



May 21, 2015

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Presiding Judge, Court of Criminal Appeals

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Executive Director:
James D. Bethke

The Honorable John E. Firth
Constitutional County Judge
Coryell County Courthouse
800 E. Main St., Suite A
Gatesville, TX 76528

Re: Coryell County Fiscal Monitoring Visit

Dear Judge Firth:

The Texas Indigent Defense Commission has completed its fiscal monitoring review of Coryell County covering the contract period of October 1, 2013 through September 30, 2014.

The objective of the review was to determine if Coryell County was in compliance with the fiscal requirements of the formula and/or discretionary grants per Commission rules under the Texas Administrative Code (TAC), Uniform Grant Management Standards (UGMS), Texas Government Code, and grant provisions.

The final report including your county response and corrective action plan is enclosed.

We would like to thank Coryell County officials and employees for their assistance and cooperation during the fiscal monitoring process. If you have any questions or need further clarification please do not hesitate to contact me.

Sincerely,

Debra Stewart, CPA, CIGA
Fiscal Monitor



TEXAS INDIGENT DEFENSE COMMISSION

Fiscal Monitoring Report

Coryell County, Texas

FY 2014 Indigent Defense Expenses

Final Report

May 21, 2015

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EXECUTIVE SUMMARY

Coryell County's on-site fiscal monitoring visit was conducted February 10-12, 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 during the fiscal monitoring visit.

Summary of Findings

- Civil case costs were included with the criminal indigent defense costs reported on the county's FY2014 Indigent Defense Expenditure Report (IDER).
- The number of cases disposed during the year was underreported on the county's FY2014 IDER.
- Attorney Fee Voucher for the Mental Health Defenders Contract does not list the cases disposed, which is part of the itemization required by Texas Administrative Code §174.25.
- Additional errors were detected within the county's FY2014 IDER.

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 Coryell County Auditor's Office were reviewed.

Methodology

To accomplish the objectives, the fiscal monitor met with the county auditor, the county judge, and the indigent defense coordinator. The fiscal monitor reviewed:

- random samples of paid attorney fees for verification;
- accounts payable ledger transactions provided by the Coryell County Auditor's Office;
- IDER and attorney fee schedule;
- public 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

Coryell County is part of the Killeen-Temple, Texas Metropolitan Statistical Area. The County occupies an area of 1057 square miles, and serves an estimated population of 78,009. The County is a political subdivision of the State of Texas. Neighboring counties are Hamilton, Bosque, McLennan, Bell and Lampasas. Part of the large Fort Hood army base lies within the county.

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. Coryell County met the formula grant eligibility requirements and was awarded \$51,116.00 for FY 2014.

Discretionary Grant

Coryell County was awarded \$93,525.00 in discretionary grant funds to operate the Coryell County Mental Health Defenders Program for FY 2014. The County received reimbursement payments for grant project expenses totaling \$62,224.29 in FY 2014.

Other Related Issues

During the desk review of the FY 2014 IDER, it was noted that the number of cases paid reported in the IDER combined with the court clerk’s reports to the Office of Court Administration indicate that counsel was appointed in approximately 21% of the misdemeanor cases when compared to

the statewide percentage rate at 42%. This appointment rate appears to be significantly lower than previous years and may be an indicator of a procedural concern.

DETAILED FINDINGS AND RECOMMENDATIONS

Finding One

The county included civil case expenses, such as child protective services, guardianship cases, and ad litem cases, with the criminal indigent defense expenses in the FY 2014 Indigent Defense Expense Report submitted under Texas Government Code Section 79.036 (e). These are not eligible criminal indigent defense expenses. Of the 39 invoices from the 52nd District Court reviewed, two (2) were found to be child protective services cases. It was noted that these case numbers began with a four, while the criminal cases began with a two. Of the 33 County Court invoices reviewed, two (2) invoices were for civil matters, one (1) ad litem and one (1) guardianship case. Both child protective services and guardianship matters are civil cases.

