



Second Follow-up Policy Monitoring Review of Bosque County's Indigent Defense Systems

April 2026



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Chair:

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

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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
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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 These reviews seek to promote local compliance with the six core requirements of the FDA² and provide technical assistance to improve county indigent defense processes where needed. In this third follow-up review, TIDC observed court, interviewed officials, and reviewed FY2024 data from Bosque County. TIDC finds that Bosque County has addressed all past findings. Bosque County does not need to respond to this report. TIDC thanks Bosque County officials and staff for their assistance in completing this review.

Background

TIDC issued an initial policy report on Bosque County's indigent defense practices in September 2017. The report made recommendations concerning the local procedures for requesting counsel at Article 15.17 hearings and the timeliness of appointments of counsel in misdemeanor and felony cases. TIDC also found that requests were not ruled upon prior to defendants waiving counsel. When counsel was waived for purposes of entering a guilty plea, the language did not closely match Article 1.051(g). Other County procedures complied with the core requirements of the FDA.

TIDC issued a follow-up report in June 2022. The report found that the County had changed its waiver of counsel form. The other 2017 report findings remained pending.

Current Review

TIDC's policy monitoring rules require follow-up reviews where the report includes noncompliance findings.³ Staff members Cody Huffman and Joel Lieurance conducted a follow-up review of Bosque County, with site visits on September 30 – October 1, 2025, and completed their data collection on their follow-up visit on February 6, 2026. TIDC examined whether Bosque County successfully addressed the findings and recommendations from the June 2022 report. TIDC examined misdemeanor and felony case files to check for timeliness in appointments and met with the local justice of the peace who conducts Article 15.17 hearings. On October 1, 2025, TIDC observed a misdemeanor docket to document the procedures for requesting counsel.

¹ TEX. GOV'T CODE § 79.037(a)–(b).

² 1 TEX. ADMIN. CODE § 174.28.

³ 1 TEX. ADMIN. CODE § 174.28(d)(3).

Table 1: History of Monitoring Findings

FDA Core Requirement	Description and Initial Year of Finding	Status After 2026 Review	
		Satisfied	Pending
1. Prompt & Accurate Magistrate Proceedings	Article 15.17(a) requires magistrates ensure reasonable assistance in completing forms necessary to obtain appointed counsel and to transmit those forms to the appointing authority within 24 hours. (2017)	✓ (2026)	
4. Appoint Counsel Promptly (felony cases)	Felony appointments did not meet TIDC's timeliness threshold (90% of sample timely). (2017)	✓ (2026)	
4. Appoint Counsel Promptly (misd. cases)	Misdemeanor appointments did not meet TIDC's timeliness threshold (90% of sample timely). (2017)	✓ (2026)	
4. Appoint Counsel Promptly (waivers of counsel)	Defendants entered uncounseled pleas while having pending counsel requests. (2017)	✓ (2026)	
4. Appoint Counsel Promptly (waivers of counsel)	The form used to waive counsel for entering an uncounseled plea did not closely match the language from Article 1.051(g). (2017)	✓ (2022)	

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.⁴ At this hearing, the magistrate must inform the person of the right to 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.⁵ Magistrates must transmit requests for counsel to the appointing authority within 24 hours.⁶ 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.⁷

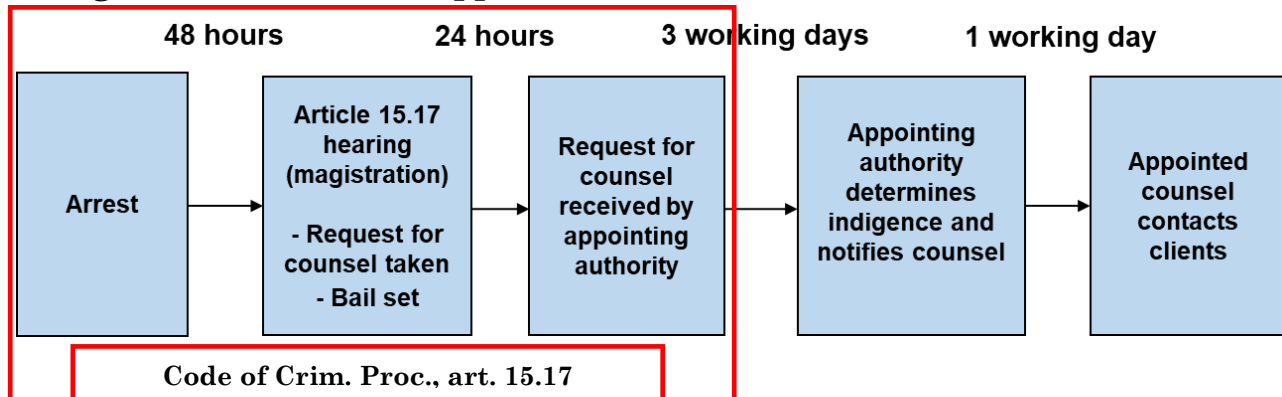
⁴ TEX. CODE CRIM. PROC. ART. 15.17(a).

