



**Second Follow-Up Policy Monitoring  
Review of Galveston County's  
Indigent Defense Systems**

**August 2025**



## Contents

Executive Summary .....	4
Background.....	4
Current Review .....	5
Program Assessment.....	6
<b>REQUIREMENT 2: DETERMINE INDIGENCE ACCORDING TO STANDARDS     DIRECTED BY THE INDIGENT DEFENSE PLAN. ....</b>	<b>6</b>
<b>REQUIREMENT 4: APPOINT COUNSEL PROMPTLY. ....</b>	<b>9</b>
Conclusion .....	13
Findings and Recommendations from the 2025 Review.....	14

## **Executive Summary**

The Texas Indigent Defense Commission (TIDC) monitors local jurisdictions' compliance with the Fair Defense Act through policy reviews.<sup>1</sup> In this second follow-up review, TIDC observed court hearings, interviewed officials, and reviewed FY2024 data from Galveston County. After the 2025 review, two findings remain pending:

- a. The courts did not follow the local standard of indigence set in the indigent defense plan.
- b. Sample appointments of counsel in felony cases did not meet TIDC's 90% timeliness threshold.

TIDC thanks Galveston County officials and staff for their assistance in conducting this review. TIDC stands ready to provide technical and possibly financial assistance to remedy these issues. TIDC will attempt to conduct a third follow-up review regarding its findings within two years.<sup>2</sup>

## **Background**

In June 2017, TIDC issued a limited scope review of Galveston County's felony and misdemeanor appointment procedures. The report found that counsel was not appointed timely in either felony or misdemeanor cases. In misdemeanor cases, some defendants with pending counsel requests entered uncounseled pleas. Additionally, in misdemeanor cases, jail docket attorneys did not always represent defendants beyond the week of their assignment, and defendants not wishing to enter a plea were left without means to resolve their cases. The review also addressed data reporting matters.

In March 2022, TIDC conducted a follow up review to evaluate whether the findings from the 2017 review had been satisfied. The review found that two of the five findings were satisfied, and the rest were left pending. (See chart below.)

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<sup>1</sup> TEX. GOV'T CODE § 79.037(a)–(b).

<sup>2</sup> Title 1 TEX. ADMIN. CODE § 174.28(c)(2).

**Table 1: History of Monitoring Findings**

FDA Core Requirement	Description and Initial Year of Finding	Status after 2025 Review	
		Satisfied	Pending
2. Determination of Indigence	The courts did not follow the local standard of indigence set in the indigent defense plan. (2025)		✓
4. Prompt Appointment (felony)	Timeliness in sample felony cases did not meet TIDC’s threshold for presuming a jurisdiction’s processes ensure timely appointments. (2017)		✓
4. Prompt Appointment (misdemeanor)	Timeliness in sample misdemeanor cases did not meet TIDC’s threshold for presuming a jurisdiction’s processes ensure timely appointments. (2017)	✓ (2025)	
4. Prompt Appointment (misdemeanor)	Misdemeanor defendants with pending counsel requests entered uncounseled pleas. (2017)	✓ (2025)	
4. Prompt Appointment (misdemeanor)	Jail docket attorneys did not always represent misdemeanor clients beyond the term of the hearing. (2017)	✓ (2022)	
4. Prompt Appointment (misdemeanor)	Defendants who make bail after being represented by a jail docket attorney do not need to re-qualify as indigent. (2017)	✓ (2022)	

## **Current Review**

TIDC’s policy monitoring rules require follow-up reviews of counties where the report included noncompliance findings. Staff members, Ashley DeLaGarza, Cody Huffman, and Joel Lieurance, conducted a follow-up review with an on-site visit to Galveston County between March 26 and March 28, 2025. TIDC observed felony and misdemeanor dockets, and Article 15.17 hearings. TIDC examined the local indigent defense plan and felony and misdemeanor case files for cases that were filed in FY2024. During our visit, TIDC staff was able to observe and have the following meetings:

