



Policy and Fiscal Monitoring Review of Harris County's Indigent Defense Systems

April 2021



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Mission: Protecting the right to counsel, improving public defense

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Background

The Texas Indigent Defense Commission (TIDC) monitors local jurisdictions' compliance with the Fair Defense Act through on-site reviews.¹ These reviews seek to promote local compliance with the requirements of the Fair Defense Act and to provide technical assistance to improve county indigent defense processes where needed.

TIDC's review of Harris County began with a 2012 evaluation of Harris County's procedures for appointing counsel in juvenile cases. The report made one recommendation regarding the timeliness of appointments of counsel to juveniles who had been released from custody.

In October 2016, TIDC evaluated Harris County's felony and misdemeanor systems and conducted a follow-up visit regarding its juvenile appointment procedures.² TIDC made several findings. First, when a person requested counsel at the Article 15.17 hearing, the request was marked in the County's case management system, but the County did not gather financial information about the defendant. Instead, each court began the indigent screening process at the defendant's first appearance in the court of dispositive jurisdiction.

Courts did not determine indigence according to the uniform standard set in the indigent defense plan. Rather, defendants who could not make bail were automatically appointed counsel, but if they later made bail, the initial counsel appointment could be taken away. Defendants who initially made bail would appear in court, and each court determined indigence differently. In part because of re-determinations of indigence and lack of uniform procedures, counsel was often not appointed in a timely manner.

In juvenile cases, when persons are released from custody, counsel must be appointed, or there must be an order to retain counsel within five working days of the petition being served on the juvenile. The courts often had no in-person communication with the juvenile's family until after the five working days had expired. Appointments were frequently untimely, because they occurred at the initial court appearance, after the appointment due date.

The felony, misdemeanor, and juvenile courts selected counsel primarily through a contract system, referred to as the "term assignment" system. This system assigned many cases to few attorneys, as contract systems do, but there were no written contracts following TIDC's Contract Defender Rules.

¹ TEX. GOV'T CODE § 79.037(a)–(b); 1 TEX. ADMIN. CODE § 174.28.

² At the request of local officials, TIDC also analyzed Harris County's pretrial system and quality of counsel in a supplemental report.

The term assignment system also created reporting challenges, because attorneys were paid for the dockets they attended, not for the number of cases they handled.³ Additionally, some judges reduced attorney payments without giving a written finding as required by Texas law.

Harris County's annual expense report to TIDC is complex. Harris County reported unallowable expenses, including child protective services and attorney pro tem payments. Harris County also misreported some appellate payments as trial payments.

Harris County created action plans to address each item. TIDC now conducts this follow-up review to determine whether Harris County has addressed each item.

³ At the time of the 2016 review, Harris County had just created an automated voucher system that allowed it to keep records showing which cases had been paid.

Table 1: History of Monitoring Findings

FDA Core Requirement	Description and Initial Year of Finding	Status before 2021 Review	
		Satisfied	Pending
1. Prompt and Accurate Magistrate's Warnings	Magistrates did not ensure reasonable assistance in completing affidavits of indigence. (2016)		✓
2. Determination of Indigence	The courts did not follow the local standard of indigence set in the indigent defense plan. (2016)		✓
2. Determination of Indigence	Indigence re-determinations were made if a defendant made bail, and in these instances, the initial attorney-client relationship was disturbed. (2016)		✓
4. Prompt Appointment (Felony Cases)	The timeliness of indigence determinations in sample felony cases did not meet TIDC's threshold for presuming a jurisdiction's processes ensure timely appointments. (2016)		✓
4. Prompt Appointment (Misd. Cases)	The timeliness of indigence determinations in sample misdemeanor cases did not meet TIDC's threshold for presuming a jurisdiction's processes ensure timely appointments. (2016)		✓
4. Prompt Appointment (Juv. Cases)	The timeliness of indigence determinations in sample juvenile cases did not meet TIDC's threshold for presuming a jurisdiction's processes ensure timely appointments. (2012)		✓
5. Attorney Selection Process (Felony Cases)	Term assignments for periods longer than one week did not have written contracts comporting with TIDC's Contract Defender Rules. (2016)		✓
5. Attorney Selection Process (Misd. Cases)	Term assignments for periods longer than one week did not have written contracts comporting with TIDC's Contract Defender Rules. (2016)		✓
6. Payment Processes	One sample voucher did not include a judge's signature authorizing payment. (2016)		✓
6. Payment Processes	Sample vouchers paid a different amount than requested, and payments did not include written reasons for variances. (2016)		✓
7. Data Reporting	The indigent defense expense report (IDER) included unallowable expenses. (2016)		✓
7. Data Reporting	IDER expenses were not properly itemized. (2016)		✓

Current Review

TIDC's policy monitoring rules require follow-up reviews of counties where the report included noncompliance findings.⁴ TIDC staff members Wesley Shackelford, Lindsay Bellinger, Claire Buetow, Joel Lieurance, and Debra Stewart conducted the follow-up review virtually. This review examined previous findings covering the following core requirements of the Fair Defense Act:⁵

REQUIREMENT 1: CONDUCT PROMPT AND ACCURATE ARTICLE 15.17 PROCEEDINGS

REQUIREMENT 2: DETERMINE INDIGENCE ACCORDING TO STANDARDS DIRECTED BY THE INDIGENT DEFENSE PLAN

REQUIREMENT 4: APPOINT COUNSEL PROMPTLY

REQUIREMENT 5: INSTITUTE A FAIR, NEUTRAL, AND NONDISCRIMINATORY ATTORNEY SELECTION PROCESS

REQUIREMENT 6: PROMULGATE STANDARD ATTORNEY FEE SCHEDULE AND PAYMENT PROCESS

REQUIREMENT 7: STATUTORY DATA REPORTING

TIDC watched prerecorded magistration dockets and live, online court dockets. TIDC examined felony and misdemeanor case files, the local Indigent Defense Plan, financial documents maintained by the Harris County Auditor's Office, and the annual Indigent Defense Expenditure Report (IDER). For juvenile cases, the juvenile courts' manager examined sample cases. TIDC interviewed court administrators, judges, felony and misdemeanor court managers, and the deputy director of pretrial services. TIDC also conducted a criminal defense attorney survey and interviewed defense attorneys.

Throughout this report, TIDC compares results from the current Harris County review with previous reviews. The current review consists of observations from FY2020 (October 2019 to September 2020) and documents from FY2019 (October 2018 to September 2019). The 2016 review consisted primarily of FY2015 observations and FY2014 documents. The 2012 juvenile review consisted of both observations and documents from FY2011.

The 2016 review had separate felony, misdemeanor, and juvenile reports. The current 2021 review consolidates the follow-up analysis into a single report. Consequently, the numbering of each recommendation differs from the numbering in the 2016 reports. Where a recommendation only applies to a specific court level, TIDC notes that distinction.

⁴ 1 TEX. ADMIN. CODE § 174.28(d)(3).

