

# REQUEST FOR COUNSEL CHECKLIST

## 1. MAGISTRATION REQUIREMENTS UNDER ARTICLE 15.17, CCP

<input type="checkbox"/>	Arrestees must be taken before a magistrate within 48 hours of arrest and informed of their rights, including their right to request counsel.
<input type="checkbox"/>	The magistrate must inform the person arrested of the procedures for requesting appointment of counsel and ensure reasonable assistance in completing the necessary forms for requesting counsel.
<input type="checkbox"/>	The magistrate must make a record of: (1) informing the person of the right to counsel; (2) asking the person if they want to request counsel; and (3) whether the person requested counsel or not.
<input type="checkbox"/>	If the magistrate is authorized to appoint counsel, the magistrate shall appoint counsel or determine that the person is not indigent.
<input type="checkbox"/>	Otherwise, the magistrate must transmit the request to the appointing authority within 24 hours.

## 2. APPOINTMENT OF COUNSEL UNDER ARTICLE 1.051 AND 26.04, CCP

<input type="checkbox"/>	Upon receipt of the request for counsel, the appointing authority has 3 working days (for counties under 250,000) or 1 working day (for counties larger than 250,000) to rule upon the request and either appoint counsel or determine that the person is not indigent.
<input type="checkbox"/>	The appointing authority must appoint counsel or determine that the person is not indigent in accordance with the county's financial standard, as set in the local indigent defense plan.
<input type="checkbox"/>	Once appointed, counsel must make every reasonable effort to contact the client within 1 working day and interview the client as soon practicable.

## 3. INITIAL APPEARANCE REQUIREMENTS UNDER ARTICLE 1.051, CCP

<input type="checkbox"/>	The court must advise the defendant of the right to counsel and the procedure for requesting appointed counsel. The court must give the defendant a reasonable opportunity to request appointed counsel before directing or encouraging the defendant to speak with the prosecuting attorney.
<input type="checkbox"/>	Any waiver of counsel by a defendant who has requested appointed counsel must occur after the court has determined the defendant is not indigent, and the defendant: 1) has been given a reasonable opportunity to retain counsel; or 2) has waived the opportunity to retain counsel.
<input type="checkbox"/>	A prosecutor may speak to a defendant who has requested appointed counsel only if the court has determined the defendant is not indigent, and the defendant: 1) has been given a reasonable opportunity to retain counsel; or 2) has waived the opportunity to retain counsel.
	Any waiver obtained from a defendant in violation of the above provisions is presumed invalid.
<input type="checkbox"/>	If a defendant wishes to waive the right to counsel in order to enter a guilty plea, the court must advise the defendant of the nature of the charges against him and, if the defendant is proceeding to trial, the dangers and disadvantages of self-representation.
<input type="checkbox"/>	If a defendant pleads guilty without counsel, the court must determine that the waiver is voluntarily and intelligently made and must provide the defendant with a statement in substantially the following form: <i>"I have been advised this __ day of __ 2 __, by the (name of court) Court of my right to representation by counsel in the case pending against me. I have been further advised that if I am unable to afford counsel, one will be appointed for me free of charge. Understanding my right to have counsel appointed for me free of charge if I am not financially able to employ counsel, I wish to waive that right and request the court to proceed with my case without an attorney being appointed for me. I hereby waive my right to counsel. (signature of defendant)."</i>