



**TEXAS INDIGENT DEFENSE
COMMISSION**

Fiscal Monitoring Report

Williamson County, Texas

FY 2015 Indigent Defense Expenses

Final Report

October 4, 2016

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EXECUTIVE SUMMARY

Williamson County's on-site fiscal monitoring visit was conducted May 18-19, 2016 with follow-up emails. The fiscal monitor reviewed financial records to determine whether grant funds were spent in accordance with the terms and conditions of the Texas Indigent Defense Commission grants.

The expenditure period of October 1, 2014 to September 30, 2015 (FY2015) was reviewed during the fiscal monitoring visit as well as documents to support the discretionary grant funding.

Summary of Findings

- General court expenditures were included with the criminal indigent defense expenses in the FY 2015 Indigent Defense Expense Report (IDER) submitted under Texas Government Code Section 79.036 (e).

Objective

The objectives of this review were to:

- determine whether grant funds were used for authorized purposes in compliance with laws, regulations, and the provisions of the grant;
- validate policies and procedures relating to indigent defense services;
- provide recommendations pertaining to operational efficiency; and
- assist with any questions or concerns on the indigent defense program requirements.

Scope

The county's indigent defense expenditures were monitored to ensure compliance with applicable laws, regulations, and the provisions of the grants during FY2015. Records provided by the Williamson County Auditor's Office were reviewed.

Methodology

To accomplish the objectives, the fiscal monitor met with the County Auditor, Assistant County Auditors and District Judge Donna King. The fiscal monitor reviewed:

- random samples of paid attorney fees for verification;
- accounts payable ledger transactions provided by the Williamson County Auditor's Office;
- IDER and attorney fee schedule;
- public attorney appointment list, attorney applications, attorney criminal and juvenile continuing legal education training documentation, any applicable contracts;
- the county's local indigent defense plan; and
- discretionary grant records.

DETAILED REPORT

BACKGROUND INFORMATION

County Background

Williamson County is located in central Texas. The county is part of the Austin-Round Rock, Texas Metropolitan Statistical Area. The county is located on the Edwards Plateau to the west and the Blackland Prairies to the east. The County serves an estimated population of 483,599. The County seat is Georgetown. Williamson County is a political subdivision of the State of Texas. The County occupies an area of 1,134 square miles, of which 16 square miles is water. The neighboring counties are Bell, Milam, Lee, Bastrop, Travis and Burnet.

Commission Background

In January 2002, the 77th Texas Legislature established the Texas Task Force on Indigent Defense. In May 2011, the 82nd Texas Legislature changed the name of the Texas Task Force on Indigent Defense to the Texas Indigent Defense Commission (Commission) effective September 1, 2011. The Commission remains a permanent standing committee of the Texas Judicial Council, and is administratively attached to the Office of Court Administration (OCA).

The Commission provides financial and technical support to counties to develop and maintain quality, cost-effective indigent defense systems that meet the needs of local communities and the requirements of the constitution and state law.

The purpose of the Commission is to promote justice and fairness to all indigent persons accused of criminal conduct, including juvenile respondents, as provided by the laws and constitutions of the United States and the State of Texas. The Commission conducts these reviews based on the directive in Section 79.037(c) Texas Government Code, to “monitor each county that receives a grant and enforce compliance by the county with the conditions of the grant...”, as well as Section 173.401(a), Texas Administrative Code, which provides that “the Commission or its designees will monitor the activities of grantees as necessary to ensure that grant funds are used for authorized purposes in compliance with laws, regulations, and the provisions of the grant.”

Formula Grant

The County submitted the FY 2015 indigent defense on-line grant application to assist in the provision of indigent defense services. Williamson County met the formula grant eligibility requirements and was awarded \$304,367 for FY 2015.

Discretionary Grant

Williamson County received discretionary grant funds for FY 2015 in the amount of \$36,644.30 for the purpose of implementing and training on enhancements to the Odyssey system. These enhancements were recommended improvements from a FY 2012 discretionary grant awarded to Williamson County. A review of these funds was conducted.

DETAILED FINDINGS AND RECOMMENDATIONS

Finding One

The County included some general court expenditures with the criminal indigent defense expenses in the FY 2015 Indigent Defense Expense Report (IDER) submitted under Texas Government Code Section 79.036 (e). Eight (8) invoices from the expert witness category were reviewed. All eight were for psychological/mental health evaluations. Three of these invoices had attached an Ex Parte Motion from defense counsel seeking the assistance from an expert in the preparation of a defense, which are allowable expenses. Another three invoices included a motion from the defense counsel but these motions were seeking a competency evaluation of the defendant. The remaining two invoices included motions by an assistant district attorney questioning the competency of the defendant to stand trial. A request for a mental health evaluation to determine competency to stand trial is typically a general court expense. The only mental health examinations that are considered indigent defense expenses are those requested by the defense counsel where the results are shared exclusively with the defense team. No mental health evaluations requested by the judge or prosecuting attorney should be reported as indigent defense expenses. Support that the expense is requested by the defense attorney for exclusive use of the results by the defense team should be documented in order to include the expenses on the IDER.

General court expenditures should not be included in the criminal indigent defense expense report. The IDER overstated the county's criminal indigent defense expenditures due to the inclusion of these general court costs. This could mean that the FY 2015 formula grant for Williamson County was greater than would have been authorized if reported without the ineligible expenses. Please refer to the Indigent Defense Expenditure Report Procedure Manual: <http://www.tidc.texas.gov/media/40464/fy15-ider-manual.pdf>

Recommendation:

Procedures to identify and record expenses for psychological evaluations requested by the appointed defense counsel for the exclusive use of defense counsel in preparation of a defense should be developed.

