

Potter County Response to TIDC “Policy Monitoring Review”

A. Response to “Findings and Recommendations for Requirement 4 – Appoint Counsel Promptly”:

Upon learning of the deficiencies identified by the TIDC review, the Managed Assigned Counsel office (“MAC”) did its own investigation into why this was occurring. It was determined there were several issues that led to a deficiency.

1. Magistrations at the jail are handled by the Justices of the Peace. It was their understanding that people incarcerated on probation violations were not supposed to be magistrated. That misunderstanding was based on the fact that only the court that originally placed the individual on probation was able to set a bond. That is correct, but this class of defendants should still be advised of their right to counsel and given an opportunity to request one. That deficiency has been corrected by the current practice of magistrating those individuals and determining if they are requesting and appropriate for court-appointed counsel.
2. Certain incarcerated individuals were not being processed in the arraignment room at the jail due to factors such as: mental illness, other medical conditions, etc. That deficiency has been addressed by the MAC staff reviewing the magistration logs which indicate when incarcerated individuals are not being brought in front of the magistrate. When such individuals are identified the MAC staff contacts them and inquires as to whether they wish to have counsel appointed.
3. With respect to Misdemeanors only, TIDC identified a deficiency that was caused by the inability to appoint counsel in cases that had yet to have a charging instrument on file. While felonies were given a “shell” identification number, misdemeanors were not. MAC staff worked with the clerk and prosecutors and a process was developed wherein those cases at probable cause stage are assigned a “shell” number and counsel can be appointed.