

to ask unfiltered and honest questions about the practice of law and methods to achieve the best outcomes for clients.

NDSHC's Senior Trial Attorney will serve as a mentor, role model, and valuable resource for the other NDSHC Staff Attorneys and legal staff in the office and will work in tandem with the Supervising Attorney to provide supervision. The Senior Trial Attorney will provide individualized information to more junior advocates about litigating before a jury, tailoring a motion or pleading to fit the unique stylistic preference of the court, known successful negotiation tactics with opposing counsel, managing the stress that comes with public defense work, and a myriad of seemingly unseen yet important details which compliment high-quality indigent defense practices.

The NDSHC Senior Trial Attorney will also serve an important role as co-counsel for Staff Attorneys to support their litigation skills and to ensure that less-experienced Staff Attorneys have the appropriate guidance to effectively represent clients in court, present evidence, perform direct and cross examinations, select jurors, and preserve issues for appeal.

V. Recruitment, Staffing, and Management

NDS has a talented and diverse staff, experienced in providing the precise legal and social services described in this proposal. NDS' staff members are driven by the same goal: to provide exceptional legal and social services to our clients. We will bring that same commitment to excellence to Hays County, and we expect to employ a similarly talented and diverse staff there.

A. Recruitment and Staffing

Recruitment of the brightest legal minds and dedicated staff members is critical to the success of a new public defense office. We are committed to hiring home-grown, locally based talent from Hays County as well as new talent from around Texas. NDSHC will incorporate the legal acumen and skills of experienced litigators from Hays County alongside novice attorneys who are committed to developing a career in public interest. NDSHC will develop relationships with public interest programs at nearby law schools, including the University of Texas at Austin School of Law. All of the NDSHC Supervising and Staff Attorneys will be authorized to practice law in the State of Texas before representing clients in Hays County. No attorneys will appear in court on behalf of our clients unless they are authorized to practice law in the State of Texas.

Supervising Attorneys

NDS will hire two experienced attorneys as Supervising Attorneys, one for NDSHC and one for the NDS MAC Program. NDSHC's Supervising Attorney will be an experienced litigator with significant trial experience, including bench trials and jury trials. This Supervising Attorney will have represented clients in a wide variety of criminal cases, including serious felonies, and will be very comfortable working in our team-based, holistic work environment. NDSHC's Supervising Attorney will also have at least three years of experience supervising a range of attorneys, from novice attorneys to seasoned litigators. The Supervising Attorney will ensure team members provide the highest level of defense representation to clients and their families and will promote oversight and accountability of each team member's work.

The Supervising Attorney for the NDS MAC Program will oversee appointed attorneys and their effectiveness in providing representation. The Supervising Attorney will evaluate them, manage caseloads their caseloads, review submitted vouchers for payment, inform them of training opportunities, and track continuing legal education requirements. NDS will select an experienced litigator, with at least ten years of trial experience, who is well-versed in practice management, to ensure that appointed attorneys receive the support necessary for their success.

Senior Attorneys and Staff Attorneys

We expect that the Staff Attorneys of NDSHC will include a significant number of experienced practitioners located in Texas, as well as highly qualified lateral hires, whose passion for their work is matched only by their talent. We anticipate that the Staff Attorneys' experience levels at NDSHC will fall into three broad categories: senior, mid-level, and entry-level attorneys. It is important to note here that there will be no social promotion—Staff Attorneys will not simply move into more serious and complicated caseloads because they have been at NDSHC for a certain period of time. No Staff Attorney's caseload will increase in seriousness or complexity until they have the training, the experience, and the demonstrated skills to handle it. Our Supervising Attorney will spend significant time working directly with the Staff Attorneys on the team, monitoring their progress and developing their skills. Only when Staff Attorneys are ready will they be assigned a more serious and complex caseload.

NDSHC's Senior Trial Attorney will be a career defender with at least ten years of experience. He or she will have either begun their career in Texas, performed well, and over time taken on increasingly serious and complex cases, or will come to NDSHC as a

lateral hire, having begun their career at other defender offices. This Senior Trial Attorney will be among the most talented and experienced public defenders in Texas, and we will trust him or her with the most serious cases that we handle. The Senior Trial Attorney will serve as a role model, mentor, and valuable resource for the other Staff Attorneys and non-attorney staff in the office.

