

November 14, 2016

Texas Indigent Defense Commission
209 W. 14th St. Room 202
Austin, TX 78701

RE: Follow-up Review of Harris County's Indigent Defense Systems for Juveniles 9/14/15 and 9/15/15.

TIDC Recommendation: For cases in which the juvenile is not detained, Harris County must implement procedures that ensure timely appointments of counsel

Background:

In response to the TIDC April 2012 monitoring report on juvenile indigent defense in Harris County, Juvenile District Court Administration (DCA) worked with the Harris County Juvenile Probation Department (HCJPD) to formulate a system to ensure the timely reporting of juveniles' indigence status who were not detained (Non-custody cases) to Juvenile Court Coordinators. In the original response, HCJPD changed its policy to include the completion of a financial status form within 7 days of receiving the juvenile on their caseload by Juvenile Probation Officers (JPO). The JPOs were then to give the completed form to the Court Coordinator so that an appointment could be made when indigence was identified.

Review of Current Policies and Procedures:

Upon review of the initial HCJPD financial statements policy, together, HCJPD and Juvenile DCA identified many factors that made the policy unsuccessful in the assistance of timely appointment of counsel to juveniles who were not ever detained. The following barriers were identified over several meetings with HCJPD and Juvenile DCA since the receipt of the TIDC September 2015 audit report.

- The "7 days to complete a financial form" stated in the HCJPD policy was not being met in many instances. Reasons identified were:
 1. Harris County Juvenile Probation (HCJPD) did not immediately assign cases to a Juvenile Probation Officer (JPO) causing a delay in obtaining the financial information needed by the coordinator.
 2. There was much turnover in HCJPD court officer staff in the years since the 2012 policy was implemented, and the new staff wasn't complying with the policy.

3. Some families of juveniles refused to disclose financial information.
4. Some families expressed the desire to retain an attorney and never did.
5. No contact was ever made with the juvenile's family by juvenile probation officers for a myriad of reasons: they had no working phone number; incorrect/insufficient address information was provided by the arresting officer; mail was returned with no forwarding address; and searches by the JPO yielded no new contact information. (See HCJPD No Contact Memo Policy, also implemented in 2016).

The Juvenile Court Coordinators could not appoint attorneys to juveniles in these instances because they were waiting on the completed financial form from HCJPD before they appointed counsel for the juvenile. This resulted in untimely appointment of counsel at times. Following the September 2015 review by TIDC, the Juvenile DCA Court Manager reviewed more than 100 financial forms received by the Court Coordinators from HCJPD staff. The majority of them were received by the coordinators long after the "7 days" stated in their policy.

New Policies and Procedures

After thorough review of the previous policies and processes related to the appointment of counsel for juveniles never detained, HCJPD has revised its policies and procedures (see attached HCJPD Financial Statements Policy dated 11/14/16). In addition, Juvenile District Court Administration (DCA) has determined that we do not believe it is best practice to wait for the completed financials for indigence to appoint counsel for non-custody youth. Even with the new HCJPD policy, Juvenile DCA has no control over the time it takes for a juvenile to be assigned to a Juvenile Probation Officer. Therefore, Juvenile DCA will be appointing counsel to every juvenile who has never been detained within 5 days of the case being initially docketed, unless notice is received from HCJPD court officers that the family doesn't meet the requirements for indigent defense. This will allow Juvenile DCA and coordinators to comply with the statutory requirement "counsel must be appointed within five working days of a petition being served on the juvenile" as outlined in the Texas Family Code 51.10(d).

Harris County Juvenile Probation Department will continue to interview families and inform the coordinator via email as soon as the Juvenile Probation Officers learn that the family does not meet the requirements for indigent defense. Financial affidavit forms will still be given to the coordinators, but emailing rather than waiting on a paper should streamline the process. Once a coordinator receives the email that the family wishes to, or is required to retain an attorney, the coordinator will notify the appointed attorney that he/she is no longer attached to the case prior to any court setting. Appointed attorneys are not paid until they resolve a case in the juvenile courts, unless there are high costs or extenuating circumstances approved by a court order. The juvenile cases referenced are mostly misdemeanor charges and don't often require investigators or paid out of court hours; therefore there should not be an increase in appointed attorney fees as a result of this new process.

