



Policy Monitoring Review of Kleberg County's Indigent Defense Systems

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The Texas Indigent Defense Commission provides financial and technical support to counties to develop and maintain quality, cost-effective indigent defense systems that meet the needs of local communities and the requirements of the Constitution and state law.

1. Background

The Texas Indigent Defense Commission (“Commission”) is required to monitor local jurisdictions’ compliance with the Fair Defense Act (“FDA”).¹ In March 2015, the Commission received a magistrate warning form from Kleberg County as part of an information request from Goliad County. The form did not have a place to mark whether an arrestee requested counsel, as required by Article 15.17(e) of the Code of Criminal Procedure. In April 2015, the monitor² requested additional magistrate warning forms from the justices of the peace in Kleberg County. Justices of the Peace in Precincts 1-3 provided the requested forms. The forms received did not contain a place to record requests for counsel either.

Based on this information, the monitor conducted a limited scope monitoring review of Kleberg County in July 2015 to examine (1) local procedures for conducting Article 15.17 hearings; and (2) local procedures for ruling on requests for counsel. The monitor met with a justice of the peace and the municipal court judge and observed Article 15.17 hearings. The monitor examined 26 misdemeanor and 20 felony case files. The monitor also reviewed the local indigent defense plan and Texas Judicial Council Monthly Court Activity Reports (as reported to the Office of Court Administration or OCA) as part of this report.

2. Core Requirements of the Fair Defense Act

Conduct Prompt and Accurate Magistration Proceedings

Statutory Requirements

Article 15.17(a) of the Code of Criminal Procedure requires the magistrate to ask each person (arrested for an offense of a Class B misdemeanor offense or higher) whether he/she would like to request counsel. If an arrestee requests counsel, the magistrate must ensure reasonable assistance in completing the necessary forms and must transmit the request and associated paperwork to the appointing authority within 24 hours of the request being made. Article 15.17(e) requires the magistrate to make a record of:

- (1) The magistrate informing the person of the person’s right to request appointment of counsel;
- (2) The magistrate asking the person whether the person wants to request appointment of counsel; and
- (3) Whether the person requested appointment of counsel.

Newly Passed Legislation Affecting Magistrate Warnings

Effective September 1, 2015, SB 1517 amended Article 15.18 of the Code of Criminal Procedure to require the magistrate to ask a person arrested on an out-of-county warrant if he/she wishes to request counsel, inform the person of the procedures for requesting

¹ Tex. Gov’t Code § 79.037(a)-(b).

² Throughout this report, all references to Commission staff use the term “monitor.”

counsel, and ensure the person is provided reasonable assistance in completing the necessary forms for requesting counsel. The magistrate must then transmit the request for counsel to the appointing authority of the county issuing the warrant within 24 hours of the request being made.

Local Practices for Conducting Article 15.17 Hearings

Arrestees in Kleberg County are given Article 15.17 warnings at the Kleberg County Jail by one of four justices of the peace or the municipal court judge. On July 6, 2015, the monitor observed the Kingsville Municipal Court Judge give magistrate warnings to two arrestees at the Kleberg County Jail. The magistrate informed the arrestees of their Article 15.17 rights, including the right to counsel. After the warnings, the magistrate notified each arrestee of his or her charges and set a bond. He then asked the arrestees whether or not they wanted appointed counsel. One arrestee indicated he had retained counsel; the other arrestee (held in Kleberg County on a San Patricio County warrant) was asked if he wanted to request a lawyer in San Patricio County or hire his own attorney. When the individual indicated he wanted to request a lawyer, the judge made a notation that the arrestee requested counsel and said he would forward the request to San Patricio County.³ The arrestee's response was then recorded on a "Request for Counsel" form, separate from the magistrate warning form.

As noted above, the magistrate warning form provided to the monitor (currently in use) does not contain a space to record whether the arrestee requested appointed counsel. The county uses a document separate from its magistrate warning form to mark whether the arrestee requested counsel at the Article 15.17 hearing. However, the magistrate warning form the county submitted to the Commission as part of the required biannual indigent defense plan review process⁴ contains a place to mark the request for counsel, in contrast to the form currently in use. The county would benefit from using the form submitted with its indigent defense plan, which includes both the required Article 15.17 warnings and a space to record whether an arrestee requests counsel. This form would help the county better track events between arrest, appointment of counsel, and case disposition.

