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Jim Wells County Judge

**FINDING AND RECOMMENDATION 3 (Misdemeanor Cases):**

Article 1.051(c)(1) requires the court (or its designee) to rule on all requests for counsel within three working days (plus 24 hours allowed for transferring requests to the courts) of the request being made. The sample of attorney appointments in misdemeanor cases fell below TIDC's 90% timely threshold for presuming a jurisdiction's appointment system ensures timely appointment of counsel. The County must implement practices that satisfy Article 1.051(c)(1)'s appointment timeline in misdemeanor cases.

**RESPONSE:**

After the Defendant has been magistrated and offered reasonable assistance in completing the Affidavit of Indigency by either the magistrate or jail personnel, the Jim Wells County Jail will deliver a copy of the affidavit to the Jim Wells County Court at Law within 24 hours of its completion. The Jim Wells County Jail can either email the affidavit to [countycourtatlaw@co.jim-wells.tx.us](mailto:countycourtatlaw@co.jim-wells.tx.us) or hand deliver it to the Jim Wells County Court at Law, Room Number B-111 of the Jim Wells County Courthouse. Upon receipt of the affidavit by the Jim Wells County Court at Law, the affidavit will be reviewed and ruled upon within three working days. Should the defendant be determined to be indigent, an attorney will be court appointed to represent the defendant and the Order Appointing Attorney will be hand delivered to the Jim Wells County Jail who will present it to the defendant. In the event the defendant was already been released from jail at the time of the ruling, the Order Appointing Attorney will be mailed to the defendant's address that was provided to the Jim Wells County Jail. Lastly, the Jim Wells County Court at Law will review this process quarterly to ensure that we remain in compliance with Article 1.051(c)(1).

**FINDING AND RECOMMENDATION 4 (Misdemeanor Cases):**

The absence of a ruling on 10 sample misdemeanor requests for counsel raises the possibility of several statutory violations, including untimeliness (Art. 1.051(c)) and invalid waiver (Art. 1.051(f-2)). Jim Wells County must ensure that its procedures for ruling on counsel requests meet the requirements of both Article 1.051(c) and 1.051(f-2).

**RESPONSE:**

In addition to the above response which addresses Article 1.051(c)(1), the Jim Wells County Court at Law has already implemented a new Waiver of Counsel in compliance with Article 1.051(f-2) of the Texas Code of Criminal Procedure. This Waiver of Counsel is now being used in all criminal cases that come before the Court.

**STATE OF TEXAS-COUNTY OF JIM WELLS  
ATTORNEY REQUEST FOLLOW UP**

**DATE:** \_\_\_\_\_

**NAME:** \_\_\_\_\_

DID DEFENDANT WITH/WITHOUT ASSISTANCE, FILL OUT PAPERWORK FOR AN ATTORNEY? YES \_\_\_\_\_ NO \_\_\_\_\_

IF YES: FAXED TO \_\_\_\_\_ DATE \_\_\_\_\_ TIME \_\_\_\_\_

IF NO: REASON \_\_\_\_\_

**NAME:** \_\_\_\_\_

DID DEFENDANT WITH/WITHOUT ASSISTANCE, FILL OUT PAPERWORK FOR AN ATTORNEY? YES \_\_\_\_\_ NO \_\_\_\_\_

IF YES: FAXED TO \_\_\_\_\_ DATE \_\_\_\_\_ TIME \_\_\_\_\_

IF NO: REASON \_\_\_\_\_

**NAME:** \_\_\_\_\_

DID DEFENDANT WITH/WITHOUT ASSISTANCE, FILL OUT PAPERWORK FOR AN ATTORNEY? YES \_\_\_\_\_ NO \_\_\_\_\_

IF YES: FAXED TO \_\_\_\_\_ DATE \_\_\_\_\_ TIME \_\_\_\_\_

IF NO: REASON \_\_\_\_\_

**NAME:** \_\_\_\_\_

DID DEFENDANT WITH/WITHOUT ASSISTANCE, FILL OUT PAPERWORK FOR AN ATTORNEY? YES \_\_\_\_\_ NO \_\_\_\_\_

IF YES: FAXED TO \_\_\_\_\_ DATE \_\_\_\_\_ TIME \_\_\_\_\_

IF NO: REASON \_\_\_\_\_

The District Court procedures for the timely appointment of counsel to indigent defendants are as follows:

1. Upon receipt of the affidavit for the appointment of counsel, the affidavit is promptly forwarded to the presiding judge, either in person or by electronic means.
2. Presiding judge promptly acts on the affidavit.
3. Court staff promptly prepares order appointing counsel and obtains presiding judge's signature.
4. Copies of the order of appointment are provided (personal delivery, mail or electronic means) to the indigent defendant and the appointed counsel..

The above steps are to be completed by 5:00 p.m. of the day of receipt of the affidavit of indigency or by 12 noon of the following day if this process cannot be practically completed by 5:00 p.m.

The indigent defense plans of the courts of this County requires the magistrates to timely forward the affidavits to the appropriate court for action. The magistrates have customarily relied upon Sheriff's Department staff to physically transmit these affidavits to the appropriate court for the appointment of counsel. Also, my staff reviews the jail census each day to locate inmates charged with felonies who are not represented by legal counsel. If there are any, my staff contacts jail authorities who then will contact the inmate about the appointment of counsel. If the inmate desires appointment of counsel, jail personnel will provide the affidavit, assist in the execution and then forward same to this Court for action. On occasion, these affidavits have not been timely forwarded. However, my staff routinely follows up on these contacts and the Sheriff's Department is generally prompt in their responses and actions. I expect future non-compliance to be minimal for this Court.

Please advise if you need any additional information or clarification.

Best regards,

Richard C. Terrell  
Presiding Judge  
79<sup>th</sup> Judicial District Court