None of the expense for civil matters should be included in the criminal indigent defense expense report. The IDER overstated the county's criminal indigent defense expenditures due to the inclusion of civil cases reported. This could mean that the FY 2015 formula grant calculation for Coryell County resulted in an amount that could be greater than would have been authorized if reported without the civil cases. Please refer to the Indigent Defense Expenditure Report Procedure Manual: <http://www.tidc.texas.gov/media/25884/FY2014IDERManualFinalRevised0912.pdf>

Recommendation:

The inclusion of the civil cases appears to be the result of data entry errors in the payables process and not a systemic issue. It is therefore recommended that a quality control procedure be initiated to review the data entered. Such review would be rather simple because it appears that criminal case numbers differ from the civil case numbers and a cursory review could identify these differences and prevent this type of error in the future.

Other invoices with the case number beginning with a four were included in the ledger. The county must review those records and determine the amount of over-reported expenditures due to civil cases that were included in the IDER so that a recalculation of the formula grant based on eligible expenses can be performed.

County Response:

Coryell County Action Plan

Use FIDo system for reporting information.

Contact person(s): Ben Roberts

Completion date: 03/19/2015

Finding Two

The Indigent Defense Expenditure Report (IDER) required under Texas Government Code Section 79.036 (e) requires counties to report the number of indigent cases disposed at the time the cases are paid. The County instead counted the number of invoices paid to attorneys. This is not an accurate count of cases because some invoices include payment for more than one case.

Upon reconciling the case count reported on the County’s FY 2014 IDER to the data provided by the county it was noted that the County reported the number of payments to attorneys instead of the number of indigent cases paid. Of the thirty-nine (39) invoices from the 52nd District Court reviewed, which the county reported as thirty-nine (39) cases disposed and paid, sixty seven (67) cases were actually disposed and paid. Of the thirty three (33) County Court invoices reviewed, which the County reported as thirty-three (33) cases disposed and paid, fifty-four (54) cases were actually disposed and paid. This resulted as an underreporting of the indigent cases disposed and paid which may in part be a reason for the lower appointment rate noted above as a concern in the “Other Related Issues” section of this report.

Recommendation:

As the attorney fee vouchers are entered into the accounting system for payment, the number of cases listed on the voucher could be entered first in the description field. This will facilitate an easy and accurate count of the number of cases disposed and paid at the time the IDER is prepared.

County Response:

Coryell County Action Plan

Use FIDo system for information on report

Contact person(s): Ben Roberts

Completion date: 03/19/2015

Finding Three

The monthly attorney fee vouchers submitted for the Mental Health Defenders Contract do not list the cases disposed each month, which is part of the itemization required by Texas Administrative Code §174.25. The compensation for services of the mental health cases is determined by the contract and is requested on each voucher. However, the vouchers submitted need to include the minimum information necessary for the county auditor to complete the expenditure report. This information includes both the contract expenditures **and the cases disposed per court**. Since the vouchers did not list the cases disposed the number of cases reported on the IDER for the Mental Health defender program was not supported.

Recommendation:

The contract defender must list cases disposed by court on each monthly voucher to support a properly itemized voucher that is legal for payment.

County Response:

Coryell County Action Plan

Ask contract defender to give case numbers.

Contact person(s): Ben Roberts

Completion date: 03/19/2015

Finding Four

Some indigent defense expenditures were mis-categorized and mis-reported as attorney fees. A payment to an attorney for reimbursement of investigator fees in the amount of \$747.17 was found on one invoice reviewed, and other direct litigation expenses in the amount of \$231.00 were found on another invoice selected for review. These expenditures are for reimbursements of non-attorney fee expenses requested by the attorney on the submitted attorney fee voucher and were mistakenly aggregated with the attorney fees at the time of data entry. These amounts should be separately classified to general ledger accounts with titles as described for the proper reporting of indigent defense expenditures in accordance with Texas Government Code §79.036(e). These reimbursements should also not be included as attorney fees on the payments to individual attorneys on the new sections of the IDER detailing cases and total attorney fees paid to each attorney. The total indigent defense expenditure is not affected, but the classification of the expenditures is not properly reported.

