



Policy Monitoring Review of Cameron County's Indigent Defense Systems

March 2026



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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 (FDA) through policy reviews.¹ TIDC observed court, interviewed officials, and reviewed FY2024 data from Cameron County. TIDC made seven findings of noncompliance.

- a. Reasonable assistance must be provided in completing financial affidavits.
- b. Local standards of indigence set in the indigent defense plans are not followed.
- c. Defendants do not have access to financial affidavit forms to request counsel.
- d. In FY24, there was no formal public appointment list for juvenile attorneys.
- e. Untimely rulings on requests for counsel in felony cases.
- f. Untimely rulings on requests for counsel in misdemeanor cases.
- g. There was an uneven distribution of juvenile appointments.

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

Background

TIDC selected Cameron County for a policy monitoring review through its annual county selection process, which seeks to cycle through counties around the State. This review covers all six FDA core requirements listed below:

- REQUIREMENT 1: CONDUCT PROMPT AND ACCURATE ARTICLE 15.17 PROCEEDINGS
- REQUIREMENT 2: DETERMINE INDIGENCE ACCORDING TO STANDARDS DIRECTED BY THE INDIGENT DEFENSE PLAN
- REQUIREMENT 3: ESTABLISH MINIMUM ATTORNEY QUALIFICATIONS
- REQUIREMENT 4: APPOINT COUNSEL PROMPTLY
- REQUIREMENT 5: INSTITUTE A FAIR, NEUTRAL, AND NONDISCRIMINATORY ATTORNEY SELECTION PROCESS
- REQUIREMENT 6: REPORT DATA REQUIRED BY STATUTE

TIDC staff members Ashley De La Garza, Cody Huffman, and Joel Lieurance made on-site visits to the County from June 9th through June 12th, 2025, and August

¹ TEX. GOV'T CODE § 79.037(a)–(b).

² 1 TEX. ADMIN. CODE § 174.28(c)(2).

11th through August 14th, 2025, to conduct the review. TIDC Fiscal Analysts, Debra Stewart and Will Jones, conducted a separate fiscal review in conjunction with the policy team. The fiscal review was made at the request of the policy team. TIDC utilized various approaches to obtain relevant information, including data from felony, misdemeanor, and juvenile cases filed in FY2024; the local indigent defense plans; appointment lists; and records of attorney continuing legal education (CLE) hours. Additionally, TIDC interviewed judges, Pre-Trial Services staff, and local criminal defense attorneys, as well as observed Article 15.17 hearings and felony, misdemeanor, and juvenile dockets. TIDC also conducted a survey of criminal defense attorneys as part of this report's quality supplement.

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.³ At this hearing, the magistrate must inform the person of the right to counsel, ask if the person wants to request appointed 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.⁴ Magistrates must transmit requests for counsel to the appointing authority within 24 hours.⁵ 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.⁶

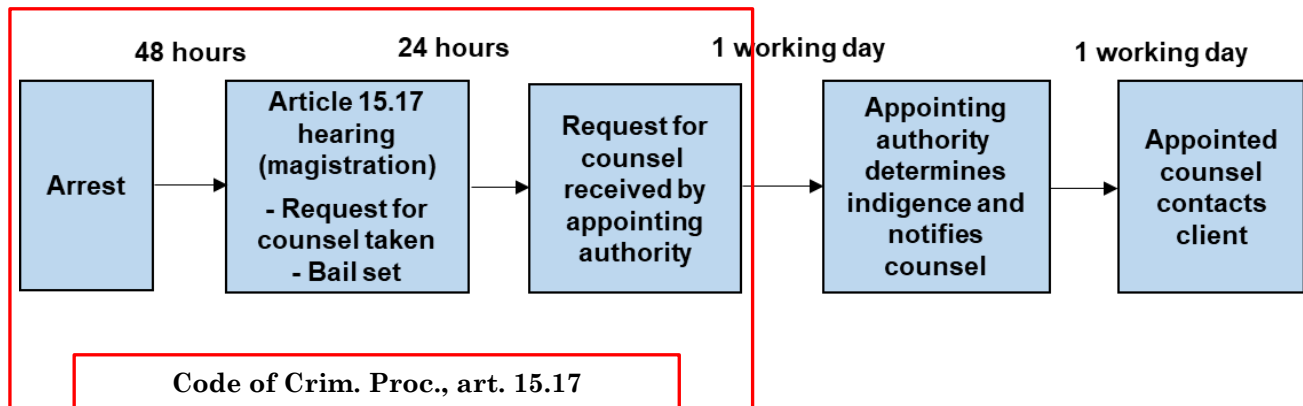
³ TEX. CODE CRIM. PROC. ART. 15.17(a).

⁴ TEX. CODE CRIM. PROC. ART. 15.17(a).

⁵ TEX. CODE CRIM. PROC. ART. 15.17(a).

⁶ 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>.

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



Local Practices for Conducting Magistrate Warnings

In Cameron County, 39 police agencies arrest defendants who are booked into either the Cameron County Jail or one of several municipal jails across the County. If the defendant does not make bond within 24 hours, they are then transferred to the Carrizales Detention Center to conduct the Article 15.17 hearing. Pre-Trial Services will attempt to meet with clients before the Article 15.17 hearings to complete the affidavits; if they are unable to do so, they meet with them afterwards. If individuals bond out before completing the affidavit, they are told to contact Pre-Trial Services. Cameron County magistrates conduct Article 15.17 hearings in person at the County Jail and by videoconference for most municipalities. Magistrates make probable cause determinations, set bail, and explain that defendants have the right to counsel. If a defendant requests counsel, the magistrate warning form is uploaded to the Odyssey case management system, where Pre-Trial Services has access to the request.

