



TEXAS INDIGENT DEFENSE COMMISSION

Fiscal Monitoring Report

San Patricio County, Texas

FY 2018 Indigent Defense Expenses

Final Report

February 11, 2020

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EXECUTIVE SUMMARY

The Texas Indigent Defense Commission (TIDC) conducted an on-site fiscal monitoring review of San Patricio County on May 15-16, 2019. The fiscal monitor reviewed financial records to determine whether grant funds were spent in accordance with the terms and conditions of TIDC grants.

TIDC reviewed the expenditure period of October 1, 2017 through September 30, 2018 (FY 2018).

SUMMARY OF FINDINGS

- One attorney fee voucher of the 65 vouchers reviewed was not an attorney-submitted voucher as required by Code of Criminal Procedure (CCP) Article 26.05 (c).

OBJECTIVE

The objectives of this review were to

- Determine the accuracy of the Indigent Defense Expenditure Report;
- 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 payments;
- Provide recommendations pertaining to operational efficiency; and
- Assist with any questions or concerns on the indigent defense program requirements.

SCOPE

TIDC reviewed the County's indigent defense expenditures to ensure compliance with applicable laws, regulations, and the provisions of the grants for FY2018. The records reviewed were provided by the San Patricio County auditor's office. Compliance with other statutory indigent defense program requirements was not included in this review.

METHODOLOGY

To accomplish the objectives, the fiscal monitor met with an assistant county auditor and the district clerk. The fiscal monitor reviewed

- Random samples of paid attorney fees;
- General ledger transactions provided by the San Patricio County auditor's office;
- IDER;
- Attorney fee schedule;
- Any applicable contracts; and
- The County's local indigent defense plan filed with TIDC.

DETAILED REPORT

BACKGROUND INFORMATION

County Background

In 1828, 200 Irish Catholic families contracted with the Mexican government to settle on 80 leagues of land in the area which later became San Patricio County. San Patricio is Spanish for Saint Patrick, the patron saint of the colonists' home country. San Patricio County was formed in 1845, and the following year all the land south of the Nueces River was reorganized as Nueces County. In 1848 additional counties were also formed, reducing the size even further. The county seat of San Patricio is Sinton.

San Patricio County serves an estimated population of 65,652 and occupies an area of 708 square miles, of which 14 square miles is water. San Patricio County is bordered by the Gulf of Mexico to the east and the counties of Aransas, Bee, Jim Wells, Live Oak, Nueces, and Refugio.

San Patricio County is served by the 36th, 152nd, and 343rd District Courts and a County Court-at-Law.

Commission Background

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

TIDC 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.

TIDC's purpose is to promote justice and fairness for all indigent persons accused of crimes, including juvenile respondents, as provided by the laws and constitutions of the United States and the State of Texas. TIDC 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 2018 indigent defense online grant application to assist in the provision of indigent defense services. San Patricio County met the formula grant eligibility requirements and was awarded \$52,468.

DETAILED FINDINGS AND RECOMMENDATIONS

Finding One

One of the 65 attorney fee vouchers reviewed did not meet the statutory requirements of the Code of Criminal Procedure (CCP) Article 26.05 (c). The one attorney fee voucher in question was an “ORDER FOR PAYMENT OF ATTORNEY’S FEES” on a juvenile case completed and signed by the judge. No itemized form submitted by the attorney was included with the order.

CCP Article 26.05 (c) reads in part “No payment shall be made under this article until the form for itemizing the services performed is submitted to the judge presiding over the proceedings or, if the county operates a managed assigned counsel program under Article 26.047, to the director of the program, and until the judge or director, as applicable, approves the payment.”

Recommendation:

To ensure compliance with CCP Article 26.05 (c), the County should require attorneys to submit a completed county approved voucher with each attorney fee payment request.

County Response

This mental commitment case involved an Order for Temporary Mental Health Services with an Order for Payment of Attorney's Fee wherein the appointed attorney received payment of \$200.00 flat fee for services rendered.