- Courts Observed:
  - 405<sup>th</sup> District Court, Judge Jared Robinson
  - 10<sup>th</sup> District Court, Judge Rebecca Millo
  - County Court at Law #2, Judge Kerri Foley
  - County Court at Law #3, Judge Jack Ewing
  - Constitutional Court (Mental Health Court), Judge Wayne Mallia
  - Jail Docket/Magistration Docket

- Meetings:
  - Brandi Reyes, District Court Administrator
  - Monica Gracia, County Court Administrator
  - Erian Sigalas, Indigent Defense Coordinator
  - Aaron Johnson, Director of Galveston County Personal Bond, Magistrate Court, and Collections
  - Jay Wooten, Chief of Galveston County Mental Health Public Defender Office, and Staff

This review focused on the FDA core requirements two and four:<sup>3</sup>

REQUIREMENT 2: DETERMINE INDIGENCE ACCORDING TO STANDARDS DIRECTED  
BY THE INDIGENT DEFENSE PLAN

REQUIREMENT 4: APPOINT COUNSEL PROMPTLY

## **Program Assessment**

### **REQUIREMENT 2: DETERMINE INDIGENCE ACCORDING TO STANDARDS DIRECTED BY THE INDIGENT DEFENSE PLAN.**

Under Article 26.04 of the Code of Criminal Procedure, courts must adopt procedures and financial standards for determining whether a defendant is indigent. Article 26.04(m) lists the factors courts may consider in determining indigence.

In determining whether a defendant is indigent, the court or the court's designee may consider the defendant's income, source of income, assets, property owned, outstanding obligations, necessary expenses, the number and ages of dependents, and spousal income that is available to the defendant. The court or the court's designee may not consider whether the defendant has posted or can post bail, except to the extent that it reflects the defendant's financial circumstances as measured by the considerations listed in this subsection.

The local standards for determining indigence are set in each county's indigent defense plans (ID plans). The ultimate test is whether the defendant is financially able to employ counsel.<sup>4</sup> Under Galveston County's ID plan, some defendants may not meet the local presumptive indigence standard set in the plan, but still not have the financial ability to employ counsel.<sup>5</sup> These defendants can qualify as indigent due to substantial hardship.<sup>6</sup>

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<sup>3</sup> TEX. ADMIN. CODE § 174.28.

<sup>4</sup> TEX. CODE CRIM. PROC. ART. 1.051(b).

<sup>5</sup> The Galveston District and County Court Indigent Defense Plan is available at <https://tidc.tamu.edu/IDPlan/ViewPlan.aspx?PlanID=291&ShowPending=1>.

<sup>6</sup> *Id.*

For adult criminal cases in Galveston County, defendants are presumed indigent if they have a household income at or below 125% of the Federal Poverty Guidelines and non-exempt assets less than \$2,500.<sup>7</sup> Defendants can also be considered indigent if they meet any of the following factors: (1) at the time of the request, they have been determined to be eligible to receive food stamps, Medicaid, Temporary Assistance for Needy Families, Supplemental Security Income, or public housing; (2) they are serving a sentence in a correctional facility or are residing in a mental health facility; or (3) they are **unable to retain counsel without substantial hardship** to the defendant or defendant's dependents. In Galveston County, defendants may also be found to be partially indigent if they make between 125% and 175% of the Federal Poverty Guidelines and have non-exempt assets less than \$2,500.

