



Second Follow-up Fiscal and Policy Monitoring Review of Harris County's Indigent Defense Systems

January 2026



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Mission: Protecting the right to counsel, improving public defense.

Contents

Background	4
Current Review	7
Program Assessment	7
REQUIREMENT 1: CONDUCT PROMPT AND ACCURATE ARTICLE 15.17 PROCEEDINGS	7
REQUIREMENT 4: APPOINT COUNSEL PROMPTLY	9
REQUIREMENT 5: INSTITUTE A FAIR, NEUTRAL, AND NONDISCRIMINATORY ATTORNEY SELECTION PROCESS	14
REQUIREMENT 6: PROMULGATE STANDARD ATTORNEY FEE SCHEDULE AND PAYMENT PROCESS	16
Conclusion	18
2026 Summary of Findings and Recommendations	19

Background

The Texas Indigent Defense Commission (TIDC) monitors local jurisdictions' compliance with the Fair Defense Act (FDA) through on-site reviews.¹ These reviews seek to promote local compliance with the requirements of the FDA and to provide technical assistance to improve county indigent defense processes where needed.

TIDC's review of Harris County began with a 2012 evaluation of Harris County's juvenile counsel appointment procedures. The report found appointments were not always timely when youths had been released from custody.

In October 2016, TIDC issued an initial review of Harris County's felony and misdemeanor appointment procedures and a follow-up review of juvenile appointments.² The report found that when a person requested counsel at the Article 15.17 hearing, the request was marked in the County's case management system, but the County did not gather financial information about the defendant. Instead, each court began the indigent screening process at the defendant's first appearance in the trial court. Courts did not determine indigence according to the uniform standard set in the indigent defense plan. Rather, defendants who could not make bail were automatically appointed counsel, but if they later made bail, the initial counsel appointment could be taken away. Defendants who initially made bail would appear in court, and each court determined indigence differently. As a result of non-uniform procedures, counsel was often not appointed in a timely manner.

In juvenile cases, counsel must be appointed, or there must be an order to retain counsel within five working days of the petition being served on the youth. The courts often had no in-person communication with the youth's family until after the five working days had expired. Appointments were frequently untimely because they occurred at the initial court appearance, after the appointment due date.

The felony, misdemeanor, and juvenile courts selected counsel primarily through a contract system, referred to as the "term assignment" system. This system assigned cases to private attorneys to represent groups of unspecified indigent defendants, as contract systems do, but there were no written contracts as required by TIDC's Contract Defender Rules. As an example, an attorney-of-the-week may be designated to appear before a particular court on a given week. The attorney could receive up to five court appointments for each day the attorney was designated at a

¹ TEX. GOV'T CODE § 79.037(a)–(b); 1 TEX. ADMIN. CODE § 174.28.

² At the request of local officials, TIDC also analyzed Harris County's pretrial system and quality of counsel in a supplemental report (available at <https://www.tidc.texas.gov/media/0kwn0brz/policy-monitoring-analysis-pretrial-id-harris-2016.pdf>).

particular court. This practice meets TIDC's definition of a Contract Defender Program, but there were no written contracts in place.

As to fiscal and reporting matters, Harris County's annual expense report to TIDC is complex. TIDC requires counties to report the number of cases disposed by appointed counsel; however, the County's internal systems did not track cases in this manner.³ The October 2016 review also found that Harris County reported unallowable expenses, including child protective services and attorney *pro tem* payments. Additionally, some judges reduced attorney payments without making written findings as required by Texas law.

In 2021, TIDC conducted a follow-up review to ascertain whether the issues identified in the 2016 report had been addressed. This report found that the County determined indigence according to the financial standard set in the indigent defense plan, but there were still issues with appointing counsel in a timely manner. Regarding the selection of appointed counsel, the County had not yet adopted written contracts for term assignments lasting longer than one week, and the felony courts did not follow the public defender priority requirements set in Article 26.04(f) of the Code of Criminal Procedure. The County had addressed the fiscal and reporting matters raised in the 2016 review, but the 2021 review found sample cases in which attorneys were paid without documentation of the services rendered.

TIDC now conducts a second follow-up review to determine whether Harris County has addressed each item.