San Patricio County Action Plan

*Going forward, San Patricio County will require that attorneys either submit an attorney voucher or use a **Sworn Statement of Services and Expenses by Attorney Ad Litem**. Additionally, San Patricio County will amend the County's Indigent Defense Plan to establish a stated flat fee for such representation and courtroom appearances. I have attached a sample of a **Sworn Statement of Services and Expenses by Attorney Ad Litem** for your consideration.*

Contact person(s): Honorable Elizabeth Welborn

Completion date: October 17, 2019

Additional TIDC comment: As San Patricio County responded that the voucher in question was not a voucher for a criminal case but one which is civil in nature, it changes the finding. TIDC is satisfied that appointed attorneys in eligible criminal defense cases are submitting itemized vouchers for the representation in criminal cases. However, the new finding based on the additional information provided by the county is that San Patricio County included an unallowable expenditure on the IDER when they included the cost one civil case. Civil commitment cases are not eligible criminal indigent defense cases. TIDC recommends that San Patricio County review

its procedures on juvenile and mental health cases and implement a process that will clearly identify the voucher as either a civil matter or a criminal case.

APPENDICES

APPENDIX A – INDIGENT DEFENSE EXPENDITURE REPORT

SAN PATRICIO COUNTY INDIGENT DEFENSE EXPENDITURES			
Expenditures	2016	2017	2018
Population Estimate	66,479	66,236	65,652
Juvenile Assigned Counsel	\$32,433	\$20,416	\$32,290
Capital Murder	\$0	\$0	\$3,338
Adult Non-Capital Felony Assigned Counsel	\$263,632	\$341,314	\$353,133
Adult Misdemeanor Assigned Counsel	\$137,654	\$167,264	\$179,022
Juvenile Appeals	\$0	\$0	\$0
Adult Felony Appeals	\$13,481	\$2,520	\$3,000
Adult Misdemeanor Appeals	\$0	\$0	\$0
Licensed Investigation	\$0	\$0	\$0
Expert Witness	\$0	\$0	\$0
Other Direct Litigation	\$0	\$0	\$0
Total Court Expenditures	\$447,200	\$531,513	\$570,782
Administrative Expenditures	\$0	\$0	\$0
Funds Paid by Participating County to Regional Program	\$0	\$0	\$0
Total Public Defender Expenditures	NA	NA	NA
Total Court and Administrative Expenditures	\$447,200	\$531,513	\$570,782
Formula Grant Disbursement	\$55,217	\$68,212	\$52,468
Reimbursement of Attorney Fees	\$52,979	\$43,405	\$41,891
Reimbursement by State Comptroller for Writs of Habeas Corpus	\$0	\$0	\$0
Total Public Defender Cases	NA	NA	NA
Total Assigned Counsel Cases	889	1019	1127

Indigent Defense Expenditure Reporting

Source: Texas Indigent Defense Commission records

San Patricio County				
Year	2016	2017	2018	Texas 2018
Population (Non-Census years are estimates)	66,479	66,236	65,652	28,525,596
Felony Charges Added (from OCA report)	610	718	632	288,260
Felony Cases Paid	417	499	544	215,240
% Felony Charges Defended with Appointed Counsel	68%	69%	86%	75%
Felony Trial Court-Attorney Fees	\$263,632	\$341,314	\$356,470	\$127,990,245
Total Felony Court Expenditures	\$263,632	\$341,314	\$356,470	\$144,671,726
Misdemeanor Charges Added (from OCA report)	2,001	1,741	1,837	467,851
Misdemeanor Cases Paid	330	387	409	214,494
% Misdemeanor Charges Defended with Appointed Counsel	16%	22%	22%	46%
Misdemeanor Trial Court Attorney Fees	\$137,654	\$167,264	\$179,022	\$43,911,167
Total Misdemeanor Court Expenditures	\$137,654	\$167,264	\$179,022	\$44,786,546
Juvenile Charges Added (from OCA report)	61	32	35	28,970
Juvenile Cases Paid	134	131	171	41,578
Juvenile Attorney Fees	\$32,433	\$20,416	\$32,290	\$11,805,587
Total Juvenile Expenditures	\$32,433	\$20,416	\$32,290	\$12,312,690
Total Attorney Fees	\$447,200	\$531,513	\$570,782	\$189,152,540
Total ID Expenditures	\$447,200	\$531,513	\$570,782	\$276,229,545
Increase in Total Expenditures over Baseline	91%	127%	144%	211%
Total ID Expenditures per Population	\$6.73	\$8.02	\$8.69	\$9.84
Commission Formula Grant Disbursement	\$55,217	\$68,212	\$52,468	\$23,320,001
Cost Recouped from Defendants	\$52,979	\$43,405	\$41,891	\$10,281,678

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
- FY2018 Indigent Defense Expenditure Report Manual found at:
- <http://www.tidc.texas.gov/media/58006/fy18-ider-manual.pdf>

