

COUNTY OF GAINES

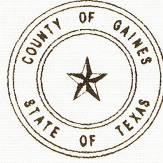
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RESPONSE TO
FOLLOW-UP POLICY MONITORING REVIEW OF
GAINES COUNTY'S INDIGENT DEFENSE SYSTEMS
JUNE 2020

REQUIREMENT 1: CONDUCT PROMPT AND ACCURATE ARTICLE 15.17 PROCEEDINGS

FINDINGS AND RECOMMENDATIONS FOR REQUIREMENT 1

2020 RECOMMENDATION 1: Gaines County must implement procedures to ensure assistance in completing the necessary forms for requesting counsel at the time of the Article 15.17 hearing.

County Response:

In reviewing the findings and recommendations for Requirement 1, those performing Article 15.17 hearings had not fully understood the requirement for the magistrate to personally provide the assistance in completing the necessary forms. All expressed a willingness to help those who need help with the form, however, the current COVID-19 situation will make this a difficult task to perform. The Office of Court Administration is encouraging remote magistration, to reduce potential exposures. We also noted that sometimes individuals request the indigent form, but do not request assistance, then turn the forms in late, with incorrect dates. We are working together to update our 15.17 forms, and our indigent forms so that we can better document when assistance was offered, or if, and when, it was requested if not at the time of the 15.17 hearing. We would also document who provided the assistance. These updates have not yet been completed. Gaines County, at the suggestion of the District Judge, will be working with the other counties in the 106th District so that the District Court will not have to deal with several different forms.

2020 RECOMMENDATION 2: Gaines County must implement procedures to transmit all request for counsel to the appointing authority within 24 hours of the request.

County Response:

This issue is seen as two-fold. First, the process by which the forms are transmitted to the District and County Judges for them to act is evolving. In 2017 the District Judge refused to receive emailed forms. The current District Judge is receptive to this format, but the procedures in place tended to delay the transmission. Until recently, the forms were received by the jailers and carried to the Sheriff's administrative office where they were scanned and forwarded to the judges. This additional layer of handling is deemed the cause for most delays in transmission. In recent changes the jailers can now scan and email the forms to the Judges directly. This is a new process and not all the jailers are fully up to speed, but this change will eventually eliminate the delays in transmission. As soon as the forms are filled out and in the Jailers hands they can be scanned and emailed at any time. Secondly, the updated forms, mentioned in recommendation 1, will also provide for better documentation of the timing of this process. We will continue to evaluate this process and make improvements.

REQUIREMENT 4: APPOINT COUNSEL PROMPTLY

FINDINGS AND RECOMMENDATIONS FOR REQUIREMENT 4

2020 RECOMMENDATION 3: Gaines County must implement procedures to ensure timely determinations of indigence in felony cases.

County Response:

Gaines County cannot speak to the processes that are at work within the District Court's offices. However the processes, mentioned above in recommendation 2, which will be improving the timeliness of transmission of requests for appointment of counsel should assist the District Court in the timely determination of indigence in felony cases.

2020 RECOMMENDATION 4: Gaines County must implement procedures to ensure timely determinations of indigence in misdemeanor cases.

County Response:

The processes mentioned in recommendation 1 and 2 are designed to provide timely transmission and documentation of processes along the way to the County Judge. When the emailed forms are received the date/time of transmission is noted on the form, as well as the date / time the request is received. The date / time of the determination of indigence is now recorded on the form, as well as the approval / denial to appoint. Unless there is an exceptional circumstance the determination should occur on the date the form is received.

2020 RECOMMENDATION 5: As required by Article 1.05 (f-2), Gaines County must rule upon all requests for counsel prior to procuring a waiver of counsel for the purpose of speaking with the prosecutor. In order to rule upon all requests for counsel, the courts must ensure procedures are in place to (1) receive all requests, and (2) appoint counsel or document the denial of indigence.

County Response:

The processes mentioned in the response to recommendation 1 and 2 are designed to provide timely transmission and documentation of processes along the way to the County Judge. The process described in the response to recommendation 4 should insure a timely determination of indigence and appointment or denial of counsel. Those should answer to the concern in recommendation 5.