

**WALLER COUNTY RESPONSE TO THE
JUNE 2024 TEXAS INDIGENT DEFENSE COMMISSION'S
SECOND FOLLOW-UP REVIEW OF WALLER COUNTY'S
INDIGENT DEFENSE SYSTEM**

The following written response is made to each reported finding regarding the June 2024 Second Follow-up Review of Waller County's Indigent Defense System. The Requirement is stated, the finding summarized, recommended action stated, and reply to finding is stated.

REQUIREMENT 1: Conduct Prompt and Accurate Article 15.17 Proceedings

2019 Finding 1 and Recommendation: All arrestees are not receiving reasonable assistance in completing financial affidavits at the time of the Article 15.17 hearing. As a result, requests for counsel are not promptly transmitted to the appointing authority. Article 15.17(a) requires Waller County magistrates ensure reasonable assistance in completing forms necessary to obtain appointed counsel so that all arrestees who request counsel can have the request ruled upon within statutorily required timeframes.
Successfully Addressed.

2019 Finding 2 and recommendation: One justice of the peace is not submitting Article 15.17 requests for counsel in their Texas Judicial Council Monthly Court Activity Reports. The judges must report the number of persons requesting counsel to OCA to assure complete and accurate reports.
Issue Pending.

Reply to 2019 Finding 1: No need for reply in that the issue has been **Successfully Addressed**.

However, after receiving the report and acting in my capacity as Local Administrative Judge, I have instructed the magistrates and the jail personnel to immediately provide blank copies of the Affidavit of Indigency form, and the magistrates have been informed of the need to assist in having it filled out by the arrestee. Immediately on completion of the Affidavit of Indigency form, the magistrate will ensure that the completed forms be transmitted via fax or email to the appropriate trial court or designee for consideration. The jail has also been instructed to immediately upon completion of the Affidavit of Indigency form transmit the completed forms via fax or email to the appropriate Trial Court or designee. Waller County is currently working with the Waller County Sheriff's Information Technology personnel in trying to implement a process that when the jail forms, including the completed Affidavit of Indigency forms, are downloaded at the jail by jail personnel that those same forms automatically upload to the Waller County Clerk's system. This will allow Trial Court Personnel or designee the ability to retrieve the completed Affidavit of Indigency form immediately without the need for the information to be faxed or emailed. This should expedite the paperwork timely being provided to the Trial Court's personnel or designee and will also cut down on possible human error for failing to timely fax or email the information to the proper Trial Court or designee. *This is not currently being done, but currently looking into whether or not it is possible.*

Reply to 2019 Finding 2: As the Local Administrative Judge, I have reached out to the Justice of the Peace Precinct 3 about the OCA reports regarding requests for counsel under Article 15.17 not being filed. The Judge has informed me that she has a new clerk and the clerk was unaware of the reports needing to be filed. The Judge further assured me that this issue would be corrected immediately.

Therefore, the Justices of the Peace have been instructed to properly submit Article 15.17 requests for counsel in their TJCMCA Reports to OCA.

REQUIREMENT 4: Appoint Counsel Promptly

2019 Finding 3 and Recommendation (felony 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 monitor's sample of attorney appointments in felony cases fell below the Commission's 90% timely threshold for presuming a jurisdiction's system ensures timely appointment of counsel. The County must implement practices that satisfy Article 1.051(c)(1)'s appointment timeline in felony cases.

Issue Pending.

2019 Finding 4 and Recommendation (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 monitor's sample of attorney appointments in felony cases fell below the Commission's 90% timely threshold for presuming a jurisdiction's system ensures timely appointment of counsel. The County must implement practices that satisfy Article 1.051(c)(1)'s appointment timeline in felony cases.

Issue Pending.

2019 Finding and Recommendation (juvenile cases): The monitor's sample of attorney appointments where a juvenile was released from custody and served with a petition fell below the Commission's threshold for presuming a jurisdiction's system ensures timely appointment of counsel. The County must implement practices that satisfy the time frames in Section 51.101 of the Family Code.

Successfully Addressed.

Reply to 2019 Finding 3: As the Local Administrative Judge, I have reached out to the magistrates and the Waller County Jail personnel and have advised them to inquire about requests for appointed counsel and mark the Affidavit of Indigency form accordingly. The magistrates have further been instructed that immediately upon completion of the Affidavit of Indigency form, the magistrate will ensure that the completed forms be transmitted via fax or email to the appropriate Trial Court or designee for consideration. The jail has also been instructed to immediately upon completion of the Affidavit of

Indigency form transmit the completed forms via fax or email to the appropriate Trial Court or designee.

Waller County is currently working with the Waller County Sheriff's Information Technology personnel in trying to implement a process that when the jail forms, including the completed Affidavit of Indigency forms, are downloaded at the jail by jail personnel that those same forms automatically upload to the Waller County Clerk's system. This will allow Trial Court Personnel or designee the ability to retrieve the completed Affidavit of Indigency form immediately without the need for the information to be faxed or emailed. This should expedite the paperwork timely being provided to the Trial Court's personnel or designee and will also cut down on possible human error for failing to timely fax or email the information to the proper Trial Court or designee. ***This is not currently being done, but currently looking into whether or not it is possible.***

As alluded to in the body of the June 2024 Report, many untimely appointments occurred when the defendant made bail shortly after the Article 15.17 hearing. I was notified on January 5, 2024 that the policies implemented by my predecessor to resolve problems of the findings of 2019 did not include appointing counsel to an individual who requested an attorney but bailed out within the deadline period required to appoint an attorney. After this was brought to my attention as the Local Administrative Judge, it was determined by the Trial Courts to change the policy as follows: An attorney shall be appointed to an individual who has correctly completed the Affidavit of Indigency form and it is determined by the Trial Court or designee that the individual is indigent, regardless if the individual has bailed out prior to the three-day workday plus 24 hours allowed to transmit the request.

Since the policy change on January 5, 2024 regarding felony cases, I am only aware of two cases that did not satisfy the three-day plus 24-hour requirement. The District Clerk's office has informed me that since January 2024 there have been 73 requests for attorney's that have been received out of which only 4 have not qualified or had retained counsel.

Therefore, it is my understanding that Waller County has corrected the Issue Pending regarding this matter and is now in compliance and the matter has been Successfully Addressed.

Reply to 2019 Finding 4: As the Local Administrative Judge, I have reached out to the magistrates and the Waller County Jail personnel and have advised them to inquire about requests for appointed counsel and mark the Affidavit of Indigency form accordingly. The magistrates have further been instructed that immediately upon completion of the Affidavit of Indigency form, the magistrate will ensure that the completed forms be transmitted via fax or email to the appropriate Trial Court or designee for consideration. The jail has also been instructed to immediately upon completion of the Affidavit of Indigency form transmit the completed forms via fax or email to the appropriate Trial Court or designee.


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Therefore, it is my understanding that Waller County has corrected the Issue Pending regarding this matter and is now in compliance and the matter has been Successfully Addressed.

Reply to 2019 Finding 5: No need for reply in that the issue has been **Successfully Addressed**.

Signed: 6/20/2024


GARY W. CHANEY
Local Administrative Judge