

COUNTY OF ZAVALA



OFFICE OF THE

COUNTY JUDGE

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JOE LUNA, ESQ
COUNTY JUDGE

December 2, 2013

Joel Leurance
Policy Monitor
209 West 14th Street, Room 202
Austin, Texas 78701

Re: Texas Indigent Defense
Commissioners Monitoring Review

Dear Mr. Leurance:

In response to the findings regarding November 2009 Recommendation's 2 and Recommendation's 3, Zavala County propose the following to address your findings:

Recommendation 2 and 3: The County has issued revised forms for Magistrate's Warning clarifying instructions including instructions for jailers with regards to the Magistrate's Warning form and revised Declaration of Financial Inability to Employ Counsel form including address of appointed attorney. After the hearing to determine indigency, the Magistrate shall then fill out the form indicating whether Magistrate appointed attorney.

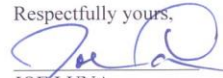
If the Magistrate finds the accused indigent and appoints an attorney while the accused is out on bond, the Magistrate, via mail, shall notify the accused of the appointment. The notice shall be sent to the accused at the address listed on the bond. Below is the list of enclosed forms for your review:

1. Magistrates Warning (English / Spanish); and
2. Declaration of Financial Inability to Employ Counsel.

Finally, all Zavala County Magistrates and the Sheriff have been made aware of the findings. It is our hope that the above steps taken including the previous steps will assure that all persons accused of criminal acts in Zavala County are afforded the right to counsel and due process of law.

If you should have any questions please contact me.

Respectfully yours,

A handwritten signature in blue ink, appearing to read 'Joe Luna', with a stylized flourish at the end.

JOE LUNA
Zavala County Judge

MAGISTRATE'S WARNING

CAUSE NO. _____

THE STATE OF TEXAS §
 §
 §
COUNTY OF ZAVALA §

Before me, the undersigned, magistrate of _____ County, Texas on the _____ day of _____, 201_, at _____ o' clock A.M./P.M. appeared _____. I gave said person the following warning:

- You are charged with the offense of _____ a felony a misdemeanor;
- you have a right to hire an attorney to represent you;
- you have the right to have an attorney present prior to and during any interview and questioning by peace officers or attorneys representing the State;
- you have the right to remain silent;
- you are not required to make a statement, and any statement you make can an may be used against you in court;
- you have the right to stop any interview or questioning at any time; and
- you have the right to have an examining trial (felonies only).
- you have the right to request appointment of counsel if you cannot afford counsel. *

**** THE MAGISTRATE SHALL ENSURE THAT THE ACCUSED IS INFORMED OF THE FOLLOWING PROCEDURES:**

- a. That a Declaration of Financial Inability to Employ Counsel (declaration) must be completed to determine if he/she qualifies for a court appointed attorney;
- b. that reasonable assistance will be provided to him/her when filling out the declaration, if needed;
- c. that the declaration must be signed;
- d. that the declaration is a written or printed declaration or statement of facts made voluntarily and confirmed by oath before a person having authority to administer such oath;
- e. that if he/she meets indigence standards he/she will qualify for court appointed attorney; and,
- f. attorney should attempt to contact him/her within 24 hours after appointment and to interview him/her as soon as practicable after appointment. If appointment is made when the accused is before the court, the accused will be given attorney's name, address, and phone number.

If you are not a United States citizen and you have been arrested or detained, you may be entitled to have us notify your country's consular representatives here in the United States. Do you want us to notify your country's consular officials?

No Yes

If you responded "Yes" what country? _____.

If you are a citizen of a country that requires us to notify your country's consular representative, we shall notify them as soon as possible.

- The Accused does want court appointed attorney.
- The Accused does not want court appointed attorney.
- No Yes

I acknowledge that I was given the above warning (This is NOT an admission of guilt):

_____ Place of warning: _____
 Accused warned Time: _____
 Date: _____

 Magistrate

Accused refused to sign acknowledgement of warning:

_____ Witness (if any): _____
 Magistrate Name: _____
 Address: _____

Magistrate Remarks:

CAUSE NO. _____

THE STATE OF TEXAS §
 §
 §
COUNTY OF ZAVALA §

****THE JAILER SHALL ENSURE THAT THE PERSON IS GIVEN THE DECLARATION OF INABILITY TO EMPLOY COUNSEL (declaration form) AND STATES THE FOLLOWING:**

- Accused received the declaration form;
- accused filled out and returned the declaration form to jailer;
- accused refused to fill out the declaration form; and
- jailer returned declaration form to Magistrate by no later than the next working day.

Jailer's Signature

Magistrate Signature

Print Jailers Name

Print Magistrate's Name

Date: _____

Time: _____

- The Magistrate shall make a determination of indengency no later than the next working day after return of the Declaration of Inability to Employ Counsel.

