



# **TEXAS INDIGENT DEFENSE COMMISSION**

## **Fiscal Monitoring Report**

**Parker County, Texas**

**FY 2017 Indigent Defense Expenses**

**Final Report**

**April 22, 2019**

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## EXECUTIVE SUMMARY

The Texas Indigent Defense Commission (TIDC) conducted an on-site fiscal monitoring review of Parker County the week of Sept 24-27, 2018. 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, 2016 through September 30, 2017 (FY 2017).

### SUMMARY OF FINDINGS

The FY 2017 Indigent Defense Expenditure Report (IDER) submitted in accordance with Texas Government Code Section §79.036(e) was not supported by financial data provided IDER was not prepared in the manner required.

- Civil case expenditures were included with the criminal indigent defense expenses;
- Case counts were not reported properly; and
- Investigations cost and cost to produce court reporter records were not included.

### 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 FY2017. The records reviewed were provided by the Parker 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 assistant County Auditors and a District Judge and his coordinator. The fiscal monitor reviewed

- Random samples of paid attorney fees;
- General ledger transactions provided by the Parker 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

Parker County was created in 1855 and organized the following year. The County is named after Isaac Parker, a state legislator who introduced the bill that established the County. Parker County is included in the Dallas-Fort Worth-Arlington, TX Metropolitan Statistical Area. The county seat is Weatherford. Parker County serves an estimated population of 134,352 and occupies an area of 910 square miles, of which 6.6 square miles is water. The county is intersected by the Brazos River. The neighboring counties are Hood, Jack, Johnson, Palo Pinto, Tarrant and Wise Counties.

Parker County is served by the 43<sup>rd</sup> and the 415<sup>th</sup> District courts and two County courts 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 effective September 1, 2011. The Commission 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 2017 indigent defense on-line grant application to assist in the provision of indigent defense services. Parker County met the formula grant eligibility requirements and was awarded \$154,263 for FY 2017.

## 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. Parker County prepared and submitted the FY 2017 IDER in accordance with Texas Government Code Section §79.036(e) however, the reported amounts were not supported by the financial data provided.

Specifically, Parker County included civil case attorney fees with the criminal indigent defense expenses. Ninety-five attorney fee vouchers were reviewed for the review process. Of these vouchers twenty-six were for civil case matters. These civil case expenses are not eligible indigent defense expenditures and should not be included in the IDER. The IDER was overstated due to the inclusion of these ineligible costs.

Additionally, the auditor's method for tracking case counts, which appears to be to count the number of payment records, does not consider multiple cases listed on a voucher nor does it consider multiple payments made for a single case.

Furthermore, expenditures for investigations and court reporter records were not included on the IDER. This oversight understated the county's criminal indigent defense expenditures on the IDER.

Because the amounts reported on the IDER are part of the basis for Formula Grant awards, the FY 2018 formula grant for Parker County was probably greater than would have been authorized, as the cost of the ineligible civil cases appear to be significantly higher than the unreported investigation and court reporter record costs. Please refer to the Indigent Defense Expenditure Report Procedure Manual: <http://www.tidc.texas.gov/media/57810/fy17-ider-manual.pdf>

### **Recommendation:**

The County must identify and report to TIDC the amount of the civil cases included in the FY 2017 IDER.

The County must train personnel to distinguish the difference between criminal and civil cases.

The County may want to create a new general ledger account to separate criminal case expenses and civil case expenses. Then for the IDER preparation process, the County would only need to work with the general ledger account containing the criminal case expenses.

The County should update its procedures manual to include the statement that attorney fees on civil case matters are not eligible for the IDER.

Procedures must be designed to ensure that the IDER is prepared accurately. These procedures should include a process to count all the cases the attorney list as disposed from each voucher and ways to count cases when an attorney receives more than one payment on a case. One example could be to list the number of cases on the voucher in parenthesis on the description line if more

than one case is listed. This way the auditor can identify the vouchers with more than one case when the information is downloaded to an excel spreadsheet during the IDER preparation process.

Additionally, the auditor should become familiar with allowable and unallowable expenditures the county incurs for court expenditures and include on the IDER all of the allowable expenses and none of the unallowable.

