



RANDALL COUNTY TEXAS

ERNIE HOUDASHELL
RANDALL COUNTY JUDGE

February 28, 2013

James D. Bethke
Director, Texas Indigent Defense Commission
209 W. 14th Street, Rm. 202
Austin, Texas 78701

Re: Response to TIDC Review of Randall County's Indigent Defense System

Dear Mr. Bethke,

Randall County herewith submits its Response to TIDC Review of Randall County's Indigent Defense System, dated October 26, 2012. The monitoring visit and review took place June 11-15, 2012. We believe our responses detail the policies and procedures we have already or are currently implementing to address your recommendations and to be in compliance with our indigence defense responsibilities.

If you have further questions or if you need further information, please feel free to contact me.

Respectfully,

Ernie Houdashell

Responses to Recommendations – Randall County

Core Requirement 1. Conduct prompt and accurate magistrature proceedings.

1. Recommendation: The monitor's sample of magistrate warnings did not fall within the Commission's threshold for presuming that a jurisdiction's processes ensure timely magistrate warnings. Randall County must implement procedures that ensure warnings are timely.

Response: The overview of Randall County's Indigent Defense System on page 7 of the TIDC Review of Randall County's Indigent Defense System describes and acknowledges our daily arraignment practices, thus verifying and acknowledging that we are well within the 48 hour requirement for an accused to be brought before a magistrate.

To further clarify and address Recommendation 1, we offer the following information and implemented changes we have taken or are taking to better comply with our indigence defense plan.

Local Administrative Order 2013-1 (attached below), dated January 1, 2013, sets all misdemeanor bonds for the jail (generally at \$1500, but at \$3000 for bond forfeiture warrants and \$5000 for Family Violence cases), including Class C misdemeanors (at \$500). Anyone arrested on a misdemeanor charge may bond immediately, if appropriate, rather than waiting for a judge to set bond. If a defendant does not bond out, they are magistrated the following morning per standard procedure. After initial magistrature, if additional charges are added to a defendant already in custody, the defendant is magistrated on the new charges the following morning. The magistrate warning form has been updated in Randall County. The form more clearly indicates in writing whether or not a defendant requests court-appointed counsel at time of arraignment.

2. Recommendation: Requests for counsel must be promptly transmitted to the appointing authority (within 24 hours of request) as required by Article 15.17(a) and the local indigent defense plan. Article 15.17 puts the responsibility for this transmission on the magistrate.

Response: Article 15.17(a) states that requests for counsel must be promptly transmitted to the appointing authority (within 24 hours) who then under Article 1.051 has to act on the request within three (3) working days in counties under 250,000. We acknowledge the need to improve our system to ensure said requests are transmitted to the proper appointing authority in a timely manner.

Randall County will ensure the arraignment room deputies have the required paperwork for court appointed attorney requests within 24 hours. Immediately following magistrature, the arraignment room deputies will have those inmates who requested court appointed counsel during magistrature complete the *Financial Information Statement and Request for Attorney* form. Once filled out, the deputies will attach the attorney request form to the magistrature form of the defendant.

If the defendant requests an attorney and then refuses to complete the form, the arraignment deputy will attach a blank attorney request form to the magistrate warning, and write "*Refused to Complete*" across the attorney request form and attach it to the defendant's magistrate warning form. If the defendant requests an attorney and then changes their mind about wanting court appointed counsel, the arraignment deputy will have the defendant write in their own handwriting at the bottom of the attorney request form that he or she no longer wishes to request court appointed counsel and sign it, and attach it to the appropriate magistrate warning form. Thus each magistration form that indicates the defendant requested court appointed counsel will have an attorney request/financial information sheet attached to it, creating a paper trail to alert the responsible court administrator or coordinator of the need to act promptly regarding that request.

In an instance where a defendant refuses to complete the attorney request form or indicates that they have changed their mind about requesting court appointed counsel, they will be brought before a magistrate or judge the following day to be admonished regarding their right to request court appointed counsel and asked to confirm whether or not they wish to request court appointed counsel at that time. A new magistrate's warning form will be filled out at that time, indicating whether or not the defendant requests court appointed counsel. If the said defendant bonds out before being re-magistrated, then Article 1.051(j) states "appointment of counsel is not required until the defendant's first court appearance or when adversarial judicial proceedings are initiated, whichever comes first." So in these instances, the felony court administrator or the misdemeanor court coordinator will contact the defendant to come in for an attorney status determination, where they will be asked if they want a court appointed attorney, and if so, have them fill out the paperwork at that time.

Each business day morning, the transport deputy picks up the magistrate warnings and attorney request forms from the arraignment deputies, and delivers those forms that same morning to the proper appointing authority under our indigent defense plan.

3. Recommendation: Misdemeanor requests for counsel made before a case filing must be directed to the person listed in the local indigent defense plan: Judge Anderson's office.

Response: Each business day morning, the transport deputy picks up the magistrate warnings and attorney request forms from the arraignment deputies, and delivers those forms with the felony charges to the felony court administrator and those forms with misdemeanor cases to the court coordinator for County Court at Law #1. They will then take the appropriate action on any requests for court-appointed counsel. In the event the defendant requesting an attorney has both felony and misdemeanor charges, the request form will first go to the court coordinator for County Court at Law #1, who will act on the attorney request, and then send the paperwork to the felony court administrator to act on the felony case request.

