



# RANDALL COUNTY TEXAS

ERNIE HOUDASHELL  
RANDALL COUNTY JUDGE

September 24, 2019

Joel Lieurance  
Texas Indigent Defense Commission  
209 W. 14<sup>th</sup> Street, Room 202 (Price Daniel Building)  
Austin, Texas 78701

Re: Response to Findings and Recommendations-May 2019

Dear Mr. Lieurance,

Attached please find Randall County's Response to the Texas Indigent Defense Commission's Findings and Recommendations dated May 2019. We believe we have addressed the issues which came to light during your December 2018 audit, but recognize it is an on-going obligation. We are pleased to find that our responses to your previous recommendations have been mostly successful in addressing prior issues. We hope that these responses will be equally successful in the future.

We appreciate your professionalism and assistance to Randall County in the past in helping us address the issue of providing adequate indigent defense to those in need in Randall County. If you have any questions regarding our response, please feel free to contact me or Judge James Anderson.

Sincerely,

Ernie Houdashell

## Responses to May 2019 Findings and Recommendations – Randall County

### **Core Requirement 1. Conduct prompt and accurate magistration proceedings.**

**May 2019 Finding and Recommendation 1:** Randall County magistrates do not always ask persons arrested on out-of-county warrants if they want to request counsel. As required by Article 15.18, the magistrate must ask each person arrested on an out-of-county warrant whether the person wants to request appointed counsel. The request must be transmitted to the warrant-issuing county.

Response: All magistrates who conduct the jail magistration have met and now understand that each arrestee must be asked individually about whether they wish to request counsel regardless of whether they are being held on in-county or out-of-county charges. Only one JP was not doing this because he thought we couldn't appoint Randall County attorneys on out-of-county charges. He now understands the process and reports that he has been in compliance since February 2019. The sheriff's department has always forwarded the out-of-county attorney requests to the warrant-issuing county. This should correct the problem.

**May 2019 Finding and Recommendation 2:** Texas Judicial Council Monthly Activity Reports do not always include the number of persons who request counsel at the Article 15.17 hearing. Justices of the peace must report the number of persons requesting counsel in their Texas Judicial Council Monthly Court Activity Reports.

Response: All magistrates who conduct the jail magistration have met and discussed this finding. Only one JP was not doing this. Once this was brought to his attention, he says he has corrected the problem and gives the required information to his staff, who are now reporting the number of persons requesting counsel in their Texas Judicial Council Monthly Activity Reports. He says that he has been in compliance since February 2019. This should correct the problem.

### **Core Requirement 4. Appoint counsel promptly.**

**May 2019 Finding and Recommendation 3:** The statutory county courts do not have adequate processes in place to ensure timely appointment of counsel when a petition is served on a juvenile. Randall County must implement processes that ensure timely appointment of counsel in juvenile cases.

Response: This is an ongoing issue in juvenile cases when the juvenile has not been detained prior to the filing of a petition. An attorney is always appointed for the detention hearing, and by statute continues to represent the child until an attorney is retained or appointed from the wheel.

A juvenile case cannot proceed without an attorney representing the child. In all juvenile cases, when a petition and summons is served on a juvenile and their parent, they are ordered to appear with a parent or guardian within five (5) days following the date of the filing of the petition at 8:30 a.m. for an attorney status docket (they are given a date certain in the summons). If an attorney is obtained prior to that docket date, they do not have to appear. When they appear at the attorney status docket, the parent is informed that they must obtain an attorney to represent the juvenile, and are ordered to do so. If they request appointed counsel, they complete the request form right then, then the court reviews it immediately, and if they qualify, appoints counsel at that time. If they do not qualify, they are informed immediately, and are ordered to obtain an attorney for their juvenile before the next court date. If they indicate at the attorney status docket they wish to hire an attorney, they are ordered to obtain an attorney before the next court date. In each instance, the juvenile is then continued to a new court date, generally two to three weeks from that date.

