



**TEXAS INDIGENT DEFENSE
COMMISSION**

Fiscal Monitoring Report

Roberts County, Texas

FY 2014 Indigent Defense Expenses

Final Report

September 4, 2015

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EXECUTIVE SUMMARY

Roberts County's fiscal monitoring desk review began on February 9, 2015. 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, 2013 to September 30, 2014 (FY2014) was reviewed as part of the fiscal monitoring desk review process.

Summary of Findings

- Attorney Fee Vouchers did not include the itemization that is needed to comply with Article 26.05(c), Code of Criminal Procedure
- Attorney CLE hours are not maintained to verify attorney qualifications

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 FY2014. Records provided by the Roberts County Treasurers were reviewed.

Methodology

To accomplish the objectives, the fiscal monitor talked with the county treasurer, the county judge, and the district judge. The fiscal monitor also reviewed:

- 100% of the paid attorney fees vouchers for verification;
- General ledger transactions provided by the Roberts County Treasurer;
- IDER and attorney fee schedule;
- public attorney appointment list, attorney applications, attorney criminal and juvenile continuing legal education training documentation, any applicable contracts; and
- the county's local indigent defense plan.

DETAILED REPORT

BACKGROUND INFORMATION

County Background

Roberts County is located in the Texas Panhandle. The County occupies an area of 924 square miles, and serves an estimated population of 913. The County is a political subdivision of the State of Texas. Neighboring counties are Hemphill, Lipscomb, Ochiltree, Gray, Carson, Hutchinson, Hansford and Wheeler.

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 2014 indigent defense on-line grant application to assist in the provision of indigent defense services. Roberts County met the formula grant eligibility requirements and was awarded \$6,345.00 for FY 2014.

DETAILED FINDINGS AND RECOMMENDATIONS

Finding One

Code of Criminal Procedure (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” and “if the judge or director disapproves the requested amount of payment, the judge or director shall make written findings stating the amount of payment that the judge or director approves and each reason for approving an amount different from the requested amount.”

All ten attorney fee vouchers for FY 2014 were reviewed. One of the vouchers had no itemization of the service performed and no request for an amount to be paid. This attorney fee voucher did not meet the statutory requirements of CCP Article 26.05 (c).

Recommendation:

The county should implement a procedure that verifies that all vouchers submitted for payment include the requested amount to be paid and itemization of the services performed.

County Response: The County accepts the Commission's Recommendation. The Roberts County Court and the 31st Judicial District Court will cooperate in drafting and implementing a procedure that verifies all vouchers for payment include the requested amount to be paid and itemization of the services performed.

Roberts County Action Plan

The County will implement a procedure directing the Roberts County Treasurer not to pay nonconforming submitted vouchers and to return said vouchers to the Court for the Court's consideration/correction. The County will revise the County's Attorney Fee Voucher to help ensure compliance with the new procedure.

Contact person(s): Rick Tennant, Roberts County Judge
Steven Emmert, 31st District Judge

Completion date: July 31, 2015

Finding Two

Title 1, Texas Administrative Code (TAC) rule §174.1 provides that “an attorney who is otherwise eligible for appointment under Article 26.04, CCP may be appointed under this rule only if the attorney completes a minimum of six hours of continuing legal education (CLE) pertaining to criminal law during each 12-month reporting period.” Additionally, for appointment in juvenile cases, TAC rule §174.2 states that “an attorney may be appointed under this rule only if an attorney completes a minimum of six hours of continuing legal education pertaining to juvenile law during each 12-month reporting period.” Alternatively, the rule provides an attorney is eligible if the attorney is board certified in criminal law or juvenile law, respectively.

The County could not document that attorney’s assigned criminal cases had met the CLE requirements to be eligible for appointment. The county may have made ineligible payments to these attorneys. (TAC rule §174.4 does allow for emergency appointment when no attorney meeting the CLE requirements is available.)

Recommendation:

The county must implement a procedure to verify that all attorneys included on the current appointment list have met the current year’s CLE requirements.

County Response: The County accepts the Commission's Recommendation. The Roberts County Court and the 31st Judicial District Court will cooperate in drafting and implementing a procedure that verifies that all attorneys included on the current appointment list have met the current year's CLE requirements.

Roberts County Action Plan

The County will implement a procedure immediately requiring all attorneys on the Court's appointment list to file with appointment list to file with the Court a State Bar of Texas Minimum Continuing Education MCLE Transcript and the Court will require the same proof each year hereafter. The procedure will ensure the Court verifies the filing of said transcript prior to appointing an attorney and will instruct the County Treasurer to verify the same prior to paying an Attorney Fee Voucher.