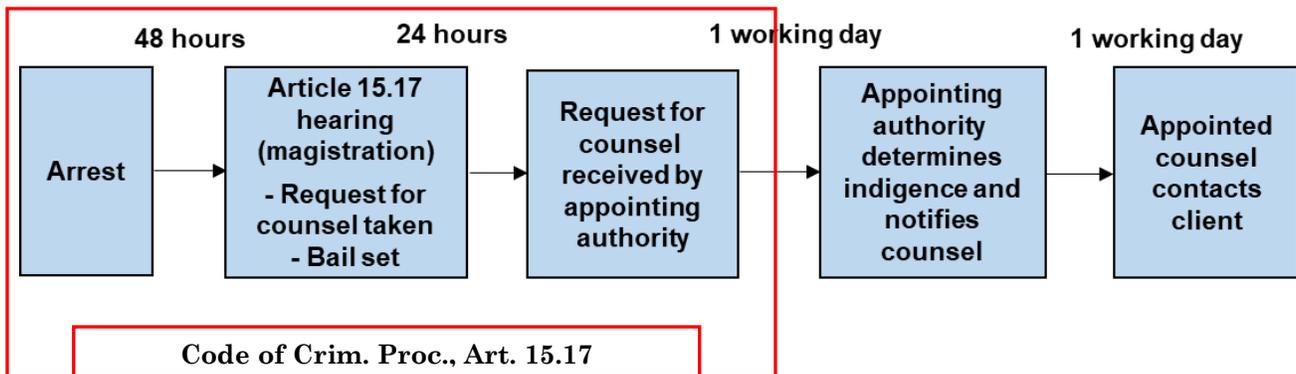
⁵ There were no previous findings of noncompliance for Requirement 3, Establish Minimum Attorney Qualifications.

Program Assessment

REQUIREMENT 1: CONDUCT PROMPT AND ACCURATE ARTICLE 15.17 PROCEEDINGS

Under Article 15.17 of the Code of Criminal Procedure, an arrested person must be brought before a magistrate within 48 hours.⁶ At this hearing, the magistrate must inform the person of his or her right to counsel, inform the person of the procedures for requesting counsel, and ensure the person has reasonable assistance in completing the necessary forms for requesting counsel.⁷ Magistrates must transmit requests for counsel to the appointing authority within 24 hours.⁸ If a person is arrested on an out-of-county warrant, the magistrate must perform the same duties as if the person were arrested on an in-county warrant.⁹

Figure 1: Timeline for Appointment of Counsel in Adult Criminal Cases



Practices for Conducting Magistrate Warnings at the 2016 Review

For the 2016 review, Senator Rodney Ellis (now Commissioner Ellis) requested that TIDC also analyze pretrial practices in Harris County. At the time, a bail schedule was in place that allowed some misdemeanor defendants to make bail prior to the Article 15.17 hearing. For the remainder, magistrates made probable cause determinations, set bail, and received requests for counsel. Prosecutors were present at magistration, but defense attorneys were absent.

⁶ TEX. CODE CRIM. PROC. art. 15.17(a).

⁷ TEX. CODE CRIM. PROC. art. 15.17(a).

⁸ TEX. CODE CRIM. PROC. art. 15.17(a).

⁹ TEX. CODE CRIM. PROC. art. 15.18(a). A list of contacts to send out-of-county requests is available at: <http://tidc.tamu.edu/public.net/Reports/OutOfCountyArrestContacts.aspx>.

Only a small percentage of defendants received personal bonds.¹⁰ TIDC queried the Harris County Justice Information System (JIMS) case management system and found that 42% of misdemeanor defendants never made bail. When defendants did not make bail, 88% of sampled misdemeanor defendants entered pleas to terms of confinement. Misdemeanor defendants who did not receive a personal bond could secure their release by paying an amount specified under the bail schedule, a minimum of \$500 but typically around \$2500 for Class B misdemeanors and \$5000 for Class A misdemeanors.¹¹

Current Practices for Conducting Magistrate Warnings

Since the 2016 review, Harris County has changed its pretrial system, in part in response to the *ODonnell v. Harris County* bail lawsuit.

Harris County now releases most misdemeanor defendants and many felony defendants with nonviolent charges on General Order (GO) bonds before they have an Article 15.17 hearing.¹² These defendants are not informed of their right to counsel until they appear in their trial courts.¹³

¹⁰ HARRIS CNTY. PRETRIAL SERVICES, HARRIS COUNTY PRETRIAL SERVICES 2014 ANNUAL REPORT 8 (2014). According to the Harris County Pretrial Services Department, in 2014, over 72,000 defendants were interviewed for a personal bond. About 1% of County felony arrestees and 9% of misdemeanor arrestees were granted personal bonds.

¹¹ Initial bail amounts from the 2016 review are shown below.

Initial Bail Amounts (2016 Review)

Offense Level	Sample Size	Minimum Bail Schedule Amount	Median Bail Amount
Class B Misd.	138	\$500	\$2,500
Class A Misd.	72	\$1,000	\$5,000
State Jail	75	\$2,000	\$15,000
F3	53	\$5,000	\$15,000
F2	40	\$10,000	\$35,000
F1	28	\$20,000	\$30,000

¹² From TIDC’s case file review, 71% of misdemeanor defendants and 25% of felony defendants appeared to make bail prior to the Article 15.17 hearing.

¹³ The right to counsel attaches after the initiation of adversarial judicial proceedings, “whether by way of formal charge, preliminary hearing, indictment, information, or arraignment.” *Kirby v. Illinois*, 406 U.S. 682, 689 (1972). Defendants are charged before being released on GO bonds, meaning their right to counsel has attached. The indigent defense plans state that defendants can request counsel at any time after the right attaches (as required by 1 TAC Sec. 174.51), though defendants are not informed of how to do so until they are in court.

Defendants who have an Article 15.17 hearing are now represented by the public defender.¹⁴ Prior to the hearing, the public defender meets individually with defendants to explain the hearing and to gather relevant information. When the hearing begins, the magistrate addresses the full group about how the hearing will be conducted. The prosecutor lays out the facts alleged, and the magistrate determines whether probable cause exists to continue detaining the defendant. Next, the public defender recommends bail and bond conditions based on their client’s individual circumstances. The prosecutor then responds.

Defense counsel present at magistration provide the magistrate with relevant information about defendants and help defendants understand the Article 15.17 hearing. Counsel may also help secure personal bonds or lower bond amounts to what defendants are able to pay. For those defendants who appeared before a magistrate, the public defender requested and received a personal bond in 60% of sample misdemeanor cases and in 23% of sample felony cases.¹⁵ For defendants not receiving a personal bond, bail amounts were lower in the current review than in the 2016 review for all case types other than first degree felonies, with typical misdemeanor amounts dropping from around \$5000 for Class A offenses and \$2500 for Class B offenses to \$100 for both offense levels and typical felony amounts decreasing by around \$12,500 for state jail felonies, \$2,500 for third degree felonies and \$10,000 for second degree felonies.¹⁶ According to

¹⁴ The office staffs magistration 24 hours a day (with two or three attorneys at each of three shifts) and represents all defendants who agree to be represented. In FY2019, according to the IDER, it provided representation in 49,050 magistration cases.