The Juvenile Court understands the law and requirement for juvenile cases to have an attorney on the case within five (5) days. In fact, Randall County's procedure is the procedure recommended by TIDC after consultation with them. Randall County's compliance has definitely improved in this area. However, it is perplexing as to what more the Court can do. The parent/guardian is already ordered to appear in court no later than five (5) days from service. When they appear, the parent/guardian is informed of the requirement that their child must be represented by an attorney, and they are informed that if they cannot afford to hire an attorney that appointed counsel is available. The Court does not even require parents to be indigent to qualify for appointed counsel; the Court only requires that they cannot afford to hire counsel, and the threshold for obtaining appointed counsel is whether the family would qualify for either free or reduced lunches in the USDA school lunch program, which includes anyone up to 185% above the federal poverty income guidelines. If a family member is a named victim, then the family is provided an appointed attorney regardless of income level, if they request appointed counsel.

If the parent/guardian of the child does not comply with the Court's order to appear within five (5) days for an attorney status hearing, then Randall County will continue to be viewed as deficient in this area, through no fault of Randall County. The data shows that for those juvenile cases in which we are out of compliance, the number of late days is not many. However, we have determined a course of action to hopefully increase compliance on the parent/guardian's part.

The change is we are now including, in addition to the order to appear within five (5) days, to also include an order to appear on that Thursday in Court. It is hoped that by including an order to appear in Court on **"this Thursday after receiving this summons, at 8:30 a.m."** that we will have a parent/guardian appear sooner and consequently improve our compliance numbers. Also, we are now requiring the parent or guardian of a child in the juvenile system to complete and sign an Explanation of Right to an Attorney form, to verify that they understand their right and responsibility to obtain an attorney for their child.

*The new summons is attached as Appendix "A".*

*The new Explanation of Right to an Attorney form is attached as Appendix "B"*



**Joel Forbis, District Clerk  
County Court at Law Sitting as a Juvenile  
Court and of the District Court**

**By Deputy**

**All of the aforementioned persons are required to appear before said Court at said time. A person who violates this order may be proceeded against under Section 54.078 of the Texas Family Code for contempt.**

**RETURN**

**Came to hand on this \_\_\_\_\_ day of \_\_\_\_\_, 2019, at \_\_\_\_\_ o'clock \_\_\_\_M. and executed by personally serving on the above named person(s) a copy hereof on the \_\_\_\_\_ day of \_\_\_\_\_, 2019, at \_\_\_\_\_ o'clock \_\_\_\_M.**

**Sheriff's Fee: \_\_\_\_\_**

\_\_\_\_\_  
**Title: \_\_\_\_\_**  
**By: \_\_\_\_\_**  
**Assistant/Deputy**

**Appendix B**

NO. \_\_\_\_\_

IN THE MATTER OF \_\_\_\_\_ § IN THE COUNTY COURT AT LAW #1  
§ IN AND FOR RANDALL COUNTY, TEXAS  
§ SITTING AS A JUVENILE COURT

**EXPLANATION OF RIGHT TO AN ATTORNEY**

Texas law requires that a child in the juvenile system must be represented by an attorney. Our law requires that the parent or guardian of a child in the juvenile system shall obtain an attorney to represent the child as soon as possible after being served a copy of the State's Petition. As a parent or guardian of a child in a juvenile case, you have two options regarding how you proceed in obtaining an attorney to represent your child:

1. You may hire an attorney to represent your child in their juvenile case;
2. You may request an attorney be appointed to represent your child in their juvenile case if you are financially unable to hire one.

If you are financially able to hire an attorney to represent your child, the Court will order you to retain an attorney and will give you a little time to do so.

If you are not financially able to hire an attorney to represent your child, you must fill out a financial information sheet so that the proper person can determine whether or not you qualify for a court appointed attorney to represent your child in their juvenile case. That determination will be made the same day the Court receives your financial information sheet.

If you qualify for a court appointed attorney to represent your child, an attorney will be appointed at that time. If you do not qualify for a court appointed attorney, the court will inform you of that, order you to retain an attorney to represent your child, and give you a little time to do so.

\_\_\_\_\_  
Judge Presiding

**PARENT/GUARDIANS CHOICE**

\_\_\_\_\_ I want to hire an attorney to represent my child.

\_\_\_\_\_ I want to apply for a court appointed attorney to represent my child.

\_\_\_\_\_ My child already has an attorney, whose name is: \_\_\_\_\_

Name: \_\_\_\_\_

Signature: \_\_\_\_\_

Date: \_\_\_\_\_

Witness: \_\_\_\_\_