Core Requirement 4. Appoint counsel promptly.

4. Recommendation: Randall County must implement processes that ensure timely appointment of counsel in felony cases.

Response: See above responses to Core Requirement 1. Additionally, anyone on bond who comes to court and requests court appointed counsel will be provided the approved *Financial Information Statement and Request for Attorney* form to fill out. Once the defendant has completed the form, it will be given to the felony court administrator, who will then take the appropriate action on the request for court appointed attorney.

5. Recommendation: Randall County must implement processes that ensure timely appointment of counsel when there is a decision to detain a juvenile.

Response: When a decision to detain a juvenile is made at a detention hearing, the parent or guardian of the juvenile is ordered to obtain an attorney to represent the child. They are further informed that if they cannot afford an attorney, they have the right to request the court to appoint an attorney to represent the juvenile. The *Financial Information Statement and Request for Attorney for a Juvenile* form is also provided to them upon their request. The court acts upon the request for court appointed counsel the same day it is received. The main change Randall County has made in this area is we now put the order to the parent/guardian to obtain an attorney in writing to be able to verify our compliance.

6. Recommendation: Randall County must implement processes that ensure timely appointment of counsel when there is a petition served on a juvenile.

Response: When a petition and summons is served on a juvenile, they are ordered to appear with a parent or guardian on the second Thursday following the date of the filing of the petition at 8:30 a.m. for an attorney status docket (they are given a date certain in the summons). If they obtain an attorney prior to that docket date, they do not have to appear. If they appear at the attorney status docket, they are informed that they must obtain an attorney to represent the juvenile, and are ordered to do so. Each parent or guardian is given a *Financial Information Statement and Request for Attorney for a Juvenile* form at said docket. If they choose to complete the request form that day, then the court reviews it immediately, and if they qualify, appoints an attorney at that time. If they do not qualify, they are informed immediately, and are ordered to obtain an attorney for their juvenile. If they indicate at the attorney status docket they wish to hire an attorney, they are ordered to obtain an attorney before the next court date. In each instance, the juvenile is then continued to a new court date, generally three (3) weeks from then. The major change is that we are now putting the order to the parent or guardian to obtain an attorney for their juvenile in writing to be able to verify our compliance.

IN THE COUNTY COURTS AT LAW §
IN AND FOR §
RANDALL COUNTY, TEXAS §

Local Administrative Order 2013-1

BOND PROCEDURES FOR THE RANDALL COUNTY COURTS AT LAW
REVISED: January 1, 2013

On this day IT IS ORDERED by the Council of Statutory County Court Judges:

A Magistrate is not bound by this order when setting bonds. Subject to the exceptions listed below, there are three usual types of misdemeanor bonds for the cases pending in the County Courts at Law:

1. \$1,500.00 Cash Bond
2. \$1,500.00 Surety Bond
3. \$1,500.00 Pre-Trial Release Bond (PTR)

EXCEPTION: CLASS C MISDEMEANORS

The bond in Class C misdemeanor cases will be \$500 cash or surety.

EXCEPTION: CASES INVOLVING FAMILY VIOLENCE

The bond in cases alleging acts of family violence will be \$5,000 cash or surety. Personal Bonds and Pre-Trial Release (PTR) bonds are not available for cases involving family violence. When a person has been arrested or held without a warrant in the prevention of family violence, if there is probable cause to believe the violence will continue if the person is immediately released, the head of the agency arresting or holding such a person may hold the person for a period of not more than four hours after bond has been posted. This period may be extended only if authorized in writing, directed to the person having custody of the detained person, by a magistrate who concludes that the violence would continue if the person is released, but in no case may such a period of detention exceed 24 hours. (Art. 17.291 of the Texas Code of Criminal Procedure)

BOND SURRENDERS, BOND FORFEITURES, BOND ON A MOTION TO REVOKE PROBATION and BOND ON A MOTION TO PROCEED WITH ADJUDICATION:

Bond will be \$3000.00 Cash or Surety OR double the amount of the previous bond, whichever is higher. Personal Bonds and Pre-Trial Release (PTR) bonds are not available for these cases.

The return date on all bonds shall be INSTANTER. Arraignments will be held as follows: all filed cases (those with a cause number), the following business day after posting bail; all non-filed cases (those with no cause number as of posting of a bond), the next business day following one week after posting bail. All arraignments are at 8:20 A.M. in the assigned County Court at Law, 2309 Russell Long Blvd, Canyon, Texas 79015.

This Order replaces Local Administrative Order 2009-1. Any questions regarding the above matters may be referred to Judge Anderson, Presiding Judge.

IT IS ORDERED that the Clerk of this Court shall record this Order in the minutes of this Court.

Signed this 1st day of January, 2013.

/s/ James W. Anderson
Judge James W Anderson
County Court at Law #1
Local Administrative Judge

/s/ Ronnie Walker
Judge Ronnie Walker
County Court at Law #2