Table 1: History of Monitoring Findings

FDA Core Requirement	Description and Initial Year of Finding	Status After 2026 Review	
		Satisfied	Pending
1. Prompt and Accurate Magistrate's Warnings	Magistrates did not ensure reasonable assistance in completing affidavits of indigence. (2016)	✓ (2026)	
2. Determination of Indigence	The courts did not follow the local standard of indigence set in the indigent defense plan. (2016)	✓ (2021)	
2. Determination of Indigence	Indigence re-determinations were made if a defendant made bail, and in these instances, the initial attorney-client relationship was disturbed. (2016)	✓ (2021)	

³ Under the term assignment system, attorneys were paid for the dockets they attended, not the number of cases they handled. At the time of the 2016 review, Harris County had just created an automated voucher system that allowed it to keep records showing which cases had been paid.

FDA Core Requirement	Description and Initial Year of Finding	Status After 2026 Review	
		Satisfied	Pending
4. Prompt Appointment (Felony Cases)	The timeliness of indigence determinations in sample felony cases did not meet TIDC's threshold for presuming a jurisdiction's processes ensure timely appointments. (2016)		✓
4. Prompt Appointment (Misd. Cases)	The timeliness of indigence determinations in sample misdemeanor cases did not meet TIDC's threshold for presuming a jurisdiction's processes ensure timely appointments. (2016)		✓
4. Prompt Appointment (Juv. Cases)	The timeliness of indigence determinations in sample juvenile cases did not meet TIDC's threshold for presuming a jurisdiction's processes ensure timely appointments. (2012)	✓ (2026)	
5. Attorney Selection Process (Felony Cases)	Term assignments for periods longer than one week did not have written contracts comporting with TIDC's Contract Defender Rules. (2016)	✓ (2026)	
5. Attorney Selection Process (Felony Cases)	The felony appointment system did not follow Article 26.04(f)'s public defender priority requirements. (2021)	✓ (2026)	
5. Attorney Selection Process (Misd. Cases)	Term assignments for periods longer than one week did not have written contracts comporting with TIDC's Contract Defender Rules. (2016)	✓ (2026)	
6. Payment Processes	One sample voucher did not include a judge's signature authorizing payment. (2016)	✓ (2021)	
6. Payment Processes	Sample vouchers paid a different amount than requested, and payments did not include written reasons for variances. (2016)	✓ (2021)	
6. Payment Processes	Two sample cases were paid without documentation for services provided. (2021)		✓
7. Data Reporting	The indigent defense expense report (IDER) included unallowable expenses. (2016)	✓ (2021)	
7. Data Reporting	IDER adult criminal and juvenile delinquency expenses were not properly itemized. (2016)	✓ (2021)	

Current Review

TIDC's policy monitoring rules require follow-up reviews of counties where the report included noncompliance findings.⁴ This review examined previous findings and recommendations covering the following core requirements of the Fair Defense Act:⁵

- REQUIREMENT 1: CONDUCT PROMPT AND ACCURATE ARTICLE 15.17 PROCEEDINGS
- REQUIREMENT 4: APPOINT COUNSEL PROMPTLY
- REQUIREMENT 5: INSTITUTE A FAIR, NEUTRAL, AND NONDISCRIMINATORY ATTORNEY SELECTION PROCESS
- REQUIREMENT 6: PROMULGATE STANDARD ATTORNEY FEE SCHEDULE AND PAYMENT PROCESS

TIDC staff members, Wesley Shackelford, Ashley De La Garza, Natasha George, Joel Lieurance, and Debra Stewart, conducted the current review with an on-site visit to Harris County from November 12 to November 15, 2024. TIDC observed Article 15.17 hearings, felony dockets, and misdemeanor dockets. TIDC examined felony, misdemeanor, and juvenile case files, the local Indigent Defense Plan, financial documents maintained by the Harris County Auditor's Office, and the annual Indigent Defense Expenditure Report (IDER). TIDC interviewed court administrators, managers, and judges overseeing felony, misdemeanor, and juvenile cases; the Auditor's Office; the Public Defender's Office; the Pretrial Services Office; and the Office of Managed Assigned Counsel.

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.⁶ At this hearing, the magistrate must inform the person of their right to counsel and the procedures for requesting counsel, and, for persons requesting counsel, ensure the person has reasonable assistance in completing the necessary forms.⁷ Magistrates must transmit requests for counsel to the appointing authority within 24 hours.⁸ If a person is arrested on an

⁴ 1 TEX. ADMIN. CODE § 174.28(d)(3).

⁵ Harris County addressed previous findings dealing with Requirement 2, Determine Indigence According to Standards Directed by the Indigent Defense Plan and Requirement 3, Establish Minimum Attorney Qualifications.