¹⁵ Personal bonds were granted at the public defender’s request in 44 of 73 sample misdemeanor cases in which the public defender represented defendants at the Article 15.17 hearing. Forty-two of the 44 cases that personal bonds were granted in did not qualify for a presumptive personal bond under the bail schedule in effect at the time (in 26 cases, the pretrial assessment was unavailable). Personal bonds were granted at the public defender’s request in 37 of 162 sample felony cases in which the public defender represented the defendant at the Article 15.17 hearing. Thirty-six of these felony cases did not qualify for a presumptive personal bond.

¹⁶ Initial bail amounts from the current review are shown below. For bail amounts from the 2016 review, see note 11.

Initial Bail Amounts (current report, excluding cases with personal bond or findings of no probable cause)

Offense Level	Sample Size	Median Bail Amount	Median Difference from 2016 Review
Class B Misd.	109	\$100	-\$2,400
Class A Misd.	82	\$100	-\$4,900
State Jail	46	\$2,500	-\$12,500
F3	59	\$12,500	-\$2,500
F2	37	\$25,000	-\$10,000
F1	21	\$60,000	+\$30,000

TIDC's review of magistrature records, only 4% of misdemeanor defendants in TIDC's sample did not make bail, compared to 42% in the 2016 review.

Procedures for Completing Necessary Forms and Transmitting Requests for Counsel and Financial Affidavits

Under Article 15.17(a), magistrates must “ensure that reasonable assistance in completing the necessary forms for requesting appointment of counsel is provided to the person at the same time” as the hearing. Magistrates must then transmit the forms requesting counsel to the appointing authority within 24 hours.

In the 2016 review, over 70% of sample felony defendants and 85% of sample misdemeanor defendants requested counsel at the Article 15.17 hearing. County personnel entered requests into the case management system and they were accessible by the trial courts over felony and misdemeanor cases. However, the County did not gather financial affidavits at the time of the at Article 15.17 hearings.

In the current review, defendants released on a GO bond before the Article 15.17 hearing typically did not request counsel or complete financial affidavits until their first court appearance. Among defendants who were not released on a GO bond and were magistrated, 92% of sample felony defendants and 91% of sample misdemeanor defendants requested counsel at the Article 15.17 hearing. These defendants completed a financial affidavit with Pretrial Services, indicating that the portion of TIDC's 2016 finding related to assistance in completing forms for requesting counsel has been addressed.

Immediately following each 15.17 hearing docket, a Pretrial Services Officer provides the District Clerk staff member present with hard copies of the financial affidavits completed for each person on the docket. Each shift, the District Clerk's Office sends these affidavits to their imaging department where they are uploaded into DEEDS¹⁷ within 24 hours. However, defendants are often asked to complete a second affidavit when they appear in their trial court. Some trial judges and court coordinators reported difficulties in accessing the financial affidavits completed by Pretrial Services.¹⁸

Since the 2016 review, a process has been put in place to gather financial information for defendants who are not released on GO bonds prior to the 15.17 hearing. However, there are still gaps in courts being able to access this financial information.

¹⁷ DEEDS is the District Clerk's electronic document management system.

¹⁸ The ability of judges and court coordinators to access affidavits will be critical in addressing the timeliness of appointments (See Requirement 4 below) given that appointments will likely need to occur prior to the first trial court setting in order to be timely.

RECOMMENDATION FOR REQUIREMENT 1

Conduct prompt and accurate magistration proceedings.

RECOMMENDATION 1: Harris County must ensure that reasonable assistance in completing forms necessary to obtain appointed counsel is provided, so that all arrestees who request counsel can have the request ruled upon within statutorily required timeframes. Under Article 15.17(a), this duty falls on the magistrate presiding over the Article 15.17 hearing. Article 15.17 requires the magistrate transmit the forms requesting the appointment of counsel to the appointing authority within 24 hours of the request.

Issue Pending.

REQUIREMENT 2: DETERMINE INDIGENCE ACCORDING TO STANDARDS DIRECTED BY THE INDIGENT DEFENSE PLAN.

Financial Standards Set in Indigent Defense Plans

Under Article 26.04(l) of the Code of Criminal Procedure, counties must adopt procedures and financial standards for determining whether a defendant is indigent. Article 26.04(m) lists the factors courts may consider in determining indigence:

In determining whether a defendant is indigent, the court or the courts' designee may consider the defendant's income, source of income, assets, property owned, outstanding obligations, necessary expenses, the number and ages of dependents, and spousal income that is available to the defendant. The court or the courts' designee may not consider whether the defendant has posted or is capable of posting bail, except to the extent that it reflects the defendant's financial circumstances as measured by the considerations listed in this subsection.

The local standards for determining indigence are set in each county's indigent defense plans. Both the district and county courts' plans presume indigence if a defendant's income is below 125% of the Federal Poverty Guidelines. Courts have their own procedures for verifying indigence.

Local Practices for Determining Indigence

Jailed Defendants

Both felony and misdemeanor courts appoint counsel at the first appearance docket in the trial court for all defendants who are in custody (unless a defendant states he or she is retaining counsel or does not want appointed counsel). In 2016, TIDC found that counsel appointed for jailed defendants often did not remain on the case if a

defendant made bail. Currently, counsel appointed for jailed defendants remain with the case, even if defendants make bail.

Bonded Defendants

The Office of Court Management for the County Criminal Courts compiles daily docket reports, showing whether defendants requested counsel at the Article 15.17 hearing and whether they qualify as presumptively indigent under the County's indigence standard. The felony courts do not have a report like the misdemeanor courts.

Harris County courts typically determine indigence at the initial trial court appearance. Defendants who requested counsel at their Article 15.17 hearing may have completed financial affidavits with Pretrial Services, but courts noted difficulties in accessing these affidavits. Instead, defendants are regularly asked to complete new financial affidavits when they come to court.¹⁹ Judges and court coordinators review affidavits and may interview defendants to determine if they are indigent.

Courts rule on requests for counsel at the trial court's first appearance, and defendants meet with their attorney at the docket. Indigence determinations are based on the financial affidavit and follow Harris County's local standard of indigence.

RECOMMENDATIONS FOR REQUIREMENT 2

Determination of Indigence.

RECOMMENDATION 2: The district and county courts must follow the indigence standard set in the local indigent defense plans. *Successfully addressed.*

RECOMMENDATION 3: Article 26.04(p) states that a defendant deemed indigent by a court and who did not experience a material change in financial circumstances is presumed to remain indigent throughout a case. This presumption requires application across all Harris County courts. *Successfully addressed.*

RECOMMENDATION 4: As required by Article 26.04(j)(2), unless there is a finding of good cause entered on the record, the attorney-client relationship cannot be disturbed. Findings of good cause are required by Texas statutes and case law. *Successfully addressed.*

RECOMMENDATION 5: In accordance with Article 26.04(m), indigence determinations may not consider whether a defendant has posted bond, except to the extent that it reflects the defendant's financial circumstances. *Successfully addressed.*

¹⁹ See Requirement 1.

REQUIREMENT 4: APPOINT COUNSEL PROMPTLY.

Under Article 1.051(c), courts in counties with a population over 250,000 must rule on a request for counsel within one working day of receiving the request.