In Galveston County, defendants who request counsel after arrest are screened for indigence by the Galveston County Personal Bond Office through a short interview. The information is documented by the Personal Bond Office in a financial affidavit.<sup>8</sup> Defendants do not produce documentation at this interview, but they swear that the information they provide is true. If a defendant qualifies as indigent under the standards set in the indigent defense plan, the result is noted on the financial affidavit by Personal Bond Office staff. Felony affidavits are forwarded to the felony courts, and misdemeanor affidavits are forwarded to the misdemeanor courts. The felony courts appear to follow the assessment listed on the affidavit and appoint counsel for those meeting the standards set in the indigent defense plan. However, the misdemeanor courts do not appear to consistently follow the assessment from Personal Bond Office staff nor presumptions in Galveston's ID plan. Instead, defendants are sometimes denied indigence and directed to provide additional information at a later court date, without written reasons for the denial. This process can have the effect of delaying appointments for persons who seem to have qualified for appointed counsel.

TIDC's file review identified 21 misdemeanor cases where individuals qualified as indigent in accordance with the standards set in the County's ID plan but were denied indigence by the courts.<sup>9</sup> Two instances included individuals receiving food stamps, which under the plan, automatically qualified the individual as indigent.<sup>10</sup> One individual had just been transferred to the Galveston County Jail

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<sup>7</sup> *Id.*

<sup>8</sup> This financial affidavit was designed to help magistrate judges determine bond and indigency for court appointed attorney.

<sup>9</sup> 60 misdemeanor cases were denied overall in the sample.

<sup>10</sup> "A defendant is considered indigent if, at the time of requesting appointed counsel, the defendant or the defendant's dependents have been determined to be eligible to receive food stamps..." See Galveston District and County Court Indigent Defense Plan, <https://tidc.tamu.edu/IDPlan/ViewPlan.aspx?PlanID=291>

from TDCJ after serving 13 months. These individuals were denied indigence by the statutory county judges and were required to “provide additional information for further consideration by the court – request is denied”. The table below describes the access to counsel outcomes of cases that were initially denied counsel by misdemeanor courts.

**Table 2: Outcome of Initial Misdemeanor Denials**

	Number from Sample	Percentage
Defendants denied counsel who later received appointments	26	43%
Defendants who proceeded without counsel	19	32%
Defendants who later retained counsel	15	25%
Total Number of Misdemeanor Denials	60	100%

The current practice in misdemeanor cases to deny indigence and require individuals to bring additional documentation is inconsistent with the statute and the standards set in *Whitehead v. State*, 130 S.W.3d 866 (Tex. Crim. App. 2004). Article 26.04(n) of the Code of Criminal Procedure does not contemplate defendants being required as a matter of course to produce documentation of financial resources to request a determination of indigency and appointment of counsel. To do so would result in the situation that TIDC staff observed in Galveston: delays in appointments of counsel to large numbers of indigent defendants and indigent defendants pleading guilty without counsel.

In *Whitehead*, the court acknowledges the appointment of counsel statute “contemplates that information about the defendant’s financial condition will ordinarily come from the defendant.”<sup>11</sup> Further, though the court could require further documentation, judges should “accept the defendant’s financial allegations (so long as they are made under oath) absent any reason to believe they are untrue or incomplete.”<sup>12</sup> The court held, “The trial court is not completely free to disbelieve the defendant's allegations concerning his own financial status, but the trial court may disbelieve an allegation if there is a reasonable, articulable basis for doing so, either because there is conflicting evidence or because the evidence submitted is in some manner suspect or determined by the court to be inadequate.”<sup>13</sup>

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<sup>11</sup> *Whitehead v. State*, 130 S.W.3d 866, 875 (Tex. Crim. App. 2004).

<sup>12</sup> *Id.* at 876

<sup>13</sup> *Id.*

The County must ensure indigence is determined based on the standards set in their ID plan. Without any reasonable, articulable reason, the defendant's financial information provided in the financial affidavit should be accepted by the judge. This will ensure indigent defendants are not deprived of counsel or appointments are unnecessarily delayed.