Article 15.17(a) requires a magistrate to inform arrestees of the procedures for requesting counsel and ensure reasonable assistance is provided to any arrestee requesting counsel in completing the necessary paperwork to determine indigence. This process includes assistance with the affidavit of indigence. The affidavit of indigence currently in use does not match the affidavit submitted as part of the county's indigent defense plan.⁵ The county would benefit from implementing the affidavit of indigence approved as part of the plan review process. The approved affidavit details income,

³ The new requirements under Article 15.18, CCP require the magistrate to ensure reasonable assistance in completing the financial forms for requesting counsel (preferably from the warrant-issuing county) and forward the request for counsel to the warrant-issuing county within 24 hours.

⁴ Attachment 1.

⁵ Attachment 2.

expenses, and assets, necessary information for the appointing authority to make an informed decision as to whether or not an arrestee is indigent. Once the magistrate has ensured reasonable assistance in filling out the necessary paperwork for requesting counsel, requests must then be transmitted to the appointing authority within 24 hours of the request being made. According to interviews, these requests are promptly forwarded to the appointing authority, but the monitor was unable to verify this detail through a review of records.

Recommendation 1 (Regarding Local Practices for Conducting Article 15.17 Hearings): Kleberg County must use forms adopted by the judges in its indigent defense plan, including the magistrate warning form and affidavit of indigence submitted in the Kleberg County Adult Indigent Defense Plan. The judges may adopt and submit a revised form if they so choose.

Interviews with county personnel indicated that once a request for counsel is completed, it is either emailed to the district court or faxed to the county court for ruling on the request. The monitor's file review showed that those requests rarely make their way into the case file. From the sample of case files, the monitor attempted to determine whether each defendant requested counsel at the Article 15.17 hearing. Commission staff made two written requests (in August and November 2015) and one email request to the Kleberg Sheriff's Office for the relevant documents. At the time of this report, the information has not been provided. Under Title 1, Rule 173.401(c) of the Texas Administrative Code:

Grantees must make available to the Commission or its designees all requested records relevant to a monitoring review. . . . Failure to provide adequate documentation upon request may result in disallowed costs or other remedies for noncompliance. . . .

Grantees must make available to the Commission or its designees all requested records relevant to a monitoring review. . . . Failure to provide adequate documentation upon request may result in disallowed costs or other remedies for noncompliance. . . .

Recommendation 2 (Regarding Local Practices for Conducting Article 15.17 Hearings): As required by Title 1, Rule 173.401(c) of the Texas Administrative Code, Kleberg County must make available to Commission staff all requested records relevant to a monitoring review.

Since the monitor did not receive the data from the Kleberg County Sheriff's Office, the monitor was unable to determine the percentage of persons requesting counsel at Article 15.17 hearings. The best practice to ensure that the jurisdiction can track whether arrestees are timely magistrated, advised of their rights, and appointed counsel is for the county to make sure the magistrate warning form is located in the arrestee's case file.

Article 2.21 of the Code of Criminal Procedure requires a clerk of the district or county court to “receive and file all papers,” including the magistrate warning form, as part of the defendant’s file. The monitor will examine this issue more closely on the follow-up review.

Appoint Counsel Promptly

Statutory Requirements

Under Article 15.17(a) of the Code of Criminal Procedure, once a request for counsel is made, the magistrate must ensure requests are transmitted to the appointing authority within 24 hours. Under Article 1.051(e) of the Code of Criminal Procedure, the appointing authority has three working days from receipt of the request to appoint counsel for those determined to be indigent. After an initial request for counsel is received (whether the request was made at the Article 15.17 hearing or at a later time), the appointing authority must rule upon the request according to the standards set in the county’s indigent defense plan.

The local indigent defense plan provides the following standard of indigence:

- i. An accused is presumed indigent if any of the following conditions or factors are present:*
 - 1. At the time of requesting appointed counsel, the accused or accused’s dependents are eligible to receive food stamps, Medicaid, Temporary Assistance for Needy Families, Supplemental Security Income, or public housing;*
 - 2. The accused’s net household income does not exceed 125 % of the Poverty Guidelines as revised annually by the United States Department of Health and Human Services and published in the Federal Register; or*
 - 3. The accused is currently serving a sentence in a correctional institution, is currently residing in a public mental health facility, or is subject to a proceeding in which admission or commitment to such a mental health facility is sought.*

Following the determination of indigence, the county must either appoint counsel or find that the defendant is indigent and document the denial of counsel. This appointment/denial must occur within the timeframe established by Article 1.051 (within 3 working days). Under Article 1.051(f-1) and (f-2) of the Code of Criminal Procedure, if a defendant has requested counsel and pleads pro se, the associated waiver of counsel is presumed invalid unless the request for counsel has been denied.