Most urban counties, including Bexar, El Paso, Tarrant, and Travis, use a centralized appointment process to ensure timely appointment of counsel. In these counties, a pretrial services department receives counsel requests, performs an intake interview, and determines indigence based on the standard in the county's indigent defense plan. If the defendant meets the standard, pretrial services appoints counsel. If not, pretrial services notifies the defendant that he or she did not qualify for appointed counsel. A judge may review a denial of indigence. Centralized appointment processes ensure timely appointment of counsel before a defendant appears in the trial court.

Description of Local Counsel Appointment Procedures

Appointment of counsel in Harris County is decentralized: each court determines indigence and appoints counsel. If a defendant remains in jail, the court automatically appoints counsel at the first trial court appearance, which typically occurs on the next business day after arrest. If a defendant posts bail, the court appoints counsel, at the earliest, during the defendant's first court appearance—one week after the Article 15.17 counsel request. Because it exceeds the one-working-day rule, appointing counsel at a defendant's first appearance in the trial court often results in untimely appointments.

A. Timeliness of Appointments in Felony Cases

TIDC examined 224 felony cases filed between January and September 2019. Counsel was timely appointed in 78% of cases with a counsel request. This falls below TIDC's 90% threshold for presuming a jurisdiction's practices ensure timely appointment of counsel. When counsel was not timely appointed, counsel requests made at the Article 15.17 hearing were not promptly ruled upon, and sometimes never considered.

Table 2: Times to Appointment in Harris County Felony Cases (FY 2019)

	Sample Size	Number from sample	Percent
Number of case files examined	224		
Total cases with a counsel request		187	
Appointment / denial of indigence occurred in:			
0 work days		52	
1 work day + 24 hour transfer		94	
Total timely appointments / denials		146	78%
2 - 4 work days + 24 hour transfer		13	
More than 4 work days + 24 hour transfer		15	
No ruling on request		13	
Total untimely appointments / denials		41	22%

B. Timeliness of Appointments in Misdemeanor Cases

TIDC examined 282 misdemeanor cases filed between January and September 2019. Counsel was appointed in a timely manner in approximately 66% of cases with a counsel request. This falls below TIDC's 90% threshold for presuming a jurisdiction's practices ensure timely appointment of counsel. When counsel was not appointed timely, counsel requests made at the Article 15.17 hearing were not promptly ruled upon, and sometimes never considered.

Table 3: Times to Appointment in Harris County Misd. Cases (FY 2019)

	Sample Size	Number from sample	Percent
Number of case files examined	282		
Total cases with a counsel request		161	
Appointment / denial of indigence occurred in:			
0 work days		88	
1 work day + 24 hour transfer		19	
Total timely appointments / denials		107	66%
2 - 4 work days + 24 hour transfer		15	
More than 4 work days + 24 hour transfer		26	
No ruling on request		13	
Total untimely appointments / denials		54	34%

Other Observations from Misdemeanor Case Files

In one sample misdemeanor case, a defendant requested counsel at the Article 15.17 hearing, and there was no denial of the request in the case file. The defendant signed a waiver of counsel form in order to speak with the prosecutor. Article 1.051 of the Code of Criminal Procedure addresses waivers of counsel and allows waivers that are voluntarily and intelligently made. Under Article 1.051(f-1), the prosecutor may not initiate a waiver and may not communicate with a defendant until any pending request for counsel is denied, and the defendant waives the opportunity to retain private counsel. Under Article 1.051(f-2), the court must explain the procedures for requesting counsel to an unrepresented defendant and deny a pending request for counsel before encouraging the defendant to communicate with the attorney representing the state.

C. Timeliness of Appointments in Juvenile Cases

Statutory Requirements

If a juvenile is kept in custody, the courts must promptly conduct a detention hearing.²⁰ Absent a finding of exigent circumstances, the court must appoint counsel within a reasonable time before a detention hearing.²¹ An appointed attorney must continue to represent the child until the case is terminated, the family retains an attorney, or a new attorney is appointed by the juvenile court.²² If a juvenile is released from custody, counsel must be appointed within five working days of a petition being served on the juvenile (or conversely, the court must issue an order to retain counsel).²³

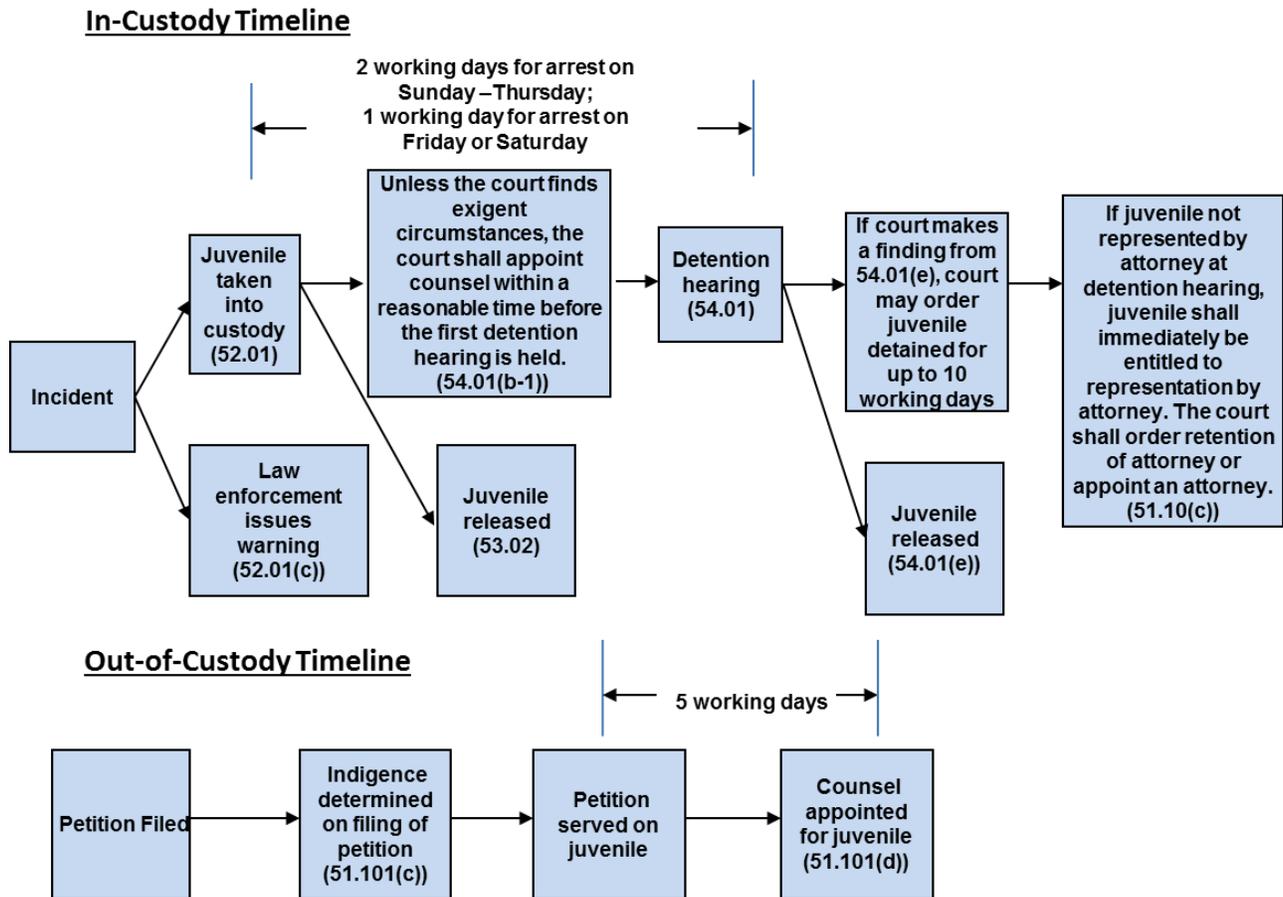
²⁰ Tex. Fam. Code § 54.01(a).