**FINDINGS AND RECOMMENDATIONS FOR REQUIREMENT 2**

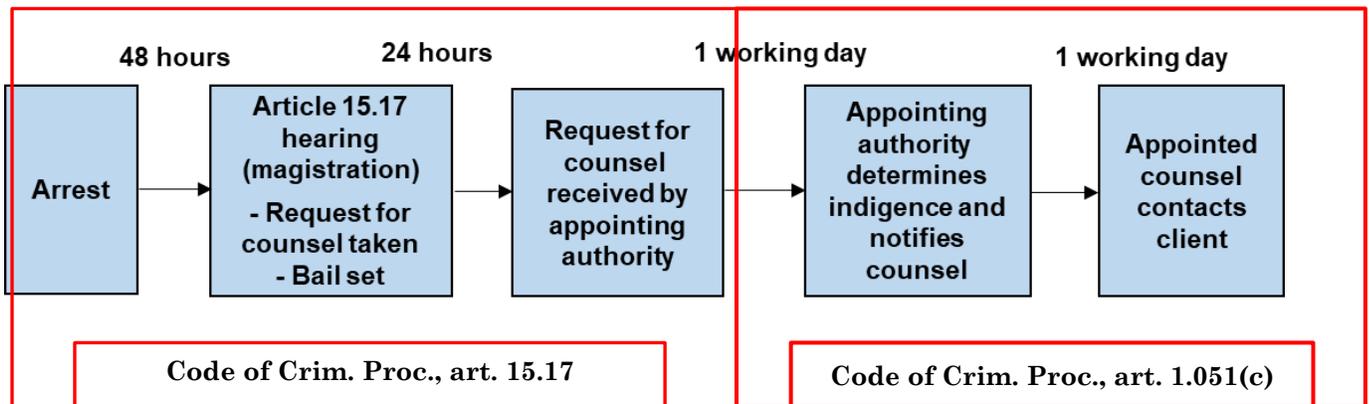
**Determination of Indigence**

**2025 New Finding and Recommendation:** Article 26.04 requires courts to adopt procedures and financial standards for determining whether a defendant is indigent. TIDC's file review found the Galveston County misdemeanor courts did not follow the local standard of indigence set in the indigent defense plan. The County must determine indigence based on the standards set in statute and in the County's indigent defense plan. *New Finding.*

**REQUIREMENT 4: APPOINT COUNSEL PROMPTLY.**

Article 1.051(c)(2) of the Code of Criminal Procedure requires courts in counties with a population of 250,000 or more to rule on a request for counsel within one working day of receiving the request.

**Figure 1: Timeline for Appointment of Counsel in Adult Criminal Cases**



***Timeliness of Appointments in Felony Cases***

TIDC examined 137 sample felony cases filed between October 1, 2023 and September 31, 2024. Counsel was timely appointed in 99 of 120 cases where counsel was requested (83% timely). This falls below TIDC's 90% threshold for presuming a jurisdiction's practices ensure timely appointment of counsel. Almost all sample requests were ruled upon, with many appointments of counsel made just beyond the time frames pursuant to Article 1.051. The County must implement practices that satisfy timelines in felony cases pursuant to Article 1.051(c)(1).

**Table 3: Times to Appointment in Felony Cases**

	Sample Size	Number from sample	Percent
Number of case files examined	137		
Total cases with a counsel request		120	
<b>Appointment / denial of indigence occurred in:</b>			
0 workdays		35	
1 workday + 24-hour transfer		64	
<b>Total timely appointments / denials</b>		<b>99</b>	<b>83%</b>
2 - 3 workdays + 24-hour transfer		14	
4 - 7 workdays + 24-hour transfer		6	
More than 7 workdays + 24-hour transfer		0	
No ruling on request		1	
Total untimely appointments / denials		21	17%

***Timeliness of Appointments in Misdemeanor Cases***

TIDC examined 216 sample misdemeanor cases filed between October 1, 2023, and September 31, 2024. Counsel was timely appointed in 129 of 144 cases in which counsel was requested (90% timely). This is within TIDC's 90% threshold for presuming a jurisdiction's practices ensure timely appointment of counsel. See Table 3 for misdemeanor appointment rates. The file review also revealed the county had a 39% denial rate for individuals requesting counsel.

