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County Court At Law #2

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Joel Lieurance
Texas Indigent Defense Commission
209 W. 14th Street, Suite 202
Austin, Texas 78701

Joel Lieurance,

Midland County was evaluated by an on-site review from February 22 – March 1, 2018 due to one complaint made by an unnamed defendant. It should be noted that the Court could not adequately respond to the specific complaint due to the anonymous source of the complaint.

Midland County welcomed the on-site review and provided unlimited access to any information requested.

The on-site review resulted in three findings and recommendations. Without going into the entire on-site review report, I as Judge of County Court at Law #2 will respond to each finding and recommendation.

Finding 1 and Recommendation: Articles 14.06 and 15.17 of the Code of Criminal Procedure require that if a person is cited for a Class A or B misdemeanor charge and released, the magistrate must perform the warnings described in Article 15.17. Midland County must implement practices to ensure all cite and release arrestees are given Article 15.17 warnings.

Response: Midland County does provide all required warnings for all cite and release arrestees. We will continue to review our processes, as we currently do, to ensure complete compliance. Midland County will consider providing cite and release defendants with written materials to explain their rights more fully with regard to right to appointed counsel.

Finding 2 and Recommendation: Article 1.051 of the Code of Criminal Procedure requires counsel be granted to persons determined to be indigent within three working days of the Court reviewing the request for counsel. Midland County must implement practices so that determinations of indigence, appointment of counsel, and notifications of appointments occur within three working days (plus 24 hours allowed for transmitting requests) of the request being made.

Response: There appear to be two components to meet the goal of this recommendation. Midland County will endeavor to shorten the time between requests for appointed counsel and evaluation of such request by a court. Midland County will review our process to ensure counsel are notified timely and reiterate to counsel of the time requirements for contacting defendants.

Finding 3 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 requests for counsel prior to procuring a waiver of counsel for the purpose of speaking with a prosecutor.

Response: the county does have processes in place to meet the goal of this recommendation, although we could certainly do so in a more timely fashion. All requests for appointed counsel are ruled upon prior to a waiver being signed. However, there are many occasions in which a defendant signs such waiver, speaks with a prosecutor and then decides to request a court appointed attorney. In these cases, the defendant is granted the opportunity to make such a request even though the waiver has been signed.

In conclusion, Midland County welcomes all recommendations of the Commission and will continue to make every effort to comply with all requests and suggestions.

The Court still maintains the inherent powers necessary to efficiently operate an orderly and efficient courtroom. Implicit in these powers, is the requirement to protect the right of each individual appearing with criminal charges. Also the Court is mindful of the use of taxpayer dollars both in the operation of the court and significant costs associated with appointed counsel. These are not mutually exclusive but are certainly competing interests at times.

Please feel free to contact the Court if I can be of any additional service.

Sincerely,



Marvin L. Moore,
Judge
County Court At Law #2