Several of NDSHC's Staff Attorneys will be experienced attorneys who will represent clients in more serious felony cases. The attorneys in this group will all have at least two years of relevant experience. Like the Senior Trial Attorney, these attorneys will have either begun their defense careers as entry-level attorneys in Texas or as lateral hires who started their careers elsewhere. Wherever they have started their careers, we will work very hard to develop these attorneys' skills to prepare them as they take on an increasingly complicated and serious caseloads.

Finally, we will have several entry-level attorneys. The entry-level attorneys will have fewer than two years of experience, will handle the lowest level cases, and will be very closely supervised. These entry-level attorneys will come to NDSHC as their first jobs after law school, including from state and local law schools, and we will invest heavily in training and supervising them. Our goal with our entry-level attorneys will be to provide them with the training and experience they need to prepare them for an increasingly complex caseload.

Investigators

Three Investigators will be on staff to support Staff Attorneys and appointed attorneys with two dedicated to NDSHC and one dedicated to the NDS MAC Program. Investigators play a vital role in representing clients. Staff Attorneys and appointed

attorneys will often begin representing clients with very few, if any details regarding a new case. It can be difficult to locate complete police reports, video and photographic evidence, and witnesses. This information is necessary for attorneys to develop a case strategy and to facilitate informed decision-making on behalf of the client, from plea agreement to trial. NDS' Investigators will help Staff Attorneys and appointed attorneys craft sound case strategies, improve the level of representation provided to clients, and support informed decision-making. Our Investigators will identify and meet with witnesses, take witness statements, identify and obtain video recordings of crime scenes, and photograph and measure crime scenes, among many other tasks.

Social Work Staff

NDSHC and the NDS MAC Program will have three Social Workers on site each of whom will be dedicated to providing mental and behavioral health advocacy to clients. Two Social Workers will collaborate with defense teams at NDSHC while one dedicated Social Worker will serve the needs of clients through the NDS MAC Program.

Social work is integral to the client-centered, holistic legal services we provide at NDS and helps attorneys advocate for the best possible outcome for each individual client. NDS' Social Workers will assist clients in accessing mental health treatment, substance abuse programs, psychiatric and medical care, therapeutic services, specialized case management, appropriate supportive housing, and other alternative to detention or alternative to incarceration programs. Our Social Workers will additionally help Staff Attorneys and appointed attorneys secure the best possible outcomes for clients by incorporating their social services needs into the case resolution process, whether plea, dismissal, or trial.

Team Administrators

NDS will hire two Team Administrators, one for NDSHC and one for the NDS MAC Program. Team Administrators play an important role at NDS, and these Team Administrators will be critical for the success of the defense team. The NDSHC Team Administrator will collaborate and work closely with the defense team and will foster communication with clients, their families, legal and social work providers, and the court.

Both the NDSHC and the NDS MAC Program Team Administrators will be responsible for entering new case information into the case management program, performing conflict checks, maintaining accurate information within the case management program, and updating the case management system as the case progresses to support attorneys and the accurate entry of data to identify local trends. Lastly, upon case completion, Team Administrators will close each case within the case management program and will archive the hardcopy file in storage. The NDS MAC Program's Team Administrator will also assist in the collection and review of vouchers and will provide any other administrative support necessary to ensure the smooth administration of the NDS MAC Program.

Training Director

The Training Director will be responsible for training the staff of NDSHC and the NDS MAC Program as well as appointed attorneys. As described above, NDS places a high priority on quality training—well trained attorneys and support staff are more effective and efficient. The Training Director will be responsible for ensuring that there are sufficient quality training opportunities for NDSHC, the NDS MAC Program, and appointed attorneys

to ensure that they meet their continuing legal education requirements and that they possess the skills and information necessary to provide high-quality representation.

Receptionist

The Receptionist will provide support to both NDSHC and the NDS MAC Program. The Receptionist will serve both offices as the first point contact when a client or assigned counsel calls.

Management of NDSHC and the NDS MAC Program

Managing Director

The Managing Director will be responsible for the management of the day-to-day operations of NDSHC and the NDS MAC Program. The Managing Director will interface with the judiciary, the district attorney's office, and community partners to ensure the smooth delivery of services, including NDS' specialized representation of mental health clients. The Managing Director will play a critical role as the office leader, modeling the culture, shaping morale, and ensuring that the staff is delivering on our promise to provide excellent representation to our clients. The Managing Director will work closely with, and report directly to, the NDS Chief of Staff. NDS will select a Managing Director with the experience and skills to ensure NDSHC thrives.