Some cases and expenses were attributed to the wrong attorney in the attorney-level detail section of the IDER. FY 2014 was the first year for the new attorney-level reporting requirements as required by legislation passed in 2013. Although the total amount reported on the attorney-level report, which reports the number of cases disposed and total attorney fees paid per attorney per court, was supported by the amount recorded on the court report, errors were detected in the attribution of cases and expenditures to particular attorneys. Two attorneys listed as receiving payments on the accounts payable ledger were not listed on the attorney report; however, their payment amounts and cases disposed were added to another attorney's reported amounts. This occurred because the County was unable to locate the bar card number for the attorneys when preparing the report. This practice under-reported attorney fees and caseloads for two attorneys and conversely over-reported the amount and caseloads on the attorneys to whom these cases and expenses were incorrectly attributed. The County also entered the incorrect bar card number of another attorney, leading to a misattribution of cases and expenses to an attorney who does not practice in Coryell County.

Recommendations:

The County should develop procedures that would assist the data entry personnel to recognize the reimbursement expenditures that should be classified separately and set up a quality review process to assure compliance.

In the future if the County is missing an attorney bar card number it can be found by searching the texasbar.com website.

County Response:

Coryell County Action Plan

Use FIDo system for report information

Contact person(s): Ben Roberts

Completion date: 03/19/2015

Observation

At the time of the review, Coryell County was one week into utilizing the electronic attorney fee voucher component of the FIDo system. This FIDo system appears to be a tool that can be utilized to help address some of the findings noted in this report as indicated below.

- Finding One: Regarding the error of including civil cases, the FIDo system will only be utilized by the attorneys reporting on an appointment in the matter of a criminal case. As these vouchers are submitted to the auditor's office in batches, they can in turn data enter them in batches, utilizing the proper general ledger code for criminal matters.
- Finding Two: Each attorney will add each case to the electronic system, and a report identifying the number of cases disposed and paid should be available.
- Finding Three: While the FIDo system is not designed for the contract defender system, it seems possible to utilize the system to track the disposed cases of the Mental Health Defenders Program so that case counts from the program can be accurately reported on the IDER at the end of the year.
- Finding Four: The information submitted on the electronic voucher should accommodate different expenditure categories so that a report can be generated for the various other general ledger accounts.

As the FIDo system is not integrated with the county's accounting software, manual entry of these vouchers will still be necessary. It will still be the responsibility of the County to report accurately based on payment records. However, the County will now have a useful tool to verify accuracy of the data.

APPENDIXES

APPENDIX A – INDIGENT DEFENSE EXPENDITURE REPORT

CORYELL COUNTY INDIGENT DEFENSE EXPENDITURES			
Expenditures	2012	2013	2014
Population Estimate	76,624	78,009	Unavailable
Juvenile Assigned Counsel	\$15,644.68	\$7,280.00	\$5,925.00
Capital Murder	\$0.00	\$0.00	\$0.00
Adult Non-Capital Felony Assigned Counsel	\$160,082.42	\$194,992.00	\$283,858.32
Adult Misdemeanor Assigned Counsel	\$98,248.60	\$71,095.00	\$92,078.75
Juvenile Appeals	\$0.00	\$0.00	\$0.00
Adult Felony Appeals	\$2,075.98	\$2,874.00	\$2,863.75
Adult Misdemeanor Appeals	\$0.00	\$0.00	\$0.00
Licensed Investigation	\$5,822.55	\$0.00	\$0.00
Expert Witness	\$22,700.00	\$25,850.00	\$2,023.80
Other Direct Litigation	\$10,983.00	\$2,591.00	\$0.00
Total Court Expenditures	\$315,557.23	\$304,682.00	\$386,749.62
Administrative Expenditures	\$0.00	\$0.00	\$0.00
Funds Paid by Participating County to Regional Program	\$0.00	\$16,674.00	\$22,232.00
Total Court and Administrative Expenditures	\$315,557.23	\$321,356.00	\$408,981.62
Formula Grant Disbursement	\$38,761.00	\$48,537.00	\$51,116.00
Equalization Disbursement	\$6,025.00	\$0.00	\$0.00
Discretionary Disbursement	\$0.00	\$0.00	\$62,224.29
Reimbursement of Attorney Fees	\$65,565.69	\$58,902.00	\$55,330.10
Reimbursement by State Comptroller for Writs of Habeas Corpus	\$0.00	\$0.00	\$0.00
Total Assigned Counsel Cases	864	1101	737

