



Policy Monitoring 2nd Follow-Up Review of Fisher County's Indigent Defense Systems

July 2026



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Chair:

Honorable Missy Medary	Corpus Christi, Presiding Judge, 5 th Administrative Judicial Region of Texas
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Ex Officio Members:

Honorable Jimmy Blacklock	Austin, Chief Justice, Supreme Court of Texas
Honorable Brent Hagenbuch	Denton, State Senator
Honorable Phil King	Weatherford, State Senator
Honorable Emily Miskel	McKinney, Justice, Fifth Court of Appeals
Honorable Joe Moody	El Paso, State Representative
Honorable John Smithee	Amarillo, State Representative
Honorable David Schenk	Austin, Presiding Judge, Court of Criminal Appeals

Members Appointed by the Governor:

Mr. Alex Bunin Defender's Office	Houston, Chief Public Defender, Harris County Public
Mr. Jim Bethke	San Antonio, Executive Director, Bexar County Managed Assigned Counsel Program
Mr. Jay Blass Cohen	Houston, Attorney, Blass Law PLLC
Honorable Valerie Covey	Georgetown, Williamson County Commissioner
Honorable Richard Evans	Bandera, Bandera County Judge
Honorable J.R. Woolley, Jr.	Waller, Waller County Justice of the Peace, Pct. 2

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Sarah Gammell	Research Director
Crystal Leff-Pinon	Director of Family Protection Representation

Mission: Protecting the right to counsel, improving public defense.

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Executive Summary

The Texas Indigent Defense Commission (TIDC) monitors local compliance with the Fair Defense Act through policy reviews.¹ In this follow-up review, TIDC interviewed officials and reviewed FY2025 data from Fisher County. TIDC found that two of the previous reports' findings remained pending:

- Financial affidavits must be sent to the trial court within 24 hours
- Ruling on misdemeanor requests for counsel prior to uncounseled pleas

TIDC thanks Fisher County officials and staff for their assistance in completing this review. TIDC stands ready to provide technical or financial assistance to remedy these issues. TIDC will conduct a second follow-up review regarding its findings within two years.²

Background

The Texas Indigent Defense Commission (TIDC) monitors local jurisdictions' compliance with the Fair Defense Act through on-site reviews. 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.

In May 2017, TIDC made a drop-in visit to Fisher County and examined local procedures for appointing counsel in misdemeanor cases. At the time, the Fisher County Jail was not in use, and misdemeanor arrestees were either transferred to other counties' jails or released on bail. For those individuals who were promptly released on bail, the County could not produce any forms showing that arrestees had been given an opportunity to request counsel. When arrestees were transferred to other counties and requested counsel, their requests were not ruled upon.

In 2019, TIDC conducted a limited-scope review to examine whether misdemeanor arrestees were able to request and receive appointed counsel. The review identified issues with procedures for (1) handling counsel requests made to magistrates, (2) reporting those requests to the Office of Court Administration (OCA), and (3) ensuring all requests were ruled upon prior to an uncounseled plea. TIDC followed up in 2023 and found two of the previous findings had been resolved, but three remained.

¹ TEX. GOV'T CODE § 79.037(a)–(b).

² 1 TEX. ADMIN. CODE § 174.28(c)(2).

Table 1: History of Monitoring Findings and Recommendations

FDA Core Requirement	Description and Initial Year of Finding and Recommendation	Status After June 2026 Review	
		Satisfied	Pending
1. Prompt Magistration	Counsel requests and financial affidavits must be transmitted to the courts within 24 hours of the request being made. <i>Issue Pending.</i>		✓
4. Prompt Appointment	Uncounseled defendants with pending counsel requests pled to misdemeanor charges. (2019) <i>Issue Pending.</i>		✓
4. Prompt Appointment	TIDC's review of sample misdemeanor cases was less than 90% timely. <i>Finding excluded from analysis until proper procedures are implemented. (2026)</i>	✓ (2026)	

Program Assessment

TIDC staff members Joel Lieurance and Ashley De La Garza visited Fisher County to conduct a follow-up review on April 15, 2026. The review focused on whether the pending findings from the 2023 report had been addressed. TIDC compared local practices to two core requirements of the Fair Defense Act:

- REQUIREMENT 1: CONDUCT PROMPT AND ACCURATE ARTICLE 15.17 PROCEEDINGS
- REQUIREMENT 4: APPOINT COUNSEL PROMPTLY

TIDC examined 21 misdemeanor cases filed in FY2025 (October 2024 – September 2025) and interviewed local officials.