Chief Operating Officer

The NDS Chief Operating Officer, Andrea Bridgewater, will be responsible for the oversight of human resources, facilities, and technology for NDS Texas. Her primary goal will be to ensure that every employee, at NDSHC and the NDS MAC Program, has access to the resources necessary to successfully do their jobs. She will also ensure that the

administrative side of each office is user-friendly and accessible as clients engage with staff, so that staff is comfortable seeking assistance when necessary.

Chief Financial Officer

The NDS Chief Financial Officer, Mike Smith, will be responsible for the overall fiscal health of NDS Texas. He will work closely with the Controller of NDS Texas to ensure adherence to the budget. He will also ensure that the private and public resources provided to NDSHC and the NDS MAC Program are spent directly in that office. No resources provided to one particular office will ever be spent in any other place.

Chief of Staff

The NDS Chief of Staff, Matt Knecht, will be involved in the organizational oversight of NDSHC and the NDS MAC Program and the overall performance of both. The Chief of Staff will be onsite to train, mentor, and supervise the Managing Director, and to work together closely with the management and administrative staff to ensure that we are meeting all of our contractual obligations in an ethical, responsible, and fiscally efficient manner.

He will ensure both entities are in compliance with the terms of the contract entered into between NDS, Inc. and Hays County, as he has done in both Detroit and Harlem. He will work closely with the Managing Director and all administrative staff to ensure the effective implementation of NDS' model, as well as the design and administration of all systems and operations, for example, workflows, technology, and policies. He will oversee the financial administration of NDSHC and the NDS MAC Program, including financial audits and budget reporting. He will oversee employee relations for the offices, from retention to disciplinary

action, and will ensure the workplace environment is transparent and accessible for all staff members. The Chief of Staff reports directly to the Executive Director.

Executive Director

The Executive Director of NDS, Rick Jones, will be responsible for ensuring that NDSHC adheres to the mission, vision, and values of NDS' defense model, thereby maximizing its success. He will similarly be responsible for ensuring that the NDS MAC Program realizes its mission of providing holistic defense resources for assigned counsel.

He will be responsible for board development and relations, for both the national board of NDS, Inc. and the advisory board of NDS Texas as described in Section VI below. He will be responsible for maintaining external relations with stakeholders throughout Hays County, including the Hays County Commissioners Court, and other local, state, and national leaders. He will build and implement a development strategy for NDSHC to take advantage of funding opportunities including fostering philanthropic relationships, executing fundraising events, submitting grant requests to foundations, and soliciting individual donor contributions. He will determine whether NDSHC is fully serving the needs of the Hays County community and whether expansion into new practice areas is required. His responsibilities will also include the ultimate responsibility for the budget, overseeing policy advocacy, and developing and executing a communications/media strategy. In fidelity to his broad scope of responsibilities, he will regularly be onsite at NDS Texas throughout the year. *See* Exhibit A.

VI. Governance, National Leadership, and Administration

A. Governance

Neighborhood Defender Service, Inc., is a registered 501(c)(3) non-profit organization. Neighborhood Defender Service of Harlem and Neighborhood Defender Service of Detroit are limited liability companies and wholly owned subsidiaries of NDS, Inc., and operate as contracted public defense offices. NDS' governance structure and advisory board oversight brings additional benefits to the organization and its local offices. Our dynamic board members hail from the finance, banking, real estate, media, medical, education, and legal industries and add remarkable value to our organization both programmatically and through fundraising. Experienced board members, in concert with leadership staff, vet and review proposed budgets, strategic initiatives, and policies, thereby fostering sound and deliberate decision-making and promoting the organization's strength and longevity.

The national board of NDS, Inc., which is responsible for the oversight of NDS Harlem and NDS Detroit, is an experienced board of directors whose members are dedicated to public defense and public interest. NDS Texas will be represented on the national board by three board members. Once the national board identifies candidates from Texas to serve on the national board, a majority of the existing trustees will elect these new national board members. Upon the election of the three board members from Texas, the national board will have equal representation for each of the three offices, NDS Detroit, NDS Harlem, and NDS Texas.