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

⁶ TEX. CODE CRIM. PROC. ART. 15.17(a).

⁷ 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



Texas Judicial Council Monthly Court Activity Reports and the Ability of Arrestees to Request Counsel

Under Articles 15.17 (a) and (e) of the Code of Criminal Procedure, the magistrate must ask the arrestee whether he or she would like to request counsel and make a record of the request. Justices of the peace and municipal court judges are required to report monthly to the Office of Court Administration the number of Article 15.17 hearings conducted and the number of requests for counsel from these hearings. This data indicates that in FY2024, about 48% of misdemeanor arrestees and about 53% of felony arrestees request counsel at Article 15.17 hearings.

Assistance with Counsel Requests and Their Transmission to the Courts

If an arrestee requests counsel, Article 15.17(a) requires that the magistrate ensures reasonable assistance in completing the paperwork necessary to request counsel. The request must then be transmitted to the appointing authority within 24 hours. Article 15.17(a) does not require the magistrate to personally assist with financial forms but puts responsibility on the magistrate to ensure assistance is provided.

Based on the collected data, both Justices of the Peace 1 (JP1) and 2 (JP2) have ensured reasonable assistance in completing affidavits of indigence for those who request counsel at the Article 15.17 hearing. TIDC staff observed that in FY2024, JP1 and JP2 presided over all Article 15.17 hearings in Bosque County, and after the Article 15.17 hearing, both JP1 and JP2 scanned and emailed the affidavits of indigence to the appropriate trial judge. The courts confirmed that they regularly receive counsel requests from the Article 15.17 hearings. TIDC finds that Bosque County has addressed the past findings about its magistrate proceedings and assistance in completing required documents.

FINDINGS AND RECOMMENDATIONS FOR REQUIREMENT 1

Conduct Prompt and Accurate Magistration Proceedings

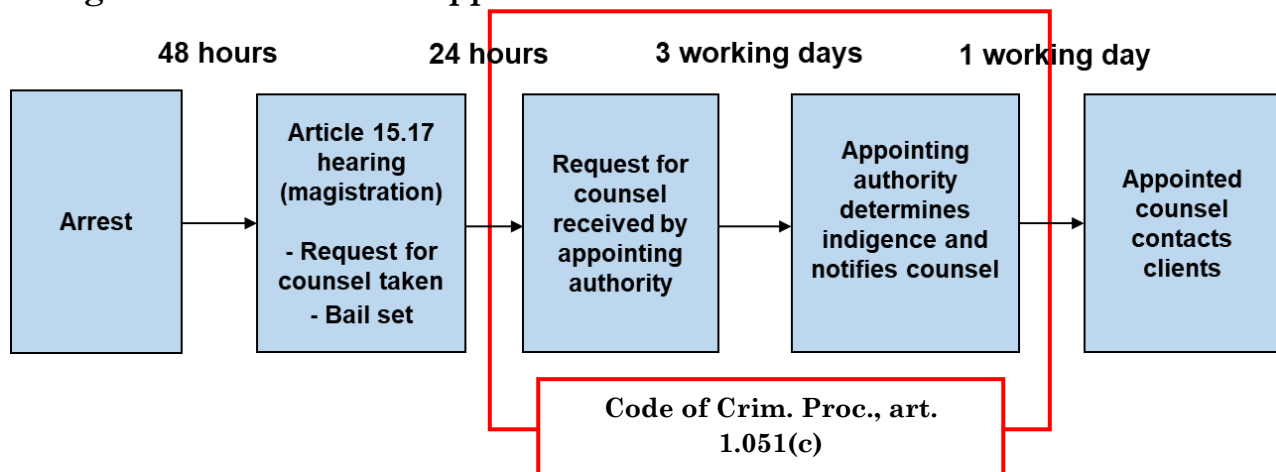
2022 FINDING and RECOMMENDATION 1: Article 15.17(a) requires that magistrates ensure reasonable assistance in completing forms necessary to obtain appointed counsel. These forms must then be transmitted to the appointing authority within 24 hours. Bosque County magistrates must ensure arrestees receive this assistance, and financial forms are promptly transmitted to the courts.