REQUIREMENT 1: CONDUCT PROMPT AND ACCURATE ARTICLE 15.17 PROCEEDINGS

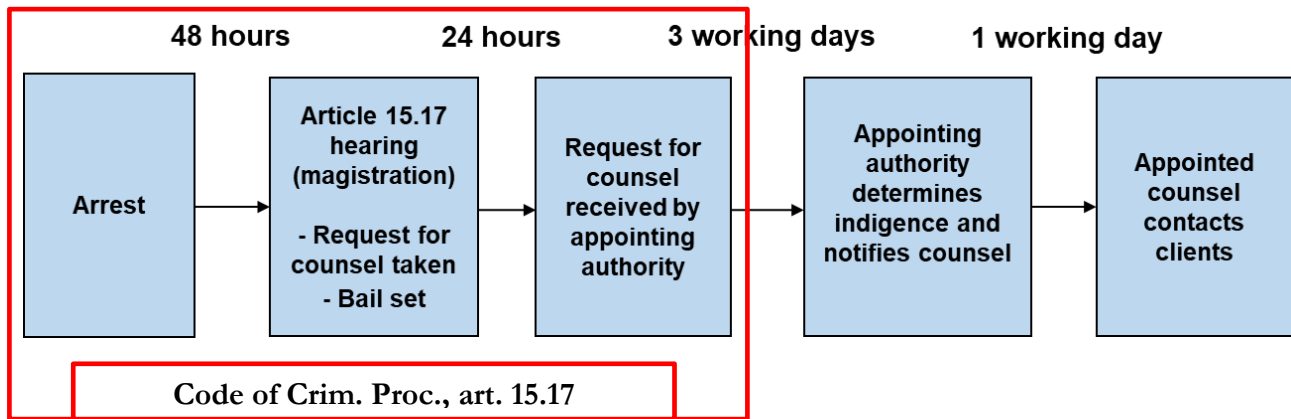
A person must be brought before a magistrate within 48 hours of arrest.³ At this hearing, the magistrate must inform the arrestee of the right to counsel, the procedures for requesting counsel, and ensure the person has reasonable assistance in completing the necessary forms for requesting assistance of counsel.⁴ Within 24 hours of receiving a request for counsel, the magistrate must transmit this request to the appointing authority.⁵

³ TEX. CODE CRIM. PROC. art. 15.17(a).

⁴ *Id.*

⁵ *Id.*

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



Ability of Arrestees to Request Counsel

The Fisher County Jail was officially decommissioned in December 2025. Individuals arrested in Fisher County are no longer magistrated in Fisher County. Arrestees are taken to the Fisher County Jail for fingerprints and then transferred to other county jails for the Article 15.17 hearings. Given that Fisher County no longer magistrates arrestees in-county, the County must review and ensure its contract agreements with other county jails include proper magistration warning procedures for Fisher County arrestees. Fisher County must develop procedures to ensure counsel requests and associated financial forms are sent to the appointing authority from the contracting counties within 24 hours of the request being made.⁶ They must also ensure the out-of-county magistrate judges are magistrating all individuals within 48 hours of arrest.

FINDINGS AND RECOMMENDATIONS FOR REQUIREMENT 1

Conduct Prompt and Accurate Magistration Proceedings

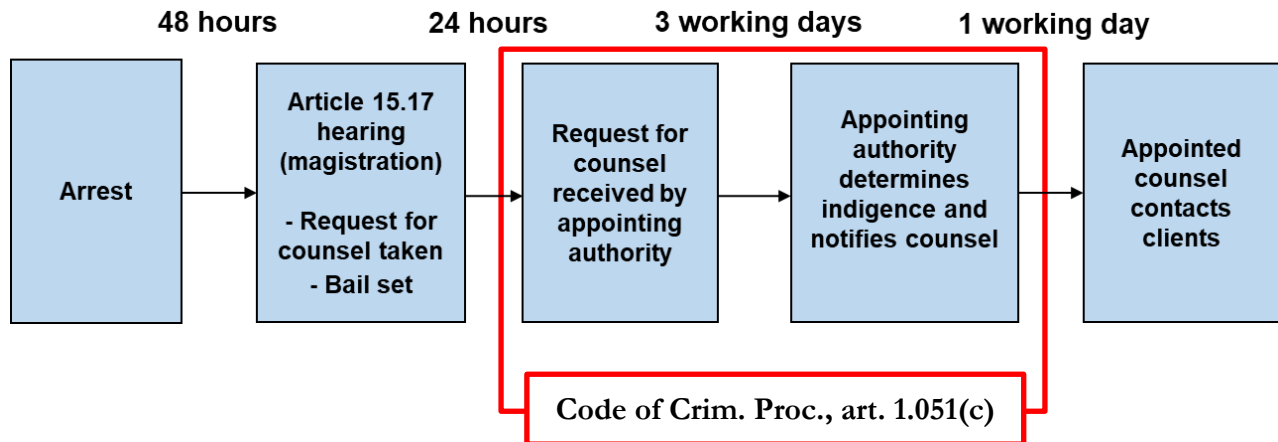
2023 FINDING and RECOMMENDATION 1: TIDC's case sample included several cases where defendants requested counsel at the Article 15.17 hearing, but the County Court did not receive the requests within 24 hours. Fisher County must develop procedures to ensure counsel requests and associated financial forms are sent to the appointing authority within 24 hours of the request being made. ***Issue Pending.***