NDS Texas will be similarly organized as a limited liability company and will be a wholly owned subsidiary of NDS, Inc. As a wholly owned subsidiary, NDS Texas will

maintain its own books and records but will not be obligated to file a tax return separate from NDS, Inc. As an LLC, NDS Texas will be managed by NDS, Inc. The board members of NDS, Inc. ("national board") will have a fiduciary responsibility at NDS Texas, and they will work closely with management in the formulation of strategy and the development of goals.[9] NDS Texas will have its own separate advisory board for the programmatic and fiscal oversight of the office. This board will consist of at least six members appointed by the national board, one of whom will be the board chair. The national board will appoint the advisory board members, who will be residents of Texas with a demonstrated commitment to high-quality defense representation.

B. National Leadership

NDS, Inc.'s National Leadership Team includes Rick Jones, Executive Director, Matt Knecht, Chief of Staff; Mike Smith, Chief Financial Officer; and Andrea Bridgewater, Chief Operations Officer. This leadership team has multiple decades of combined experience operating not-for-profit organizations. Fiscal transparency, accountability, and compliance are paramount for the national leadership team as well as effectively leveraging government dollars to secure private funding. In addition to ensuring that the highest quality legal services are provided to our clients every single day, this group of managers has overseen a number of major expansions at NDS in the past several years, including the creation of NDS Detroit, and this experience will be vital when we bring our innovative model to Hays County.

[9] NDS is aware that Article 26.045 of the Texas Code of Criminal Procedure states that a commissioners court may appoint an oversight board and of Hays County's efforts to meet this best-practices guideline. We believe that NDS' governance structure and multiple board composition exceeds the dictates of Article 26.045 and satisfies every best practice and good governance standard established locally or nationally.

NDS is an established, financially strong organization. We have an outstanding credit history and we have developed relationships with banks and other financial institutions to which newer organizations do not have access. Our national leadership team has significant management experience in the non-profit sector, and is able to identify and implement state-of-the-art financial, human resources, and case management programs in each of our offices. NDS provides platinum-level fringe benefit plans to employees. Our organization's size enables us to negotiate excellent premium rates with reputable health, dental, and life insurance carriers that would otherwise not be available. As a result, we are able to provide excellent benefits to our employees, while keeping our fringe rates down. Our ratio of management and administration costs to overall expenses at every level of the organization, including the budget for this Hays County proposal, are considered "Excellent" by every charitable watchdog group and rating organization.

C. Administration

NDS Texas will employ a Controller and an Office Manager. This full-time staff will ensure that NDSHC and the NDS MAC Program have the administrative resources required for the offices to run smoothly. The Office Manager will report directly to Andrea Bridgewater, NDS' Chief Operating Officer, and the Controller will report to Mike Smith, NDS' Chief Financial Officer. Both the COO and CFO report directly to the Chief of Staff. The Controller will handle the financial books for NDS Texas and will ensure that Hays County funding is spent appropriately and accounted for fully. The Office Manager will be responsible for handling the human resources needs for the NDSHC staff and the NDS MAC Program staff, including completing payroll, tracking paid sick and vacation time, enrolling employees in health, dental, life, and disability insurance, and administering employee

enrollment in the 403(b) retirement package and unemployment insurance. The Office Manager will ensure staff members have an approachable and knowledgeable in-house resource available if, and when, they require human resources assistance. The Office Manager will be responsible for maintaining the physical office space and technology needs of staff. Finally, the Office Manager will work closely with the MAC Program's Supervising Attorney to ensure uniformity and accountability in the voucher approval system.

