



TEXAS INDIGENT DEFENSE COMMISSION

Fiscal Monitoring Report

Medina County, Texas

FY2019 Indigent Defense Expenses

Final Report

April 4, 2022

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EXECUTIVE SUMMARY

The Texas Indigent Defense Commission (TIDC) conducted a fiscal monitoring desk review of Medina County beginning on September 11, 2020. Email and phone exchanges continued until June 16, 2021. 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 (FY2019).

SUMMARY OF FINDINGS

The FY2019 Indigent Defense Expenditure Report (IDER) submitted in accordance with Texas Government Code Section §79.036(e) was not prepared in the manner required. Specifically, case count numbers for civil cases (writs of habeas corpus) were included as disposed criminal cases on the IDER.

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 Medina 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 coordinated emails with the county auditor, district clerk, and indigent defense coordinator. The fiscal monitor reviewed

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

DETAILED REPORT

BACKGROUND INFORMATION

County Background

Medina County was formed in 1848 and expanded in 1850 from parts of Bexar County. The County is named for the Medina River. The County is divided from east to west by the Balcones Escarpment, which separates the Edwards Plateau and Hill Country to the north from the Rio Grande Plains to the south. The County seat is Hondo.

Medina County serves an estimated population of 52,191 and occupies 1,335 square miles, of which 9.2 square miles is water. Medina County is bordered by Atascosa, Bandera, Bexar, Frio, and Uvalde Counties.

Medina County is served by two 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's mission is to protect the right to counsel and improve indigent defense.

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 FY2019 indigent defense online grant application to assist in the provision of indigent defense services. Medina County met the formula grant eligibility requirements and was awarded \$51,598 in formula grant funds.

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. Medina County prepared and submitted the FY2019 IDER in accordance with Texas Government Code Section §79.036(e); however, the reported case numbers of disposed criminal cases were not supported by financial data provided.

TIDC reviewed the general ledger provided by the Medina County Auditor's office. Cause numbers with the letters CV were included. As CV typically refers to civil cases, TIDC reviewed the vouchers with the letters CV included in the case number. This review revealed that the cases in question were for writs of habeas corpus. The majority of these writs appear to be filed to secure the release of defendants from custody because formal charges were not filed within statutory timelines. Writs of habeas corpus are technically civil matters; however, costs for such writs are eligible indigent defense expenses, because they are filed in connection with an underlying criminal charge. Even when such writs are granted, however, the underlying criminal case is not disposed. Rather, these writs are challenging the pretrial detention of persons pending the filing of formal charges.

Typically, civil matters are not eligible to be included on the IDER, and TIDC staff initially informed Medina County officials that they overreported the amount of indigent defense expenses. However, because the underlying case that caused the writ to be filed was criminal, the expenses are allowable. However, the criminal case is not being disposed by the writ, even if the writ is granted and the defendant is released from jail. Therefore, the writ that is filed should not be counted as disposed for the criminal case count. For the year under review, 69 writs of habeas corpus were included as disposed criminal cases. This over-reported the number of disposed criminal cases on the IDER.

Recommendation:

The County should not count writs of habeas corpus toward disposed criminal cases.

Medina County Action Plan

Rubi Gaucin and Beverly Ham with the Medina County Auditor's office had a meeting with Darcy Hasty of the Pre-Trial Services Department and Cindy Fowler, the District Clerk, to discuss the finding above. After this meeting, it was determined that the best course of action for reporting future disposed cases would be to request the number of disposed cases (case counts) from each of the following: our newly formed Hill Country Public Defenders Office, Pre-Trial Services' Tech Share Program, and District Clerk's & County Court at Law's Odyssey Program. Reporting the case counts from these offices should a) eliminate counting writs of habeas corpus and/or the CV cases, b) include any motion to revoke probation, and c) include any cases that were dismissed before formal charges are filed.

The Indigent Defense expenses will continue to come from the General Ledger totals.

The Medina County Auditor's Office prepares the TIDC IDER annually during the month of October for the previous fiscal year. This Corrective Action Plan will begin for this year's IDER, which starts 10/1/2021 thru 9/30/22.

Contact person(s): *Rubi Gaucin and Beverly Ham, Medina County Auditor's office: 830-741-6090*

Completion date: *March 11, 2022*

Observations:

The Medina County indigent defense data sheet available on TIDC's data website is derived from the county information on the IDER and clerk data provided to the OCA and includes estimates of indigent appointment rates. The data indicates that, in 2019, Medina County paid 126% of new felony cases to appointed attorneys. The 2018 information estimated an appointment rate of 118%. Because these are unusual figures, TIDC sought to determine the accuracy of the underlying information.

