



# **TEXAS INDIGENT DEFENSE COMMISSION**

## **Fiscal Monitoring Report**

**Ellis County, Texas**

**FY 2019 Indigent Defense Expenses**

**Final Report**

**April 28, 2021**

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# EXECUTIVE SUMMARY

The Texas Indigent Defense Commission (TIDC) conducted a fiscal monitoring desk review of Ellis County beginning on July 8, 2020. Email exchanges continued until October 26, 2020. 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).

## SUMMARY OF FINDINGS

The FY 2019 Indigent Defense Expenditure Report (IDER) submitted in accordance with Texas Government Code Section §79.036(e) was not prepared in the manner required. Specifically, not all allowable expenditures were included 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 Ellis 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.

The fiscal monitor reviewed

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

Ellis County was founded in 1849 and organized the following year. The County is named for Richard Ellis, the president of the convention that produced the Texas Declaration of Independence. Ellis County is part of the Dallas-Fort Worth-Arlington, TX Metropolitan Statistical area. The county seat is Waxahachie.

Ellis County serves an estimated population of 182,439 and occupies an area of 982 square miles, of which 16 square miles is water. Ellis County is bordered by Dallas, Henderson, Hill, Johnson, Kaufman, Navarro, and Tarrant counties. Ellis County is served by three district courts and one 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 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 online grant application to assist in the provision of indigent defense services. Ellis County met the formula grant eligibility requirements and was awarded \$140,217 in formula 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. Ellis County prepared and submitted the FY 2019 IDER in accordance with Texas Government Code Section §79.036(e); however, the reported amounts were not supported by financial data provided.

Specifically, not all allowable expenditures were included on the IDER.

TIDC reviewed the general ledger provided by Ellis County auditor's office. Spreadsheets that separated out the general ledger activity into the various categories for the IDER reporting were also provided. When reconciling the data from the spreadsheets to the IDER, TIDC noted that expenses for expert witness and investigation expenses for the 443<sup>rd</sup> District Court were not recorded. These expenses totaled \$34,871 and appear to have been overlooked when completing the IDER. Because the amounts reported on the IDER are part of the basis for formula grant awards, the FY 2020 formula grant for Ellis County was less than would have been authorized.

### **Recommendation:**

The County should develop procedures to verify that the amounts on the general ledger support the amounts reported on the IDER.

### **County Response**

*Expert witness and investigator expenses, totaling \$34,871 were inadvertently left off of the IDER for the 443<sup>rd</sup> District Court. To prevent future error, Ellis County will implement new procedures for identifying eligible expenses and ensuring that all expenses are reported accurately.*

### **Ellis County Action Plan**

*Ellis County will update procedures for identifying all Indigent Defense expenses. This will outline the process to audit all Indigent Defense expenses, including all Attorney Fees, Investigators, Expert Witnesses, and Miscellaneous expenses, on a monthly basis. This audit will compare all submitted attorney vouchers and invoices to the general ledger, to provide accurate reporting going forward.*

**Contact person(s):** *Staci Parr, First Assistant County Auditor*

**Completion date:** *Expected completion date is by May 15, 2021.*

# APPENDICES

## APPENDIX A – INDIGENT DEFENSE EXPENDITURE REPORT

<b>ELLIS COUNTY INDIGENT DEFENSE EXPENDITURES</b>			
<b>Expenditures</b>	<b>2017</b>	<b>2018</b>	<b>2019</b>
Population Estimate	171,796	173,933	182,439
Juvenile Assigned Counsel	\$76,203	\$102,061	\$70,235
Capital Murder	\$5,455	\$7,715	\$30,875
Adult Non-Capital Felony Assigned Counsel	\$965,411	\$963,260	\$913,413
Adult Misdemeanor Assigned Counsel	\$503,799	\$517,177	\$545,872
Juvenile Appeals	\$0	\$0	\$0
Adult Felony Appeals	\$41,360	\$26,345	\$19,549
Adult Misdemeanor Appeals	\$2,203	\$0	\$0
Licensed Investigation	\$23,215	\$57,813	\$38,137
Expert Witness	\$56,338	\$300	\$2,500
Other Direct Litigation	\$4,031	\$22,967	\$0
Total Court Expenditures	\$1,678,015	\$1,697,637	\$1,620,581
Administrative Expenditures	\$0	\$0	\$0
Funds Paid by Participating County to Regional Program	\$37,884	\$57,323	\$0
Total Public Defender Expenditures	N/A	N/A	N/A
Total Court and Administrative Expenditures	\$1,715,898	\$1,754,960	\$1,620,581
Formula Grant Disbursement	\$189,560	\$139,113	\$140,217
Reimbursement of Attorney Fees	\$237,543	\$272,430	\$245,943
Reimbursement by State Comptroller for Writs of Habeas Corpus	\$0	\$0	\$0
Total Public Defender Cases	N/A	N/A	N/A
Total Assigned Counsel Cases	2,879	2,354	2,384

*Indigent Defense Expenditure Reporting*

Source: Texas Indigent Defense Commission records

<b>Ellis County</b>				
<b>Year</b>	<b>2017</b>	<b>2018</b>	<b>2019</b>	<b>Texas 2019</b>
Population (Non-Census years are estimates)	171,796	173,933	182,439	28,901,062
Felony Charges Disposed (from OCA report)	1,469	1,711	1,578	275,037
Felony Cases Paid	1,304	1,078	952	222,860
% Felony Charges Defended with Appointed Counsel	89%	63%	60%	81%
Felony Trial Court-Attorney Fees	\$970,866	\$970,975	\$944,288	\$143,210,108
Total Felony Court Expenditures	\$1,035,351	\$1,031,398	\$984,926	\$160,275,769
Misdemeanor Charges Disposed (from OCA report)	2,188	2,647	2,598	452,953
Misdemeanor Cases Paid	1,432	1,094	1,119	209,641
% Misdemeanor Charges Defended with Appointed Counsel	65%	41%	43%	46%
Misdemeanor Trial Court Attorney Fees	\$503,799	\$517,177	\$545,872	\$47,236,136
Total Misdemeanor Court Expenditures	\$519,716	\$518,442	\$545,872	\$47,954,642
Juvenile Charges Added (from OCA report)	91	86	84	26,641
Juvenile Cases Paid	129	176	306	39,709
Juvenile Attorney Fees	\$76,203	\$102,061	\$70,235	\$10,795,227
Total Juvenile Expenditures	\$79,294	\$111,520	\$70,235	\$11,236,143
Total Attorney Fees	\$1,594,431	\$1,616,557	\$1,579,943	\$206,610,474
Total ID Expenditures	\$1,715,898	\$1,754,960	\$1,620,581	\$303,021,373
Increase in Total Expenditures over Baseline	418%	429%	389%	242%
Total ID Expenditures per Population	\$9.99	\$10.09	\$8.88	\$10.48
Commission Formula Grant Disbursement	\$189,560	\$139,113	\$140,217	\$23,290,906
Cost Recouped from Defendants	\$237,543	\$272,430	\$245,943	\$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:  
<http://www.tidc.texas.gov/documents/posts/2019/october/fy2019-indigent-defense-expenditure-report-manual/>

## APPENDIX C – DISTRIBUTION LIST

The Honorable Todd Little  
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The Honorable Bob Carroll  
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The Honorable Gene Calvert, Jr  
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