VII. Data Management and Case Reporting

A robust case management system is critical for the success of any public defense office and legal resource center. As described throughout this proposal, NDS Texas will utilize a state-of-the-art, robust, and user-friendly case management system—defenderData. defenderData is a full-featured, customizable case management system built exclusively for indigent defense providers. defenderData is affiliated with the American Bar Association, the National Legal Aid and Defender Association, the National Association for Public Defense, and the National Association of Criminal Defense Lawyers, and is currently used by more than 250 public defender offices nationally, including NDS Detroit and NDS Harlem.

defenderData will be bifurcated into two distinct systems to protect client confidentiality for both NDSHC and the NDS MAC Program. Neither the staff of NDSHC nor the staff of the MAC Program will be able to access client information from the other division. Thus, NDSHC and the NDS MAC Program will ensure all staff members comply with the confidentiality requirements in the Texas Disciplinary Rules of Professional Conduct.

defenderData is a customizable, user-friendly, easily accessible case management system. defenderData will allow us to accurately record and reliably store data at intake, as well as at each and every subsequent court appearance. In addition to being a powerful and flexible system, defenderData will be easily accessible by staff to ensure thorough, accurate, and timely data entry documenting all activities performed for clients by all members of the defense team. The timely and accurate entry of this data into defenderData will allow us to easily access that data for purposes of review, analysis, distribution, and funding.

defenderData will assist NDSHC, the NDS MAC Program, and county stakeholders gain a greater understanding about the public defense system and the criminal justice and civil legal systems at large. Data will be collected and analyzed to identify trends across practices. These trends include the rate of pre-trial detention, bond determinations, frequency of charges, geographic location of clients, mental health clients, case dispositions, case outcomes resulting from using investigators and social workers, and the rate of collateral issues arising from a criminal charge, including housing instability, family separation, and unemployment, among a myriad of other factors. The Executive Director, Chief of Staff, Managing Director, and Supervising Attorneys will consistently review and evaluate the data collected and will communicate with judges, district attorneys, and city and county leaders when trends are identified, thereby enhancing the capacity for all stakeholders and systems agents to engage in evidence-based, problem-solving solutions. Frequent data analysis will also equip the National Leadership Team to further development and policy priorities for NDSHC and the NDS MAC Program.

Reports

Accurate reporting is an essential function of an institutional public defender office and is necessary for the smooth administration of a jurisdiction's criminal justice system. defenderData will equip supervisors and managers of NDSHC and the NDS MAC Program to prepare a wide variety of reports, including regular monthly and quarterly reports. NDS has extensive experience providing reports to local and state jurisdictions using our data in our case management system and tracking and identifying case trends. We are confident we will be able to similarly report to Hays County and the Texas Indigent Defense Commission.

Caseload Reports

Among the reports that will be regularly run by supervisory staff are reports concerning attorney caseloads. Supervisory staff can easily pull up a report showing the current pending caseload of an individual attorney, a particular team, or the entire office. These reports will reflect annual or pending caseloads, and they will illustrate whether the office's caseload is relatively evenly divided among individual Staff Attorneys. Reports describing the average age of a caseload can also be easily generated, and that can be valuable in ensuring that we are efficiently managing our caseload. Each of these caseload reports can also be run for non-attorney staff. These caseload reports will be generated and reviewed bi-weekly by the Managing Director, Supervising Attorneys, and Senior Trial Attorney. They will be reviewed regularly, in conjunction with contract reporting, by the Chief of Staff and Executive Director.

Substantive Reports

Supervisory staff can also run substantive reports using data such as trial statistics, non-trial outcomes, motion practice, as well as other substantive case-specific fields. These reports will not be pre-programmed. Rather, supervisory staff can review any or all of these fields on an *ad hoc* basis, as required. Most often, these substantive reports will be run in conjunction with the Supervising Attorney's annual case reviews with the Staff Attorneys on the team, but they will also be run periodically throughout the year. These reports will also be used as an invaluable tool by the Chief of Staff to monitor quality compliance and by the Executive Director in pursuit of private and philanthropic funding to leverage our government dollars.

Collaborative Reports

Supervisory staff can also run reports that demonstrate whether individual Staff Attorneys of NDSHC are referring an appropriate number of cases to their Investigators, Social Workers, and cross-practice colleagues. These reports will be run quarterly by the Supervising Attorneys, Senior Trial Attorney, and Managing Director, and as needed in the interim, if appropriate. These reports will be invaluable as we strive to provide the best, most comprehensive representation to our clients. Achieving great outcomes requires collaboration, and by running these reports we will be able to ensure that meaningful collaboration continues to occur on a consistent basis.