### **County Response**

1. *The County must identify and report to TIDC the amount of the civil cases included in the FY 2017 IDER.*
  - *The amount of unallowable Indigent Defense expenses related to civil cases reported for FY2017 totaled \$355,602.54.*
2. *The County must train personnel to distinguish between criminal and civil cases.*
  - *The assistant auditor responsible for preparing the IDER attended a web-based TIDC training following the on-site fiscal monitoring review. The individual gained an understanding of allowable and unallowable costs and is now knowledgeable of the proper procedures to accurately prepare the IDER, based on both the training provided by the TIDC and the clarification provided by the TIDC auditor during the on-site monitoring review. Additionally, civil cases can be easily identified in the GL as both the JE detail description and in voice begins with " CV". See further discussion in the corrective action plan section below.*
3. *The County should update their procedures manual to include the statement that attorney fees on civil case matters are not eligible for the IDER.*
  - *The County has implemented the above referenced wording into its TIDC grant reporting desk procedures to ensure attorney fees related to indigent civil case matters are not included in the IDER.*
4. *Procedures must be designed to ensure that the IDER is prepared accurately. These procedures should include a process to count all the cases the attorney list as disposed from each voucher and ways to count cases when an attorney receives more than one payment on a case. For example, the County could require that the number of cases on the voucher be listed in parenthesis on the description line if more than one case is listed. This way, the auditor can identify the vouchers with more than one case when the information is downloaded to a spreadsheet during the IDER preparation process.*
  - *The County Auditor's office has recommended that the County Court at Law (CCL) and District courts code all TIDC eligible expenses to newly created GL accounts. In addition, to ensure that the number of TIDC cases are properly reported, the number*

*of cases will be notated in parenthesis on the description line if the invoice contains more than one case. See further discussion in the corrective action plan below.*

5. *The auditor should become familiar with allowable and unallowable expenditures the County incurs for court expenditures and include on the IDER all the allowable expenses and none of the unallowable ones.*
  - o *Corrective action was taken during the preparation of the FY 2018 IDER to ensure only allowable expenditures were included and unallowable expenditures were properly excluded. Specifically, civil case expenses were not reported, and allowable trial costs were properly included in the IDER. Furthermore, trial costs reported were verified through review of vouchers to confirm the expenses were indigent defense related in accordance with the TTDC IDER manual. See further discussion in the correction action plan section below.*

### **Parker County Action Plan**

*Based upon review of the Commission's findings and recommendations and discussions with County personnel involved with the administration of the TIDC grant, Parker County has implemented the below procedures and corrective action plan.*

1. *On February 27, 2019, the Auditor's office, County Judge, Emergency Management Officer and a court coordinator from each of the CCL and District courts held a meeting to discuss the above findings and recommendations. The preparation and submission of the FY 2018 IDER was presented and a copy of the TIDC IDER manual (manual) for FY 2018 was distributed and discussed in detail. Additionally, examples of allowable and unallowable costs per section II were presented for discussion and clarification. The Auditor's office will distribute new revisions of the manual when issued by TIDC to the relevant departments.*
2. *Effective March 1, 2019, court coordinators will notate TIDC related expenses within the description section on each purchase order/request for payment. Additionally, effective April 1, 2019, the Auditor's office will create new GL accounts to track TIDC eligible expenses, which will be distinguished by program number within the existing GL account numbers. The chart of new GL accounts, as well as a brief description of what is allowable and unallowable, will be dispersed to each of the CCL and District courts. Each court coordinator will*

*determine whether an expense is TIDC eligible in accordance with the manual. The assistant auditor will query the new GL accounts to complete the annual IDER.*

<i>Account Description</i>	<i>Account Number</i>	<i>Program Type</i>
<i>Attorney Fees</i>	<i>010-54400-###-01</i>	<i>TIDC - Juvenile</i>
<i>Attorney Fees</i>	<i>010-54400-###-02</i>	<i>TIDC - Adult</i>
<i>Trial Costs</i>	<i>010-54497-###-01</i>	<i>TIDC - Investigative</i>
<i>Trial Costs</i>	<i>010-54497-###-02</i>	<i>TIDC - Expert Witness</i>
<i>Trial Costs</i>	<i>010-54497-###-03</i>	<i>TIDC - Other Litigation</i>

*### Denotes department number*

- a. Please note that program numbers for felony and misdemeanor cases were not separately created, as misdemeanor and felony cases are handled exclusively by the CCLs and District courts, respectively; therefore, misdemeanor cases are associated with department numbers 438 and 439 and felony cases with 435 and 436.*
  
- 3. To ensure the number of TIDC cases is accurately reported, the assistant auditor will query the new GL accounts from STW and export the report to excel. To avoid overstating duplicate cases, payments will be sorted within the excel file by attorney name and case number to determine whether multiple payments were made on the same case. Parker County has reviewed section III of the manual and will report case counts in accordance with the guidelines established. Additionally, Parker County will continue to explore other approaches to case count methods to improve both the accuracy and efficiency of the process.*

