



Follow-up Review of Comanche County's Indigent Defense Systems

February 2026



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Chair:

Honorable Missy Medary	Corpus Christi, Presiding Judge, 5th Administrative Judicial Region of Texas
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Honorable Brandon Creighton	Conroe, State Senator (pending replacement)
Honorable Emily Miskel	McKinney, Justice, Fifth Court of Appeals
Honorable Joe Moody	El Paso, State Representative
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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
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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 In this follow-up review, TIDC examined misdemeanor case files and applications for appointed counsel in those cases. TIDC found that Comanche County has addressed the findings made in the initial report. Comanche County does not need to respond to this report. TIDC thanks Comanche County officials and staff for their assistance in completing this review.

Background

In 2017, TIDC conducted its initial policy monitoring review of Comanche County. The report made findings concerning the local procedures for requesting counsel at Article 15.17 hearings and the timeliness of appointments of counsel in criminal cases. In 2022, TIDC conducted a follow-up review where staff examined misdemeanor and felony case files to check for timeliness in appointments of counsel. Other Comanche County procedures complied with the core requirements of the Fair Defense Act (FDA).

Current Review

TIDC's policy monitoring rules require follow-up reviews where the report included noncompliance findings.² Staff members Cody Huffman and Joel Lieurance conducted a follow-up review of Comanche County with a site visit on October 2, 2025. TIDC examined whether Comanche County successfully addressed the findings and recommendations from the June 2022 report. TIDC examined misdemeanor case files to check for timeliness in appointments of counsel and spoke to local stakeholders about the procedures in place for requesting counsel. TIDC relied on the following items in preparing this report: sample affidavits of indigence; misdemeanor case files; interviews with County staff; and the local indigent defense plans.

¹ TEX. GOV'T CODE § 79.037(a)–(b).

² 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. (2022)	✓ (2026)	
4. Appoint Counsel Promptly	Misdemeanor appointments did not meet TIDC's threshold (90% timely) after an Article 15.17 magistrate hearing. (2022)	✓ (2026)	
4. Appoint Counsel Promptly	Entering uncounseled plea agreements without a request for counsel being ruled upon. (2022)	✓ (2026)	

Program Assessment

TIDC compared the core requirements of the FDA with the County's performance for each finding listed in the 2022 report. This review examined previous findings covering the following core FDA requirements:

- REQUIREMENT 1: CONDUCT PROMPT AND ACCURATE ARTICLE 15.17 PROCEEDINGS
- REQUIREMENT 4: APPOINT COUNSEL PROMPTLY

REQUIREMENT 1: CONDUCT PROMPT AND ACCURATE ARTICLE 15.17 PROCEEDINGS

Under Article 15.17 of the Texas Code of Criminal Procedure, an arrested person must be brought before a magistrate within 48 hours.³ 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.⁴ Magistrates must transmit requests for counsel to the appointing authority within 24 hours.⁵ 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.⁶

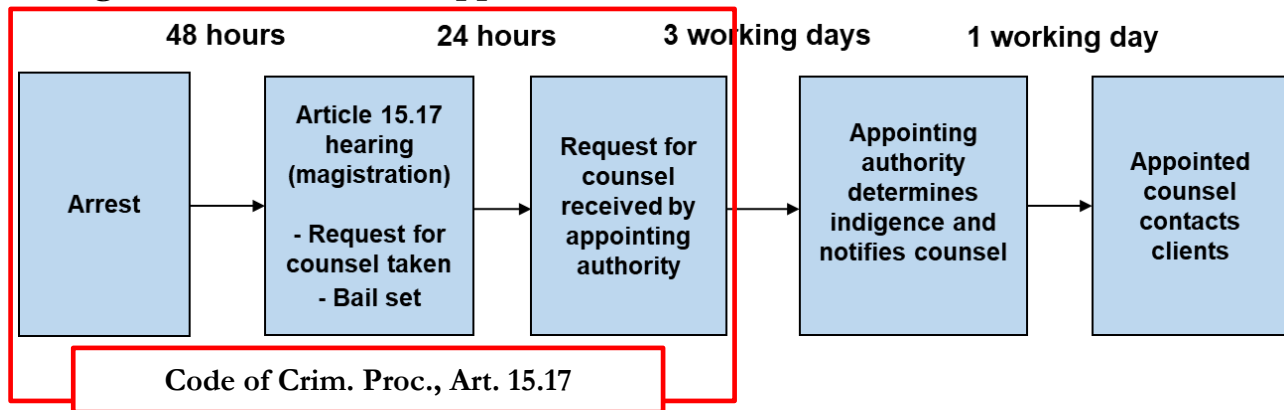
³ TEX. CODE CRIM. PROC. ART. 15.17(a).