VIII. Budget Management, Financial Reporting, and Leveraging Funding

NDS Texas will prepare a specific annual budget for Hays County, separate and apart from the Detroit and New York City budgets. The budget will be drafted collaboratively by the Executive Director, Chief of Staff, Chief Financial Officer, Chief Operating Officer, and Managing Director. Once the budget has been prepared, it will be presented to the board of directors for approval. The budget will be approved before the start of the fiscal year and reviewed by both the national and NDS Texas boards at regularly scheduled board meetings throughout the year. NDS upholds rigorous accounting standards to ensure taxpayer dollars are accurately allocated and accounted for, and we will adhere to the same best practices for NDS Texas. Over the course of the fiscal year, senior management, along with the Controller, will monitor spending and costs to ensure that we are remaining on budget. At the end of each fiscal year our staff and records will be available for audit. All funds provided by Hays County and TIDC for use in Hays County will be spent directly on NDSHC and the Managed Assigned Counsel Program in Hays County.

NDS has a long and successful history of managing multimillion-dollar contracts with New York City and New York State agencies. Additionally, NDS has remained under budget for its Detroit office and has secured a new multimillion-dollar contract for the forthcoming fiscal year with a unanimous vote from the Wayne County Commission. The budget designed for this proposal takes into consideration what we believe to be the appropriate staffing, costs of personnel, and related other than personal service, in view of our potential contractual obligations, and taking into consideration the model guidelines as promulgated by the Texas Indigent Defense Commission.

NDS proposes a contract to handle 30% of the felony cases and 18% of the misdemeanor cases assigned in Hays County. Based upon historical data from the Texas Indigent Defense Commission and current trends, we estimate that we will be assigned approximately 1,131 cases annually. NDS also proposes the creation and operation of the NDS MAC Program. The total cost for NDS to provide these services is $ 2,256,582, exclusive of payments for service to appointed counsel. See Exhibit B.

Personnel Services

NDS' proposed budget to represent clients in Hays County calls for a contract supporting 21 full-time employees.

Salaries for staff members will be determined by their placement on the appropriate salary step scale. A staff member's placement on the scale at the time of their hire will be based upon their years of relevant experience. Thereafter, each staff member will move to the next step on the scale on the anniversary of their hire. There will be separate scales for the Supervising Attorneys, Senior Trial Attorney, Staff Attorneys, Social Worker Staff, Non-Attorney and Non-Social Work Support Staff, and Administration. For budgeting purposes, we have used what we expect to be the average salaries across the various staffing categories.

NDS will offer our staff a competitive benefits package. In addition to paid sick time and vacation time, NDS will provide health insurance, dental insurance, life insurance, disability insurance, a 403(b) retirement package and unemployment insurance. We will strive to offer our employees in Hays County the same benefits offered to our staff in Detroit and New York. Based upon our experience, we have calculated these costs at a rate of 34%. NDS Texas will benefit from its relationship with the larger NDS, Inc., as many of

the above benefits are less expensive for large organizations. By including NDS Texas within NDS, Inc., NDS Texas will be able to take advantage of those rates, and the concomitant fiscal savings that would otherwise be unavailable to an organization that is the size described in this proposal.

Leveraging Government Funding

NDS understands the importance of diversified funding to support the financial stability and vitality of an organization. For years, we have successfully supplemented our government funding in New York, and we have now done the same in Detroit. We have leveraged opportunities such as state and federal matching grants, corporate and individual giving, foundational grants, and private bar and big firm donations. In addition, fellowship funding, partnerships with other organizations, the private bar, and area law schools have raised the profile of NDS as the preeminent public defender office in the nation. NDS' supplemental funding program has secured funding for important programs such as family, housing, and immigration defense, as well as general civil litigation.

Our Development Team understands the unique needs of Hays County and is prepared to incorporate NDSHC and the NDS MAC Program into its advancement strategy. While we expect to open a civil defense practice within five years of opening NDSHC, this is a conservative projection. Within one year of opening our Detroit office, our Development Team has secured $395,000 in grant funding and expects to secure an additional $200,000 in funding in early 2021 to support the office's civil defense work. Similarly, we currently have more than twenty different revenue streams funding our Harlem office, which allows us to provide a broad range of legal and social services. We anticipate that we will have identified significant funding opportunities for NDSHC and the NDS MAC Program within a

year of its opening as we will explore funding partnerships in advance of opening the office. We expect to supplement funding from the Texas Indigent Defense Commission and Hays County through foundations, private fundraising, aggressive pursuit of fellowship opportunities, partnerships with other organizations, the private bar, and area law schools. We are confident that we will continue to identify, and ultimately secure, additional resources that will benefit, both financially and programmatically, the residents of Hays County.

