



BILL WHITMIRE
Milam County Judge

28 November 2023

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

Subject: Indigence Review Response Letter

Dear Mr. Lieurance

In response to the Review of Milam County's Indigent Defense Systems dated July 2023, I submit the following response summary of actions taken to correct the recommended findings.

2023 Finding 1 (felony cases) & 2023 Finding 2 (misdemeanor cases): Four days after taking office, on January 4th of 2023, a meeting was held with the County Attorney's office, several of our JPs, Municipal Judges, County Judge, District and County Clerk's offices to discuss procedures and improvements to be made in the all-around process of holding court in Milam County including Indigent Defense.

At the time of this meeting, it was determined that we should make the process from magistration to appointment of defense counsel a more concise and open to allow for greater communication to keep individuals from "slipping through the cracks." In doing so, it has created more open communications that allow for a freer flow of information and while still not perfect, this has allowed the county to reduce the amount of time to process requests and appoint counsel as required.

After a meeting in July, it was further determined that in 2022, much of the delay with misdemeanor cases was that the County Court was waiting on the District Court to assign counsel or determine a case before an appointment was made. After the two courts consulted on this, it was determined that if an indigent defendant has cases in both courts, the defendant will likewise have the same court-appointed attorney in both courts to reduce the time in appointment and the confusion by having multiple attorneys appointed to the same defendant. This also reduces the time to discharge cases as a single attorney will handle the defendant's charges in both courts.

2023 Finding 3: In response to this finding, Milam County has incorporated the three documents intended to save time in the appointment of counsel process and clear up issues in the explanation of rights and statutory requirements. The use of an "Application for Court-Appointed Attorney and Financial Affidavit", the "Judge's Explanation of Representation Options", and the "Waiver of Right to Counsel" have all been incorporated in this process and will be included with this document for further review by the TIDC. Further, during the courtroom process, the defendant is read their rights and asked to acknowledge their rights and the choice of counsel or waiver of such counsel.

Overall, Milam County is conscious of our past shortfalls and is working to correct these past issues by improving the process. It is our hope that future reviews will indicate improvement in these areas and that we will continue to improve as we move forward.

I appreciate your help in these matters and look forward to discussing this with you in the future.

Sincerely



Bill Whitmire
County Judge
Milam County, Texas

APPLICATION FOR COURT-APPOINTED ATTORNEY AND FINANCIAL AFFIDAVIT

OFFENSE(S) CHARGED:	OFFENSE DEGREE:	WARRANT NUMBER(S):

Full name: _____ Birth date: ____/____/____ Age: ____
 Mailing address: _____
 Phone number: (____) _____ - _____ Email address: _____@_____._____ Do you
 read, write, understand the English language? _____ Language you speak? _____

INCOME

I am working as a _____ for _____
 My gross earnings are \$ _____ per week.
 Spouse's Name _____ Spouse's weekly income gross \$ _____
 Number of people who depend on you financially : _____ Who do you live with? _____
 Make, model, and year of automobile(s): _____
 Are you currently employed? _____ If yes, how much do you receive monthly? \$ _____
 Do you receive unemployment? _____ If yes, how much do you receive monthly? \$ _____
 Do you receive public benefits? _____ If yes, how much do you receive monthly? \$ _____
 Food Stamps TANF Public Housing Medicaid SSI Other __Years __Months
 Do others in your home work? _____ If yes, how much do they receive monthly? \$ _____
 Do you have other sources of income? _____ If Yes, how much do you receive monthly? \$ _____
 Total monthly income(combine above totals): \$ _____

ASSETS/VALUE OF PROPERTY YOU OWN

Total amount of cash on hand: \$ _____ Total amount in checking/savings: \$ _____
 Other property (stocks, land, jewelry): \$ _____
TOTAL VALUE: \$ _____

MONTHLY EXPENSES YOU PAY (DOES NOT INCLUDE WHAT OTHERS PAY)