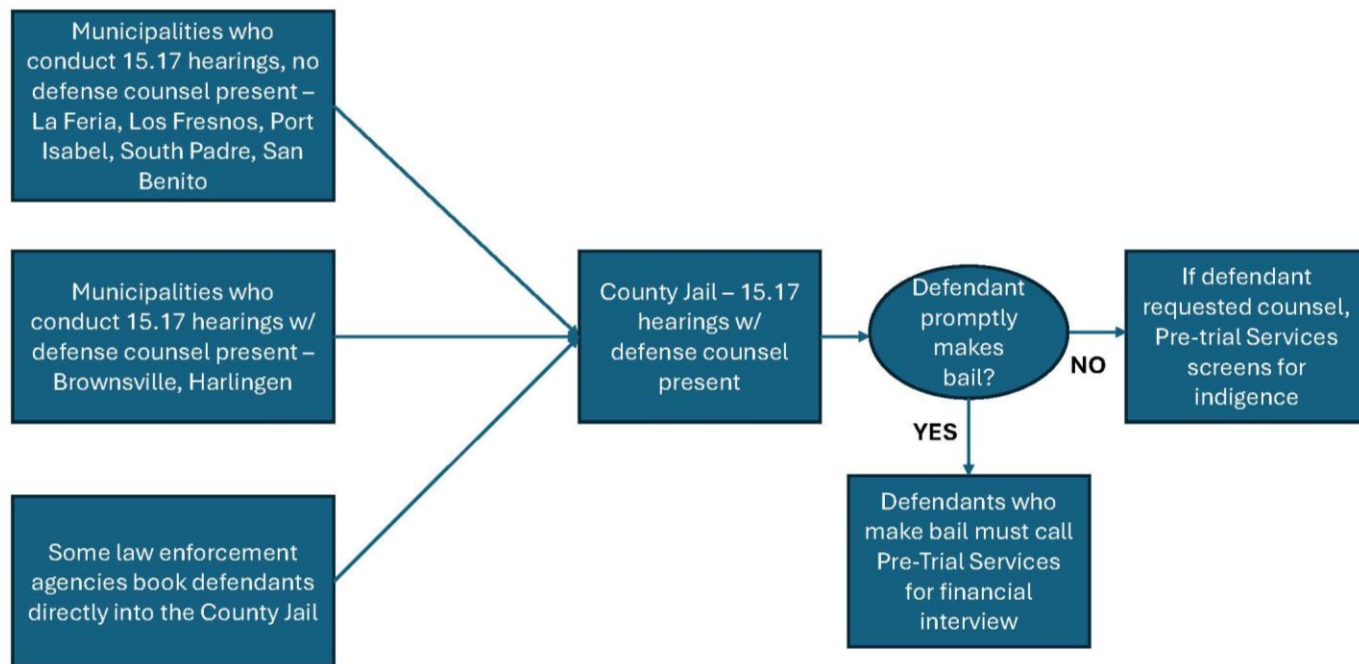
For individuals booked into the municipal jails, Pre-Trial Services assigns an individual to each jail. They will log on to Zoom or attend in person to complete forms when the individual requests an attorney. If Pre-Trial staff are unable to attend, the magistrate judges will notate the request on the magistrate form and forward all requests to Pre-Trial Services.

Pre-Trial Services is the single point of contact to send counsel requests. Once they receive the request, Pre-Trial staff work to appoint counsel or deny indigence. Oftentimes, when an individual bonds out, they are required to contact Pre-Trial Services to set up an appointment to apply for counsel. This is not always immediate.

Further, individuals are required to bring a list of documents before any application for appointment of counsel is started.⁷

TIDC observed magistrate warnings conducted by a Cameron County magistrate on August 11, 2025, at the Carrizales Detention Center Jail. The magistrate advised all defendants of their rights and then asked each defendant whether they would like to request counsel individually. An attorney for the week, sent by Pre-Trial Services, is present during the proceedings to argue for favorable bond conditions for each defendant. All documents are provided to the magistrate's court assistant, where they will then be uploaded for Pre-Trial Services to view. Pre-Trial staff were not present during these magistrate proceedings. See Figure 2 below for a summary of pre-trial events.

Figure 2: Summary of Pre-Trial Events



Timeliness of Warnings

An arrested person must be brought before a magistrate within 48 hours of arrest.⁸ TIDC presumes a county is in substantial compliance with the prompt magistration requirement if at least 98% of Article 15.17 hearings are conducted within

⁷ See Document Checklist provided on the county website by Pre-Trial Services, <https://www.cameroncountytexas.gov/wp-content/uploads/2024/09/English-Spanish-Checklist.pdf>

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

48 hours.⁹ To determine the timeliness of Article 15.17 warnings in the County, TIDC staff examined 230 sample case files in which staff could determine the time from arrest until the Article 15.17 hearing. Article 15.17 hearings occurred within two days of arrest for all sample cases, indicating the County is providing warnings in a timely manner (see Table 1).

Table 1: Timeliness of Article 15.17 Hearings

	Sample Size	Percent
Article 15.17 hearing occurs x days after arrest:	230	
0 days	62	
1 day	158	
2 days	10	
Timely Hearings	230	100%
More than 2 days	0	0%

Ability of Arrested Persons to Request Counsel

At the Article 15.17 hearing, the magistrate must inform an arrested person of the right to counsel, ask whether the person wants to request counsel, and record whether the person requests counsel.¹⁰ From TIDC's case file review, 88% of sample felony cases and 84% of sample misdemeanor cases included a request for counsel made at the Article 15.17 hearing. This is an indication that defendants understand their right to counsel and regularly avail themselves of this right.

Reasonable Assistance in Completing Forms for Requesting Counsel

Defendants complete financial affidavits through Pre-Trial Services. Pre-Trial Services meets with defendants at the County Jail before magistration for serious cases and before individuals post bail. If defendants post bail, they can schedule phone/video interviews or meet with Pre-Trial Services in person. Defendants who post bail are required to bring several documents in order to complete the affidavit of indigence. The affidavit is not started until individuals bring in these documents. Once the documents are received, Pre-Trial Services provides assistance in completing the forms.

⁹ 1 TEX. ADMIN. CODE § 174.28(c)(1). Article 15.17(a) requires magistrate warnings occur within 48 hours of arrest. To simplify time measurement, TIDC assumes warnings are timely if they occur within 2 days of arrest. TIDC excluded cases in which it could not determine the timeliness of magistrate warnings.

¹⁰ TEX. CODE CRIM. PROC. ART. 15.17(a), (e).

Transmitting Forms to the Appointing Authority

Within 24 hours of a person requesting counsel, the magistrate must transmit the request to the entity authorized to appoint counsel.¹¹ For some municipalities, affidavits are completed at the time of magistration when Pre-Trial Staff are present. If Pre-Trial is not present, municipalities email requests to Pre-Trial Services. For requests made at the county jail, Pre-Trial Services can access requests made at magistration once they have been uploaded into the Odyssey case management system. Once a defendant completes a Pre-Trial Services interview, the interview is entered in Odyssey for the appropriate Judge to determine indigence and appoint counsel.