Additionally, NDS Texas will be an excellent office to explore fellowship opportunities through Equal Justice Works, Skadden, and other post-graduate fellowship programs. NDS has always been a popular host for post-graduate fellows, and we have been very successful in securing fellowships. We believe NDS Texas will be an equally, if not more, attractive site for fellowship projects and we will aggressively pursue any post-graduate fellowship funding that will expand the scope of service we can provide to our clients.

Finally, we will leverage our partnerships with other organizations and our relationships with both high-profile law firms within Texas and local law schools to expand our scope of services. We have years of experience developing pro bono relationships with corporate law firms, and we will use that experience to develop those same relationships in Hays County. We will host robust legal internship programs, both over the Summer and during the school year. In Detroit and New York, these legal internship programs have enabled us to provide additional services to our clients and are a valuable and reliable source of new talent for the office and the region, and they will prove equally as valuable in Hays County.

IX. Timeline

Getting the resources in place to begin working pursuant to a contract granted through this proposal process will be a significant undertaking. As described throughout this proposal, we will need to identify and hire talented staff and secure and equip appropriate space for our work. We will also need to develop and implement working relationships and effective systems with the judiciary, district attorney, and police. We believe this process can be completed within six months of a contract award.

Immediately upon notification that NDS has been granted the contract, we will begin building NDSHC and the NDS MAC Program. In the first two months we will finalize our search for office space. We will also begin the process of acquiring the necessary equipment for staff, including copiers, computers, phones, and the rest of the equipment required for this work. We will post widely for all available staff positions. We will also identify and hire the leadership team for NDSHC.

In months three and four, we will begin the hiring process for attorney and non-attorney staff. We expect that the postings that we advertise in months one and two will result in significant interest from candidates in Texas and from around the country. In months three and four, we will begin the interviewing and hiring process. We will prioritize the hiring of supervisory and training staff in month three. We also expect to be able to finalize our office space in month three, and to begin any necessary build out of that space.

In month four, we will continue the hiring process. We expect that the build out of our office space will continue in this month. We will also acquire the equipment necessary.

By the end of month five, we expect that hiring will be 75% complete, including all necessary administrative staff. While we will not yet be ready to accept assignments, we will be ready to begin training and orienting staff in month six. Using month six as an office-wide training month will ensure that we will be ready to begin our work at the conclusion of our six-month ramp-up period.

We will complete the hiring of all staff by the conclusion of month six.