Successfully Addressed.

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



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. Under TIDC's monitoring rules, a county is presumed to be following the prompt appointment of counsel requirement if at least 90% of indigence determinations in the monitor's sample are timely.⁸

⁸ 1 TEX. ADMIN. CODE § 174.28.

Timeliness of Appointments in Felony Cases

TIDC examined 41 felony cases filed in FY2024 to determine the timeliness of felony appointments. From this sample, TIDC found 36 requests for counsel. Counsel was appointed in a timely manner in 94% of cases with a request for counsel, which meets TIDC's 90% threshold. TIDC commends Bosque County for their procedures that ensure timely presence of counsel in felony cases.

Table 2: Times from Request to Appointment in Felony Cases

	Number from Sample	Percent of Sample
Total records examined	34	
Requests for counsel	31	
Request for counsel ruled upon in 'x' workdays		
0 workdays	22	
1 to 3 workdays + 24 hours allowed to transmit a request	12	
Timely Rulings on Requests	34	94%
Between 4 and 7 workdays	2	
More than 7 workdays	0	
No ruling on request	0	
Untimely/No Rulings on Requests	2	6%

Timeliness of Appointments in Misdemeanor Cases

To assess the timeliness of Bosque County's current appointment procedures in misdemeanor cases, TIDC examined 118 misdemeanor cases filed in FY2024. From this sample, the monitor found 59 requests for counsel. Counsel was appointed in a timely manner in approximately 90% of cases with a request for counsel, which meets TIDC's 90% threshold. TIDC commends Bosque County for their procedures that ensure timely presence of counsel in misdemeanor cases.

Table 3: Times from Request to Appointment in Misdemeanor Cases

	Number from Sample	Percent of Sample
Total records examined	118	
Requests for counsel ¹⁶	59	
Request for counsel ruled upon in 'x' workdays		
0 workdays	24	
1 to 3 workdays + 24 hours allowed to transmit a request	29	
Timely Rulings on Requests	53	90%
Between 4 and 7 workdays	3	
More than 7 workdays	0	
No ruling on request	3	
Untimely/No Rulings on Requests	6	10%

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. If a defendant enters an uncounseled plea, then he or she must sign a written waiver, the language of which must substantially conform to the language of Article 1.051(g).

TIDC observed that Bosque County has implemented a system to effectively track and rule on misdemeanor requests for counsel. When defendants appear at the trial court, they are given an opportunity to request counsel prior to any meeting with the prosecutor. If a defendant enters an uncounseled plea, the waiver language closely tracks Article 1.051(g). Based on the County's local procedures and TIDC's observations, Bosque County has addressed past findings dealing with waivers of counsel.

FINDINGS AND RECOMMENDATIONS FOR REQUIREMENT 4

Appoint Counsel Promptly

2022 FINDING and RECOMMENDATION 2 (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 appointment system ensures timely appointment of counsel. The County must implement practices that satisfy Article 1.051(c)(1)'s timeline in felony cases.

Successfully Addressed.

2022 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 monitor's sample of attorney appointments in misdemeanor cases fell below the Commission'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. ***Successfully Addressed.***

2022 FINDING and RECOMMENDATION 4 (misdemeanor cases): The County does not have processes in place to ensure 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 requests for counsel prior to procuring a waiver of counsel for the purpose of speaking with the prosecutor. ***Successfully Addressed.***

Conclusion

TIDC thanks Bosque County officials and staff for their assistance in completing this review. Bosque County has successfully addressed the findings made in the 2022 policy monitoring report. The County does not need to respond to this report. TIDC commends Bosque County officials for their commitment to improving their local indigent defense practices.