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). 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 those hearings. This data indicates that in FY2024, about 52% of misdemeanor arrestees requested 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 ensure 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 assist with financial forms but places responsibility on the magistrate to ensure that assistance is provided.

TIDC examined 50 misdemeanor cases filed in FY2024 (October 2023 – September 2024). Of these 50 cases, 32 included a request for counsel (64% of the sample). The Article 15.17 hearings appeared to be conducted promptly and accurately, with assistance provided in completing paperwork necessary to request counsel. TIDC finds that Comanche County has addressed the past finding about its magistrate proceedings and assistance in completing required documents.

FINDINGS AND RECOMMENDATIONS FOR REQUIREMENT 1

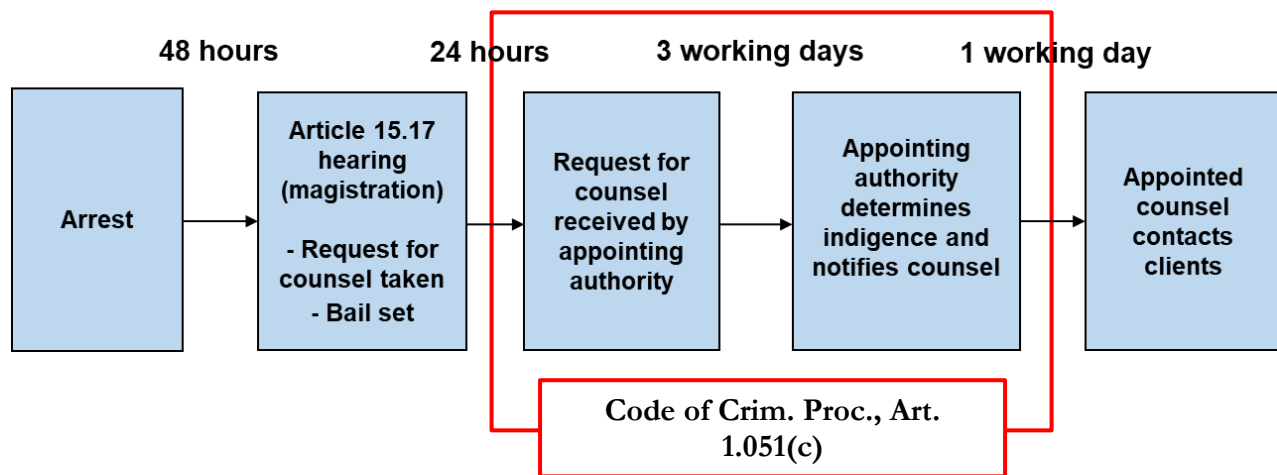
Conduct Prompt and Accurate Magistration Proceedings

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. Comanche County magistrates must ensure that arrestees receive this assistance and that 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.

Timeliness of Appointments in Misdemeanor Cases

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 comply with the prompt appointment of counsel requirement if at least 90% of indigence determinations

in the monitor’s sample are timely.⁷ TIDC examined 50 misdemeanor cases filed between October 2023 and September 2024. From this sample, TIDC staff found 32 requests for counsel. Counsel was timely appointed in approximately 94% of cases with a request for counsel, which meets TIDC’s 90% threshold. TIDC commends Comanche County for their procedures that ensure timely presence of counsel in misdemeanor cases.

Table 2: Times to Appointment in Misdemeanor Cases

	Number from Sample	Percent of Sample
Total records examined	50	
Requests for counsel	32	
Request for counsel ruled upon in ‘x’ workdays		
0 workdays	14	
1 – 3 workdays + 24-hours allowed to transmit a request	18	
Timely Rulings on Requests		94%
Between 4 – 7 workdays	3	
More than 7 workdays	0	
No ruling on request	0	
Untimely/No Rulings on Requests		6%

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, he or she must sign a written waiver, the language of which must substantially conform to the language of Article 1.051(g).

TIDC’s case file examination did not include any samples in which a defendant requested counsel at the Article 15.17 hearing, where no ruling was made, and thereafter the defendant entered an uncounseled plea without the request having been ruled upon. Local practices appeared to follow procedures set in Article 1.051(c) and 1.051(f-2).

⁷ 1 TEX. ADMIN. CODE, § 174.28.

Based on this examination, TIDC finds that Comanche County has addressed the past finding about the absence of a ruling on pending requests for counsel.

FINDINGS AND RECOMMENDATIONS FOR REQUIREMENT 4

Appoint Counsel Promptly

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. TIDC'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 Comanche County officials and staff for their assistance in completing this review. Comanche 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 Comanche County officials for their commitment to improving their local indigent defense practices.