**Table 4: Times to Appointment or Denial of Counsel in Misdemeanor Cases<sup>14</sup>**

	Sample Size	Number from sample	Percent
Number of case files examined	216		
Total cases with a counsel request		144	
<b>Appointment / denial of indigence occurred in:</b>			
0 workdays		51	
1 workday + 24-hour transfer		78	
<b>Total timely appointments / denials</b>		<b>129</b>	<b>90%</b>
2 - 3 workdays + 24-hour transfer		2	
4 - 7 workdays + 24-hour transfer		3	
More than 7 workdays + 24-hour transfer		6	
No ruling on request		4	
Total untimely appointments / denials		15	10%

<sup>14</sup> For those instances in which misdemeanor defendants have an accompanying felony case, TIDC used the earlier of the two appointment dates if the same attorney was used in both cases.

### ***Proper Documentation of Counsel Appointments***

Previously in misdemeanor cases, defendants represented by a jail docket attorney often had no order appointing an attorney to represent them. In 2025, Galveston Court Administration is maintaining records more efficiently and can assess when jail docket attorneys are representing individuals, which was not always the case. TIDC considered the representation to be a timely appointment if there was evidence of representation within one working day (plus 24 hours allowed to transmit the request to the courts) of the counsel request. While Galveston Court Administration has better recordkeeping practices, during the 2025 review, the appointment orders still did not seem to consistently be generated for all jail docket cases. Under Article 26.04(b)(5) of the Code of Criminal Procedure, local procedure must ensure that each attorney appointed from a public appointment list to represent an indigent defendant performs the attorney's duty owed to the defendant in accordance with the adopted procedures, the requirements of this code, and applicable rules of ethics; without an order appointing counsel, naming the attorney providing representation, it may not be possible for courts to adequately oversee attorney performance. Galveston County has shown improvement in this area but will benefit more by ensuring that all appointments of counsel have an order appointing the attorney for the case.

### ***Appointments Are Not Made if Initial Affidavit Not Completed***

Defendants can request counsel and complete financial affidavits at multiple points. The previous case file review showed appointments of counsel to misdemeanor defendants were not made if a defendant refused the initial interview with the Pretrial Bond Office. Some defendants who refused this initial interview later requested counsel at the Article 15.17 hearing and completed an affidavit at that time. If an individual refuses the initial interview it is now documented that their request is denied.

### ***Defendants Who Are Not Competent to Complete the Financial Affidavit***

In other instances, magistrates found misdemeanor defendants were not competent to complete the financial interview, and the defendants did not receive an order appointing counsel. The corresponding financial affidavits in the 2022 review noted that defendants refused the financial interview. Several of these defendants later entered guilty pleas with a jail docket attorney, but there was no order appointing counsel for the defendant.

During our last review the Mental Health Public Defender's Office (MHPDO) had not begun operations until the end of our case review period. Since then, the Mental Health Public Defender's Office attempts to identify misdemeanor clients before they even get to the jail docket and enter a plea. The MHPDO paralegal tracks individuals on the jail list and identifies mental health clients to see them within that same day. They also have a standing appointment order to be appointed to all individuals assigned to the mental health docket.

***Additional Required Financial Paperwork***

TIDC found examples in the 2022 sample case files where the court required defendants to produce additional financial documents to prove income prior to ruling on a request for counsel.<sup>15</sup> As a result, these indigence determinations exceeded the timeframes set by Article 1.051 of the Code of Criminal Procedure and delayed the appointment of counsel. Galveston County judges now deny all these requests during the time frame and require individuals to bring documentation for further consideration. Though the denial allows the county to stay within the statutory timeframe, this practice can still delay the proceedings as it is taking individuals longer to access counsel. Eligible indigent defendants may also face additional financial or legal burdens waiting for delayed appointments of counsel.