FINDINGS AND RECOMMENDATIONS FOR REQUIREMENT 1

Conduct Prompt and Accurate Magistration Proceedings

FINDING 1 AND RECOMMENDATION: Defendants who request counsel and make bail shortly after the Article 15.17 hearing cannot complete financial affidavits until they later schedule an interview with Pre-Trial Services and bring additional documents. As required by Article 15.17(a), Cameron County magistrates must ensure reasonable assistance with completing financial affidavits, even if requesting defendants promptly make bail.

Requirement 2: Determine Indigence According to Standards Directed by the Indigent Defense Plan

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 presumptions for determining indigence are set in each county's indigent defense plans.

¹¹ TEX. CODE CRIM. PROC. ART. 15.17(a).

Indigence Standard in Adult Criminal Cases

For adult criminal cases in Cameron County, the county and district courts' indigent defense plan states that the defendant will be presumed indigent if, at the time of requesting appointed counsel, the income of the defendant does not exceed 125% of the Federal Poverty Guidelines and the defendant has available assets that do not exceed \$15,000.¹² The Pre-Trial Services Office may refer a defendant who is presumed not to be indigent to a court for further screening. The posting of bail may not be considered in determining indigence.

Indigence Standard in Juvenile Cases

For juvenile delinquency cases in Cameron County, the test concerns the financial capabilities of the person responsible for the youth.¹³ The responsible person's necessary expenses will be subtracted from the juvenile's gross income, including spousal income if applicable. The resulting number will be referred to as the juvenile's "net income." If the juvenile's "net income" is less than \$867 a month, they will be presumed to qualify for a court-appointed attorney. A youth who did not qualify may ask the court to review his/her financial circumstances and the cost of retaining counsel based on the seriousness of the offense and ask the court to appoint counsel.

Local Practices

Cameron County determines indigence for criminal defendants who request counsel at the Article 15.17 hearing based on whether the defendant's income is less than 125% of the Federal Poverty Guidelines. The indigent defense plan requires an individual to complete a financial questionnaire under oath. Though Pre-Trial Services screens and compares the questionnaire to the standards set in the indigent defense plan for individuals in custody, documentation is required before screening occurs for individuals who have posted bail.¹⁴ In some courts, defendants must show that they attempted to retain counsel by obtaining three price quotes.¹⁵ Most courts require the defendant to provide documentation regarding the following: last three check stubs; last three bank statements; last three statements from Cash App, Chime, Venmo, or

¹² The adult district and county court indigent defense plan is available at <https://tidc.tamu.edu/IDPlan/ViewPlan.aspx?PlanID=205>.

¹³ The juvenile indigent defense plan is available at <https://tidc.tamu.edu/IDPlan/ViewPlan.aspx?PlanID=489>

¹⁴ See Document Checklist provided on the county website by Pre-Trial Services. This is the list of documents defendants are required to bring before conducting the financial affidavit interview, <https://www.cameroncountytexas.gov/wp-content/uploads/2024/09/English-Spanish-Checklist.pdf>

¹⁵ During observations of County Court at Law #3, TIDC staff observed several individuals requesting court appointed counsel. The court administrator and Pre-Trial Services speak with each individual and notify them they must receive three quotes from three different attorneys and bring them to next court date showing they cannot afford them.

Uber; last income tax return filed, benefits letters; monthly expenses; and, if unemployed, reason why or letter of termination.¹⁶

These additional requirements are not set in the county indigent defense plan and may serve as impediments to defendants who are not financially able to employ counsel. The requirements may increase the number of uncounseled defendants and delay the appointment of counsel. Several situations were observed where individuals requested counsel while present in court, but were denied the opportunity or told to return without ever being able to make the request.¹⁷ Cameron County must follow its procedures for determining indigence as set in the indigent defense plan and ensure defendants have the ability to request counsel.

Based on case file examination, the juvenile courts appeared to follow the local standard of indigence. TIDC finds that Cameron County adult criminal courts do not follow the local standard of indigence and fail to provide a method for defendants to obtain forms to request counsel.

FINDINGS AND RECOMMENDATIONS FOR REQUIREMENT 2

Determination of Indigence

FINDING 2 AND RECOMMENDATION: Article 26.04 requires courts to adopt procedures and financial standards for determining whether a defendant is indigent. In practice, the County uses additional qualifications that are not part of the plan, such as a requirement to obtain attorney quotes. Based on the additional qualifications, TIDC finds the County did not follow the local procedures set in the indigent defense plan. The County must follow its procedures for determining indigence as set in the plan.

FINDING 3 AND RECOMMENDATION: 1 Tex. Admin. Code § 174.51 requires the courts to provide a method allowing defendants to obtain the forms for requesting counsel and to submit completed forms at any time after the initiation of adversary judicial proceedings. Defendants would appear in court, request counsel, and be told they must receive three quotes from attorneys, bring additional documentation to prove income, and then set an appointment with Pre-Trial Services prior to ever being allowed to request counsel. If defendants wish to request appointed counsel, they must be allowed to do so upon request.

¹⁶ See Document Checklist provided on the county website by Pre-Trial Services, <https://www.cameroncountytexas.gov/wp-content/uploads/2024/09/English-Spanish-Checklist.pdf>

¹⁷ TIDC Staff observed one individual who wanted to request counsel but since she missed three meetings with Pre-Trial Services was marked as denied. Staff also observed individuals wanting to request counsel in court but being told they had to get three quotes from attorneys. Neither of these individuals were given the financial questionnaire to complete.

Requirement 3: Establish Minimum Attorney Qualifications

Under Article 26.04(d) of the Code of Criminal Procedure, private attorneys wishing to take court appointments must apply to be on an appointment list. The list must contain objective qualifications, including a minimum annual continuing legal education (CLE) requirement of at least six hours per year in criminal or juvenile law.¹⁸ Assigned counsel attorneys must be approved by a majority of judges presiding over criminal and juvenile matters.¹⁹

Felony and Misdemeanor Cases

For both the felony and misdemeanor appointment lists, attorneys must obtain at least six criminal CLE hours annually or be Board Certified in Criminal Law.²⁰

Table 2a: Qualifications for Cameron County Adult Appointment Lists²¹

List	CLE Hours	Experience	Specific Experience
Misdemeanor	6 criminal		
State Jail Felony	6 criminal	1 year	Prior experience as lead or co-counsel in at least three criminal jury trials.
3 rd / 2 nd Degree Felony	6 criminal	2 years	Prior experience as lead or co-counsel in at least two or more felony jury trials.
1 st Degree / 3(g) Felony	10 criminal	4 years	Be board-certified in criminal law or have prior experience as counsel in four felony jury trials in the last five years, having served as lead counsel in at least two of those trials.
SJF/ 3 rd Degree Felony Appeals	6 criminal	2 years	Have filed at least one brief in a criminal or juvenile case.
1 st / 2 nd / 3g Felony Appeals	6 criminal	3 years	Have filed at least two briefs in a criminal or juvenile case.

