

DUVAL COUNTY
TIDC REVIEW SUMMARY AND
PLAN OF ACTION

FINDING 1 AND RECOMMENDATION: One justice of the peace had a sample counsel request rate of 0%. This is an indication that defendants may not be able to request counsel at the Article 15.17 hearing. Duval County magistrates must ask and record whether defendants want to request appointed counsel.

Response to Finding 1: All Duval County magistrates will implement a policy, where all magistrates ask and record whether a defendant requests appointed counsel. Additionally each Defendant shall initial his/her their request for appointment of counsel.

FINDING 2 AND RECOMMENDATION: Counsel requests made at the Article 15.17 hearing are not sent to the trial courts within 24 hours of the request being made. As required by Article 15.17(a), the County must provide a method to ensure all counsel requests are sent to the appointing authority (trial court) within 24 hours of the request being made.

Response to Finding 2: Duval County : All Duval County Magistrates shall be authorized to appoint counsel. If a defendant requests counsel, the magistrate shall determine indigence by affidavit. If indigence is denied, the request and denial shall be sent to the trial court judge and the relevant clerk's office. If the magistrate determines indigence, the magistrate shall appoint counsel and send the notice of appointment to the attorney, the trial court judge, and the relevant clerk's office. Upon filing of a case, the clerk's office will include the relevant appointment and denial of indigence information into the case file.

FINDING 3 AND RECOMMENDATION: Monthly court data reported to OCA was not accurate. Justices of the peace must report the number of persons receiving magistrate warnings and the number of persons requesting counsel to OCA in order to ensure complete and accurate Texas Judicial Council Monthly Court Activity Reports.

Response to Finding 3: Each justice of the peace has updated OCA reports to reflect the number of counsel requests to OCA each month.

Finding 4 (Felony Cases) and Recommendation: Duval County's felony appointment process did not meet TIDC's threshold for timely appointment of counsel (90% timely). Under Article 1.051(c)(1), the court or its designee must appoint counsel within three working days. The County must implement practices that satisfy Article 1.051(c)(1)'s timeline.

Response to Finding 4: All Magistrate's will promptly rule on all counsel requests to comply with Art. 1.051(C) (1). In addition, the District Court has issued an Order authorizing all Duval County Magistrates with appointment authorization to satisfy the timeline requirement under Art. 1.051 (C)(1)

Finding 5 (Misdemeanor Cases) and Recommendation: Duval County's misdemeanor appointment process did not meet TIDC's threshold for timely appointment of counsel (90% timely). Under Article 1.051(c)(1), the court or its designee must appoint counsel within three working days. The County must implement practices that satisfy Article 1.051(c)(1)'s timeline.

Possible Response to Finding 5: The County Court will promptly rule on all counsel requests received. The County Court has implemented the forms issued by the TIDC.

Finding 6 (Misdemeanor Cases) and Recommendation: Unrepresented defendants were directed to speak with the prosecutor before the court explained the procedures for requesting counsel. As required by Article 1.051(f-2), the court must first explain the procedures for requesting counsel, rule on any pending request, and allow the defendant to waive counsel for purposes of speaking with the prosecutor.

Response to Finding 6: The County Court will use an arraignment check-in sheet that explains how to request counsel and will ask defendants to mark whether they would like to request counsel. This sheet is used before defendants can speak with the prosecutor. The sheet is based on TIDC's model waiver to speak with a prosecutor (<https://www.tidc.texas.gov/media/kkgembze/model-waiver-to-speak-with-the-prosecutor.docx>). The County Court is implementing this procedure and using the form (waiver-to-speak-with-the-prosecutor).

Finding 7 (Misdemeanor Cases) and Recommendation: The County does not have processes in place to ensure all misdemeanor requests for counsel are ruled upon prior to a defendant's waiver of counsel. As required by Article 1.051(f-2), the court must rule upon a request for counsel prior to a defendant's waiver of the right to retain counsel.

Response to Finding 7: The County Court will rule on all counsel requests prior to defendants speaking with the prosecutor. The Court is relying on upstream procedures to ensure all counsel requests made at the Article 15.17 hearing are ruled upon by magistrates. The County Court is implanting this procedure.