



KIRSTEN B. COHOON
District Judge
451ST Judicial District Court
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Boerne, Texas 78006

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Via Electronic and Regular Mail

Mr. Joel Lieurance
Senior Policy Analyst
Texas Indigent Defense Commission
209 West 14th Street
Room 202
Austin, Texas 78701
JLieurance@tidc.texas.gov

Re: December 18, 2018, Policy Monitoring Review of Kendall County's Indigent Defense System (the "Correspondence")

Dear Mr. Lieurance,

Please allow this letter to serve as a response to the above referenced Correspondence. On January 1, 2019, Kendall County elected the undersigned, Kirsten B. Cohoon, as the new Judge of the 451st Judicial District Court. Since taking office, we have investigated the issues within the Correspondence along with help from County Auditor Corinna Speer. This letter will attempt to address the issues raised.

REQUIREMENT 1: CONDUCT PROMPT AND ACCURATE ARTICLE 15.17 PROCEEDINGS

1. The magistrate must ensure that reasonable assistance in completing forms necessary to request counsel is provided to the accused. **REQUIREMENT NOT SATISFIED:** TIDC staff found some instances in which paperwork was not promptly completed.
2. A record must be made of the following:
 - The magistrate informing the accused of the accused's right to request appointment of counsel;
 - The magistrate asking whether accused wants to request appointment of counsel;
 - And whether the person requested court appointed counsel.**REQUIREMENT NOT SATISFIED:** Spanish language forms do not contain a space to mark a request for counsel.
3. If not authorized to appoint counsel, the magistrate must transmit or cause to be transmitted to the appointing authority an accused's request for counsel within 24 hours of the request being made. **REQUIREMENT NOT SATISFIED:** Financial paperwork was not promptly transmitted to the appointing authority when it was not completed at the time of the Article 15.17 hearing.

The 451st has implemented a new policy requiring that the magistrates provide the attached Spanish language form to the Spanish speaking accused. *See attached memo.* The magistrates have been prompt in complying with the above referenced requirements. Additionally, the Kendall County Judge is working with my office to procure a speaker to train

the magistrates on the Article 15.17 procedure and compliance therewith. We will keep your office apprised of any training for the magistrates that occurs.

REQUIREMENT 3: ESTABLISH MINIMUM ATTORNEY QUALIFICATION

1. Establish objective qualification standards for attorneys to be on an appointment list.
 - Standards must require attorneys to complete at least six hours of continuing legal education pertaining to criminal / juvenile law during each 12-month reporting period or be currently certified in criminal law by the Texas Board of Legal Specialization.
 - Standards must require attorneys to submit by October 15 each year the percentage of the attorney's practice time dedicated to indigent defense based on criminal and juvenile appointments accepted in this county. The report must be made on a form prescribed by the Texas Indigent Defense Commission for the prior 12 months that begins on October 1 and ends on September 30.

REQUIREMENT NOT SATISFIED: The County does not maintain proof of CLE compliance by attorneys on the appointment lists.

The 451st Judicial District Court has implemented a policy requiring that each attorney on the appointment list complete the attached application on an annual basis consistent with Kendall County's fiscal year. This will enable the Clerk's office to ensure the attorney's compliance with County's Indigence Plan.

REQUIREMENT 4: APPOINT COUNSEL PROMPTLY (JUVENILES)

1. Unless the court finds that the appointment of counsel is not feasible due to exigent circumstances, the court shall appoint counsel within a reasonable time before the first detention hearing is held to represent the child at that hearing.

REQUIREMENT NOT SATISFIED: The percent of timely appointments did not meet the TIDC's 90% threshold for presuming a jurisdiction's appointment system to be timely.

2. If the child was not detained, an attorney must be appointed on or before the fifth working day after the date the petition for adjudication, motion to modify, or discretionary transfer hearing was served on the child.

REQUIREMENT NOT SATISFIED: The percent of timely appointments did not meet the TIDC's 90% threshold for presuming a jurisdiction's appointment system to be timely.

Juvenile appointments are made through the Kendall County Clerk's office. The process is delineated in the attached memorandum from the Deputy County Clerk, Ms. Denise Maxwell. Additionally, since the first of the year, the 451st District Court has discussed the need for prompt receipt of the requests for court appointed attorneys. The County and District Clerk's office are striving to minimize the time between request and review. We will continue to keep the TIDC informed as we make our system more effective and efficient.

REQUIREMENT 4: APPOINT COUNSEL PROMPTLY (ADULTS)

1. Persons out of custody: Counsel must be appointed at the defendant's first court appearance or when adversarial judicial proceedings are initiated, whichever comes first.

REQUIREMENT NOT SATISFIED: The percent of timely appointments in felony cases did not meet the TIDC's 90% threshold for presuming a jurisdiction's appointment system to be timely.

Adult appointments are made through the Kendall County District Clerk's office. The process is delineated in the attached memorandum from the District Clerk, Ms. Susan Jackson. Additionally, since the first of the year, the 451st District Court has discussed the need for prompt receipt of the requests for court appointed attorneys. The County and District Clerk's office are striving to minimize the time between request and review. We will continue to keep the TIDC informed as we make our system more effective and efficient.

We appreciate your assistance in seeing that our County is fully compliant with the TIDC requirements. Of course, you are welcome to contact us with any questions surrounding our response to the TIDC audit and/or the forms attached. Thank you for all you do for Kendall County!

Sincerely,

A handwritten signature in blue ink, appearing to read 'D. Lux', with a stylized flourish at the end.

Darrel L. Lux
Kendall County Judge

Sincerely,

A handwritten signature in blue ink, appearing to read 'K. Cohoon', with a large, sweeping flourish extending to the right.

Kirsten B. Cohoon
451st District Judge