

Galveston County's 2022 Review by Texas Indigent Defense Commission

Requirement 4: Appoint counsel promptly.

2022 Finding 1 and Recommendation (felony cases): Article 1.051(c)(1) requires the court (or its designee) to rule on all request for counsel within one working day (plus 24 hours for transferring request to the courts) of the request being made. The monitor's sample of attorney appointments in felony cases fell below the Commission's 90% timely threshold for presuming a jurisdiction's appointment system ensures timely appointment of counsel. The County must implement practices that satisfy Article 1.051(c)(1)'s timeline in felony cases.

Galveston County's Adult Indigent Defense Plan states that counsel will be appointed within one working day of request for counsel. The courts and court staff will make every effort to ensure this happens and delays do not occur. To ensure counsel requests are promptly sent to the courts, Galveston County District Court Judge's Board has met and the decision is as follows: Texas Indigent Defense Plan will be amended to read:

II.

MAGISTRATION OF DEFENDANTS

1. Persons in custody brought before a magistrate shall be informed by the magistrate of the right to request counsel under TCCP Article 15.17 Subsection e and (f). A record will be made of these proceedings and shall be preserved as required by TCCP Article 15.17.
2. If the defendant asks that an attorney be appointed, the magistrate ensures that the defendant is provided reasonable assistance, including an interpreter, if necessary, in filling out a request for appointed counsel.
3. For defendants appearing before a magistrate in the Galveston County Jail, The Personal Bond Office offers all arrestees an opportunity to complete an Affidavit of Financial Conditions prior to magistrate court. If appointed counsel is requested at the time of magistration, the arrestee certifies the accuracy of their Affidavit for the purpose of determining eligibility for appointed counsel.
4. Requests for counsel made by defendants arrested in Galveston County must be transmitted to the Court within 24 hours of the request being made.
5. If the defendant does not request the appointment of counsel at time of magistration, the defendant shall be brought before the court within three (3) business days to ascertain if the defendant has obtained legal counsel.
6. For defendants appearing before a magistrate outside the Galveston County Jail or who have declined to complete an Affidavit of Financial Conditions, if appointed counsel is requested at the time of magistration, the magistrate ensures that the defendant is provided reasonable assistance in completing the Pauper's Oath.
7. For a defendant arrested on an out-of-county warrant, the magistrate must ask if the defendant wants to request counsel, inform the defendant of the procedures for requesting counsel, and ensure the defendant is provided reasonable assistance in completing the necessary forms for requesting counsel in the county issuing the warrant [Art. 15.18(a-1).CCP].

8. Requests for counsel made by defendants arrested on out of county warrants must be transmitted to the appointing authority of the county issuing the warrant within 24 hours of the request being made. [Art. 15.18(a-1),CCP].

THE COUNTY COURT ADMINISTRATION'S RESPONSE TO TIDC
2022 FOLLOW-UP MONITORING REVIEW OF
GALVESTON COUNTY'S INDIGENT DEFENSE SYSTEMS

The following are the responses of County Court Administration to the above review. These responses are addressing solely those issues relating to the three (3) County Courts at Law of Galveston County. The Responses are as follows:

REQUIREMENT 4: APPOINT COUNSEL PROMPTLY

FINDING 2 (misdemeanor cases): Article 1.051 (c) (1) requires the court to rule on all requests for counsel within one working day (plus 24 hours for transferring requests to the courts) of the request being made. The monitor's sample of attorney appointments in misdemeanor cases fell below the Commission's 90% timely threshold for presuming a jurisdiction's appointment system ensures timely appointment of counsel. The County must implement practices that satisfy Article 1.051 (c)(1)'s appointment timeline in misdemeanor cases.

Resolution: The following procedures have been updated to resolve this issue:

- 1) If a person requests counsel at the time of magistrate, the Personal Bond Officer will have the defendant complete a *Financial Questionnaire* or, in the alternative, a *Pauper's Oath Application*.
- 2) The Financial Questionnaire or Pauper's Oath Application will on that day, or by the morning of the next business day, be transmitted to the Judge assigned to the weekly Jail Docket to make a finding of indigency or non-indigency.
- 3) If the defendant is found to be indigent and still in jail, the Judge will sign an *Order of Appointment of Attorney*. The appointed counsel will be one of the two attorneys appointed that week for jail docket. If the defendant has made bail, the appointed counsel will be appointed from the court-appointed attorney rotation wheel.
- 4) The County Clerk's office will receive and file the *Pauper's Oath Affidavit* and *Order of Appointment of Attorney*.
- 5) The court appointed attorney will be given notice by County Court Administration of their appointment.
- 6) If the defendant is released on bond before the appointed attorney is able to meet with the defendant, the Notice of the Appointment will be sent to the defendant by mail at the address provided by the defendant.
- 7) To satisfy the requirement for those defendants who have requested counsel but did not complete the Financial Questionnaire/Pauper's Oath, a determining option has been added which states that the defendant needs to "provide additional information for further consideration by the Court – request is DENIED."

FINDING 3 (misdemeanor cases): The County does not have a process in place to ensure all misdemeanor requests for counsel are ruled upon prior to a defendant's waiver of counsel. As required by Article 1.051 (f-2), the court must rule upon a request for counsel prior to a defendant's waiver of the right to retain counsel.

Resolution: Any defendant who is requesting counsel will be given a Pauper's Oath Affidavit to complete at magistrate court. Affidavits will be taken to the Judge assigned to the weekly Jail Docket and processed as above. A waiver of right to counsel will not be given to defendant unless the Judge makes a finding of non-indigency.