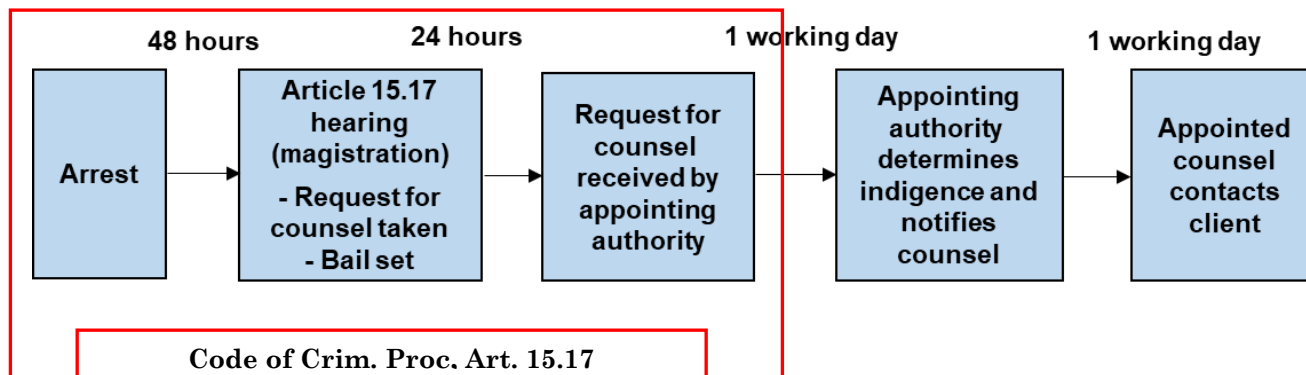
⁶ TEX. CODE CRIM. PROC. art. 15.17(a).

⁷ TEX. CODE CRIM. PROC. art. 15.17(a).

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

out-of-county warrant, the magistrate must perform the same duties as if the person were arrested on an in-county warrant.⁹

Figure 1a: Timeline for Appointment of Counsel in Adult Criminal Cases (county population over 250,000)



Local Practices for Conducting Magistrate Warnings

Defendants are represented by the public defender at the Article 15.17 hearing.¹⁰ Prior to the hearing, Pretrial Services conducts a financial screening interview and marks whether the defendant requests counsel. The public defender meets individually with defendants to explain the hearing and to gather relevant information. At the hearing, the magistrate determines whether probable cause exists for detention of the defendant. The prosecutor and defense counsel make bail arguments, and then the magistrate sets bail. If the defendant is present, the judge asks if the defendant requests counsel. The financial data gathered by Pretrial Service and the results of the Article 15.17 hearing are entered into Harris County’s case management system and are available for the trial courts.

Procedures for Completing Necessary Forms and Transmitting Requests for Counsel and Financial Affidavits

Under Article 15.17(a), magistrates must “ensure that reasonable assistance in completing the necessary forms for requesting appointment of counsel is provided to the person at the same time” as the hearing. Magistrates must then transmit the forms requesting counsel to the appointing authority within 24 hours. Based on interviews and case file review, TIDC finds that defendants can request counsel at the Article 15.17 hearing, and this information is gathered and available for the

⁹ 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>.

¹⁰ Defendants who are found eligible for General Order (GO) bonds or personal bonds are typically released prior to the Article 15.17 hearing. Defendants who are combative or suicidal are not physically present for the hearing but are considered part of the Article 15.17 docket.

appointing authority. TIDC's recommendation addressing reasonable assistance with financial forms has been successfully addressed.

RECOMMENDATION FOR REQUIREMENT 1

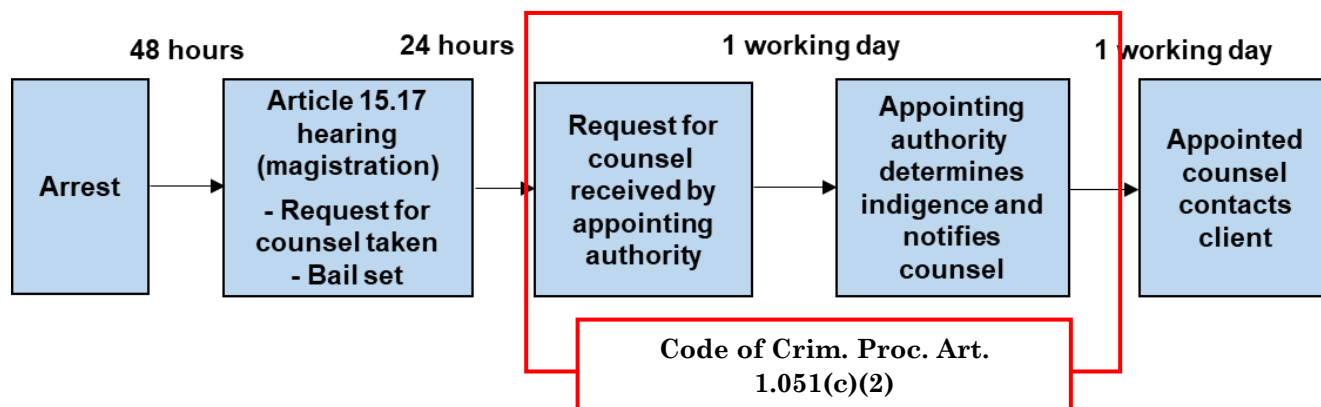
Conduct prompt and accurate magistration proceedings