⁶ TEX. CODE CRIM. PROC. ART. 15.18 (a-1).

REQUIREMENT 4: APPOINT COUNSEL PROMPTLY

Under Article 1.051(c) of the Code of Criminal Procedure, courts in counties with a population under 250,000 must rule on a request for counsel within three working days of receiving the request.

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



Timeliness of Appointments in Misdemeanor Cases

To assess the ability of Fisher County defendants to receive prompt appointment of counsel in misdemeanor cases, TIDC examined 21 sample misdemeanor cases filed in FY2025 (October 2024 – September 2025). Of these cases, all 15.17 requests were made at hearings conducted outside of Fisher County. Given that there are no proper procedures to ensure counsel requests from contracting counties are being received timely, this finding was excluded from analysis during this review. In one of the 21 cases, the defendant entered an uncounseled plea without the out-of-county request being ruled upon. If the volume of counsel requests transmitted to Fisher County increases as a result of the interlocal agreements with contracting counties, the timeliness of misdemeanor appointments could decline unless processes are in place to promptly rule on those requests. TIDC will continue to track the timeliness of misdemeanor appointments to ensure that changes to the Article 15.17 hearing do not disrupt the timely appointment of counsel.

Waivers of Counsel

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 must give the defendant a

reasonable opportunity to request counsel before encouraging the defendant to communicate with the attorney representing the state. If a defendant enters an uncounseled plea, the defendant must sign a written waiver, the language of which must substantially conform to the language of Article 1.051(g).

TIDC's case file examination contained one sample in which a defendant requested counsel at the out-of-county Article 15.17 hearing, but the court did not receive the request. The defendant entered an uncounseled plea without the request having been ruled upon. The absence of a ruling on a pending request raises the possibility of several statutory violations, including untimeliness (Art. 1.051(c)) and invalid waiver of counsel (Art. 1.051(f-2)). Fisher 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).

FINDINGS AND RECOMMENDATIONS FOR REQUIREMENT 4

Prompt Appointment

2023 FINDING and RECOMMENDATION 2: The absence of a ruling on a sample misdemeanor request for counsel raises the possibility of several statutory violations, including untimeliness (Art. 1.051(c)) and invalid waiver of counsel (Art. 1.051(f-2)). Fisher 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). ***Issue Pending.***

2023 FINDING and RECOMMENDATION 3: 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. Fisher County must implement practices that satisfy Article 1.051(c)(1)'s appointment timeline in misdemeanor cases. ***Finding excluded from analysis until proper procedures are implemented. (2026)***

Conclusion

TIDC appreciated the professionalism and assistance provided by Fisher County officials and staff. Fisher County officials appear willing to make necessary changes to improve the indigent defense system. TIDC will conduct a follow-up review regarding its noncompliance findings within two years.⁷ TIDC staff stand ready to provide technical and financial assistance to remedy these issues and ensure full compliance with the Fair Defense Act.

⁷ 1 TEX. ADMIN. CODE § 174.28(c)(2).

Pending Findings and Recommendations

Fisher County must respond in writing how it will address the remaining findings and recommendations.

2026 FINDING and RECOMMENDATION 1: TIDC's case sample included several cases where defendants requested counsel at the Article 15.17 hearing, but the County Court did not receive the requests within 24 hours. Fisher County must develop procedures to ensure counsel requests and associated financial forms are sent to the appointing authority within 24 hours of the request being made. ***Issue Pending.***

2026 FINDING and RECOMMENDATION 2: The absence of a ruling on a sample misdemeanor request for counsel raises the possibility of several statutory violations, including untimeliness (Art. 1.051(c)) and invalid waivers of counsel (Art. 1.051(f-2)). Fisher 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). ***Issue Pending.***