Local Practices for Determining Indigence and Appointing Counsel

While Kleberg County’s appointment rate in both misdemeanor and felony cases approximates the state average, the monitor was unable to determine the timeliness of those appointments as part of this review. Across Texas, about 42% of misdemeanor defendants received appointed counsel in FY14, while Kleberg County appointed counsel

in misdemeanor cases in approximately 35% of cases. By comparison, Kleberg County’s felony appointment rate in FY14 exceeded the state average (after several years below it).⁶

Table 1: Kleberg County Felony and Misdemeanor Appointment Data

Year	2011	2012	2013	2014	Texas 2014
Population (Non-Census years are estimates)	32,061	32,241	32,456	31,850	26,642,612
Felony Charges Added	828	669	776	523	270,401
Felony Cases Paid	434	358	372	557	192,710
% Felony Charges Defended with Appointed Counsel	52.4%	53.5%	47.9%	106.5%	71.3%
Misdemeanor Charges Added (from OCA report)	1,002	1,092	1,012	1,157	530,335
Misdemeanor Cases Paid	196	320	308	409	223,043
% Misdemeanor Charges Defended with Appointed Counsel	19.6%	29.3%	30.4%	35.4%	42.1%

In order to determine the timeliness of counsel appointments, the monitor must know the date of the original request for counsel and the date the request was ruled upon. From the sample of case files reviewed by the monitor, four felony cases included magistrations forms from the Article 15.17 hearing. Of these four case files, three arrestees requested counsel at the Article 15.17 hearing, and counsel was appointed in a timely manner for one of these cases.⁷ For the felony sample overall, of the 20 cases examined, 12 received appointed counsel. Four cases received appointed counsel within one week of arrest, and eight received appointed counsel at a later time. Of the 26 misdemeanor cases reviewed, eight received appointed counsel. Only one of the eight appointments occurred within one week of the arrest. Since the jurisdiction was unable to provide data showing whether the defendants requested counsel at the Article 15.17 hearing, the monitor could not determine when these persons originally requested counsel.

Because the monitor could only review a small sample in which the timeliness of counsel appointments could be determined, this report makes no recommendation regarding the timeliness of counsel appointments. However, the small number of cases with Article 15.17 forms indicates a breakdown either in transmitting or ruling upon requests for counsel.

⁶ The appointment rates listed in Table 1 are an approximation of the percentage of cases receiving appointed counsel. The statistic is determined by: cases paid / cases added. Cases paid are reported by county financial officers to the Texas Indigent Defense Commission for the period from October – September. Cases added are reported by clerks to the Office of Court Administration for the period from September – August.

⁷ For these three felony cases, one received appointed counsel one working day after the request, the second fourteen working days after the request, and the third received appointed counsel 83 working days after the request.

Recommendation 3 (Regarding Prompt Appointment of Counsel): Kleberg County must implement procedures to track whether felony and misdemeanor courts are appointing counsel in a timely manner. If the magistrate warning form submitted with the local indigent plan were in use and filed in the clerks' case files, this recommendation would be met.

Waivers of Counsel

Statutory Requirements

Article 1.051 of the Code of Criminal Procedure addresses waivers of counsel and allows written waivers of counsel that are voluntarily and intelligently made. Following a request for counsel, the county must either appoint counsel or determine that the defendant is not indigent and document the denial of court appointed counsel. This appointment/denial must occur within the timeframe established by Article 1.051 (within 3 working days).

Under 1.051(f-1)⁸, the prosecutor may not initiate a waiver and may not communicate with a defendant until any pending request for counsel is ruled upon, and the defendant waives the opportunity to retain private counsel. Under 1.051(f-2),⁹ the court must explain the procedures for requesting counsel and must give the defendant a reasonable opportunity to request counsel before encouraging the defendant to communicate with the attorney representing the state. If the defendant is determined not to be indigent, the court must deny any request for counsel before a waiver of counsel is allowed. Waivers in violation of Subsections (f-1) or (f-2) are presumed invalid.

