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Costs to defend the poor drop in Harris County

By MIKE MORRIS, HOUSTON CHRONICLE
 Updated 08:53 p.m., Sunday, January 1, 2012

Houston and Texas

Harris County's courts are on pace to spend \$34.8 million on indigent defense this fiscal year, nearly triple what it cost to defend those who could not afford their own lawyer 10 years ago.

That number, however, would mark the first time in a decade the bills would be less than the year prior - roughly 1.7 percent less, at this pace. Observers point to a drop in indigent felony cases and judges' July 2010 decision to reduce fees paid to appointed lawyers, investigators and expert witnesses as two

possible factors in the decline.

Defense lawyer [Pat McCann](#) disagreed with the fee reductions, saying decisions about indigent defense should be driven by justice, not budgetary concerns.

"To try and limit the tools you give good attorneys to fight cases is both a lie to the public and, frankly, cowardly because it denies working poor people and the mentally ill any kind of justice," McCann said. "I've never known any voter or citizen in Harris County who gives a damn what the expense of a fair trial is as long as it's fair."

Decline in cases

State District Judge [Mary Lou Keel](#) said there are many factors that drive indigent defense spending but said the decline in indigent felony cases likely is the best explanation of this year's projected savings. The number of such cases peaked at 40,285 in 2009, then slid to 28,649 for the period from Oct. 1, 2010, to last September, according to data compiled by the [Texas Indigent Defense Commission](#).

Keel said indigent defense always must be balanced between the defendants' Sixth Amendment right to effective counsel and the need to use tax dollars prudently.

"If you were not indigent and you went to hire a lawyer, you wouldn't spend unlimited resources - you would have a budget," she said. "The indigent defense system has to have a budget, too."

Some legal professionals say cuts to those budgets have led them to stop seeking appointment work in the county.

Investigator [Rudy Vargas](#) stopped working cases in Harris County when hourly fees were cut to \$40, from the \$65 he said he was paid in the 1990s.

"If the attorneys are competent and we can come up with some good information, they can get cases dismissed," Vargas said. "If you don't know what the hell you're doing, a guy could wind up pleading guilty when he really isn't."

When investigating a case, Vargas serves subpoenas and interviews the defendant. It's the

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most thorough approach, he said, but the courts last year stopped paying for either task.

Effect on county office

Such concerns do not apply to the county's new [Public Defender Office](#), which has its own investigators on staff. The office began taking cases last February and started felony work in October.

The office is supported by a declining state grant, and this fiscal year will cost the county \$675,000. Each appointment of a public defender thus saves money in the short term; Keel said she has made regular use of the office's lawyers for that reason.

When the county eventually pays the full tab for chief public defender [Alex Bunin's](#) office, he said the overall savings may not be obvious on paper. However, he said, robust indigent defense will reduce costly retrials, exonerations, and the wider societal costs resulting from a wrongful conviction, including lessened job prospects and a higher likelihood that the person will commit another crime.

"Overall, I think the difference is quality. But I think also the difference is dollars," Bunin said. "It's just a different way of measuring dollars. What is the value of avoiding those future costs?"

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 "Would he feel the same way about poor people that pursue a criminal lifestyle?" Are all poor who are charged pursuing a criminal lifestyle. Someplace in here we should be trying to determine guilt or innocence. I'm not sue that a person's guilt has a correlation to his income, but for sure some rich bankers have stolen millions and never been charged. Worse that happens is their banks get fined.

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notthewholestory 9:04 AM on January 2, 2012
 Judge Keel: Fair enough, people who hire retained counsel have a budget. Pay court appointed counsel on par with those attorneys. It's ridiculous how much the county plays with the numbers. Yes, there are less felonies, but they're being charged as higher degree than they were 5 years ago. If you pay the money up front--you're more likely to avoid costly trials. It's good business sense.

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