Juvenile Cases

The Cameron County Juvenile Board established the Cameron Juvenile Public Defender's Office with full-time staff. The Juvenile Public Defender's Office has priority appointments to juvenile cases in Cameron County. If the juvenile public defender is unable to represent an indigent juvenile, the juvenile court judge will appoint counsel from the public appointment list. The juvenile courts require all public

¹⁸ 1 TEX. ADMIN. CODE §§ 174.1–4. Attorneys may be Board Certified in criminal or juvenile law in lieu of the annual CLE requirement.

¹⁹ TEX. CODE CRIM. PROC. ART. 26.04(d).

²⁰ All attorneys are also required to attend a State Bar approved Legislative Update Seminar in Criminal Law any year the Legislature meets.

²¹ The adult district and county court indigent defense plan is available at <https://tidc.tamu.edu/IDPlan/ViewPlan.aspx?PlanID=205>.

attorneys to obtain at least six juvenile CLE hours annually and be approved by a majority of the Cameron County Juvenile Board. These attorneys may be approved to represent juveniles for some or all levels of offenses.

Prior to January 2025, the juvenile courts had no formal appointment list, as attorneys were declining to take appointments due to low attorney fees. In January 2025, Pre-Trial Services began handling appointments in juvenile matters. Pre-Trial Services began assigning an attorney for the week and is continuing to recruit more attorneys for the juvenile appointment list.

Assessment

TIDC reviewed appointment lists and CLE records. TIDC found that the County has procedures for managing appointment lists for adult criminal cases and ensuring that all attorneys on the lists meet their annual CLE requirement. In FY24, the juvenile courts did not have an appointment list, though Pre-Trial Services is working to address this issue. TIDC will return to see how this issue has been resolved.

FINDINGS AND RECOMMENDATIONS FOR REQUIREMENT 3

Establish Minimum Attorney Qualifications

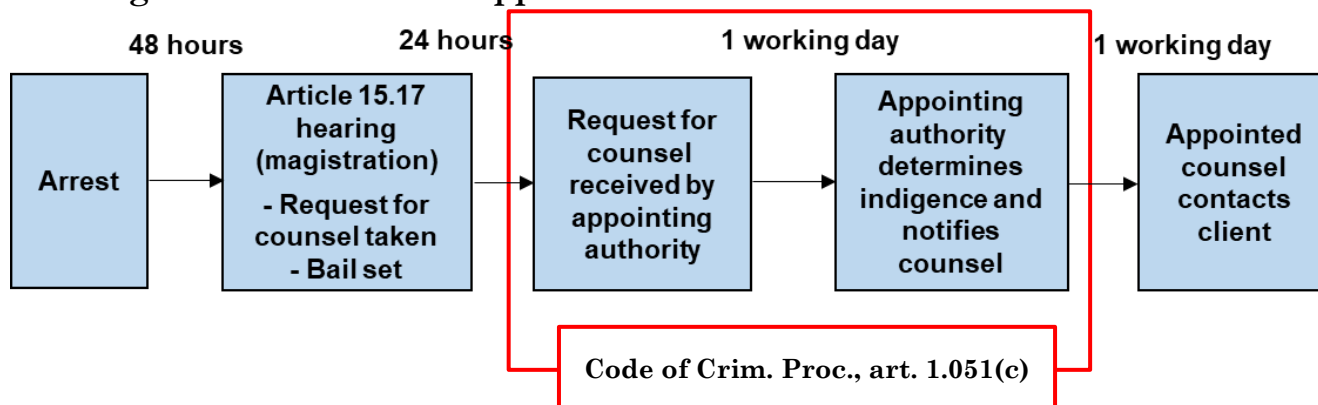
FINDING 4 AND RECOMMENDATION: For FY24, there was no formal juvenile appointment list. Under Article 26.04(a), the court must appoint from a public appointment list as set out in Article 26.04(d).

Requirement 4: Appoint Counsel Promptly

Adult Cases

Under Article 1.051(c)(2) of the Code of Criminal Procedure, courts in counties with a population over 250,000 must rule on a request for counsel within one working day of receiving the request.

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



The first opportunity for most defendants to request counsel is at the Article 15.17 hearing, when a defendant appears before a magistrate and is informed of the charges against him or her. If a defendant makes bail before the Article 15.17 hearing (or is never brought before a magistrate), the defendant has the first opportunity to request counsel at the initial appearance in the trial court.

To assess the timeliness of local appointment procedures, TIDC examines case files and measures the time from counsel request until appointment of counsel or denial of indigence. TIDC examined cases filed in FY2024 (October 2023 to September 2024).

Timeliness of Appointment in Felony Cases

TIDC examined 103 sample felony cases filed in FY2024.²² The courts made timely appointments or denials of indigence in 17 of 89 cases in which counsel was requested (**19% timely**). This falls below TIDC's 90% threshold for presuming a jurisdiction's practices ensure timely appointment of counsel. The County must implement practices that satisfy Article 1.051(c)(2)'s timeline in felony cases. Based on TIDC's file review, the primary cause of late felony determinations of indigence occurred because counsel requests made by bonding defendants were often not ruled

²² TIDC's felony sample included 220 felony cases, but we could only match magistrate warning forms with 103 cases. TIDC excluded, from its timeliness analysis, those cases for which we could not match magistrate warning forms.

on until the individual set an appointment with Pre-Trial Services and brought the required documentation.²³

Table 3: Times to Appointment in Felony Cases

	Sample Size	Number from Sample	Percent
Number of case files examined	103		
Total cases with a counsel request		89	
Appointment/denial of indigence occurred in:			
0 workdays		11	
1 workday + 24-hour transfer		6	
Total timely appointments/denials		17	19%
2 – 7 workdays + 24-hour transfer		4	
More than 7 workdays + 24-hour transfer		51	
No ruling on request		17	
Total untimely appointments/denials		72	81%