2021 FINDING AND RECOMMENDATION 1: Harris County must ensure that reasonable assistance in completing forms necessary to obtain appointed counsel is provided, so that all arrestees who request counsel can have the request ruled upon within statutorily required timeframes. Under Article 15.17(a), this duty falls on the magistrate presiding over the Article 15.17 hearing. Article 15.17 requires the magistrate to transmit the forms requesting the appointment of counsel to the appointing authority within 24 hours of the request. ***Successfully Addressed.***

REQUIREMENT 4: APPOINT COUNSEL PROMPTLY

Under Article 1.051(c)(2), 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



Local Procedures for Appointing Counsel

Defendants may request counsel either through a Pretrial Services interview or at the Article 15.17 hearing. The request is available in the case management system and can be accessed by trial courts.

Timeliness of Appointments in Felony Cases

Felony appointments are decentralized: each court determines indigence and appoints counsel at the first trial court setting. Felony dockets for defendants making bail frequently occur about 48 hours after the Article 15.17 hearing. This allows for appointments to occur within one working day (plus 24 hours for transmitting the request).

TIDC examined 214 felony cases filed in FY2024. The courts made timely appointments of counsel or denials of indigence in 129 of 146 cases in which counsel was requested (**88% timely**). This falls slightly 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.

Table 2: Times to Appointment in Harris County Felony Cases (FY2024)

	Sample Size	Number from Sample	Percent
Number of case files examined	214		
Total cases with a counsel request		146	
Appointment / denial of indigence occurred in:			
0 work days		29	
1 work day + 24-hour transfer		100	
Total timely appointments / denials		129	88%
2 - 4 work days + 24-hour transfer		9	
More than 4 work days + 24-hour transfer		8	
No ruling on request		0	
Total untimely appointments / denials		17	12%

Timeliness of Appointments in Misdemeanor Cases

In misdemeanor cases, each court determines indigence at the first trial court setting, and then the Harris County Office of Managed Assigned Counsel is directed to appoint counsel for those found indigent. For bonded defendants, this first setting typically occurs about one week after arrest, or after the appointment would have been statutorily required.

TIDC examined 264 sample misdemeanor cases filed in FY2024. The courts made timely appointments of counsel or denials of indigence in 97 of 139 cases in which counsel was requested (**70% timely**). This falls below TIDC's 90% threshold for presuming a jurisdiction's practices ensure timely appointment of counsel. Dockets for defendants making bail frequently occur about a week after the Article 15.17 hearing. The County must implement practices that satisfy Article 1.051(c)(2)'s timeline in misdemeanor cases.

To address timeliness issues, the misdemeanor courts stated they were changing the Pretrial Services affidavit by removing the box in which defendants note whether they are requesting counsel. This practice would remove requests made before the Article 15.17 hearing. Instead, the first opportunity to request counsel would be at the Article 15.17 hearing.

Table 3: Times to Appointment in Harris County Misd. Cases (FY2024)

	Sample Size	Number from Sample	Percent
Number of case files examined	264		
Total cases with a counsel request		139	
Appointment / denial of indigence occurred in:			
0 work days		74	
1 work day + 24-hour transfer		23	
Total timely appointments / denials		97	70%
2 - 4 work days + 24-hour transfer		24	
More than 4 work days + 24-hour transfer		14	
No ruling on request		4	
Total untimely appointments / denials		42	30%