Contact person(s): Rick Tennant, Roberts County Judge
Steven Emmert, 31st District Judge

Completion Date: July 31, 2015

APPENDIXES

APPENDIX A – INDIGENT DEFENSE EXPENDITURE REPORT

ROBERTS COUNTY INDIGENT DEFENSE EXPENDITURES			
Expenditures	2012	2013	2014
Population Estimate	936	961	913
Juvenile Assigned Counsel	\$0.00	\$0.00	\$500.00
Capital Murder	\$0.00	\$0.00	\$0.00
Adult Non-Capital Felony Assigned Counsel	\$2,750.00	\$5,450.00	\$3,907.30
Adult Misdemeanor Assigned Counsel	\$0.00	\$1,500.00	\$1,000.00
Juvenile Appeals	\$0.00	\$0.00	\$0.00
Adult Felony Appeals	\$0.00	\$0.00	\$0.00
Adult Misdemeanor Appeals	\$0.00	\$0.00	\$0.00
Licensed Investigation	\$0.00	\$0.00	\$0.00
Expert Witness	\$0.00	\$0.00	\$0.00
Other Direct Litigation	\$73.00	\$15.50	\$0.00
Total Court Expenditures	\$2,823.00	\$6,965.50	\$5,407.30
Administrative Expenditures	\$0.00	\$0.00	\$0.00
Funds Paid by Participating County to Regional Program	\$1,000.00	\$1,000.00	\$0.00
Total Court and Administrative Expenditures	\$3,823.00	\$7,965.50	\$5,407.30
Formula Grant Disbursement	\$142.53	\$3,823.00	\$6,345.00
Equalization Disbursement	\$0.00	\$0.00	\$0.00
Discretionary Disbursement	\$0.00	\$0.00	\$0.00
Reimbursement of Attorney Fees	\$0.00	\$300.80	\$123.00
Reimbursement by State Comptroller for Writs of Habeas Corpus	\$0.00	\$0.00	\$0.00
Total Assigned Counsel Cases	6	10	10

Indigent Defense Expenditure Reporting

Source: Texas Indigent Defense Commission records

Roberts County				
Year	2012	2013	2014	Texas 2014
Population (Non-Census years are estimates)	936	961	913	26,642,612
Felony Charges Added (from OCA report)	3	9	5	270,401
Felony Cases Paid	6	7	7	192,732
% Felony Charges Defended with Appointed Counsel	200.00%	77.78%	140.00%	71.28%
Felony Trial Court-Attorney Fees	\$2,750.00	\$5,450.00	\$3,907.30	\$104,577,627.50
Total Felony Court Expenditures	\$2,823.00	\$5,465.50	\$3,907.30	\$121,013,238.56
Misdemeanor Charges Added (from OCA report)	17	44	33	530,335
Misdemeanor Cases Paid	0	3	2	223,043
% Misdemeanor Charges Defended with Appointed Counsel	0.00%	6.82%	6.06%	42.06%
Misdemeanor Trial Court Attorney Fees	\$0.00	\$1,500.00	\$1,000.00	\$38,286,859.48
Total Misdemeanor Court Expenditures	\$0.00	\$1,500.00	\$1,000.00	\$39,406,492.35
Juvenile Charges Added (from OCA report)	0	0	1	31,996
Juvenile Cases Paid	0	0	1	45,340
Juvenile Attorney Fees	\$0.00	\$0.00	\$500.00	\$10,901,190.88
Total Juvenile Expenditures	\$0.00	\$0.00	\$500.00	\$11,597,789.07
Total Attorney Fees	\$2,750.00	\$6,950.00	\$5,407.30	\$159,310,349.08
Total ID Expenditures	\$3,823.00	\$7,965.50	\$5,407.30	\$229,943,368.55
Increase In Total Expenditures over Baseline	565.32%	1,286.24%	841.04%	159.20%
Total ID Expenditures per Population	\$4.08	\$8.29	\$5.92	\$8.63
Commission Formula Grant Disbursement	\$142.53	\$3,823.00	\$6,345.00	\$36,739,158.25
Commission Equalization Grant Award				

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
- FY2014 Indigent Defense Expenditure Report Manual found at:
<http://www.tidc.texas.gov/media/25884/FY2014IDERManualFinalRevised0912.pdf>

APPENDIX C – DISTRIBUTION LIST

The Honorable Rick Tennant
Constitutional County Judge
P.O. Box 478
Miami, Texas 79059

The Honorable Steven R. Emmert
Local Administrative District Court
31st Judicial District Court
P.O. Box 766
Wheeler, TX 79096-0766

Ms. Amy Tennant
County Treasurer
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