Timeliness of Appointments in Misdemeanor Cases

TIDC examined 141 sample misdemeanor cases filed in FY24.²⁴ The courts made timely appointments or denials of indigence in 14 of 118 cases in which counsel was requested (**12% timely**). This falls below TIDC’s 90% threshold for presuming a jurisdiction’s practices ensure timely appointment of counsel. The County must implement practices that satisfy Article 1.051(c)(1)’s timeline in misdemeanor cases. Based on TIDC’s file review, the primary cause of late misdemeanor determinations of indigence occurred because counsel requests made by bonding defendants were often not ruled on until the individual set an appointment with Pre-Trial Services and brought the required documentation.²⁵

²³ See Document Checklist provided on the county website by Pre-Trial Services. This is the list of documents defendants are required to bring before conducting the financial affidavit interview, <https://www.cameroncountytexas.gov/wp-content/uploads/2024/09/English-Spanish-Checklist.pdf>

²⁴ TIDC’s misdemeanor sample included 260 misdemeanor cases, but we could only match magistrate warning forms with 141 cases. TIDC excluded, from its timeliness analysis, those cases for which we could not match magistrate warning forms.

²⁵ See Document Checklist provided on the county website by Pre-Trial Services. This is the list of documents defendants are required to bring before conducting the financial affidavit interview, <https://www.cameroncountytexas.gov/wp-content/uploads/2024/09/English-Spanish-Checklist.pdf>

Table 4: Times of Appointment in Misdemeanor Cases

	Sample Size	Number from Sample	Percent
Number of case files examined	141		
Total cases with a counsel request		118	
Appointment/denial of indigence occurred in:			
0 workdays		10	
1 workday + 24-hour transfer		4	
Total timely appointments/denials		14	12%
2 – 7 workdays + 24-hour transfer		3	
More than 7 workdays + 24-hour transfer		63	
No ruling on request		38	
Total untimely appointments/denials		104	88%

Waivers of Counsel in Misdemeanor Cases

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. A waiver obtained in violation of Subsection (f-1) or (f-2) is presumed invalid. If a defendant enters an uncounseled plea, the defendant must sign a written waiver that substantially conforms to the language of Article 1.051(g).

TIDC's case file examination contained no sample pro se pleas for defendants with pending counsel requests. All pro se cases in our sample were either active or dismissed.

Juvenile Cases

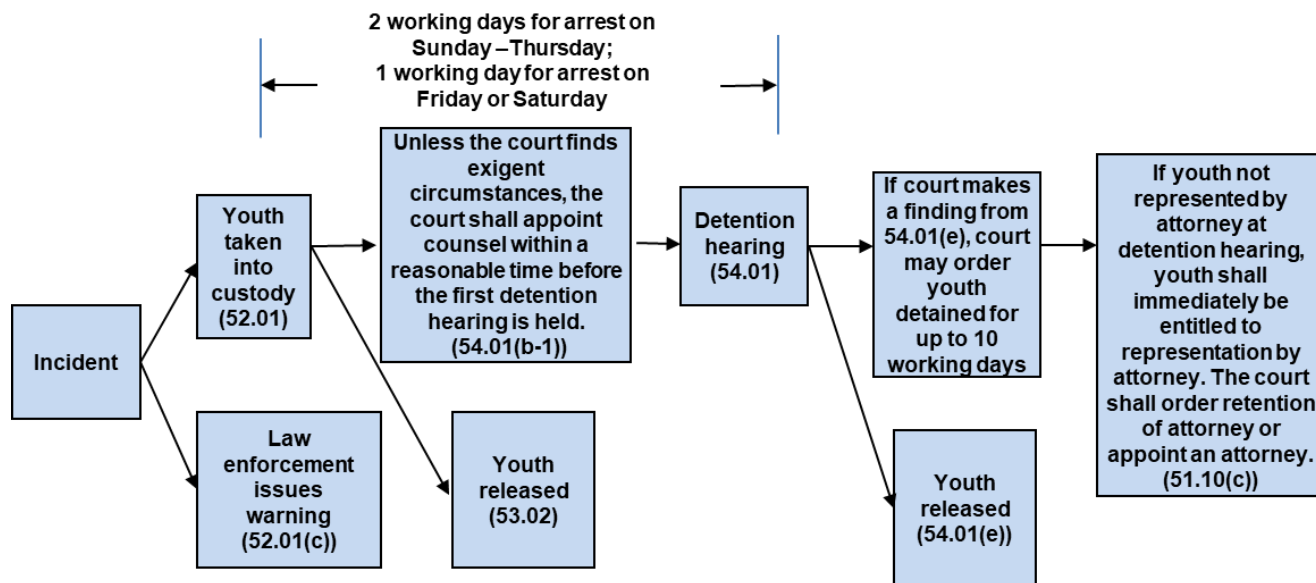
The courts must appoint counsel for youths alleged to have engaged in delinquent conduct when the youth is brought to a detention hearing and when the youth is served with a copy of the petition alleging misconduct.²⁶ Under Section 54.01(b-1) of the Family Code, unless the court finds the appointment of counsel is not feasible due to exigent circumstances, the court shall appoint counsel within a reasonable time before the first detention hearing. When a petition is filed, Section

²⁶ TEX. FAM. CODE § 51.10(f).

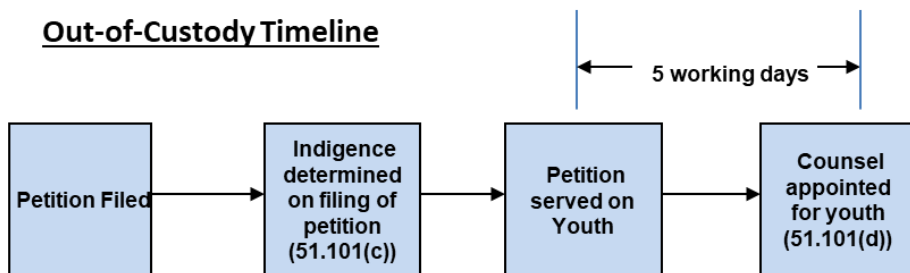
51.101(c) of the Family Code directs the court to determine whether a youth's family is indigent upon the filing of the petition. Section 51.101(d) requires the court to appoint counsel for those found to be indigent within five working days of service of the petition on the juvenile.²⁷

Figure 2: Timeline for Appointment of Counsel in Juvenile Cases

In-Custody Timeline



Out-of-Custody Timeline



²⁷ If the person responsible for the youth fails to retain counsel, under Section 51.10(b) of the Family Code, the youth's right to representation by an attorney shall not be waived in

- (1) a hearing to consider transfer to criminal court as required by Section 54.02;
- (2) an adjudication hearing as required by Section 54.03;
- (3) a disposition hearing as required by Section 54.04;
- (4) a hearing prior to commitment to the Texas Juvenile Justice Department as a modified disposition in accordance with Section 54.05(f); or
- (5) hearings required by Chapter 55.

