

County Eye for Sept. 14, 2016

The cost to Kerr County to provide court-appointed attorneys to persons determined indigent by the courts is steadily rising. Each year Kerr County spends over a half million dollars to provide legal representation to those persons who are determined eligible through the process.

Court-appointed attorneys are made available to eligible persons charged in Class A and B Misdemeanors and all felony cases. Some persons choose to represent themselves in misdemeanor cases but rarely do people try to represent themselves on felony charges because of the complexity of the cases.

Persons arrested and booked into the Kerr County Jail are asked at the time of magistration by either justice of the peace or municipal judges whether they want to apply for a court-appointed attorney. They are given an application to complete and the applications are forwarded to the county's indigent services offices.

In September 2015 a new state law changed the process and now requires persons arrested on warrants from other counties who are booked into our local jail to be given an application and then the application must be forwarded to the county of origination of the warrant. The unfunded mandate added additional responsibility to all counties around the state to more efficiently handle applications for indigent defense.

Those applications are also handled through the county's indigent services office. If the warrant comes from a county of more than a 125,000 population the application must be forwarded quickly because the new law also provides that an attorney must be appointed for that person within 24 hours after the receipt of the application rather than the 72 hours for smaller counties.

Likewise if a person is arrested in another county on a warrant issued out of Kerr County they are given the option to apply for an attorney while still incarcerated in that other county. Those applications also come into the county's indigent services office to be processed and sent to the judges who make the final decision on eligibility.

Many days the county processes more than a dozen court-appointed attorney applications in criminal cases. Defendants also come in person to the office to make application prior to their first court date.

Each applicant is asked to provide contact information for a person who can verify the information on the affidavit of indigency. A phone call is made to that person to make sure the information provided is correct and to help the judges made a decision on someone's eligibility.

On criminal court days, personnel from the indigent services office are available in court to screen applicants for court-appointed attorneys and make a recommendation to the judge. If the applicant is deemed eligible then an attorney is appointed immediately.

Larger counties around the state have public defender programs that handle all of the above tasks but Kerr and most other rural counties do the screening and appointment of attorneys themselves, sometimes only the judges decide without additional input from anyone.

Court-appointed attorneys can also be requested by parents involved in CPS court and all children in CPS court cases and most in juvenile court get court-appointed counsel. It's the law.

Kerr County, like many other rural counties, depends on local attorneys to provide counsel to indigent defendants. The case load for those attorneys is growing rapidly and

our judges are now appointing attorneys from surrounding counties to relieve some of the burden on local lawyers.

One of the reasons the case load has grown so rapidly is the number of substance abuse cases making their way through our local court system. Prosecutors estimate that more than 90% of the cases being filed in our two district courts and the county court at law are, in some way, related to either alcohol or drug abuse.

Arrests for possession of methamphetamine, cocaine and heroin currently dominate the drug arrests in our community, the majority of those arrested are between 17 and 35 years old.

Probably 99% of those persons arrested for drug possession or the more serious charge of manufacture or delivery of drugs ask for a court-appointed attorney. A large number of the arrests also involve prescription drugs obtained or possessed by persons without a doctor's prescription.

When contacted about their son or daughter's arrest and application for an attorney, parents often tell us that they have paid for their rehab program and they are not willing to help with an attorney now that they have been arrested for drugs.

Unfortunately, the taxpayers of Kerr County must then bear the cost to provide legal representation to those persons and, often, house and feed them in our jail for an extended period of time until their criminal charge can be adjudicated.

The large number of substance abuse related cases pending in our courts results in overcrowding in our jail. Each month the majority of the cases indicted by Kerr County grand juries are substance abuse related and the county attorney's office is faced with the same case overload primarily from marijuana and prescription drug possession cases.

One of the biggest challenges for Kerr County officials is trying to budget for the court-appointed attorney needs for the coming year. All they can do is base the budget on previous years and hope for the best.

Screening the applications more closely in recent years has provided an extra step in the process and some control to the cost, but it's not the solution.

Future courts and future budgets will continue to be challenged by the growing numbers of cases and the costs of court-appointed attorneys. Unfunded mandates in judicial process legislation from the Texas Legislature will likely continue to challenge county budget makers for many years ahead.