²¹ Tex. Fam. Code § 54.01(b-1).

²² Tex. Fam. Code § 51.101(a).

²³ Tex. Fam. Code § 51.101(d), Tex. Fam. Code § 51.10(d).

Figure 2: Timeline for Appointment of Counsel in Juvenile Cases



Local Practices

Harris County has modified its juvenile appointment practices since the initial 2012 review. At the time of the 2012 review, when a petition was served on the juvenile, the courts were not typically aware the juvenile had been served. Counsel was appointed when the juvenile and parents came to court for the initial appearance. In response to the report’s finding, the County created a plan for juvenile probation officers to (1) gather financial information from families within seven days of receiving the juvenile on their caseload, and (2) send the completed forms to the courts.

The 2016 review found the County still struggled with timely juvenile appointments. Juvenile probation officers did not immediately receive juveniles on their caseloads. Sometimes a juvenile case would be added to the officer’s caseload after the appointment of counsel was due. The County responded to the 2016 review by stating it would appoint counsel if, within five working days of petition service, the courts had not yet received an affidavit of indigence.

In the current review, TIDC found that courts still do not know when juveniles are served with a copy of the petition, and there are still delays in assigning juveniles

to probation officer caseloads. Additionally, courts frequently do not have correct family addresses for juveniles who are promptly released from custody. Harris County court personnel report that a new case management is being implemented and should improve available information.

Examination of Records

The Juvenile District Courts Manager examined a sample of 50 juvenile cases (filed between January 2019 and September 2019) for TIDC’s review. The examination found local procedures for making timely appointments had improved: (1) all sample cases contained a financial affidavit, and (2) untimely appointments occurred sooner, but just beyond the five working day time frame. From the data gathered, TIDC found counsel was present in a timely fashion (either through appointment, retention, or order to retain counsel) in 85% of sample cases. This falls below the Commission’s 90% threshold. TIDC finds that Harris County’s practices do not yet ensure timely appointment of counsel in cases where a juvenile has been released from custody.

Table 4: Times to Appointment in Juvenile Cases

Juvenile Appointment Sample Data	Sample Size	Number from sample	Percent
Number of juvenile case files examined ²⁴	47		
TIMELINESS OF COUNSEL WHEN THE JUVENILE WAS SERVED WITH A PETITION (either appointment or retention)			
Appointment of counsel occurred within 5 working days of petition being served on juvenile		36	
Retention of counsel / Order to retain counsel occurred within 5 working days of petition being served on juvenile		4	
Total cases in which counsel present in a timely fashion		40	85%
Total cases in which counsel not timely present		7	15%

²⁴ TIDC threw out three of the fifty case samples.

RECOMMENDATION FOR REQUIREMENT 4

Appoint Counsel Promptly.

RECOMMENDATION 6 (FELONY CASES): TIDC's sample of attorney appointments in felony cases fell below the Commission's threshold for presuming a jurisdiction's appointment system ensures timely appointment of counsel (90% timely). Article 1.051(c)(2) requires all district courts rule on all requests for counsel within one working day (plus 24 hours allowed for transferring requests to the courts) of the request being made. The County must implement practices that satisfy Article 1.051(c)(2)'s timeline. *Issue Pending.*

RECOMMENDATION 7 (MISDEMEANOR CASES): TIDC's sample of attorney appointments in misdemeanor cases fell below the Commission's threshold for presuming a jurisdiction's appointment system ensures timely appointment of counsel (90% timely). Article 1.051(c)(2) requires all statutory county courts rule on all requests for counsel within one working day (plus 24 hours allowed for transferring requests to the courts) of the request being made. The County must implement practices that satisfy Article 1.051(c)(2)'s timeline. *Issue Pending.*

RECOMMENDATION 8 (JUVENILE CASES): TIDC's sample of attorney appointments in juvenile cases fell below the Commission's threshold for presuming a jurisdiction's appointment system ensures timely appointment of counsel (90% timely). Section 51.101(d) of the Family Code requires the appointment of counsel within five working days of petition service on the juvenile. For cases in which the juvenile is not detained, Harris County must implement procedures that ensure timely appointments of counsel. *Issue Pending.*

REQUIREMENT 5: INSTITUTE A FAIR, NEUTRAL, AND NONDISCRIMINATORY ATTORNEY SELECTION PROCESS.

Under Article 26.04(b)(6) of the Code of Criminal Procedure, local procedures for appointing counsel must ensure that appointments are allocated among qualified attorneys in a fair, neutral, and nondiscriminatory manner.

A. Procedures for Selecting Counsel in Felony Cases

Harris County has 23 district courts. Some operate specialty dockets.²⁵ The courts appoint counsel through long-term contracts, short-term contracts (an attorney takes appointments in a court for a one-day or one-week period), and individual case assignments.²⁶

Long-term Felony Contracts (“Term Assignments”)

Under Article 26.04 of the Code of Criminal Procedure, contract defense is an alternative appointment system. Under Article 26.04(g), 2/3rd of felony and misdemeanor judges must approve the program. The program must ensure appointments are reasonably and impartially allocated among qualified attorneys. Under Article 26.04(h), the regional presiding judge must also approve the program. Article 26.04(h) further state the following:

In establishing an alternative program under Subsection (g), the judges of the courts establishing the program may not, without the approval of the commissioners court, obligate the county by contract or by the creation of new positions that cause an increase in expenditure of county funds.

²⁵ Twenty-two district courts are statutorily recognized. An additional court, the Reintegration Impact Court, was created by the County to divert nonviolent offenders.

²⁶ The 2016 monitoring report included a recommendation concerning the distribution of assigned counsel felony appointments. TIDC presumes a jurisdiction has a fair, neutral, and nondiscriminatory assigned counsel system if the top 10% of attorneys receiving court appointments receive less than 3 times their representative share. TIDC’s analysis indicated the distribution of appointments was outside TIDC’s presumed threshold (the top 10% received 3.3 times their representative share of appointments). The district courts noted some attorneys that were part of the analysis had not been on the appointment lists for the entire year of review. After excluding those attorneys, the distribution fit within TIDC’s threshold. TIDC withdrew the recommendation.

As a preliminary gauge as to whether appointment procedures had changed since the 2016 report, TIDC analyzed the distribution of felony cases which were not part of the long-term contract system. The top 10% of recipient attorneys received 3.2 times their representative share of felony appointments. In short, the appointment system for the current review has characteristics similar to the 2016 review.

