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## County Eye Newsletter

Possibly creating a public defender program for Kerr County is back on the table for discussion. At a recent Commissioners' Court meeting the topic was brought back to light. The Texas Indigent Defense Commission offers discretionary grant funding for programs around the state and Kerr County may decide to apply for such funds.

In 2008 a multi-county regional public defender program for capital murder cases was created and funded headquartered in Lubbock. Kerr County was asked to join and subsequently joined that program. Most counties in West Texas joined the Lubbock program but the program only provides defense in capital murder cases where the death penalty is an option.

Only one case in Kerr County since 2008 has met the criteria for the Lubbock public defender program and it was later dropped when the death penalty was removed from the possible sentencing.

About five or six years ago a similar idea for a multi-county( regional) public defender program based in Kerr County was discussed but eventually rejected because support for the idea was not strong with the other rural counties proposed to be included in the project.

At that time there were five (later became six) rural counties to the west and northwest that made up the 198<sup>th</sup> Judicial District with Kerr County being the largest populated. The 216<sup>th</sup> District was made up of four counties at that time with Kerr as the largest. The plan was to create a multi-county public defender program to serve all of the counties with Kerr County being the county to apply for and administer the grant.

The rural counties to the west declined to participate in the regional concept and sign the necessary paperwork for Kerr County to apply so the idea was dropped.

Each year the Texas Indigent Defense Commission holds a workshop in December in Austin for counties interested in applying for grant funds for the following fiscal year. A county must submit an "intent to submit" letter to the commission after the first of the year outlining the planned project.

After review by the TIDC the county is notified that the project meets the requirements and a formal grant application is then prepared and submitted. Kerr County reached the stage of submitting the intent to submit letter five or six years ago. The project was approved as to meeting the requirements but the formal grant application was never submitted after opposition arose to the regional approach by the counties.

Recent discussion by commissioners centered around studying a county-based public defender program now in its fifth year of existence in Burnet County. In 2015 there were 14 county-based public defender programs in the state funded partially through grant money from the TIDC. Of the 14 programs only 5 programs provided public defenders for felony, misdemeanor and juvenile cases which was the original idea for a Kerr County program years ago.

Two more counties have only felony and misdemeanor cases handled through the public defender program. The balance of the county programs provide only for special categories such as appellate, mental health, or juvenile cases.

**The TIDC grant funding is basically a multi-year program with funding that declines over the life of the grant. The first year TIDC provides start-up funds at 100% which helps get the program set up and running. The subsequent years of the grant has TIDC funding at 80%, 60%, 40%, 20% and then the county must agree to fully fund the program the sixth year to get the grant.**

**Our state representative Andrew Murr serves on the TIDC Grants and Reporting Committee that reviews all grant programs and funding strategies, monitors the impact of the grant programs and monitors the fiscal processes and procedures.**

**Comparing Kerr and Burnet counties and the number of indigent defense cases handled shows the Kerr population in 2015 estimated to be 51,338 and Burnet County at 45,259. In 2015 Kerr County spent \$555,280 on indigent defense costs while Burnet County spent \$687,636 (of which \$109,073 came from TIDC grant funds) and this year they will receive no TIDC funding for the public defender program.**

**Last year Kerr County had 439 non-capital felony trial-level cases for which court-appointed attorneys were paid compared to 392 non-capital felony trial-level cases in Burnet County.**

**Kerr County in 2015 had 337 misdemeanor trial-level cases paid and Burnet County had 444 cases.**

**The biggest discrepancy is with the juvenile cases. Kerr County had 145 cases compared to only 41 in Burnet County.**

**Kerr County will likely be studying the Burnet County public defender program model in the coming months. Few would disagree that Kerr County has an issue with the declining number of attorneys willing to take court-appointments for indigent clients coupled with an increase in the number of persons applying.**

**To keep our criminal justice system running smoothly, a solution must be developed soon in Kerr County.**