Juvenile Cases

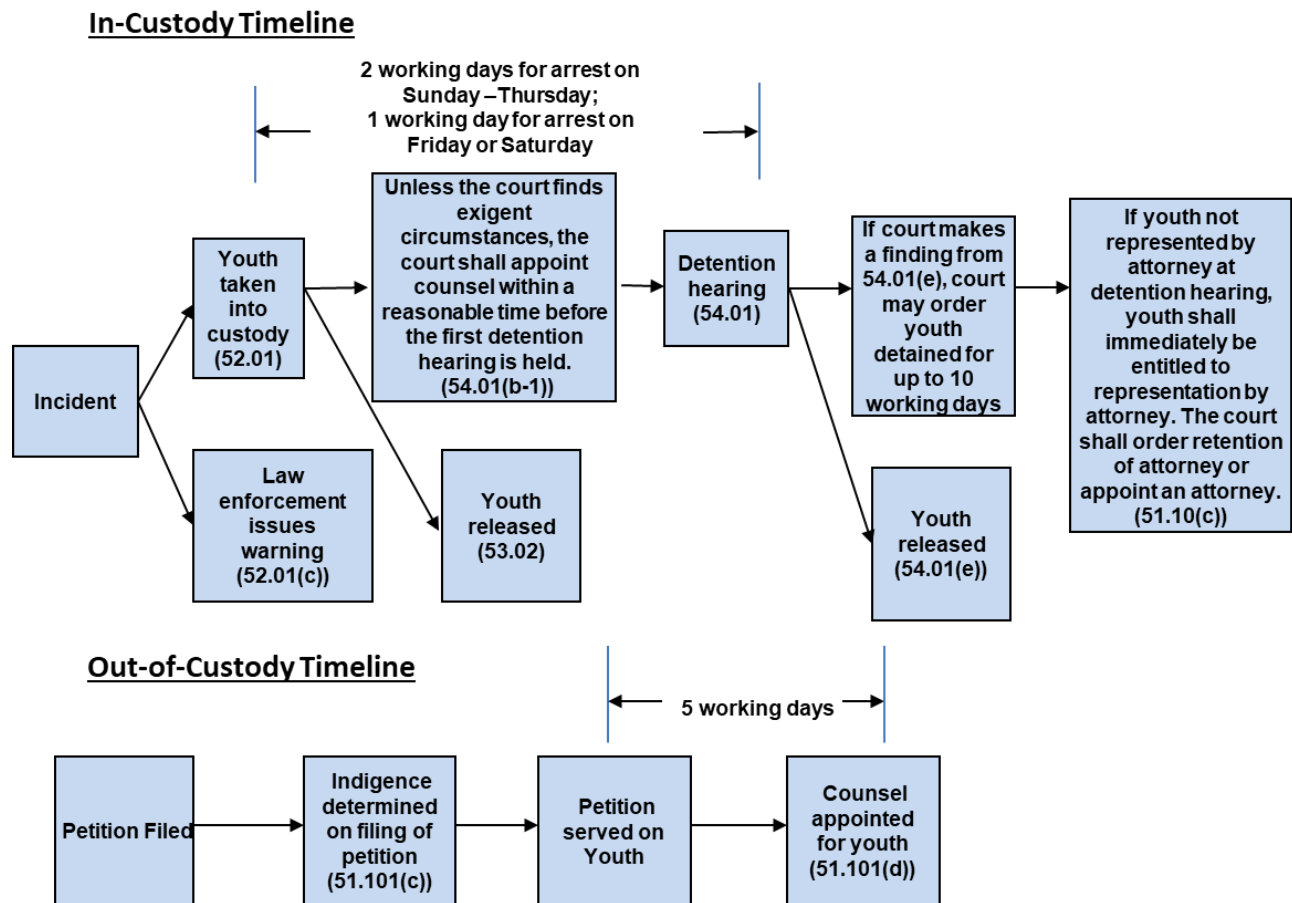
The courts must appoint counsel for youths alleged to have engaged in delinquent conduct when the youth is brought to a detention hearing and when the youth is served with a copy of the petition alleging misconduct.¹¹ Under Section 54.01(b-1) of the Family Code, unless the court finds the appointment 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 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 youth.¹²

¹¹ TEX. FAM. CODE § 51.10(f).

¹² 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.

Figure 2: Timeline for Appointment of Counsel in Juvenile Cases



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 106 sample cases, TIDC found counsel was present in a timely fashion (either through appointment, retention, or order to retain counsel) in 97 sample cases (**92% timely**). This exceeds TIDC's 90% threshold. TIDC finds that Harris County has addressed past recommendations dealing with timely appointment of counsel in juvenile cases.