Dependencia del orden publico: _____ Juzgado #: _____

Fecha del arresto: _____ Condado/Estado: _____

Hora del arresto: _____ No. de la orden de apprehension, si existe: _____

Lugar del arresto: _____ Fianza fijada en: \$ _____

SE HA PRESENTADO UNA DECLARACION DE CAUSA PRESUNTA? Si / No

ADVERTENCIAS DEL JUEZ DE INSTRUCCION

ESTADO DE TEXAS §

§

CONDADO DE _____ §

§

Ante mi, el juez de instruccion del condado de _____, Texas, el dia _____ de _____, a las _____ horas de la manana/tarde comparecio _____, a quien se le dieron las siguientes advertencias:

- Usted esta acusado del siguiente delito: _____ delito mayor (felony) delito menor (misdemeanor)
- Tiene derecho a contratar a un abogado que lo represente.
- Tiene derecho a que su abogado este presente cuando usted sea entrevistado o interrogado por los agentes del orden publico o abogados fiscales del estado, o antes de participar de una entrevista o interrogatorio.
- Tiene derecho a guardar silencio.
- No se le puede exigir que declare nada, pero cualquier declaracion que haga puede ser y va a ser usada en su contra en el tribunal.
- Tiene derecho a interrogatorio o entrevista en cualquier momento.
- Tiene derecho a una audiencia previa al juicio para examinar la acusacion (solo para delitos mayores)
- Tiene derecho a que la nombren un abogado que lo represente si no tiene los recursos necesarios para contratar uno*

- EL JUEZ DE INSTRUCCION SE ASEGURARA QUE EL ACUSADO ESTE INFORMADO DE LOS SIGUIENTES PROCEDIMIENTOS:

G. Debe completarse una solicitud para el nombramiento de un abogado defensor a parte que el tribunal determine si el acusado refine los requisitos necesarios para dicho nombramiento.

H. en caso de ser necesario, se le ayudara al acusado en la medida de lo razonable, a llenar la solicitud para que le nombren un abogado.

I. Debe firmarse la declaracion de situacion economica del acusado (financial affidavit)

J. La declaracion (financial affidavit) debe ser por escrito, detallar los hechos relacionados al estado economico del acusado, debe ser dada por propia voluntad, y bajo juramento de decir verdad ante una autoridad competente.

K. En caso de que se _____ que el acusado es indigente, se le nombrar un abogado para que represente al acusado, y

L. El abogado defensor nombrado por el tribunal debe comunicarse con el acusado en el transcurso del primer dia priner dia bahil despues de su nombramiento. Si el acusado esta ante el juez en la momento del nombramiento, se le hara saber el nombre, direccion y telefono del abogado.

Si usted no es cludandano de los Estados Unidos y ha sido arrestado o detenido, posiblemente tenga derecho a que se notifique a los representastes _____ de su pais en los Estados Unidos. ?Deces que notifiquemos al consulado de su pais?

No _____ Si _____

EL ACUSADO DESA/ NO DESEA SOLICITAR UN ABOGADO NOMBRADO POR EL TRIBUNAL PARA DEFENDERLO.

He sido informado de las advertencias mencionadas anteriormente (Esta NO es una admision de culpabilidad):

Persona a la que se le dieron las advertencias

El acusadoo rehusó firmar el reconocimiento de las advertencias of warning:

Juez de instruccion: _____

Lugar en que se dieron las advertencias: _____

Hora: _____

Fecha: _____

Testigo: (si hay) _____

Nobre y apellido: _____

Direccion: Telephno: _____

DECLARATION OF FINANCIAL INABILITY TO EMPLOY COUNSEL

Cause No. _____

THE STATE OF TEXAS IN THE ____ DISTRICT COURT
vs. _____ COUNTY, TEXAS

ARREST DATE: _____ FELONY OFFENSE CHARGED: _____
IN CUSTODY? YES, Since (date) _____
NO _____

Have you been Indicted? YES NO

I, _____, am a Defendant in the above entitled action, I am not represented by counsel at this proceeding, I have no assets except the following: 1. My earnings are (Name and address of employer(s), and amount of weekly or monthly earnings)

2. I have other income in the amount of (State sources of income and amount paid weekly or monthly)

3. I am ___ am not ___ married and support children and/or ___ other dependents, as follows:

(Name) (Relationship) (Name) (Relationship)

(Name) (Relationship) (Name) (Relationship)

4. Earnings of my spouse are (Name of Employer(s) and amount of weekly or monthly earnings)

5. I own the following property: (Address where located) (Payments) (Balance Owed) (Value)

a. Home _____ g. Other land and building _____
b. Automobiles _____ h. Notes, mortgages, trust deed _____
c. Furniture _____ i. Motorcycle(s) _____
d. Other vehicles _____ k. Livestock _____
e. Stocks and Bonds _____ l. Jewelry _____
f. Other personal property _____

6. I have the following money:

a. In Jail \$ _____ e. In Safety deposit box \$ _____
b. At Home \$ _____ f. Being held or owed to me \$ _____
c. Checking Accounts \$ _____ g. Other \$ _____
d. In Savings Accounts \$ _____

7. I have the following debts and/or expenses in addition to those listed above: _____

8. I am ___ am not ___ free on Ball \$ _____, Name of person who posted
Ball Bonds: _____

On this ____ day of _____, I have been advised by the Court of my right to representation by counsel in the trial of the charge pending against me. I certify that I am without means to employ counsel of my own choosing and hereby request the court to appoint counsel for me. I declare under penalty of perjury that the foregoing is true and correct.

THIS DECLARATION WILL NOT BE CONSIDERED COMPLETE UNLESS SIGNED BY DEFENDANT.

Defendant's Signature _____

Defendant's Address _____

Use reverse side for
Additional Information

Approved: _____
Not Approved: _____

Date _____ Defendant's Telephone No. _____

Attorney Appointed: _____
Tel #: _____

DATE
Appendix ii

JUDGE SIGNATURE