



TEXAS INDIGENT DEFENSE COMMISSION

Fiscal Monitoring Report

Dallas County, Texas

FY 2019 Indigent Defense Expenses

Final Report

November 5, 2021

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EXECUTIVE SUMMARY

The Texas Indigent Defense Commission (TIDC) conducted an on-site fiscal monitoring review of Dallas County on February 25-27, 2020 and conducted further review of FY2020 records remotely after the FY 2020 IDER was filed. 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, 2018, through September 30, 2019 (FY 2019) and capital case expenditures for the expenditure period of October 1, 2019, through September 30, 2020 (FY 2020).

SUMMARY OF FINDINGS

Expenditure amounts reported on the FY 2019 Indigent Defense Expense Report (IDER) submitted under Texas Government Code Section §79.036 (e) were not fully supported by the financial data provided by the auditor's office.

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 FY2019. The records reviewed were provided by the Dallas 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 two assistant county auditors, one district court administrator, one county court administrator, and several staff members of the PD office. The fiscal monitor reviewed

- Random samples of paid attorney fee vouchers;
- General ledger transactions provided by the Dallas County auditor's office.
- IDER;
- Attorney fee schedule;
- Attorney contracts; and
- The County's local indigent defense plan filed with TIDC
- District court query of capital cases.

DETAILED REPORT

BACKGROUND INFORMATION

County Background

Dallas County was founded in 1846 by John Neely Bryan. In 1839, Bryan surveyed the land to set up a trading post to trade with the Caddo Indians, then left the area until 1841. When he returned the Caddo Indians had been pushed north so he sought for the area to become a permanent settlement. In 1844, Bryan had J. P. Dumas survey and lay out a 0.5 square mile section of blocks and streets near the ford in the Trinity River which is now downtown Dallas. In 1846 the first Legislature of the State passed a law creating the county of Dallas and authorized Bryan to appoint managers and order an election to organize Dallas County.

Dallas County is located in north Texas and is part of the Dallas-Arlington-Fort Worth, TX Metropolitan Statistical Area. The current population is estimated to be 2,647,627, making it the second-most populous county in Texas and the ninth-most populous in the United States. Its county seat is the City of Dallas, which is also the third-largest city in Texas and the ninth-largest city in the United States. Dallas County occupies an area of 909 square miles, of which 36 square miles is water. The County is bordered by Collin, Denton, Ellis, Johnson, Kaufman, Rockwall and Tarrant counties.

Dallas County is served by twelve district courts, seven criminal district courts, eleven county criminal courts, and two county courts of criminal appeals for criminal cases.

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 2019 indigent defense on-line grant application to assist in the provision of indigent defense services. Dallas County met the formula grant eligibility requirements and was awarded \$2,313,226 for formula grant funding and \$141,083 in supplemental capital defense grant award. Additionally, Dallas County was approved for a multi-year discretionary grant of \$324,170 for the Transformational Justice: A Multi-Disciplinary Approach to Indigent Defense grant.

DETAILED FINDINGS AND RECOMMENDATIONS

Finding One

Under Section §79.036(e) of the Texas Government Code, the county auditor or designated person shall prepare and send to the Commission in the form and manner prescribed by the Commission an analysis of the amount expended by the county for indigent defense in each court and in each case in which appointed counsel are paid. Dallas County prepared and submitted the FY 2019 Indigent Defense Expense Report (IDER) in accordance with Texas Government Code Section §79.036(e); however, the reported amounts were not supported by the financial data provided.

Specifically, the FY2019 PD addendum was under-reported by \$332,482.61 This under-reporting appears to be due to recording the adult misdemeanor attorney fees incorrectly.

Additionally, Dallas County included in the capital murder expenditure category expenses for felony level cases that were not capital murder. Dallas County tracks their capital cases by use of capital paysheets. The cost reported for these paysheets were reported as capital expenditures. However, as these paysheets did not appear to be used only for capital cases, the costs reported for both capital and felony was incorrectly reported.

Further review of the FY2020 IDER was undertaken to understand the capital case expenditures. This review found that the capital case expenditures reported on the FY2020 IDER appear to be for capital level cases.

Recommendation:

Procedures to verify the reported expenditures must be developed to avoid reporting errors. As Dallas County moves to the TechShare program, close attention to any manually submitted paper vouchers should be conducted to ensure the proper case type is reported.

County Response

Dallas County will continue to review the internal control process to ensure the report is accurate and complete.

Dallas County Action Plan

Dallas County Auditor's Office has implemented an additional level of review to include supervisory review of all entered and saved entries to ensure amounts/counts match all final supporting documentation prior to the submission of the report.