Table 4: Times to Appointment in Juvenile Cases

Juvenile Appointment Sample Data	Sample Size	Number from Sample	Percent
Number of juvenile case files examined	106		
TIMELINESS OF COUNSEL WHEN THE YOUTH WAS SERVED WITH A PETITION (either appointment or retention)			
Appointment of counsel occurred within five working days of petition being served on juvenile		91	
Retention of counsel / Order to retain counsel occurred within five working days of petition being served on juvenile		6	
Total cases in which counsel present in a timely fashion		97	92%
Total cases in which counsel not timely present		9	8%

RECOMMENDATION FOR REQUIREMENT 4

Appoint Counsel Promptly

2021 FINDING AND RECOMMENDATION 2 (FELONY CASES): TIDC's sample of attorney appointments in felony cases fell below the Commission's threshold for presuming a jurisdiction's appointment system ensures timely appointment of counsel (90% timely). Article 1.051(c)(2) requires all district courts to rule on all requests for counsel within one working day (plus 24 hours allowed for transferring requests to the courts) of the request being made. The County must implement practices that satisfy Article 1.051(c)(2)'s timeline. ***Issue Pending.***

2021 FINDING AND RECOMMENDATION 3 (MISDEMEANOR CASES): TIDC's sample of attorney appointments in misdemeanor cases fell below the Commission's threshold for presuming a jurisdiction's appointment system ensures timely appointment of counsel (90% timely). Article 1.051(c)(2) requires all statutory county courts to rule on all requests for counsel within one working day (plus 24 hours allowed for transferring requests to the courts) of the request being made. The County must implement practices that satisfy Article 1.051(c)(2)'s timeline. ***Issue Pending.***

2021 FINDING AND RECOMMENDATION 4 (JUVENILE CASES): TIDC's sample of attorney appointments in juvenile cases fell below the Commission's threshold for presuming a jurisdiction's appointment system ensures timely appointment of counsel (90% timely). Section 51.101(d) of the Family Code requires the appointment of counsel within five working days of petition service on the juvenile. For cases in which the juvenile is not detained, Harris County must implement procedures that ensure timely appointments of counsel. ***Successfully Addressed.***

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

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

Contracts for Term Assignments Exceeding One Week

The 2021 review found that the felony and misdemeanor courts had either contracts or term assignments in which attorneys were designated to receive appointments for a specific court beyond a one-week time frame. None of these contracts or term assignments had written contracts approved by the Harris County Commissioners Court. Based on interviews, there are no longer any contracts or term assignments that exceed a one-week period. TIDC finds that the Harris County felony and misdemeanor courts have addressed past recommendations covering the use of contracts and term assignments.

Priority Appointments to Public Defender Office Under Article 26.04(f)

Under Article 26.04(f) of the Code of Criminal Procedure, courts must prioritize appointing a public defender office where one has been established. In the 2021 review, TIDC found that the district courts had unevenly appointed and underutilized the public defender.

For the current review, TIDC found that in felony cases, the public defender is given an initial list of indigent cases. The Office has three hours to select which cases it would like to accept.¹³ The remaining indigent cases are given as appointments to private counsel. This method for making appointments meets the requirements of Article 26.04(f). TIDC finds that the felony courts have successfully addressed this recommendation covering the priority of appointing the public defender.

Additional Notes

In March 2025, the January Advisors Consulting Group hosted a webinar in which they made an analysis of appointments to criminal defense attorneys in the Harris County district courts. They found the district court “judges are about twice as likely to assign an indigent defense case to an attorney who had donated to their campaign than if assignments were random.” Their report was critical of local appointment practices and made recommendations regarding felony appointments.¹⁴ The judges may wish to explore implementing new appointment processes to avoid

¹³ The procedure is described in Rule 8.3 of the Harris County District Courts’ Indigent Defense Plan, available at <http://tidc.tamu.edu/IDPlan/ViewPlan.aspx?PlanID=294>.

¹⁴ A summary of the January Advisors Consulting Group’s research is available at: <https://www.januaryadvisors.com/how-campaign-donations-affect-indigent-defense-in-harris-county/>.

any appearance of impropriety, which could include expansion of the managed assigned counsel program to felony cases.

