

County of Comanche

Gary "Corky" Underwood
Commissioner, Precinct No. 1

Russell Gillette
Commissioner, Precinct No. 2



Sherman Sides
Commissioner, Precinct No. 3

Jimmy Dale Johnson
Commissioner, Precinct No. 4

Stephanie L. Davis—County Judge

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October 11, 2022

Mr. Joel Lieurance
Texas Indigent Defense Commission
209 West 14th Street, Room #202
Austin, Texas 78701

Re: Comanche County Response to Follow-Up Policy Monitoring Review of Comanche County's Indigent Defense Systems June 2022

Dear Mr. Lieurance:

Please consider this Comanche County's recommendations concerning the issues pending for local procedures for requesting counsel at Article 15.17 hearings and the timeliness of appointments of counsel in juvenile, misdemeanor, and felony cases. After meeting with the 220th Judicial District Judge, the Comanche County Sheriff, and the Justice of the Peace, and having discussions with the County Court Coordinator, the following solutions address the pending issues for each Core Requirement:

CORE REQUIREMENT 1. Conduct prompt and accurate Article 15.17 proceedings.

a. Lack of assistance with filing out requests for counsel and their untimely transmission to the courts.

If an arrestee requests counsel, the magistrate will ensure reasonable assistance in completing the paperwork necessary to request counsel.

This will be accomplished by utilizing a new 1-page Indigency Affidavit Application (attached as Exhibit A) that the Magistrate will give to the Defendant, upon request, during the Article 15.17 proceeding. The Magistrate will have the Defendant fill out the Indigency Affidavit Application in their presence, and will assist the Defendant with any questions regarding the form. This replaces our current procedure of having the Defendant take a multi-page application back to their cell and relying on jail staff to make rounds every 15 minutes to assist the inmate with any questions.

The request must then be transmitted to the appointing authority within 24 hours.

This will be accomplished by the Magistrate receiving the completed form from the Defendant during the Article 15.17 proceeding and then transmitting the form to the proper ruling authority either via email/fax or hand delivery. This replaces our current procedure of jail staff faxing the completed form upon their receipt from the Defendant.

Conclusion: Jail staff participation in the court appointment of attorneys will be eliminated and the responsibility of securing Indigency Affidavit and transmission of the same to the proper judge for ruling will be with the Magistrate.

CORE REQUIREMENT 4. Appoint counsel promptly.

b. Untimely misdemeanor appointments.

To ensure we are meeting the requirement of ruling on all requests for counsel within 3 days, the Magistrate will be emailing (if on a weekend) or hand delivering (if on a weekday) the Affidavit of Indigency Application to the Misdemeanor Judge responsible for making an indigency determination immediately after magistration occurs. The Misdemeanor Judge's office will time stamp the receipt of the Application and log the Defendant's name, date of receipt, and date and time of ruling on the Application on a spreadsheet that will be shared and monitored by the Judge and Court Coordinator to ensure Applications are ruled on in a timely manner. Also, the Judge is now able to receive and sign appointments digitally, so this will add another level of assurance that appointments are made in a timely manner.

c. No process in place to ensure misdemeanor requests for counsel are ruled upon prior to a defendant's waiver of counsel.

The issue that the audit report mentions causing deficiency in this requirement was a unique situation that rarely, if ever, happens. However, we will be implementing a check and balance process to ensure misdemeanor requests for counsel are ruled upon prior to a defendant's waiver of counsel for the purpose of speaking with the prosecutor. This process will include the County Court Coordinator reviewing the Defendant names that are listed to appear on our Arraignment and Status dockets and performing a name search on our spreadsheet containing a log of the Defendant's name, date of receipt, and date and time of ruling on the Application of Indigency. If it is noticed that the Defendant's application has not been ruled on, the Judge will be notified and will make a ruling, ensuring the ruling is prior to the waiver being signed to speak to the prosecutor.

We are confident these solutions will address any deficiencies in meeting TIDC requirements. If there are any other recommendations, please do not hesitate to reach out to us and we will work to ensure our compliance.

Sincerely,



Hon. Stephanie L. Davis
Comanche County Judge

EXHIBIT A

Last Name: _____ First Name: _____

Address: _____

Phone Number: _____ Email Address: _____

Date of Birth: _____ Citizenship: U.S. _____ Other: _____ Primary Language: _____

Court: _____ Cause Number: _____

AFFIDAVIT OF INDIGENCE

ASSISTANCE: I *or* (my spouse / my children) ~~who live~~ *with me*, receive [check all that apply]:

- Food Stamps Medicaid Disability TANF SSI Housing Assistance

MARITAL STATUS: Single (not married)

- Married and we: Live together *-or-* Are separated

CHILDREN: I have # _____ children *of my own* who *live with me* and are *less than 18 years*.

- EXPENSES:** Food/Groceries Day Care Medical Expenses
 Rent/Mortgage Transportation Other (cell phone, etc.)
 I *pay* Child Support of \$ _____/month

INCOME:

- Primary Job** \$ _____ per _____ (hour/week/month) # _____ hours/week;
 Second Job \$ _____ per _____ (hour/week/month) # _____ hours/week;
 Other Income \$ _____ per _____ (hour/week/month) # _____ hours/week;
 Spouse's Income \$ _____ per _____ (hour/week/month) # _____ hours/week;
 Child Support received per month: \$ _____.

SPECIAL CIRCUMSTANCES or HARDSHIPS the Judge should consider: _____

- I **swear or affirm** the information provided above is true and correct.
 I **further swear or affirm** that I cannot afford to hire an attorney to represent me, and I respectfully **request appointment of counsel** to represent me in this matter.

Signature: _____ **Date:** _____

*****FOR THE COURT'S USE ONLY *****

SWORN and SUBSCRIBED before me:

Judge/Magistrate Presiding *or* Notary Public

- Approved
 Denied
 LSND0
 Interpreter Needed

Notes: _____