# APPENDICES

## APPENDIX A – INDIGENT DEFENSE EXPENDITURE REPORT

<b>PARKER COUNTY INDIGENT DEFENSE EXPENDITURES</b>			
<b>Expenditures</b>	<b>2015</b>	<b>2016</b>	<b>2017</b>
Population Estimate	126,500	131,437	134,352
Juvenile Assigned Counsel	\$12,800	\$20,880	\$30,520
Capital Murder	\$72,406	\$0	\$0
Adult Non-Capital Felony Assigned Counsel	\$760,619	\$682,132	\$601,575
Adult Misdemeanor Assigned Counsel	\$558,214	\$525,013	\$502,820
Juvenile Appeals	\$0	\$0	\$0
Adult Felony Appeals	\$7,493	\$0	\$0
Adult Misdemeanor Appeals	\$0	\$0	\$0
Licensed Investigation	\$18,827	\$0	\$0
Expert Witness	\$0	\$17,875	\$28,250
Other Direct Litigation	\$0	\$0	\$0
<b>Total Court Expenditures</b>	<b>\$1,430,359</b>	<b>\$1,245,900</b>	<b>\$1,163,165</b>
Administrative Expenditures	\$0	\$0	\$0
Funds Paid by Participating County to Regional Program	\$25,561	\$27,459	\$27,459
<b>Total Public Defender Expenditures</b>	<b>N/A</b>	<b>N/A</b>	<b>N/A</b>
<b>Total Court and Administrative Expenditures</b>	<b>\$1,455,920</b>	<b>\$1,273,359</b>	<b>\$1,190,624</b>
Formula Grant Disbursement	\$102,998	\$129,565	\$154,264
Reimbursement of Attorney Fees	\$44,552	\$52,143	\$24,745
Reimbursement by State Comptroller for Writs of Habeas Corpus	\$0	\$0	\$0
<b>Total Public Defender Cases</b>	<b>N/A</b>	<b>N/A</b>	<b>N/A</b>
<b>Total Assigned Counsel Cases</b>	<b>1776</b>	<b>1789</b>	<b>1845</b>

*Indigent Defense Expenditure Reporting*

Source: Texas Indigent Defense Commission records

<b>Parker County</b>				
<b>Year</b>	<b>2015</b>	<b>2016</b>	<b>2017</b>	<b>Texas 2017</b>
Population (Non-Census years are estimates)	126,500	131,437	134,352	28,059,337
Felony Charges Added (from OCA report)	1,106	1,141	1,007	279,474
Felony Cases Paid	859	832	1,293	212,428
% Felony Charges Defended with Appointed Counsel	78%	73%	128%	76%
Felony Trial Court-Attorney Fees	\$833,025	\$682,132	\$601,575	\$123,500,620
Total Felony Court Expenditures	\$851,853	\$700,007	\$629,825	\$141,042,744
Misdemeanor Charges Added (from OCA report)	2,022	2,365	2,341	473,896
Misdemeanor Cases Paid	880	899	503	217,002
% Misdemeanor Charges Defended with Appointed Counsel	44%	38%	21%	46%
Misdemeanor Trial Court Attorney Fees	\$558,214	\$525,013	\$502,820	\$43,271,420
Total Misdemeanor Court Expenditures	\$558,214	\$525,013	\$502,820	\$44,143,098
Juvenile Charges Added (from OCA report)	56	67	67	29,152
Juvenile Cases Paid	35	58	49	39,635
Juvenile Attorney Fees	\$12,800	\$20,880	\$30,520	\$11,386,741
Total Juvenile Expenditures	\$12,800	\$20,880	\$30,520	\$11,967,965
Total Attorney Fees	\$1,411,532	\$1,228,025	\$1,134,915	\$183,294,600
Total ID Expenditures	\$1,455,920	\$1,273,359	\$1,190,624	\$265,131,386
Increase in Total Expenditures over Baseline	758%	650%	602%	199%
Total ID Expenditures per Population	\$11.51	\$9.69	\$8.86	\$9.45
Commission Formula Grant Disbursement	\$102,998	\$129,565	\$154,264	\$31,751,772
Cost Recouped from Defendants	\$44,552	\$52,143	\$24,745	\$10,262,531

*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
- FY2017 Indigent Defense Expenditure Report Manual found at:
- <http://www.tidc.texas.gov/media/57810/fy17-ider-manual.pdf>

## APPENDIX C – DISTRIBUTION LIST

The Honorable Pat Deen  
Constitutional County Judge  
Parker County  
1 Courthouse Square  
Weatherford, TX 76086  
[Pat.Deen@parkercountytx.com](mailto:Pat.Deen@parkercountytx.com)  
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Honorable Graham Quisenberry  
Local Administrative District Judge  
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Honorable Jerry Buckner  
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