At its August 2025 Board Meeting, TIDC amended its Administration Rules so that 1 TEX. ADMIN. CODE § 174.11 now states (underlined text is new):

This subchapter applies to all contract defender programs in which legal representation is provided for a period of more than one week. Contract defender programs for terms of one week or less are governed by the alternative appointment programs provisions in Article 26.04(g)-(h) and subject to §174.28(c)(5) related to the distribution of appointments in assigned counsel systems. In a county or counties with a contract defender program of one week or less in duration, the countywide procedures adopted under Art. 26.04(a), Code of Criminal Procedure, shall set the maximum annual number of appointed cases or workload for each attorney at the applicable offense level (felony, misdemeanor, juvenile). This subchapter does not apply to public defender or managed assigned counsel programs established and governed by Chapter 26, Code of Criminal Procedure.

Under the amended rule, counties with short-term contracts (those for a duration of one week or less) are required to set maximum annual appointed caseloads for the contract attorneys. These contracts include attorneys-of-the-week or -day and term assignments of one week or less. Short-term contracts do not need to meet the other components of the Contract Defender Rules. For the Harris County District Courts, this means that maximum annual felony appointment caseload caps will need to be set for attorneys taking felony term assignments.

RECOMMENDATION FOR REQUIREMENT 5

Attorney Selection Process

2021 FINDING AND RECOMMENDATION 5 (FELONY CASES): TIDC recommends the district courts implement a system meeting the Commission's Contract Defender Rules for all term assignments exceeding one week. A notification for application is currently used, but the courts need to formalize contracts with defense attorneys. *Successfully Addressed.*

2021 FINDING AND RECOMMENDATION 6 (FELONY CASES): The district courts must put in place an appointment system that meets Article 26.04(f)'s requirement that the public defender be given priority in appointments. *Successfully Addressed.*

2021 FINDING AND RECOMMENDATION 7 (MISDEMEANOR CASES): TIDC recommends the statutory county courts implement a system that meets the Contract Defender Rules for all term assignments exceeding one week. This includes a notification for attorneys to apply and execute contracts containing all required terms. *Successfully Addressed.*

REQUIREMENT 6: PROMULGATE STANDARD ATTORNEY FEE SCHEDULE AND PAYMENT PROCESS

Under Article 26.05(b) of the Code of Criminal Procedure, payments for indigent defense services must be made in accordance with a schedule of fees adopted by formal action of the judges of the county courts, statutory county courts, and district courts trying criminal cases in each county.¹⁵ No payment may be made until the attorney submits a voucher itemizing services performed and submits it to the judge presiding over the case. The judge may approve the requested amount or a different amount. If the judge does not approve the requested amount, he or she must make written findings to disapprove the requested payment amount.¹⁶

Voucher Review

In 2021, TIDC found payments made to attorneys without proper documentation of the services provided. Without this documentation, one cannot verify whether the fee schedule has been followed. Two sample vouchers in a capital case paid each attorney a flat fee of \$120,000. The vouchers did not contain any details itemizing the work provided by the attorneys. The fee schedule provides an hourly rate of \$150 for first chair and \$125 per hour for second chair representation in capital cases. If the fee schedule had been followed, the first chair attorney would have billed for 800 hours and the second chair attorney for 960 hours. Under Article 26.05(c), the attorneys must submit a payment request that itemizes the services provided. Under Article 26.05(b), courts must follow the fee schedule adopted by the County.

For the current review, TIDC examined 13 capital case vouchers. For each of these 13 vouchers, attorneys requested a lump sum amount. However, in ten of the vouchers, attorneys included an *ex parte* motion that allocated the number of gross hours worked under each rate of pay to the judge approving the voucher. Although the total hours claimed were included, no details about those hours were provided, nor was the number of hours worked on specific dates.

The remaining three vouchers were for one attorney representing the same defendant on three separate cases. Each voucher requested the same amount. TIDC assumes all three cases were handled simultaneously and that the requested amount was based on hours worked, split across the three cases.

No itemized support documentation, such as when attorneys incurred their time or the number of hours spent on specific types of work, was included in any of the 13 requests for payment. Following is a typical example of a voucher in a capital case listing the types of work an attorney should itemize:

¹⁵ TEX. CODE CRIM. PROC. art. 26.05(b).

¹⁶ TEX. CODE CRIM. PROC. art. 26.05(c).