Summary

In summary, HCJPD and Juvenile DCA have worked together to streamline the appointment of counsel to juveniles who have never been detained. Changes to policy and process include the following:

- HCJPD ensuring that they obtain family financial information more quickly, emailing the coordinators when the family does not qualify for appointed counsel or wishes to retain an attorney, and immediately forwarding the financial form to the coordinators instead of waiting on several to submit them (See attached HCJPD Intake/Court Services Operating Procedure Financial Statements Policy dated 11/14/16).
- HCJPD also updated their policy this year on how to proceed when a family cannot be found to gather the financial information (See attached HCJPD Intake/Court Services Operating Procedure No Contact Memos dated March 1, 2016). This policy was revised early this year in response to Juvenile DCA concern that they were not receiving financial forms in a timely fashion.
- Juvenile DCA is appointing counsel to every juvenile that has never been detained within 5 days of the case being initially docketed, unless they have received notice from HCJPD court officers that the family doesn't meet the requirements for indigent defense. Once a coordinator receives an email that the family wishes to, or is required to retain an attorney, they will notify the appointed attorney that they are no longer attached to the case prior to any court setting.

This coordinated effort will make the appointment of counsel to non-detained juveniles more efficient. In addition to the new policies and processes implemented, the Juvenile District Court Manager will hold quarterly meetings with HCJPD Court Administrative staff and the coordinators to ensure effectiveness of the changes, and address any concerns immediately with further policy implementation as necessary.



HARRIS COUNTY JUVENILE PROBATION Intake/Court Services Operating Procedure

Revised Date: March 1, 2016	Related Standards:	
Approved By: 		TJJD:
Section: Court Services	Title: No Contact Memos	

POLICY

No contact memos are only submitted for the court hearings when all efforts to contact the youth and family have failed. Written correspondence and telephone attempts to all available addresses and telephone numbers must be exhausted.

PROCEDURE

NO-CONTACT MEMO:

A “No-Contact Memo” is submitted by the Court Juvenile Probation Officer to the Court if the officer is unable to make direct contact with the family and secure the information needed for a Pre-Court Interview/Court Report. The No Contact Memo is submitted for the court hearing. Please see the Policy and Procedure for Pre-Court Interviews.

When an officer receives a court case, they are to attempt telephone communication with the youth’s family via telephone within 72 hours of receiving the case. If there is a voice mail system available, the assigned court officer must leave a message requesting the family make contact prior to the scheduled court date. If direct contact is not made via telephone and telephone contact has been attempted at all available telephone numbers, the officer must then mail out a letter informing the family of the youth’s pending court status. The letter must also include the assigned officer’s name, telephone number and work hours.

The Juvenile Probation Officer will also look over the youth’s JOT (Juvenile Offender Tracking) information to determine if there are additional listed telephone numbers or addresses where the family may be reached.

In addition to attempting contact with the family, the assigned officer must also attempt to contact the juvenile’s school (if available and/or listed in the JOT). The officer is to request current school information, records and youth’s current address and telephone number. If the information provided by the school is different from the information the officer has regarding address and telephone number, the officer must then attempt contact at the provided address and telephone number(s).

If there is no school information available, the assigned officer must email the Court Services Staff Services personnel assigned to the youth’s respective court or Alissa Strickland and request a Public Education Tracking Search. The staff services person or Alissa will inform the officer if the youth is enrolled in any school, or the youth’s last school attended within the state of Texas.

Section: Court Services	No Contact Memos
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If there is no response to the initial written communication and the letter was never returned as undeliverable by the postal service, the Juvenile Probation Officer (JPO) must send out a certified letter. A response to each contact attempt must be documented on the no contact memo (for example, voice message left, no response etc...). In addition, the JPO must list the telephone number being called along with the time(s) the call(s) is made. The address where written correspondence is being mailed must also be listed.