Contracts longer than one week must also comply with TIDC's Contract Defender Rules.²⁷ The Contract Defender Rules require an open solicitation, application process, and written contracts. The written contract must address the appointment's scope, duration, compensation, minimum attorney qualifications, substitution of attorneys, conflicts of interest, standards of representation, and caseload limitations.

In 2016, TIDC found that Harris County term assignments must meet TIDC's Contract Defender Rules. Courts followed the open application process but did not implement written contracts with relevant terms that were approved by the contracting authority, the Harris County Commissioners Court. As of the writing of this report, the logistics surrounding the continued use of long-term contracts, or "term assignments," were being discussed by county stakeholders.

Short-term Felony Contracts ("Limited Term Assignments")

Contracts with a duration of one week or less need not meet Contract Defender Rules. However, they must meet the alternative program requirements set in Article 26.04(g) – (h). Harris County has limited term assignments for periods of one week or one day. When courts select attorneys for limited term assignments, they choose an attorney from a list of ten names randomly generated by the FDAMS system. The court may reject all ten attorneys and receive a new list one time. This alternative system entails less randomized assignment than a typical wheel appointment system.

Under Harris County's limited term assignment system, selected attorneys must appear in the court in which they are designated and may not take new term assignments in any other courts during that term. The attorney communicates with the court coordinator and schedules dockets. Private attorneys are paid according to the number of dockets attended. If an attorney has pending cases at the expiration of the term, he or she continues representing the defendants until the cases are disposed or the attorney is replaced for good cause.

Individual Felony Case Assignments

In addition to the models above, Harris County court appoints attorneys to individual cases. Except for specialty courts, every court appoints attorneys for individual case assignments. Like limited term assignments, courts use FDAMS to select attorneys from a list of ten private attorneys or the public defender.

²⁷ 1 TEX. ADMIN. CODE §§ 174.10 - .25.

Table 5: Appointment Types by Felony Court²⁸

Court	1 Year Contracts	Weekly Contracts	Daily Contracts	Individual Case Assignments
174th		X		X
176th	X		X	X
177th		X	X	X
178th		X	X	X
179th			X	X
180th		X	X	X
182nd				X
183rd				X
184th		X	X	X
185th		X	X	X
208th	X			X
209th		X	X	X
228th	X	X	X	X
230th		X	X	X
232nd		X	X	X
248th			X	X
262nd	X			X
263rd		X	X	X
337th		X	X	X
338th		X	X	X
339th	X	X	X	X
351st		X	X	X
STAR Docket	X			
Reintegration Court	X			
228th Veteran's Court	X			
339th Comp. Rest. Docket	X			
339th CTI MH Docket	X			

Felony Public Defender Appointments

Under Article 26.04(f) of the Code of Criminal Procedure, courts must prioritize appointing a public defender office, where one has been established. Most large counties with a public defender office use a centralized rotation system and assign the office a certain percentage of slots on the wheel to ensure priority appointment.

Harris County uses an alternative, decentralized system and did not previously track whether courts use the public defender. Instead, the public defender limited its caseload by appearing on only some lists generated for courts. As discussed below, this

²⁸ This table shows the term assignment lengths as described in each court's appointment procedures (available at <https://www.justex.net/FairDefenseAct/ApptProcedures.aspx>).

system did not allow for priority appointment of the office. Therefore, during the review, per TIDC’s recommendation, Harris County district courts added the public defender to all lists of attorneys available for individual case assignments.

Attorney Selection Analysis

In April and May 2019, Harris County felony courts made 42 long-term assignments, 58 one-week term assignments, 223 single-day term assignments, and 1,183 individual case assignments.²⁹ TIDC annualized these totals and compared them with reports submitted by the auditor to estimate the percentage of cases in each appointment type. This estimate indicates that term assignments of one week or less comprise almost 60% of total appointments.

Table 6: Estimated Appointments by Type³⁰

	Total Felony Appointments	Percent of Cases
Long Term Assignments (> 1 week)	3,629	14%
Short Term Assignments (1 day or 1 week)	15,680	59%
Private Counsel Individual Case Assignments	4,990	19%
Public Defender Individual Case Assignments	2,108	8%
Total Felony Appointments	26,407	100%

Priority Appointments to Public Defender Office Under Article 26.04(f)

Harris County felony courts appoint the public defender under the individual case assignment method. Under this method, courts select an attorney from ten randomly selected attorney names. The Public Defender Office was available (one of the ten names from which to choose) in 35% of individual case assignments. Courts chose the public defender 41% of the time the public defender was available.

In FY2018-19, the Harris County Public Defender’s Office was staffed to handle about 10% of felony cases.³¹ In FY2019, the public defender received 6% of felony cases paid, and in FY2018 it received 5%, indicating that it was not receiving priority in appointments.³² Recent reporting from the Harris County Justice Administration

²⁹ Twenty-six of the 42 long-term assignments began prior to the April and May time period.

³⁰ This estimate assumed long term assignments equaled 2019 contract cases paid reported on the 2019 IDER. Public defender individual case assignments equaled public defender cases paid. Private counsel individual assignments equaled the annualized individual case assignment total (7,098 cases) less public defender cases paid. Short term assignments were the remainder (26,407 cases paid less the other three appointment types).

³¹ The Office is now staffed to handle 15% of felony cases.

³² TIDC’s analysis is based on cases paid as reported by the Harris County Auditor’s Office in the Indigent Defense Expenditure Report for October to September time periods. Cases paid are reported after a case has been disposed. Other types of analysis, such reporting totals based on when cases are appointed, may yield different results.

Department confirms that public defender has been unevenly appointed and under-utilized by district courts.³³

Under Article 26.04(f) of the Code of Criminal Procedure, courts must give appointment priority to the public defender. However, the courts are appointing the public defender in a far lower percentage of cases than the public defender is capable of handling. The district courts must implement an appointment system that meets Article 26.04(f)'s requirement that the public defender be given priority in appointments. The district courts may wish to adjust its appointment methods so that all cases (aside from specialty dockets) are appointed in a uniform manner. A centralized appointment wheel would allow for more even appointment distribution.

Table 7: FY2019 Non-Capital Felony Cases Paid by Court

Court	Public Defender	Contract	Short-Term Contract and Individual Cases	Total Felony Cases	% Felony Public Defender
174th	34		1,893	1,927	1.8%
176th	33	401	1,091	1,525	2.2%
177th	86		1,594	1,680	5.1%
178th	57		1,223	1,280	4.5%
179th	40		1,589	1,629	2.5%
180th	133		1,255	1,388	9.6%
182nd	65		1,348	1,413	4.6%
183rd	75		1,234	1,309	5.7%
184th	81		1,626	1,707	4.7%
185th	83		1,445	1,528	5.4%
208th	43	459	533	1,035	4.2%
209th	101	159	1,038	1,298	7.8%
228th	164	275	758	1,197	13.7%
230th	61		1,598	1,659	3.7%
232nd	36		1,593	1,629	2.2%
248th	49		1,446	1,495	3.3%
262nd	19	95	1,307	1,421	1.3%
263rd	12		1,667	1,679	0.7%
337th	165		1,125	1,290	12.8%
338th	116		1,444	1,560	7.4%
339th	230	308	618	1,156	19.9%
351st	89		1,748	1,837	4.8%
Reintegration Court	390	2,800		3,190	12.2%
Total	2,162	4,497	29,173	35,832	6.0%

³³ <https://jad.harriscountytexas.gov/Data/The-Court-Appointments-Dashboard>.