Juvenile Detention Hearings

To assess the timeliness of the County's appointment procedures in juvenile cases, TIDC staff examined 50 cases filed²⁸ in FY2024 (October 2023 – September 2024). Section 54.01(b-1) of the Family Code requires counsel to be appointed prior to the initial detention hearing unless the appointment is not feasible due to exigent circumstances.²⁹ Of the 50 sample cases, 21 involved detention hearings. Counsel was present for the initial detention hearing in 21 sample cases (**100% timely**). Cameron County's partnership with the Juvenile Public Defender Office ensures counsel is present for the initial detention hearing.

Appointment After Service of the Petition

Under Section 51.101(c) and (d) of the Family Code, once a petition is served on the youth, the court has five working days to appoint counsel or order the retention of counsel for the youth. Of 50 sample cases, 48 involved service of the petition on the youth. Counsel was timely appointed for 48 of these cases (**100% timely**).

Table 5: Times to Appointment in Juvenile Cases

	Sample Size	Number from Sample	Percent
Total juvenile cases examined	50		
TIMELINESS OF COUNSEL APPOINTMENTS FOR DETENTION HEARINGS			
Case files with detention hearings		21	
Cases with attorney present at initial hearing		21	100%
TIMELINESS OF COUNSEL APPOINTMENTS WHERE YOUTH SERVED WITH A PETITION			
Case files in which petition filed	48		
Counsel appointed within 5 working days of service		48	
Indigence denied or counsel retained within 5 working days of service ³⁰		0	
Total cases with timely presence of counsel		48	100%
Cases where counsel not present in a timely fashion		0	0%

²⁸ TIDC staff attempted to create a random sample for reviewing cases. They did so by selecting four cases per month at random.

²⁹ TEX. FAM. CODE §54.01(b-1) states:

Unless the court finds that the appointment of counsel is not feasible due to exigent circumstances, the court shall appoint counsel within a reasonable time before the first detention hearing is held to represent the child at that hearing.

³⁰ TIDC considered a denial of indigence to be synonymous with an order to retain counsel.

Additional Observations in Juvenile Proceedings

During their visit, TIDC Staff were able to observe a juvenile docket. TIDC Staff noticed that the State's Attorney was formerly a public defender. In one of the cases observed, the State's Attorney was prosecuting a case in which he was the former defense counsel. This is a clear conflict of interest, and the court must ensure that in similar cases, this State Attorney must recuse himself as the prosecutor.

FINDINGS AND RECOMMENDATIONS FOR REQUIREMENT 4

Appoint Counsel Promptly

FINDING 5 AND RECOMMENDATION (FELONY CASES): Cameron County's felony appointment process did not meet TIDC's threshold for timely appointment of counsel (90% timely). Under Article 1.051(c)(2), the County must rule on all requests for counsel within one working day. The County must implement practices that satisfy Article 1.051(c)(1)'s timeline.

FINDING 6 AND RECOMMENDATION (MISDEMEANOR CASES): Cameron County's misdemeanor appointment process did not meet TIDC's threshold for timely appointment of counsel (90% timely). Under Article 1.051(c)(2), the County must rule on all requests for counsel within one working day. The County must implement practices that satisfy Article 1.051(c)(1)'s timeline.

Requirement 5: Institute a Fair, Neutral, and Nondiscriminatory Attorney Selection Process

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

In assigned counsel systems, TIDC presumes a jurisdiction has a fair, neutral, and nondiscriminatory appointment system if the top 10% of attorneys receiving cases of a given case level receive no more than three times their respective share of appointments.³¹ If a county can track appointments by list, this analysis is made according to each appointment list. A county can overcome a finding about the distribution of appointments by providing evidence as to why the system is fair, neutral, and nondiscriminatory.

³¹ 1 TEX. ADMIN. CODE § 174.28(c)(5)(D).

Procedure

Prior to January 2025, Pre-Trial Services made appointments and attempted to follow a rotational system of appointment in adult criminal courts. They have since taken over all appointments, including juvenile appointments. This centralized appointment system allows for uniform indigence determinations and a true rotational attorney selection system.

Assessment

TIDC analyzed the distribution of attorney appointments by offense level (felony, misdemeanor, juvenile) during FY2024. Based on this analysis, misdemeanor and felony appointment levels had distributions in which the top 10% of attorneys received less than three times their respective share of appointments. Juvenile appointment levels had distributions in which the top 10% of attorneys received more than three times their respective share of appointments. This indicates juvenile appointment levels are not in compliance.

Table 6: Share of Cases Paid to Top 10% of Attorneys

Level	Attorneys Receiving Appointments	Top 10% Attorneys ³²	Respective Share of Cases ³³ [Column A]	Actual Share of Cases [Column B]	Top 10% Received 'x' Times Their Respective Share [Col. B] / [Col. A]
Felony	48	5	10.4%	22.6%	2.2
Misdemeanor	52	5	9.6%	21.7%	2.3
Juvenile	8	1	12.5%	51.2%	4.1

Capital Felony Cases

TIDC recently changed their monitoring rules to ensure counties are following appointment rules for Capital Felony Cases in accordance with Article 26.052 of the Code of Criminal Procedure. 1 Tex. Admin. Code § 174.28(c)(5)(C) requires:

- (i) In counties with a public defender's office that handles capital felony cases, the policy monitor shall determine if a public defender's office is appointed in each capital case. If the office is not, the policy monitor will determine whether the court or its designee made a finding of good cause on the record for appointing other counsel in accordance with Article 26.04(f)(1), Code of Criminal Procedure.

³² The number "Top 10% Attorneys" is equal to the number of Attorneys on List for Entire Year multiplied by 0.10, rounded to the nearest whole number.

³³ The percent "Respective Share of Cases" is equal to the number of Top 10% Attorneys divided by the number of Attorneys on List for Entire Year.

(ii) In capital felony cases where a public defender's office is not appointed, the policy monitor shall determine if two attorneys were appointed, at least one of whom is qualified to serve as lead counsel under Article 26.052(e), Code of Criminal Procedure, unless the state gives notice in writing that the state will not seek the death penalty.