⁸ Article 1.051(f-1) prohibits the prosecuting attorney from communicating with the defendant prior to a ruling on any pending request for counsel. Article 1.051(f-1) reads:

In any adversary judicial proceeding that may result in punishment by confinement, the attorney representing the state may not:

- (1) Initiate or encourage an attempt to obtain from a defendant who is not represented by counsel a waiver of the right to counsel; or*
- (2) Communicate with a defendant who has requested the appointment of counsel, unless the court of the court's designee authorized under Article 26.04 to appoint counsel for indigent defendants in the county has denied the request and, subsequent to the denial, the defendant:*
 - (A) has been given a reasonable opportunity to retain and has failed to retain private counsel; or*
 - (B) waives or has waived the opportunity to retain private counsel.*

⁹ Article 1.051(f-2) similarly prohibits the court from encouraging the defendant to communicate with the prosecutor prior to ruling on any pending request for counsel. Article 1.051(f-2) states:

... If the defendant has requested appointed counsel, the court may not direct or encourage the defendant to communicate with the attorney representing the state unless the court or the court's designee authorized under Article 26.04 to appoint counsel for indigent defendants in the county has denied the request and, subsequent to the denial, the defendant:

- (1) has been given a reasonable opportunity to retain and has failed to retain private counsel; or*
- (2) waives or has waived the opportunity to retain private counsel.*

An unrepresented defendant cannot enter a guilty plea until a second waiver is obtained, and this waiver must substantially conform to the language of Article 1.051(g). Such waivers must be signed by the defendant and substantially conform to the following:

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)

With these statutes in mind, the monitor's review of misdemeanor case files checked to ensure: (1) requests for counsel were ruled upon prior to a communication with the prosecutor and (2) cases involving pro se pleas included a waiver of counsel substantially conforming to Article 1.051(g).

Local Practices for Handling Waivers of Counsel

Because the jurisdiction was unable to provide documentation as to whether arrestees requested counsel at the Article 15.17 hearing, the monitor could not determine local practices for ruling on requests for counsel. From the misdemeanor case file review (consisting of 26 cases), the monitor found eight requests for counsel in the case file, and all eight cases received appointed counsel. However, it is unclear whether the defendants made a request for counsel at the Article 15.17 hearing and the result of those requests. Another eight defendants took some form of pro se plea. While the monitor found waivers of counsel for all eight of those cases, whether the defendants made prior requests for counsel at the Article 15.17 hearing and the result of those requests is unknown.

In order to meet the waiver of counsel provisions of Article 1.051(f-1) and (f-2), a jurisdiction must promptly rule upon all requests for counsel prior to the procurement of a waiver. Since the county was unable to provide documentation regarding requests made at the Article 15.17 hearing, the monitor could not determine whether waivers of counsel met the requirement that requests for counsel be ruled upon prior to securing a waiver of counsel. For this requirement, the monitor refers to the previous recommendation that the county must put in place a system to track whether persons are requesting counsel at the Article 15.17 hearing.

During the file review, the monitor found the waivers of counsel used for entering a pro se plea differed from the waiver language of Article 1.051(g). The form in use on misdemeanor cases reads as follows:

The court has advised me of my right to employ counsel to represent me in this cause, and of my right to request the Court to appoint counsel to represent me in said case if I am unable to afford an attorney.

The language currently in use by the county differs from the language of the statute in several respects. First, the current waiver language includes reference to "my right to

employ counsel to represent me in this cause,” as opposed to *“my right to representation by counsel in the case pending against me.”* Second, the waiver language refers to *“my right to request the Court to appoint counsel to represent me in said case if I am unable to afford an attorney”* rather than the 1.051(g) provision, *“if I am unable to afford counsel, one will be appointed for me free of charge.”* The current waiver also does not affirmatively assert what is being waived. Article 1.051(g) states, *“I wish to waive that right and request the court to proceed with my case without an attorney being appointed for me.”* The county would benefit from more closely aligning its waiver of counsel language with the statutory language contained in Article 1.051(g).¹⁰

Recommendation 4 (Regarding Waivers of Counsel): Kleberg County must ensure that the county’s waiver of counsel is in substantially the same form as the waiver language of Article 1.051(g).