There appear to be three factors that explain the anomalous estimates of indigent appointment rates. First, the number of criminal cases disposed and paid was artificially inflated due to the reporting of writs as cases disposed separate from the underlying criminal case as detailed in Finding One above. Other than this issue, the auditor appears to be reporting the number of disposed cases in a manner that is consistent with TIDC guidelines.

A second factor that appears to explain the anomalous estimated appointment rate is that attorneys were paid for 52 cases that were dismissed before formal charges were filed. These dismissed cases were not assigned a cause number, and therefore the clerk would not have reported them as new cases. Such cases appear to be reported correctly, as TIDC requires the payment for dismissed cases to be included on the IDER.

Finally, a third factor is related to motions to revoke probation. For the clerk's report, TIDC learned that motion to revoke (MTR) cases are not assigned a separate cause number. Therefore, when an MTR is filed, the same cause number as the original case is re-opened in the case management system. It appears that when the case is re-opened for the MTR status, then the initial disposed cases would not be included as disposed. Because the MTR case is initiated when a separate offense occurs, TIDC requires the auditor to count both the original case upon disposition and the MTR as a separate case upon its disposition.

APPENDICES

APPENDIX A – INDIGENT DEFENSE EXPENDITURE REPORT

MEDINA COUNTY INDIGENT DEFENSE EXPENDITURES			
Expenditures	2017	2018	2019
Population Estimate	51,124	53,262	52,191
Juvenile Assigned Counsel	\$3,525	\$1,935	\$2,878
Capital Murder	\$38,693	\$0	\$0
Adult Non-Capital Felony Assigned Counsel	\$150,624	\$209,818	\$257,027
Adult Misdemeanor Assigned Counsel	\$47,585	\$54,715	\$44,695
Juvenile Appeals	\$0	\$0	\$0
Adult Felony Appeals	\$0	\$0	\$0
Adult Misdemeanor Appeals	\$0	\$0	\$0
Licensed Investigation	\$3,640	\$7,851	\$899
Expert Witness	\$8,600	\$86,884	\$136,610
Other Direct Litigation		\$1,367	
Total Court Expenditures	\$252,667	\$362,569	\$442,108
Administrative Expenditures	NA	NA	NA
Funds Paid by Participating County to Regional Program	\$16,294	\$24,896	\$24,896
Total Public Defender Expenditures	NA	NA	NA
Total Court and Administrative Expenditures	\$268,961	\$387,465	\$467,004
Formula Grant Disbursement	\$46,386	\$35,083	\$39,823
Reimbursement of Attorney Fees	\$0	\$17,923	\$13,316
Reimbursement by State Comptroller for Writs of Habeas Corpus	\$0	\$0	\$0
Total Public Defender Cases	NA	NA	NA
Total Assigned Counsel Cases	624	809	870

Indigent Defense Expenditure Reporting

Source: Texas Indigent Defense Commission records

Medina County				
Year	2017	2018	2019	Texas 2019
Population (Non-Census years are estimates)	51,124	53,262	52,191	28,901,062
Felony Charges Disposed (from OCA report)	367	408	478	275,037
Felony Cases Paid	284	483	604	222,860
% Felony Charges Defended with Appointed Counsel	77%	118%	126%	81%
Felony Trial Court-Attorney Fees	\$189,317	\$209,818	\$257,027	\$143,210,108
Total Felony Court Expenditures	\$201,557	\$305,919	\$394,536	\$160,275,769
Misdemeanor Charges Disposed (from OCA report)	900	787	554	452,953
Misdemeanor Cases Paid	327	319	254	209,641
% Misdemeanor Charges Defended with Appointed Counsel	36%	41%	46%	46%
Misdemeanor Trial Court Attorney Fees	\$47,585	\$54,715	\$44,695	\$47,236,136
Total Misdemeanor Court Expenditures	\$47,585	\$54,715	\$44,695	\$47,954,642
Juvenile Charges Added (from OCA report)	8	9	6	26,641
Juvenile Cases Paid	13	7	12	39,709
Juvenile Attorney Fees	\$3,525	\$1,935	\$2,878	\$10,795,227
Total Juvenile Expenditures	\$3,525	\$1,935	\$2,878	\$11,236,143
Total Attorney Fees	\$240,427	\$266,468	\$304,600	\$206,610,474
Total ID Expenditures	\$268,961	\$387,465	\$467,004	\$303,021,373
Increase in Total Expenditures over Baseline	165%	282%	360%	242%
Total ID Expenditures per Population	\$5.26	\$7.27	\$8.95	\$10.48
Commission Formula Grant Disbursement	\$46,386	\$35,083	\$39,823	\$23,290,906
Cost Recouped from Defendants	\$0	\$17,923	\$13,316	\$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

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