B. Procedures for Selecting Counsel in Misdemeanor Cases

Harris County has 16 statutory county courts. The courts appoint counsel through long-term contracts, short-term contracts (an attorney takes appointments in a court for a one-day or one-week period), and individual case assignments.

Harris County misdemeanor courts are switching to a managed assigned counsel (MAC) system in FY2021. TIDC is partially funding the MAC through an improvement grant. The MAC will allow a level of attorney oversight and support not previously possible. The MAC is expected to be fully operational within the year.

Long-term Misdemeanor Contracts

Under Article 26.04 (g) – (h) of the Code of Criminal Procedure, contract defense is an alternative program. Requirements for this system are described in the Long-Term Felony Contracts section above.

Harris County long-term contracts must meet TIDC’s Contract Defender Rules. In 2016, TIDC found the misdemeanor courts followed the open solicitation and application process required under the Contract Defender Rules but did not implement written contracts with relevant terms that were approved by the contracting authority, Harris County Commissioner’s Court. There are still no written contracts that have been approved by commissioners court, but the contract system will end once the MAC becomes fully operational.

Table 8: Term Assignment Lengths by Misdemeanor Court³⁴

County Criminal Court #	1 Year Contracts	26 Week Contracts	13 Week Contracts	4 Week Contracts
1			X	
2	X	X	X	X
3		X	X	X
4		X	X	
5	X	X	X	
6		X	X	
7		X	X	X
8	X		X	
9		X	X	
10	X	X	X	X
11	X	X	X	
12			X	X
13	X	X	X	
14	X	X	X	X
15		X	X	
16		X	X	

³⁴ This table shows the term assignment lengths that were present between October 2018 and September 2019.

Short-Term Misdemeanor Contracts

Contracts with a duration of one week or less need not follow the Contract Defender Rules. However, they must meet the alternative program requirements set in Article 26.04(g) – (h).

Short-term misdemeanor contracts work the same way as short-term felony contracts, described above in more detail: courts select an attorney from a list of ten names of private assigned counsel, and the attorney accepts appointments to new cases exclusively in that court for the period of the term assignment.

Individual Misdemeanor Case Assignments

Except for specialty court dockets, every court appoints attorneys for individual case assignments. Attorneys are appointed for individual case assignments in the same manner as in short-term contracts: the court picks an attorney from a list of ten randomly generated names.

Misdemeanor Public Defender Appointments

Under Article 26.04(f) of the Code of Criminal Procedure, courts must prioritize appointing a public defender office, where one has been established.

In misdemeanor cases, the public defender office takes all mental health appointments, unless there is a conflict. Mental health cases constitute a minority of cases, and the public defender office receives consistent numbers of mental health appointments across the courts. If the public defender were to be given non-mental health misdemeanor appointments, the courts would have to create procedures (through the forthcoming MAC) to appoint the public defender and to ensure the public defender is given priority for these appointments.³⁵

³⁵ According to interviews, the Office could be staffed to handle 50% of misdemeanor cases this year.

Table 9: FY2019 Misdemeanor Cases Paid by Court

Court	Public Defender	Private Counsel (long term contracts, short term contracts, and individual case assignments)	Total Misdemeanor Cases	% Misdemeanor Public Defender
CCC1	114	994	1,108	10.3%
CCC2	160	1,015	1,175	13.6%
CCC3	102	1,012	1,114	9.2%
CCC4	122	1,016	1,138	10.7%
CCC5	143	1,343	1,486	9.6%
CCC6	169	1,107	1,276	13.2%
CCC7	150	897	1,047	14.3%
CCC8	127	1,045	1,172	10.8%
CCC9	156	1,072	1,228	12.7%
CCC10	116	1,225	1,341	8.7%
CCC11	136	1,012	1,148	11.8%
CCC12	131	1,138	1,269	10.3%
CCC13	105	787	892	11.8%
CCC14	147	1,512	1,659	8.9%
CCC15	105	1,111	1,216	8.6%
CCC16	141	1,248	1,389	10.2%
Total	2,124	17,534	19,658	10.8%

RECOMMENDATION FOR REQUIREMENT 5

Attorney Selection Process

RECOMMENDATION 9 (FELONY CASES): TIDC recommends the district courts implement a system meeting the Commission’s Contract Defender Rules for all term assignments exceeding one week. A notification for application is currently used, but the courts need to formalize contracts with defense attorneys. *Issue Pending.*

RECOMMENDATION 10 (FELONY CASES): The district courts must put in place an appointment system that meets Article 26.04(f)’s requirement that the public defender be given priority in appointments. *New Recommendation.*

RECOMMENDATION 11 (MISDEMEANOR CASES): TIDC recommends the statutory county courts implement a system that meets the Contract Defender Rules for all term assignments exceeding one week. This includes a notification for attorneys to apply and execute contracts containing all required terms. *Issue Pending.*

REQUIREMENT 6: PROMULGATE STANDARD ATTORNEY FEE SCHEDULE AND PAYMENT PROCESS.

Under Article 26.05(b) of the Code of Criminal Procedure, payments for indigent defense services must be made in accordance with a schedule of fees adopted by formal action of the judges of the county courts, statutory county courts, and district courts trying criminal cases in each county.³⁶ No payment may be made until the attorney submits a voucher itemizing services performed and submits it to the judge presiding over the case. The judge may approve the requested amount or a different amount. If the judge does not approve the requested amount, he or she must make written findings for disapproving the requested payment amount.³⁷

Voucher Review

In 2016, TIDC identified (1) a fee voucher paying an attorney without an authorizing judicial signature, and (2) attorney fee vouchers that had been reduced without documenting the reason for the payment reduction. The reasons for the payment reductions, if any, were not documented because there was no space on the fee voucher to note them. Harris County addressed this finding in its electronic payment system, which included a field to note reasons for voucher reductions.

In the current review, TIDC examined 35 sample vouchers and found judicial signatures on each voucher. The sample vouchers contained a reduced attorney payment, and each voucher noted the reason for the payment reduction. Harris County has addressed each of the two 2016 recommendations.

Additionally, in the current review, TIDC found payments made to attorneys without proper documentation of the services provided. Without this documentation, one cannot verify whether the fee schedule had been followed. Two sample vouchers in a capital case paid each attorney a flat fee of \$120,000. The vouchers did not contain any details itemizing the work provided by the attorneys. The fee schedule provides for an hourly rate of \$150 for first chair capital case representation and an hourly rate of \$125 for second chair itemization. If the fee schedule had been followed, the first chair attorney would have billed for 800 hours and the second chair attorney for 960 hours. Under Article 26.05(c), the attorneys must submit a payment request that itemizes the services provided. Under Article 26.05(b), courts must follow the fee schedule adopted by the County.

³⁶ TEX. CODE CRIM. PROC. art. 26.05(b).

³⁷ TEX. CODE CRIM. PROC. art. 26.05(c).

RECOMMENDATIONS FOR REQUIREMENT 6

Promulgate standard attorney fee schedule and payment process.