TIDC reviewed the case files and found there were four capital felony cases in FY24. All four defendants were appointed both a death-qualified 1st chair and 2nd chair attorney. The 2nd chair was appointed later, sometimes months after the 1st chair appointment.

FINDINGS AND RECOMMENDATIONS FOR REQUIREMENT 5

Attorney Selection Process

FINDING 7 AND RECOMMENDATION (JUVENILE CASES): The distribution of appointments in juvenile cases did not meet TIDC's threshold for presuming a fair, neutral, and nondiscriminatory appointment system. The courts must put in place a system that ensures appointments are made in a fair, neutral, and nondiscriminatory manner.

Requirement 6: Report Data Required by Statute

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 the Commission. 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. Financial data reports must include attorney-level information. The fiscal monitor reviewed the accuracy of these reports and discussed their findings in the attached Fiscal Monitoring Report.

Under the Texas Judicial Council's administrative rules, municipal courts and justice courts that conduct Article 15.17 hearings are required to submit monthly reports to the Office of Court Administration.³⁴ TIDC found these reports to be reasonably accurate.

³⁴ 1 TEX. ADMIN. CODE § 171.7 – 8.

FINDINGS AND RECOMMENDATIONS FOR REQUIREMENT 6

Statutory Data Reporting

Requirement satisfied. No findings.

Conclusion

TIDC thanks Cameron County officials and staff for their assistance in completing this review. TIDC will conduct a follow-up review regarding its noncompliance findings within two years.³⁵ TIDC staff stand ready to provide technical and financial assistance to ensure full compliance with the Fair Defense Act.

Summary of Findings and Recommendations

Cameron County must respond in writing with how it will address the report's findings.

REQUIREMENT 1: CONDUCT PROMPT AND ACCURATE MAGISTRATION PROCEEDINGS

FINDING 1 AND RECOMMENDATION: Defendants who request counsel and make bail shortly after the Article 15.17 hearing cannot complete financial affidavits until they later schedule an interview with Pre-Trial Services and bring additional documents. As required by Article 15.17(a), Cameron County magistrates must ensure reasonable assistance with completing financial affidavits, even if requesting defendants promptly make bail.

REQUIREMENT 2: DETERMINATION OF INDIGENCE

FINDING 2 AND RECOMMENDATION: Article 26.04 requires courts to adopt procedures and financial standards for determining whether a defendant is indigent. In practice, the County uses additional qualifications that are not part of the plan, such as a requirement to obtain attorney quotes. Based on the additional qualifications, TIDC finds the County did not follow the local procedures set in the indigent defense plan. The County must follow its procedures for determining indigence as set in the plan.

FINDING 3 AND RECOMMENDATION: 1 Tex. Admin. Code § 174.51 requires the courts to provide a method allowing defendants to obtain the forms for requesting counsel and to submit completed forms at any time after the initiation of adversary judicial proceedings. Defendants would appear in court, request counsel, and be told

³⁵ 1 TEX. ADMIN. CODE § 174.28(c)(2).

they must receive three quotes from attorneys, bring additional documentation to prove income, and then set an appointment with Pre-Trial Services prior to ever being allowed to request counsel. If defendants wish to request appointed counsel, they must be allowed to do so upon request.

REQUIREMENT 3: MINIMUM ATTORNEY QUALIFICATIONS

FINDING 4 AND RECOMMENDATION: For FY24, there was no formal juvenile appointment list. Under Article 26.04(a), the court must appoint from a public appointment list as set out in Article 26.04(d).

REQUIREMENT 4: APPOINT COUNSEL PROMPTLY

FINDING 5 (FELONY CASES) AND RECOMMENDATION: Cameron County's felony appointment process did not meet TIDC's threshold for timely appointment of counsel (90% timely). Under Article 1.051(c)(2), the County must rule on all requests for counsel within one working day. The County must implement practices that satisfy Article 1.051(c)(1)'s timeline.

FINDING 6 (MISDEMEANOR CASES) AND RECOMMENDATION: Cameron County's misdemeanor appointment process did not meet TIDC's threshold for timely appointment of counsel (90% timely). Under Article 1.051(c)(2), the County must rule on all requests for counsel within one working day. The County must implement practices that satisfy Article 1.051(c)(1)'s timeline.

REQUIREMENT 5: ATTORNEY SELECTION PROCESS

FINDING 7 (JUVENILE CASES) AND RECOMMENDATION: The distribution of appointments in juvenile cases did not meet TIDC's threshold for presuming a fair, neutral, and nondiscriminatory appointment system. The courts must put in place a system that ensures appointments are made in a fair, neutral, and nondiscriminatory manner.

Appendix: Monitoring Review Checklist

The monitoring review of the FDA's core requirements consisted of an examination of the items from the following checklist. If a box is marked, the specific requirement was met. If a box is not marked, the requirement either was not satisfied or is not applicable.

REQUIREMENT 1: CONDUCT PROMPT AND ACCURATE ARTICLE 15.17 PROCEEDINGS

- ☒ The accused must be brought before a magistrate within 48 hours of arrest.³⁶
 - A person arrested for a misdemeanor without a warrant must be released on bond in an amount no more than \$5,000, no later than 24 hours after arrest if a magistrate has not determined probable cause by that time.³⁷
- ☒ The magistrate must inform and explain the right to counsel and the right to appointed counsel to the accused.³⁸
- ☐ The magistrate must ensure that reasonable assistance in completing forms necessary to request counsel is provided to the accused.³⁹
- ☒ A record must be made of the following:
 - The magistrate informing the accused of the accused's right to request appointment of counsel;
 - The magistrate asking whether accused wants to request appointment of counsel; and
 - Whether the person requested court-appointed counsel.⁴⁰
- ☐ If authorized to appoint counsel, the magistrate must do so within one working day after receipt of request for counsel in counties with a population of 250,000 or more and within three working days in counties under 250,000.⁴¹ **NOT APPLICABLE.**
- ☒ If not authorized to appoint counsel, the magistrate must transmit or cause to be transmitted to the appointing authority an accused's request for counsel within 24 hours of the request being made.⁴²

³⁶ TEX. CODE CRIM. PROC. ART. 14.06(a).

³⁷ TEX. CODE CRIM. PROC. ART. 17.033.

³⁸ TEX. CODE CRIM. PROC. ART. 15.17(a).

³⁹ *Id.* This box is not checked as individuals who make bail are unable to complete a financial affidavit until they schedule an interview with Pre-Trial Services and bring additional documentation.