Figure 3: Example Capital Case Fee Voucher Request

Capital Case	No. of Court Days / Hours	Rate	Amount
Capital 1st Chair		\$225 / hr	
Capital 1st Chair - Out of Court Hours		\$225 / hr	
Capital 2nd Chair		\$200 / hr	
Capital 2nd Chair - Out of Court Hours		\$200 / hr	
Investigation Hours		\$90 / hr	
Expert			
Other			\$131,250
Investigation Other Expenses			
TOTAL			\$131,250

Attorneys in capital and high-level felony cases often do not itemize the work they are billing. Continuing the example from above, the request for payment states:

From June 11, 2021 to February 25, 2023, counsel expended over 500 hours of court appearances and services rendered out of court at the approved rate of \$150/hr for a subtotal of \$75,000.00 fee.

From February 26, 2023 to Mar. 04, 2024, counsel expended over 250 hours for court appearances (and more non-docketed court visits to meet with the state) and hours expended out of court, while at the approved rate of \$225/hr for a subtotal of \$56,250.00 fee.

The total fee aggregated is \$131,250 for counsel's defense of [name redacted] against the state's charge of capital murder, et all (sic) with numerous complex issues & charges.

Article 26.05(c) of the Code of Criminal Procedure states, "... No payment shall be made under this article until the form for itemizing the services performed is submitted to the judge presiding over the proceedings. . ." The Harris County District Courts may not approve payment until an itemized voucher that meets the requirements of Article 26.05(c) is submitted. Without itemized vouchers, one cannot determine if the adopted fee schedule is being followed.¹⁷

For capital cases and other high-level felony cases that take multiple years to complete, the County should consider putting in place a method to accrue expected

¹⁷ While the vouchers should not require such detail as to contravene the attorney-client privilege, the vouchers must include enough detail for one to determine whether the billing follows the fee schedule adopted for the County (the date of work, number of hours, an applicable rate schedule, i.e. in-court or out-of-court). Cf. *Morrison v. State*, 575 S.W.3d 1 (Tex. App. —Texarkana 2019, no. 06-17-00159-CR).

costs or permit interim billing. The County could require attorneys to submit itemized hours worked on a monthly, quarterly, or annual basis, as opposed to the current practice of attorneys billing the County for hundreds of hours worked over a span of years without any level of detail documenting what work was done. This procedure would not only meet statutory requirements but also provide a more accurate method for budgeting future expenses, avoid unexpected costs, and better ensure that attorneys are accurately billing for hours actually worked.

RECOMMENDATIONS FOR REQUIREMENT 6

Promulgate standard attorney fee schedule and payment process

2021 FINDING AND RECOMMENDATION 8: TIDC examined cases in which payments were made without itemized documentation of the services rendered by appointed counsel. Under Article 26.05(b), the Harris District and County Courts must follow the fee schedule set by the County and must include proper documentation for making payments under the fee schedule. ***Issue pending.***

Conclusion

TIDC appreciated the professionalism and assistance provided by Harris County officials and staff. Harris County officials showed willingness to make necessary changes to improve the indigent defense system. As mandated by statute, TIDC will continue to monitor Harris County's indigent defense practices. TIDC stands ready to assist Harris County in complying with the Fair Defense Act.

2026 Summary of Findings and Recommendations

Harris County must respond in writing as to how it will address each of these recommendations.

REQUIREMENT 4: APPOINT COUNSEL PROMPTLY

2026 FINDING AND RECOMMENDATION 1 (FELONY CASES): TIDC's sample of attorney appointments in felony cases fell below the Commission's threshold for presuming a jurisdiction's appointment system ensures timely appointment of counsel (90% timely). Article 1.051(c)(2) requires all district courts to rule on all requests for counsel within one working day (plus 24 hours allowed for transferring requests to the courts) of the request being made. The County must implement practices that satisfy Article 1.051(c)(2)'s timeline. *Issue Pending.*

2026 FINDING AND RECOMMENDATION 2 (MISDEMEANOR CASES): TIDC's sample of attorney appointments in misdemeanor cases fell below the Commission's threshold for presuming a jurisdiction's appointment system ensures timely appointment of counsel (90% timely). Article 1.051(c)(2) requires all statutory county courts to rule on all requests for counsel within one working day (plus 24 hours allowed for transferring requests to the courts) of the request being made. The County must implement practices that satisfy Article 1.051(c)(2)'s timeline. *Issue Pending.*

REQUIREMENT 6: PROMULGATE STANDARD ATTORNEY FEE SCHEDULE AND PAYMENT PROCESS

2026 FINDING AND RECOMMENDATION 3: TIDC examined cases in which payments were made without itemized documentation of the services rendered by appointed counsel. Under Article 26.05(b), the Harris District and County Courts must follow the fee schedule set by the County and must include proper documentation for making payments under the fee schedule. *Issue Pending.*