RECOMMENDATION 12: TIDC examined a fee voucher that included a payment but no judicial signature. Harris County must implement a method to ensure that no payment is made without the proper judge authorizing payment. The ViPS payment system may provide safeguards to prevent unallowable payments. ***Successfully addressed.***

RECOMMENDATION 13: TIDC examined fee vouchers that reduced requested payments but did not document the reason for the payment reductions (there was no space to document reasons for payment reductions). In accordance with Article 26.05(c), Harris County must implement a method for judges to document reasons for disapproving a requested amount of payment. This practice appears to have been successfully implemented with the new ViPS payment system.

Successfully addressed.

RECOMMENDATION 14: TIDC examined two cases in which payments were made without documentation of the services rendered by appointed counsel. Under Article 26.05(b), the Harris District and County Courts must follow the fee schedule set by the County and must include proper documentation for making payments under the fee schedule. ***New Recommendation.***

REQUIREMENT 7: STATUTORY DATA REPORTING.

Under Section 79.036(e) of the Texas Government Code, the county auditor (or other person designated by the commissioners' court) must annually prepare and send indigent defense data to TIDC. This data must include the total expenses for cases in which an attorney was appointed for an indigent defendant or indigent juvenile in each district court, county court, statutory county court, and appellate court.

During the 2016 review, TIDC identified expenses claimed as indigent defense expenses that were actually prosecutorial expenses. This occurred because attorneys who were regularly appointed as defense counsel had been appointed as special prosecutors, and the expenses had been miscoded as indigent defense expenses. Harris County has addressed this issue and no longer categorizes special prosecutor expenses as indigent defense expenses.

TIDC also found that some appellate transcript fees were incorrectly categorized as trial-level expenses. In the current review, TIDC did not find any appellate transcript fees incorrectly categorized as trial-level fees.

RECOMMENDATIONS FOR REQUIREMENT 7

Statutory Data Reporting.

RECOMMENDATION 15: Harris County reported unallowable costs for 'Attorney Pro Tem' and 'Other Non-Capital Trial' object codes on the 2014 IDER. Attorney pro tem expenses are prosecutorial costs. 'Other Non-Capital Trial' expenses were mediation expenses in CPS cases. Unallowable costs may not be reported on the IDER. Harris County must implement procedures to ensure that unallowable expenses are not reported. *Successfully addressed.*

RECOMMENDATION 16: Harris County incorrectly reported transcript expenses as a trial-level expense rather than an appellate expense. Harris County must implement procedures to ensure that transcript fees for appeals cases are reported as appellate expenses. *Successfully addressed.*

Conclusion

TIDC appreciated the professionalism and assistance provided by Harris County officials and staff. Harris County officials showed willingness to make necessary changes to improve the indigent defense system. As mandated by statute, TIDC will continue to monitor Harris County indigent defense. TIDC stands ready to assist Harris County in complying with the Fair Defense Act.

Summary of Recommendations

Harris County must respond in writing as to how it will address each of these recommendations.

REQUIREMENT 1: CONDUCT PROMPT AND ACCURATE ARTICLE 15.17

PROCEEDINGS.

RECOMMENDATION 1: Harris County must ensure that reasonable assistance in completing forms necessary to obtain appointed counsel is provided, so that all arrestees who request counsel can have the request ruled upon within statutorily required timeframes. Under Article 15.17(a), this duty falls on the magistrate presiding over the Article 15.17 hearing. Article 15.17 requires the magistrate transmit the forms requesting the appointment of counsel to the appointing authority within 24 hours of the request.

Issue Pending. A process has been put in place to gather a defendant's financial information. However, there are still gaps in courts accessing this financial information.

REQUIREMENT 2: DETERMINE INDIGENCE ACCORDING TO STANDARDS

DIRECTED BY THE INDIGENT DEFENSE PLAN.

No pending recommendations. This report found Harris County had successfully addressed all four recommendations from the 2016 report.

REQUIREMENT 3: ESTABLISH MINIMUM ATTORNEY QUALIFICATIONS.

No recommendations. The 2016 report found Harris County had successfully addressed this requirement.

REQUIREMENT 4: APPOINT COUNSEL PROMPTLY.

RECOMMENDATION 6 (FELONY CASES): TIDC's sample of attorney appointments in felony cases fell below the Commission's threshold for presuming a jurisdiction's appointment system ensures timely appointment of counsel (90% timely). Article 1.051(c)(2) requires all district courts rule on all requests for counsel within one working day (plus 24 hours allowed for transferring requests to the courts) of the request being made. The County must implement practices that satisfy Article 1.051(c)(2)'s timeline.

Issue Pending.

RECOMMENDATION 7 (MISDEMEANOR CASES): TIDC's sample of attorney appointments in misdemeanor cases fell below the Commission's threshold for presuming a jurisdiction's appointment system ensures timely appointment of counsel (90% timely). Article 1.051(c)(2) requires all statutory county courts rule on all requests for counsel within one working day (plus 24 hours allowed for transferring requests to the courts) of the request being made. The County must implement practices that satisfy Article 1.051(c)(2)'s timeline. **Issue Pending.**

RECOMMENDATION 8 (JUVENILE CASES): TIDC’s sample of attorney appointments in juvenile cases fell below the Commission’s threshold for presuming a jurisdiction’s appointment system ensures timely appointment of counsel (90% timely). Section 51.101(d) of the Family Code requires the appointment of counsel within five working days of petition service on the juvenile. For cases in which the juvenile is not detained, Harris County must implement procedures that ensure timely appointments of counsel. *Issue Pending.*

REQUIREMENT 5: INSTITUTE A FAIR, NEUTRAL, AND NONDISCRIMINATORY ATTORNEY SELECTION PROCESS.

RECOMMENDATION 9 (FELONY CASES): TIDC recommends the district courts implement a system meeting the Commission’s Contract Defender Rules for all term assignments exceeding one week. A notification for application is currently used, but the courts need to formalize contracts with defense attorneys.

Issue Pending.

RECOMMENDATION 10 (FELONY CASES): The district courts must put in place an appointment system that meets Article 26.04(f)’s requirement that the public defender be given priority in appointments. *New Recommendation.*

RECOMMENDATION 11 (MISDEMEANOR CASES): TIDC recommends the statutory county courts implement a system that meets the Contract Defender Rules for all term assignments exceeding one week. This includes a notification for attorneys to apply and execute contracts containing all required terms.

Issue Pending. This Recommendation will be addressed by moving all private counsel assignments to the MAC.

REQUIREMENT 6: PROMULGATE STANDARD ATTORNEY FEE SCHEDULE AND PAYMENT PROCESS.

RECOMMENDATION 14: TIDC examined two cases in which payments were made without documentation of the services rendered by appointed counsel. Under Article 26.05(b), the Harris District and County Courts must follow the fee schedule set by the County and must include proper documentation for making payments under the fee schedule. *New Recommendation.*

This report found Harris County had successfully addressed two recommendations (concerning this requirement) from the 2016 report.

REQUIREMENT 7: STATUTORY DATA REPORTING.

No pending recommendations. This report found Harris County had successfully addressed all four recommendations from the 2016 report.