APPENDIX C – COUNTY’S RESPONSE ATTACHMENTS

SAN PATRICIO COUNTY

County Court at Law

CLAIM FOR ATTORNEY'S FEES

ALL ITEMS TO BE FILLED OUT BY DEFENDANT'S COURT APPOINTED ATTORNEY

1. CAUSE NO. _____

2. STATE OF TEXAS VS. _____

3. NAME OF ATTORNEY _____

STATE BAR NO. _____ YEARS LICENSED _____

PERCENTAGE OF PRACTICE IN CRIMINAL CASES _____ CERTIFIED AS CRIMINAL LAW SPECIALIST _____

4. TIME IN COURT (DATES & HOURS SPENT)

A. _____ B. _____

C. _____ D. _____

E. _____ F. _____

TOTAL HOURS _____

5. TIME OUT OF COURT (DATES, HOURS SPENT, & WHAT REASONABLE AND NECESSARY ACTIVITY WAS CONDUCTED)

A. _____ B. _____

C. _____ D. _____

E. _____ F. _____

G. _____ H. _____

TOTAL HOURS _____

6. I CERTIFY THAT MY DUES TO THE STATE BAR OF TEXAS FOR THE CURRENT YEAR ARE PAID AND THAT THE ABOVE FACTS ARE TRUE AND CORRECT, AND THAT NO ONE ELSE IS BEING BILLED FOR THE TIME CLAIMED HEREIN.

IN COURT _____ x \$ 90.00 = _____

(SIGNATURE) _____

OUT COURT _____ x \$ 70.00 = _____ ADDRESS: _____

TOTAL \$ _____

I CERTIFY THAT THE ABOVE APPOINTED ATTORNEY SHALL BE PAID \$ _____ FROM THE COUNTY FUNDS OF SAN PATRICIO COUNTY, TEXAS.

JUDGE PRESIDING

No. _____

IN THE INTEREST OF

§
§
§
§
§

IN THE COUNTY COURT

AT LAW

SAN PATRICIO COUNTY, TEXAS

ORDER

On this day, the Court heard and considered the forgoing, and the Court finds that said Attorney Ad Litem has rendered necessary services on behalf of the Proposed Ward in this case, that such Attorney's fees and expenses are reasonable and just, and should be paid.

It is therefore ORDERED, ADJUDGED, AND DECREED that said Attorney be paid the total sum of \$_____ to be taxed as costs against the Applicant and the assets of the Ward, to be paid by the Applicant herein within thirty(30) days of the date hereof.

It is further ORDERED, ADJUDGED, AND DECREED that this appointment is terminated and that the Attorney named herein is discharged as Ad Litem in this cause.

SIGNED: _____

JUDGE PRESIDING

No. _____

IN THE INTEREST OF

§
§
§
§
§

IN THE COUNTY COURT

AT LAW

SAN PATRICIO COUNTY, TEXAS

SWORN STATEMENT OF SERVICE AND EXPENSES BY ATTORNEY AD LITEM

On this day personally appeared _____, ("Attorney Ad Litem") known to me, who first being duly sworn upon oath to tell the truth, deposed and stated:

I am an attorney licensed to practice law in the State of Texas and appointed by the Court in this cause to represent the Proposed Ward. I have performed all of the services required under the due diligence policy promulgated by the Court.

I therefore request the following fees and expenses for my representation:

ATTORNEY AD LITEM FEE REQUESTED: \$ _____

In Court Hours _____

Out of Court Hours _____

(Attach proof and explanation)

Total Hours _____

EXPENSES AND REIMBURSEMENT REQUESTED (Attach proof and explanation) \$ _____

TOTAL OF ATTORNEY'S FEES AND EXPENSES REQUESTED: \$ _____

I CERTIFY THAT MY DUES TO THE STATE BAR OF TEXAS FOR THE CURRENT YEAR ARE PAID AND THAT THE ABOVE FACTS ARE TRUE AND CORRECT, AND THAT NO ONE ELSE IS BEING BILLED FOR THE TIME CLAIMED HEREIN.

ATTORNEY SIGNATURE

Bar Card No. _____

Address: _____

Subscribed and Sworn before me on this _____ day of _____, 201__

Notary

APPENDIX D – DISTRIBUTION LIST

The Honorable David Krebs.
San Patricio County Judge
400 West Sinton Street, #109
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The Honorable Elizabeth Welborn
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