Indigent Defense Expenditure Reporting

Source: Texas Indigent Defense Commission records

Coryell County				
Year	2012	2013	2014	Texas 2014
Population (Non-Census years are estimates)	76,624	78,009	Unavailable	Unavailable
Felony Charges Added (from OCA report)	639	658	743	270,401
Felony Cases Paid	544	693	488	192,710
% Felony Charges Defended with Appointed Counsel	85.13%	105.32%	65.68%	71.27%
Felony Trial Court-Attorney Fees	\$160,082.42	\$194,992.00	\$283,858.32	\$104,731,300.50
Total Felony Court Expenditures	\$188,604.97	\$223,433.00	\$285,882.12	\$121,166,911.56
Misdemeanor Charges Added (from OCA report)	525	1077	1076	530,335
Misdemeanor Cases Paid	292	392	225	223,043
% Misdemeanor Charges Defended with Appointed Counsel	55.62%	36.40%	20.91%	42.06%
Misdemeanor Trial Court Attorney Fees	\$98,248.60	\$71,095.00	\$92,078.75	\$38,291,610.73
Total Misdemeanor Court Expenditures	\$98,248.60	\$71,095.00	\$92,078.75	\$39,411,243.60
Juvenile Charges Added (from OCA report)	42	34	30	31,996
Juvenile Cases Paid	20	13	17	45,332
Juvenile Attorney Fees	\$15,644.68	\$7,280.00	\$5,925.00	\$10,901,190.88
Total Juvenile Expenditures	\$15,644.68	\$7,280.00	\$5,925.00	\$11,597,789.07
Total Attorney Fees	\$276,051.68	\$276,241.00	\$384,725.82	\$159,468,773.33
Total ID Expenditures	\$315,557.23	\$321,356.00	\$408,981.62	\$230,101,792.80
Increase In Total Expenditures over Baseline	214.71%	220.50%	307.89%	159.38%
Total ID Expenditures per Population	\$4.12	\$4.12		
Commission Formula Grant Disbursement	\$38,761.00	\$48,537.00	\$51,116.00	\$21,844,840.25
Commission Equalization Grant Award	\$6,025.00			

Indigent Defense Expenditure Reporting

Source: Texas Indigent Defense Commission records

APPENDIX B – OBJECTIVE, SCOPE, METHODOLOGY and CRITERIA

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.
- 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 FY 2014. Records provided by the Coryell County Auditor's Office were reviewed.

Methodology

To accomplish the objectives, the fiscal monitor met with the county auditor, the county judge, and the district judge. The fiscal monitor reviewed:

- random samples of paid attorney fees for verification;
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- IDER and attorney fee schedule;
- public appointment list, attorney applications, attorney criminal and juvenile continuing legal education training documentation, any applicable contracts; and
- the county's local indigent defense plan

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 Trent D. Farrell
52nd Judicial District Court
P.O. Box 19
Gatesville, TX 76528

Mr. Ben Roberts
County Auditor
800 E. Main St. Suite A
Gatesville, TX 76528

Mr. Michael W. Hull
Indigent Defense Coordinator
620 Main Street
Gatesville, TX 76528

Mr. James D. Bethke
Executive Director, Texas Indigent Defense Commission
209 W. 14th Street, Room 202
Austin, TX 78701

Mr. Wesley Shackelford
Deputy Director/Special Counsel, Texas Indigent Defense Commission
209 W. 14th Street, Room 202
Austin, TX 78701

Mr. Edwin Colfax
Grants Program Manager, Texas Indigent Defense Commission
209 W. 14th Street, Room 202
Austin, TX 78701