⁴⁰ TEX. CODE CRIM. PROC. ART. 15.17(e).

⁴¹ *See, e.g.*, TEX. CODE CRIM. PROC. ART. 15.17(a) (requiring magistrate to appoint counsel according to the timeframes set in TEX. CODE CRIM. PROC. ART. 1.051); TEX. CODE CRIM. PROC. ART. 1.051(c) (spelling out timeframe for appointment of counsel by county population size).

⁴² TEX. CODE CRIM. PROC. ART. 15.17(a).

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

- ☒ Provide detailed procedures used to determine whether a defendant is indigent.⁴³
- ☐ State the financial standard(s) to determine whether a defendant is indigent.⁴⁴
- ☒ List factors the court will consider when determining whether a defendant is indigent.⁴⁵

REQUIREMENT 3: ESTABLISH MINIMUM ATTORNEY QUALIFICATIONS

- ☐ Establish objective qualification standards for attorneys to be on an appointment list.⁴⁶
 - Standards must require attorneys to complete at least six hours of continuing legal education pertaining to criminal/juvenile law during each 12-month reporting period or be currently certified in criminal law by the Texas Board of Legal Specialization.⁴⁷
 - Standards must require attorneys to submit the percentage of the attorney's practice time dedicated to indigent defense based on criminal and juvenile appointments accepted in this county annually by October 15. The report must be made on a form prescribed by the Texas Indigent Defense Commission for the prior 12 months that begins on October 1 and ends on September 30.⁴⁸

⁴³ TEX. CODE CRIM. PROC. ART. 26.04(l)–(r). This box is not checked as defendants are unable to obtain the forms for requesting counsel unless documentation is provided. Defendants are required to obtain three quotes from attorneys and bring documentation showing proof of income before being allowed to apply for an attorney. Defendants who wish to request appointed counsel, must be allowed to do so.

⁴⁴ TEX. CODE CRIM. PROC. ART. 26.04(l).

⁴⁵ TEX. CODE CRIM. PROC. ART. 26.04(m). This box is not checked as Cameron county currently does not follow the local standard of indigence set in the indigent defense plan.

⁴⁶ TEX. CODE CRIM. PROC. ART. 26.04(d). This box is not checked because for FY24 there was no formal juvenile appointment list for Judges to appoint from.

⁴⁷ 1 TEX. ADMIN. CODE § 174.1–.4.

⁴⁸ TEX. CODE CRIM. PROC. ART. 26.04(j)(4).

REQUIREMENT 4: APPOINT COUNSEL PROMPTLY (JUVENILES)

- ☒ Unless the court finds that the appointment of counsel is not feasible due to exigent circumstances, the court shall appoint counsel within a reasonable time before the first detention hearing is held to represent the child at that hearing.⁴⁹
- ☒ If the child was not detained, an attorney must be appointed on or before the fifth working day after the date the petition for adjudication, motion to modify, or discretionary transfer hearing was served on the child.⁵⁰

REQUIREMENT 4: APPOINT COUNSEL PROMPTLY (ADULTS)

- ☐ Incarcerated persons: After receipt of a request for counsel, counsel must be appointed within one working day in counties with a population of 250,000 or more and within three working days in counties under 250,000.⁵¹
- ☐ Persons out of custody: Counsel must be appointed at the defendant's first court appearance or when adversarial judicial proceedings are initiated, whichever comes first.⁵²
- ☒ All unrepresented defendants must be advised of the right to counsel and the procedures for obtaining counsel.⁵³

⁴⁹ TEX. FAM. CODE § 54.01(b-1). TEX. FAM. CODE § 51.10(c).

⁵⁰ TEX. FAM. CODE § 51.101(d).

⁵¹ TEX. CODE CRIM. PROC. ART. 1.051(c). This box is not checked because both felony and misdemeanor cases did not meet TIDC's threshold for timely appointment of counsel.

⁵² TEX. CODE CRIM. PROC. ART. 1.051(j); *see also Rothgery v. Gillespie Cnty.*, 554 U.S. 191, 212 – 13 (2008) (holding that “a criminal defendant's initial appearance before a judicial officer, where he learns the charge against him and his liberty is subject to restriction, [the Article 15.17 hearing] marks the start of adversary judicial proceedings that trigger attachment of the Sixth Amendment right to counsel.”). This box is not checked because several defendants who made bail did not receive timely appointments.

⁵³ TEX. CODE CRIM. PROC. ART. 1.051(f-2).

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

- ☐ Rotational method: The court must appoint an attorney from among the next five names on the appointment list in the order in which the attorneys' names appear on the list, unless the court makes a finding of good cause on the record for appointing an attorney out of order.⁵⁴
- ☐ Public Defender: The system must meet the requirements set out in Article 26.044 of the Code of Criminal Procedure. The appointment process must be listed in the indigent defense plan.⁵⁵

NOT APPLICABLE.

- ☒ Alternative appointment method:⁵⁶
 - The local processes must be established by a vote of two-thirds of the judges.
 - The plan must be approved by the presiding judge of the administrative judicial region.
 - The courts must allocate appointments reasonably and impartially among qualified attorneys.

NOT APPLICABLE.

- ☒ Capital Felony Cases: The system must meet the requirements set out in Article 26.052 of the Code of Criminal Procedure.⁵⁷

REQUIREMENT 6: STATUTORY DATA REPORTING

- ☐ The county auditor shall prepare and send to OCA an annual report of legal services provided in the county to indigent defendants during the fiscal year and an analysis of the amount expended:⁵⁸
 - In each district, statutory county, and appellate court;
 - In cases for which a private attorney is appointed for an indigent defendant;
 - In cases for which a public defender is appointed for an indigent defendant;
 - In cases for which counsel is appointed for an indigent juvenile; and
 - For investigation expenses, expert witness expenses, or other litigation expenses.

⁵⁴ TEX. CODE CRIM. PROC. ART. 26.04(a). This box is not checked because the distribution of appointments in juvenile cases did not meet TIDC's threshold for presuming a fair, neutral, and nondiscriminatory appointment system.

⁵⁵ TEX. CODE CRIM. PROC. ART. 26.044.

⁵⁶ TEX. CODE CRIM. PROC. ART. 26.04(g)–(h).

⁵⁷ TEX. CODE CRIM. PROC. ART. 26.052.

⁵⁸ TEX. GOV'T CODE § 79.036(a-1). 1 Tex. Admin. Code § 171.7 – 8.