County Response:

Williamson County Action Plan

The County Auditor's office will review expert witness expenditures and exclude any expenses related to competency evaluations that are not strictly requests for an expert to assist in the preparation of the indigent client's defense.

Contact person(s): Julie M. Kiley, First Assistant Auditor

Completion date: Fiscal Year 2016

Additional Comment:

The fiscal monitor noted that the Single Audit conducted by the independent auditor for FY 2015 had revealed a non-compliance findings regarding continuing legal education (CLE) hours on the Commission grant for the period under review. A discussion with District Judge Donna King during this review explained why the non-compliance happened and what the county has done to correct the issue in the finding. The fiscal monitor found that Williamson County has implemented procedures in FY 2016 to correct the issue; therefore no finding was included in this review.

APPENDIXES

APPENDIX A – INDIGENT DEFENSE EXPENDITURE REPORT

WILLIAMSON COUNTY INDIGENT DEFENSE EXPENDITURES			
Expenditures	2013	2014	2015
Population Estimate	455,479	469,417	483,599
Juvenile Assigned Counsel	\$183,682	\$153,400	\$149,935
Capital Murder	\$135,434	\$31,000	\$45,003
Adult Non-Capital Felony Assigned Counsel	\$684,500	\$846,070	\$892,300
Adult Misdemeanor Assigned Counsel	\$638,756.	\$774,486	\$771,258
Juvenile Appeals	\$0.00	\$1,658	\$3,045
Adult Felony Appeals	\$17,450	\$32,159	\$93,426
Adult Misdemeanor Appeals	\$4,620	\$2,325	\$0.00
Licensed Investigation	\$18,025	\$22,911	\$24,107
Expert Witness	\$108,025	\$101,596	\$186,565
Other Direct Litigation	\$2,419	\$2,099	\$2,917
Total Court Expenditures	\$1,792,911	\$1,967,705	\$2,168,556
Administrative Expenditures	\$111,345	\$127,255	\$0.00
Funds Paid by Participating County to Regional Program	N/A	N/A	N/A
Total Public Defender Expenditures	\$0.00	\$0.00	\$0.00
Total Court and Administrative Expenditures	\$1,904,257	\$2,094,960	\$2,168,556
Formula Grant Disbursement	\$246,082	\$470,511	\$304,367
Discretionary Disbursement	N/A	N/A	\$36,644
Reimbursement of Attorney Fees	\$126,942	\$131,440	\$157,443
Reimbursement by State Comptroller for Writs of Habeas Corpus	\$0.00	\$0.00	\$0.00
Total Assigned Counsel Cases	5,681	6,020	6,067

Indigent Defense Expenditure Reporting

Source: Texas Indigent Defense Commission records

Williamson County				
Year	2013	2014	2015	Texas 2015
Population (Non-Census years are estimates)	455,479	469,417	483,599	27,213,214
Felony Charges Added (from OCA report)	2,314	2,362	2,686	271,744
Felony Cases Paid	1,277	1,530	1,659	193,560
% Felony Charges Defended with Appointed Counsel	55%	65%	62%	71.23%
Felony Trial Court-Attorney Fees	\$819,934	\$877,070	\$937,303	\$110,036,405
Total Felony Court Expenditures	\$941,894	\$992,322	\$1,121,334	\$126,091,674
Misdemeanor Charges Added (from OCA report)	10,512	10,020	8,472	503,299
Misdemeanor Cases Paid	4,014	4,158	4,089	222,408
% Misdemeanor Charges Defended with Appointed Counsel	38%	41%	48%	44 %
Misdemeanor Trial Court Attorney Fees	\$638,756	\$774,486	\$771,258	\$39,141,724
Total Misdemeanor Court Expenditures	\$643,640	\$785,113	\$790,818	\$40,061,131
Juvenile Charges Added (from OCA report)	442	460	314	31,813
Juvenile Cases Paid	378	319	303	41,068
Juvenile Attorney Fees	\$183,682	\$153,400	\$149,935	\$11,072,434
Total Juvenile Expenditures	\$185,182	\$153,400	\$154,196	\$11,747,908
Total Attorney Fees	\$1,664,442	\$1,841,099	\$1,954,967	\$165,942,108
Total ID Expenditures	\$1,904,257	\$2,094,960	\$2,168,556	\$238,029,838
Increase In Total Expenditures over Baseline	268%	305%	319%	168%
Total ID Expenditures per Population	\$4.18	\$4.46	\$4.48	\$8.75
Commission Formula Grant Disbursement	\$246,082	\$470,511	\$304,367	\$23,931,689

Indigent Defense Expenditure Reporting

Source: Texas Indigent Defense Commission records

APPENDIX B – CRITERIA

Criteria

- Uniform Grant Management Standards
- Texas Government Code, Section 79.036. Indigent Defense Information
- Texas Government Code, Section 79.037. Technical Support; Grants
- Code of Criminal Procedures Art 26.04 Procedures for Appointing Counsel
- Code of Criminal Procedures Art 26.05 Compensation of Counsel Appointed to Defend
- Texas Administrative Code - Title 1, Part 8, Chapter 174 Subchapter A Rule 174.1
- Texas Administrative Code - Title 1, Part 8, Chapter 174 Subchapter A Rule 174.2
- Texas Administrative Code - Title 1, Part 8, Chapter 174 Subchapter B Definitions
- FY2015 Indigent Defense Expenditure Report Manual found at:
<http://www.tidc.texas.gov/media/40464/fy15-ider-manual.pdf>

APPENDIX C – DISTRIBUTION LIST

Honorable Dan A. Gattis
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Honorable Suzanne Brooks
Local Administrative Statutory County Court Judge
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