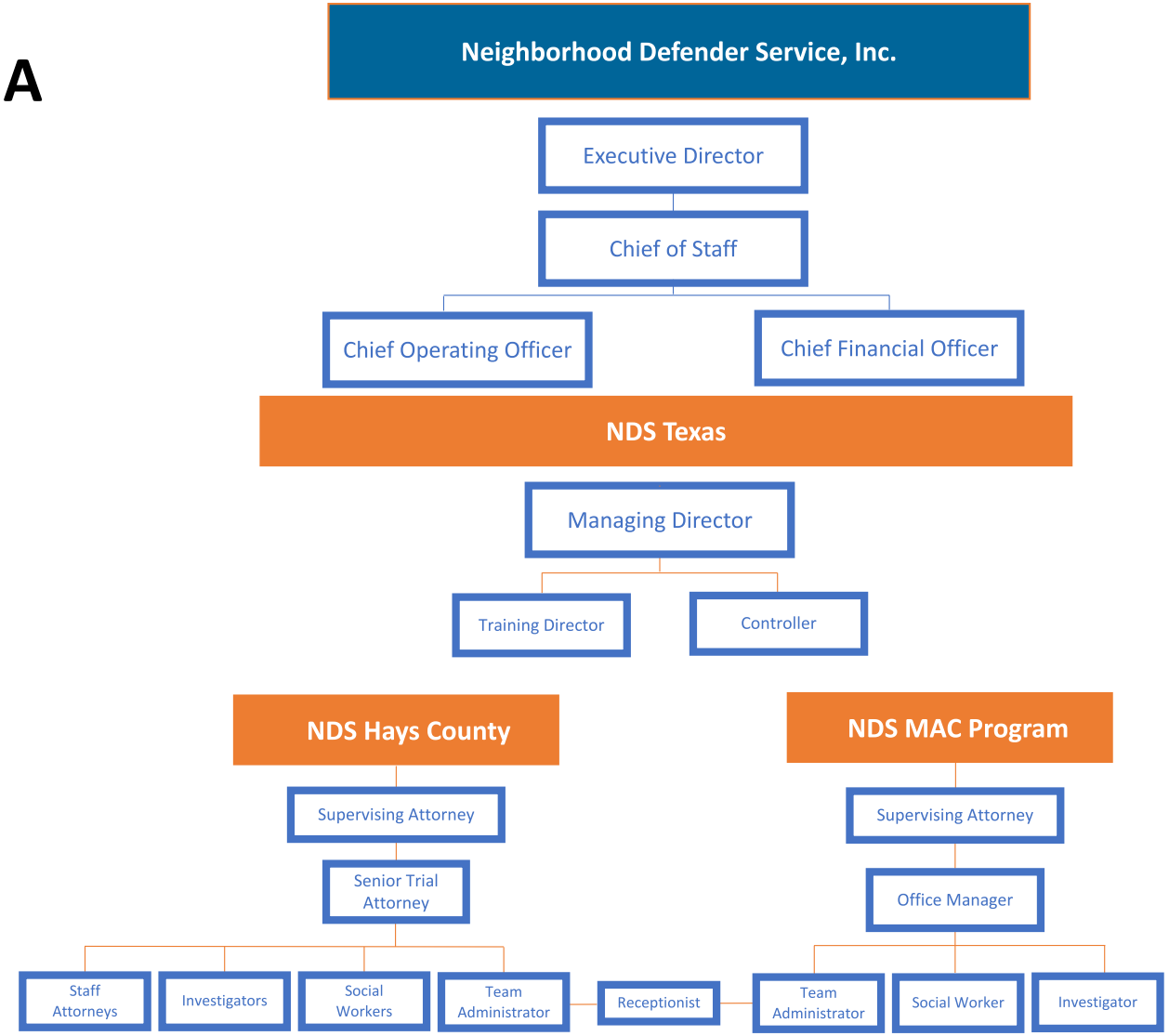
Once we begin representing clients and we begin providing comprehensive support to the private bar, Hays County will have an institutional public defender office and managed assigned counsel program it can be proud of—a public defender system that will lead the nation, and be the envy of the world, in the level of representation that the people of Hays County receive.

X. EXHIBITS

EXHIBIT A: NDS TEXAS ORGANIZATIONAL CHART 54

EXHIBIT B: NDSHC/NDS MAC PROGRAM OPERATING BUDGET 55

Exhibit A



Includes dedicated mental health representation for both NDSHC and the NDS MAC Program (3 Staff Attorneys and all Social Work Staff).

Exhibit B

NDS Hays County and NDS MAC Program

Cost Allocation

Personnel Costs	Staff	NDS/MAC	Mental Health	Total
Managing Director	1	$ 116,191	$ 58,009	$174,200
MAC Supervising Attorney	1	$ 127,300		$127,300
Investigators	3	$ 190,950		$190,950
Team Administrators	2	$ 107,200		$107,200
Social Work Staff	3	$ -	$ 211,050	$211,050
Supervising Attorney	1	$ 140,700		$140,700
Senior Trial Attorney	1	$ 127,300		$127,300
Staff Attorneys	5	$ 192,960	$ 289,440	$482,400
Training Director	1	$ 134,000		$134,000
Controller	1	$ 120,600		$120,600
Office Manager	1	$ 100,500		$100,500
Receptionist	1	$ 36,582		$36,582
Indirect Personnel Costs	0	$ 107,200		$107,200
TOTAL Personnel Costs	21	$ 1,501,483	$ 558,499	$2,059,982
General Operating Expenses				
Occupancy (4400 sq ft@14/psf)		$ 41,270	$ 20,330	$61,600
All Other OTPS		$ 90,450	$ 44,550	$ 135,000
Total General Operating Expenses		$ 131,720	$ 64,880	$196,600
TOTAL Costs		$ 1,633,203	$ 623,379	**$2,256,582**