3. Texas Judicial Council Monthly Court Activity Reports

Beginning in FY12, OCA started collecting additional data in its Texas Judicial Council Monthly Court Activity Reports.¹¹ As part of these additional reporting requirements, counties must now report the number of individuals requesting counsel at Article 15.17 hearings administered by justices of the peace. Statistics provided to the Office of Court Administration (OCA) for FY14 (October 2013 through September 2014) regarding Article 15.17 hearings conducted by Kleberg County justices of the peace and the City of Kingsville Municipal Court are shown in Table 2 below. The statistics indicate that not all courts submitted required monthly reports to OCA. When reports were submitted, some did not include the number of magistrate warnings conducted, and some did not include the corresponding number of requests for counsel.

During the review, the monitor spoke with the Kingsville Municipal Court Judge, who was unaware of the requirements to report the number of magistrate warnings or the number of requests for counsel. Since the onsite review, the Kingsville Municipal Court has regularly submitted data showing the number of persons receiving magistrate warnings and the number of persons requesting appointed counsel.

¹⁰ While the monitor notes the differences between the 1.051(g) waiver language and the language currently in use, this does not constitute a legal determination as to whether current language is in substantially the same form as the statutory language.

¹¹ 1 Tex. Admin. Code § 171.7 – 8.

Table 2: Judicial Council Monthly Activity Reports (October 2013 – September 2014)

	JP - Pct. 1	JP - Pct. 2	JP - Pct. 3	JP - Pct. 4	Kingsville Municipal Court
Number of Monthly Reports Submitted to OCA	1	12	12	0	12
Misdemeanor Warnings (A & B)	15	26	142	n/a	0
Misdemeanor Requests for Counsel (A & B)	0	31	0	n/a	0
Felony Warnings	14	15	68	n/a	0
Felony Requests for Counsel	1	16	0	n/a	0

Recommendation 5 (Regarding Texas Judicial Council Monthly Court Activity Reports): Justices of the peace and municipal courts must report the number of persons receiving magistrate warnings and the number of persons requesting counsel to OCA in order to ensure complete and accurate Texas Judicial Council Monthly Court Activity Reports.

The monitor appreciated the professionalism and assistance provided by Kleberg County officials and staff. Kleberg County officials appear willing to make necessary changes to improve the indigent defense system. As mandated by statute, the Commission will monitor the County's transition and process improvements regarding the report's recommendation.

5. Summary of Recommendations

Recommendation 1 (Regarding Local Practices for Conducting Article 15.17 Hearings): Kleberg County must use forms adopted by the judges in its indigent defense plan. This means that the County must use the magistrate warning form and affidavit of indigence adopted by the judges and submitted in the Kleberg County Adult Indigent Defense Plan.

Recommendation 2 (Regarding Local Practices for Conducting Article 15.17 Hearings): As required by Title 1, Rule 173.401(c) of the Texas Administrative Code, Kleberg County must make available to Commission staff all requested records relevant to a monitoring review.

Recommendation 3 (Regarding Prompt Appointment of Counsel): Kleberg County must implement procedures that enable it to track whether felony and misdemeanor courts are appointing counsel in a timely manner. If the magistrate warning form submitted with the local indigent plan were in use and filed in the clerks' case files, this recommendation would be met.

Recommendation 4 (Regarding Waivers of Counsel): Kleberg County's waiver of counsel form, allowing defendants to enter uncounseled pleas, must include all provisions of Article 1.051(g).

Recommendation 5 (Regarding Texas Judicial Council Monthly Court Activity Reports): Justices of the peace and municipal courts must report the number of persons receiving magistrate warnings and the number of persons requesting counsel to OCA in order to ensure complete and accurate Texas Judicial Council Monthly Court Activity Reports.