**FINDINGS AND RECOMMENDATIONS FOR REQUIREMENT 4**

**Appoint Counsel Promptly.**

**2022 FINDING 1 AND RECOMMENDATION (felony cases):** Article 1.051(c)(1) requires the court or the court’s designee, to rule on all requests for counsel within one working day (plus 24 hours for transferring requests to the courts) of the request being made. The monitor’s sample of attorney appointments in felony cases fell below TIDC’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 timeline in felony cases. ***Issue Pending.***

**2022 FINDING 2 AND RECOMMENDATION (misdemeanor cases):** Article 1.051(c)(1) requires the court (or its designee) to rule on all requests for counsel within one working day (plus 24 hours for transferring requests to the courts) of the request being made. The monitor’s sample of attorney appointments in misdemeanor cases fell below TIDC’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 Additional Language for Finding 2:** TIDC identified five factors that are causing appointments to be untimely. Galveston County must ensure that these sub-groups of defendants receive timely appointment of counsel.

1. Counsel was not appointed in a timely manner for cases in which defendants made bail shortly after the Article 15.17 hearing. ***Successfully Addressed.***
2. Some defendants did not make bail. These defendants were frequently represented by a jail docket attorney, but not all cases had an order appointing counsel. ***Successfully addressed.***
3. Some defendants requested counsel but refused the initial Pretrial Bond

<sup>15</sup> Practices include requiring defendants who requested counsel to bring payment stub records, tax returns, or bank statements to the next court setting so that the request can be ruled upon.

Interview. If they later completed the financial affidavit at the Article 15.17 hearing, the requests were not always ruled upon. ***Successfully Addressed.***

4. Some defendants were found not competent to complete the financial affidavit by a magistrate. These requests were not always ruled upon. ***Successfully Addressed.***
5. Defendants requesting counsel at the trial court sometimes were required to bring additional documentation, and this delayed the appointment of counsel beyond Article 1.051 timelines. ***Successfully Addressed.***<sup>16</sup>

**2022 FINDING 3 AND RECOMMENDATION (misdemeanor cases):** 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 a request for counsel prior to a defendant's waiver of the right to retain counsel. ***Successfully Addressed.***

## Conclusion

TIDC thanks Galveston County officials and staff for their assistance in completing this review. TIDC will conduct a follow-up review regarding its noncompliance findings within two years.<sup>17</sup> TIDC staff stand ready to provide technical and financial assistance to remedy these issues and ensure full compliance with the Fair Defense Act.

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<sup>16</sup> The timeliness of appointments is now within TIDC presumptive thresholds, but procedures for denying indigence no longer follow the standard set in the ID Plan.

<sup>17</sup> 1 TEX. ADMIN. CODE § 174.28(c)(2).

## **Findings and Recommendations from the 2025 Review**

Galveston County must respond in writing how it will address the report's findings.

### **REQUIREMENT 2: DETERMINE INDIGENCE ACCORDING TO STANDARDS DIRECTED BY THE INDIGENT DEFENSE PLAN.**

**2025 FINDING 1 AND RECOMMENDATION:** Article 26.04 requires courts to adopt procedures and financial standards for determining whether a defendant is indigent. TIDC's file review found the Galveston County misdemeanor courts did not follow the local standard of indigence set in the indigent defense plan. County must determine indigence based on the standards set in statute and in the County's indigent defense plan.

### **REQUIREMENT 4: APPOINT COUNSEL PROMPTLY.**

**2025 FINDING 2 AND RECOMMENDATION (felony cases):** Article 1.051(c)(1) requires the court, or the court's designee, to rule on all requests for counsel within one working day (plus 24 hours for transferring requests to the courts) of the request being made. The monitor's sample of attorney appointments in felony cases fell below TIDC's 90% timely threshold for presuming a jurisdiction's appointment system ensures timely appointment of counsel. The County must implement practices that satisfy timelines in felony cases pursuant to Article 1.051(c)(1).