If there is not a good address or phone number, the assigned officer must email Karen Alvarez and request an Accurint search. If new telephone numbers or a new address is received, the JPO needs to attempt contact with the new information provided.

Efforts to locate/make contact with the families must be made at least every thirty days. All attempted contacts must be documented in JIMS II and reported to the Court in the No-Contact Memo.



HARRIS COUNTY JUVENILE PROBATION Intake/Court Services Operating Procedure

Revised Date: November 14, 2016	Related Standards:	
Approved by: 		TJJD:
Section: Court Services	Title: Financial Statements	

POLICY

Financial Statements are to be completed on every youth pending court within seven days of assignment to the Court JPO. It is the responsibility of the assigned Court Officer or designee to obtain a family's financial information, complete the financial statement, and submit the financial statement to the designated box located in the Juvenile Probation Court Administrator's office on the date of completion. Each day the Juvenile Probation Court Administrator, or other designated Juvenile Probation Court Manager will log the date submitted for each financial statement, and submit them to the respective Agency Representative. The Agency Representative's will then submit all financial statements received to the Court Coordinators twice a day.

PROCEDURE

In order to assure the timely appointment of Defense attorneys, the assigned Court JPO will obtain financials on all new cases assigned to Court Services within 7 days of case assignment. The Court JPO will place the completed financials in the designated box in the Juvenile Probation Court Administrator's office on the date of completion and will file a copy in the master folder.

JPO's need to document all of the attempts in activities in JIMS 2 and must put the actual date that the financial statement was submitted as well. It will be imperative to submit financial statements that you obtain on the same day that the information is gathered. **Please do not hold onto them.** Also, Intake will continue to complete financial statements on youth released/detained.

If a family does not qualify for a court appointed attorney, or has retained an attorney, the Court JPO will email the following court personnel listed below for the respective Court to notify them that the juvenile does not qualify or has retained an attorney. This is to be communicated the same day the financial information is obtained. The juvenile name, juvenile number, petition number, and name of the retained attorney (if known) should be included in the email notification.

For 313th: Natalie Yates, Michelle Billingsley, Sophia Robinson and Jennifer Padilla
 For 314th: Michael Millard, Adriana Ponce, Candace Williams and Christine Rivera
 For 315th: Beverly Bryant, Yavaka Pete, Monica Bakhari and Amanda Torres

Each day the Juvenile Probation Court Administrator, or other designated Juvenile Probation Court Manager will log the date submitted for each financial statement, and submit them to the respective Agency Representative. The Agency Representatives/Assistants are to submit them to the Coordinator of each designated Court twice a day. The Coordinators of each Court processes and assigns attorneys based on information obtained from the financial statements.

Section: Court Services	Financial Statements
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Financial statements must be completed on all intake level release or detention cases...this includes children who are in the custody (TMC or PMC) of DFPS. The financial statement must be as complete as you can make it. In the event a child is in DFPS custody, note whether the agency is TMC or PMC. If they are PMC (Permanent Managing Conservators) or parental rights have been terminated, note that. If they are merely TMC (Temporary Managing Conservators), then you must gather financial information about the income of the parents.

Each section of the financial statement form should be completed and checked with the family as closely as possible as to the validity of the income, expenses, and number of dependents.

Indicate on the form who the dependents are - i.e., three children, one grandchild, two parents, and the youth; it is important to always include the parents and the youth. Special circumstances may be listed on the additional comments section of financial statement. If a child is in the custody of the Texas Department of Family & Protective Services (TDFPS) or resides with a guardian, request an attorney for this respondent.

If a parent is unemployed, the Court Officer should ask whether any other income, such as unemployment benefits or workman's compensation is being received. Also inquire about Aid for Dependent Children, Social Security, (Food Stamps not counted as income), etc.

A copy of the financial statement should be kept in the youth's master file. In addition, a copy of the financial statement must also accompany the court packet submitted to the agency representatives for the court hearing.

If the case is a no contact memo (See policy: [No-Contact Memos](#)), a blank financial statement with the youth's name, petition number, court date and the letters "NC" at the top of the form must also be submitted.