Attachment 1: Magistrate Warning Form Submitted with Indigent Defense Plan

Law Enforcement Agency: _____
 Date Of Arrest: _____
 Time Of Arrest: _____
 Place Of Arrest: _____

Court #: _____
 County/State: _____
 Warrant #, If Any: _____
 Bail Set: \$ _____

HAS A PROBABLE CAUSE AFFIDAVIT BEEN FILED? YES NO

MAGISTRATE'S WARNING FORM

THE STATE OF TEXAS
 COUNTY OF _____

§
 §

Before me, the undersigned, magistrate of _____ County, Texas on the _____ day of _____, at _____ O'clock AM/PM.,
 appeared _____ I gave said person the following warning:

- You are charged with the offense of _____ a felony a misdemeanor
- You have a right to hire an attorney to represent you.
- You have the right to have an attorney present prior to and during any interview and questioning by peace officers or attorneys representing the State.
- You have the right to remain silent.
- You are not required to make a statement, and any statement you make can and may be used against you in court.
- You have the right to stop any interview or questioning at any time.
- You have the right to have an examining trial (felonies only).
- You have the right to request appointment of counsel if you cannot afford counsel. *

***THE MAGISTRATE SHALL ENSURE THAT THE PERSON IS INFORMED OF THE FOLLOWING PROCEDURES:**

- a. That an application for a court appointed attorney must be completed to determine if he/she qualifies for a court appointed attorney;
- b. That reasonable assistance will be provided to him/her when filling out the application for a court appointed attorney, if needed;
- c. That a financial affidavit must be signed;
- d. That an affidavit is a written or printed declaration or statement of facts made voluntarily and confirmed by oath before a person having authority to administer such oath;
- e. That if he/she meets indigence standards he/she will qualify for court appointed attorney; and,
- f. Attorney should attempt to contact him/her by the end of the first working day after appointment and to interview him/her as soon as practicable after appointment. If appointment is made when the accused is before the court, the accused will be given attorney's name, address, and phone number.

If you are not a United States citizen and you have been arrested or detained, you may be entitled to have us notify your country's consular representatives here in the United States. Do you want us to notify your country's consular officials?

No. _____ YES. _____

If you responded "YES," what country? _____

If you are a citizen of a country that requires us to notify your country's consular representative, we shall notify them as soon as possible.

THE ACCUSED DOES / DOES NOT WANT TO REQUEST COURT APPOINTED ATTORNEY.

Circle One

I acknowledge that I was given the above
 warning (This is NOT an admission of guilt):

Magistrate

Person warned

Place of warning: _____
 Time: _____
 Date: _____

Accused refused to sign acknowledgement
 of warning:

Witness (if any):
 Name: _____
 Address: _____

Magistrate
 Remarks:

This hearing was interpreted by: _____
 (Name of Interpreter)

**Note: THIS IS A TWO-SIDED FORM: SPANISH ONE SIDE, ENGLISH OTHER SIDE
 ESTE FORM TIENE DOS LADOS: EN ENGLIS UN LADO Y ESPANOL EN LO OTRO**

Dependencia del orden público: _____ Juzgado #: _____
 Fecha del arresto: _____ Condado / Estado: _____
 Hora del arresto: _____ No. de la orden de aprehensión, si existe: _____
 Lugar del arresto: _____ Fianza fijada en: \$ _____

¿SE HA PRESENTADO UNA DECLARACIÓN DE CAUSA PRESUNTA? SÍ NO

ADVERTENCIAS DEL JUEZ DE INSTRUCCIÓN

ESTADO DE TEXAS §
 CONDADO DE _____ §

Ante mí, el juez de instrucción del condado de _____, Texas, el día _____ de _____, a las _____ horas de la mañana/tarde, compareció _____, a quien se le dieron las siguientes advertencias:

- Usted está acusado del siguiente delito: _____ delito mayor (*felony*) delito menor (*misdemeanor*)
- Tiene derecho a contratar a un abogado que lo represente.
- Tiene derecho a que su abogado esté presente cuando usted sea entrevistado o interrogado por los agentes del orden público o abogados fiscales del estado, o antes de participar de una entrevista o interrogatorio.
- Tiene derecho a guardar silencio.
- No se le puede exigir que declare nada, pero cualquier declaración que haga puede ser y va a ser usada en su contra en el tribunal.
- Tiene derecho a interrumpir su interrogatorio o entrevista en cualquier momento.
- Tiene derecho a una audiencia previa al juicio para examinar la acusación (sólo para delitos mayores).
- Tiene derecho a que le nombren un abogado que lo represente si no tiene los recursos necesarios para contratar uno.*