Rent/house payment(s):	\$ _____	Food and household supplies:	\$ _____
Utilities and telephone:	\$ _____	Medical and dental expenses:	\$ _____
School/childcare/child support:	\$ _____	Car payment/Insurance:	\$ _____
Any other expenses:	\$ _____		
TOTAL VALUE: \$ _____			

I am / am not free on bail for another offense. If yes,
 Amount of Bail \$ _____ Offense: _____ County: _____

I certify the above financial affidavit to be correct and further certify that I have been advised of my rights to representation by counsel for the charge(s) listed above pending against me and that I am without means to employ counsel of my own choosing and hereby request the Court to appoint counsel for me. Alternatively, I certify that the interest of justice require court-appointed representation for me before this Court. I understand that if I intentionally or knowingly give false information either in this affidavit or during the hearing on this motion, that I may be prosecuted for the offense of aggravated perjury, a third degree felony, punishable by imprisonment to exceed 10 years or less than 2 years and a fine not to exceed \$10,000.

X _____ (SIGNED BY DEFENDANT) DATE: ____/____/____

SWORN TO AND SUBSCRIBED BEFORE ME ON THIS THE ____ DAY OF _____, 20____

 PRESIDING JUDGE/MAGISTRATE/NOTARY PUBLIC

RECOMMENDATION BY COURT ADMIN/MAGISTRATE/PRESIDING JUDGE (CIRCLE ONE): APPROVE DENY

I hereby appoint _____ a practicing attorney of the State of Texas on the __ day of _____ 20__.

 PRESIDING JUDGE/MAGISTRATE/NOTARY PUBLIC

CAUSE NO. _____

THE STATE OF TEXAS

§

IN THE COUNTY COURT

VS.

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OF

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MILAM COUNTY, TEXAS

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JUDGE'S EXPLANATION OF REPRESENTATION OPTIONS

As a defendant in a criminal case, you have three options with regard to representation:

- 1. You may hire an attorney.
- 2. If you are financially unable to hire an attorney, you may request an attorney be appointed to represent you.
- 3. You may represent yourself.

If you want an attorney to represent you and you are financially able to hire an attorney, your case will be reset to give you time to hire an attorney.

If you want an attorney and you do not have the money to hire one, you will need to fill out an Affidavit of Indigence, which is a financial questionnaire for the Judge to review and determine whether to appoint an attorney to represent you.

You may not speak to the prosecutor about your case unless you have waived your right to an attorney. Be aware that there are dangers to self-representation. Waiving your right to an attorney and representing yourself may result in adverse consequences for you and your case.

JUDGE PRESIDING

DEFENDANT'S CHOICE FOR REPRESENTATION

(Please initial next to only **ONE** choice)

- _____ I want to reset my case to give me time to hire my own attorney.
- _____ I have hired an attorney, whose name is: _____.
- _____ I want to apply for a court-appointed attorney.
- _____ I have a court-appointed attorney, whose name is: _____.
- _____ I want to waive my right to an attorney and represent myself.

SIGNED _____

SIGNATURE OF DEFENDANT

PRINTED NAME OF DEFENDANT

CAUSE NO. _____

THE STATE OF TEXAS

§

IN THE COUNTY COURT

VS.

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OF

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MILAM COUNTY, TEXAS

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WAIVER OF RIGHT TO COUNSEL

I have been advised of the nature of the charges against me, the maximum range of punishment for those charges, and the dangers and disadvantages of self-representation. Furthermore, I have been advised by the Milam County Court of my right to representation by counsel in the case pending against me. I have been further advised that if I am not financially able to afford counsel, one will be appointed for me free of charge.

Understanding my right to have counsel advise me, and of my right to have counsel appointed for me free of charge if I am not financially able to employ counsel, I wish to waive my right to counsel and represent myself. I request the Court to proceed with my case without an attorney being appointed for me. I hereby waive my right to counsel. My waiver of counsel is made intelligently, knowingly, and voluntarily by me.

DEFENDANT

I have determined that Defendant's waiver of counsel is made intentionally, knowingly, and voluntarily by the Defendant.

SIGNED _____

JUDGE PRESIDING