Contact person(s): *Internal Audit Department*

Completion date: *August 13,2021*

Subsequent Issue

After preparing this report but before its issuance, Dallas County officials self-reported errors on the FY 2020 IDER. These errors include an overreporting of indirect cost in the amount of \$774,403 and underreporting non-attorney fee expenditures in the amount of \$53,234. This issue was brought to the TIDC Board, and the FY2021 Formula Grant award was recalculated using the adjusted totals provided by Dallas County.

APPENDICES

APPENDIX A – INDIGENT DEFENSE EXPENDITURE REPORT

DALLAS COUNTY INDIGENT DEFENSE EXPENDITURES			
Expenditures	2017	2018	2019
Population Estimate	2,615,995	2,658,759	2,650,320
Juvenile Assigned Counsel	\$771,764	\$892,207	\$872,592
Capital Murder	\$782,282	\$476,271	\$818,230
Adult Non-Capital Felony Assigned Counsel	\$10,862,717	\$10,736,034	\$10,440,426
Adult Misdemeanor Assigned Counsel	\$1,767,609	\$2,581,752	\$2,754,235
Juvenile Appeals	\$0	\$0	\$0
Adult Felony Appeals	\$381,702	\$345,140	\$371,480
Adult Misdemeanor Appeals	\$4,062	\$525	\$0
Licensed Investigation	\$1,037,257	\$904,681	\$984,019
Expert Witness	\$1,158,001	\$1,047,686	\$1,099,095
Other Direct Litigation	\$747,548	\$743,643	\$692,082
Total Court Expenditures	\$17,512,943	\$17,727,939	\$18,032,159
Administrative Expenditures	\$0	\$0	\$0
Funds Paid by Participating County to Regional Program	NA	NA	NA
Total Public Defender Expenditures	\$14,823,917	\$15,220,993	\$19,501,056
Total Court and Administrative Expenditures	\$32,336,860	\$32,948,933	\$37,533,215
Formula Grant Disbursement	\$3,222,801	\$2,324,254	\$2,313,226
Supplemental Capital Grant Defense	\$147,553	\$139,418	\$141,083
Reimbursement of Attorney Fees	\$124,202	\$112,035	\$113,590
Reimbursement by State Comptroller for Writs of Habeas Corpus	\$0	\$0	\$0
Total Public Defender Cases	35,340	35,378	32,987
Total Assigned Counsel Cases	23,331	24,262	21,480

Indigent Defense Expenditure Reporting

Source: Texas Indigent Defense Commission records

Dallas County				
Year	2017	2018	2019	Texas 2019
Population (Non-Census years are estimates)	2,615,995	2,658,759	2,650,320	28,901,062
Felony Charges Added (from OCA report)	38,885	38,402	37,896	295,010
Felony Cases Paid	25,339	24,685	22,642	222,860
% Felony Charges Defended with Appointed Counsel	65%	64%	60%	76%
Felony Trial Court-Attorney Fees	\$11,644,999	\$11,212,305	\$11,258,656	\$143,210,108
Total Felony Court Expenditures	\$13,917,534	\$13,263,707	\$13,420,299	\$160,275,769
Misdemeanor Charges Added (from OCA report)	49,262	44,659	41,441	450,080
Misdemeanor Cases Paid	25,843	26,736	24,294	209,641
% Misdemeanor Charges Defended with Appointed Counsel	52%	60%	59%	47%
Misdemeanor Trial Court Attorney Fees	\$1,767,609	\$2,581,752	\$2,754,235	\$47,236,136
Total Misdemeanor Court Expenditures	\$1,957,228	\$2,725,379	\$2,927,885	\$47,954,642
Juvenile Charges Added (from OCA report)	1,887	1,899	1,756	27,346
Juvenile Cases Paid	7,202	8,021	7,307	39,709
Juvenile Attorney Fees	\$771,764	\$892,207	\$872,592	\$10,795,227
Total Juvenile Expenditures	\$789,431	\$899,185	\$891,819	\$11,236,143
Total Attorney Fees	\$14,570,137	\$15,031,929	\$15,256,962	\$206,610,474
Total ID Expenditures	\$32,336,861	\$32,948,933	\$37,533,215	\$303,021,373
Increase in Total Expenditures over Baseline	101%	105%	133%	242%
Total ID Expenditures per Population	\$12.36	\$12.39	\$14.16	\$10.48
Commission Formula Grant Disbursement	\$3,370,354	\$2,463,672	\$2,454,309	\$23,290,906
Cost Recouped from Defendants	\$124,202	\$112,035	\$113,590	\$9,888,967

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
- FY2019 Indigent Defense Expenditure Report Manual found at:
- www.tidc.texas.gov/documents/posts/2019/october/fy2019-indigent-defense-expenditure-report-manual/

APPENDIX C – DISTRIBUTION LIST

The Honorable Clay Jenkins
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