***EL JUEZ DE INSTRUCCIÓN SE ASEGURARÁ QUE EL ACUSADO ESTÉ INFORMADO DE LOS SIGUIENTES PROCEDIMIENTOS:**

- g. Debe completarse una solicitud para el nombramiento de un abogado defensor para que el tribunal determine si el acusado reúne los requisitos necesarios para dicho nombramiento.
- h. En caso de ser necesario, se le ayudará al acusado en la medida de lo razonable, a llenar la solicitud para que le nombren un abogado.
- i. Debe firmarse la declaración de situación económica del acusado (*financial affidavit*).
- j. La declaración (*financial affidavit*) debe ser por escrito, detallar los hechos relacionados al estado económico del acusado, debe ser dada por propia voluntad, y bajo juramento de decir verdad ante una autoridad competente.
- k. En caso de que se demuestre que el acusado es indigente, se le nombrará un abogado para que represente al acusado, y
- l. El abogado defensor nombrado por el tribunal debe comunicarse con el acusado en el transcurso del primer día hábil después de su nombramiento. Si el acusado está ante el juez en el momento del nombramiento, se le hará saber el nombre, dirección y teléfono del abogado.

Si usted no es ciudadano de los Estados Unidos y ha sido arrestado o detenido, posiblemente tenga derecho a que se notifique a los representantes consulares de su país en los Estados Unidos. ¿Desea que notifiquemos al consulado de su país?

No. _____ Sí. _____

Si respondió afirmativamente, ¿de qué país es usted? _____

Si usted es ciudadano de un país que nos exige notificar a sus representantes consulares, notificaremos a los mismos tan pronto sea posible.

EL ACUSADO DESEA / NO DESEA SOLICITAR UN ABOGADO NOMBRADO POR EL TRIBUNAL PARA DEFENDERLO.

indicar la opción

He sido informado de las advertencias mencionadas anteriormente (Ésta NO es una admisión de culpabilidad): _____ Juez de instrucción

Persona a la que se le dieron las advertencias _____ Lugar en que se dieron las advertencias: _____
 Hora: _____
 Fecha: _____

El acusado rehusó firmar el reconocimiento de las advertencias of warning: _____ Testigo (si hay):
 Nombre y apellido: _____
 Dirección: _____

Juez de instrucción _____
 Comentarios: _____ Esta audiencia fue interpretada por: _____ (Nombre del intérprete)

**Note: THIS IS A TWO-SIDED FORM: SPANISH ONE SIDE, ENGLISH OTHER SIDE
 ESTE FORM TIENE DOS LADOS: EN ENGLIS UN LADO Y ESPANOL EN LO OTRO**

Attachment 2: Affidavit of Indigence Submitted with Indigent Defense Plan

Defendant's Name: _____ Date: _____

D.O.B. _____ Cause # _____ Special Needs: _____

Booking # _____

Affidavit of Indigence

To determine eligibility for Court Appointed Attorney, you must complete this form.

Size of family Unit (Members of immediate family that you support financially (List name, age & relationship))		
Name:	Age:	Relationship:

Monthly Income	Necessary Monthly Living Expenses	Non-exempt Assets
Your Salary	Rent / Mortgage:	Cash on hand
Spouse's Salary	Transportation: Make: Model: Year:	Value of Stocks and Bonds
SSI/SSDI	Car Payment	Amount in Savings Account
AFDC	Car Insurance	
Social Security Check	Utilities (gas, electric, etc.)	
Child Support	Clothes/Food	
Other Government Check	Day Care / Child Care	
Other Income	Health Insurance	
	Medical Expenses	
	Credit Cards	
	Court-Ordered Monies	
	Child Support	
TOTAL INCOME:	TOTAL NECESSARY EXPENSES:	TOTAL ASSETS:

STAFF USE ONLY:

Comments:

Total Monthly Income: _____ **Defendant Meets Eligibility Requirements**
Total Monthly Expenses: - _____
Difference (net income): = _____ **___ YES ___ NO ___ UNDETERMINED**

I have been advised of my right to representation by counsel in the trial of the charge pending against me. I certify that I am without means to employ counsel of my own choosing and I hereby request the court to appoint counsel for me. I swear that the above information is true and correct. The information I listed is accurate and I will immediately notify the court of any changes in my financial situation.

**All information is subject to verification. Falsification of information is a criminal offense.*

Defendant's Signature

Date