



**56TH JUDICIAL DISTRICT COURT
GALVESTON COUNTY**

KAY HENSON
COURT COORDINATOR

LONNIE COX
JUDGE

GALVESTON COUNTY JUSTICE CENTER
600 59TH STREET
GALVESTON, TEXAS 77550
(409) 766-2226
FAX (409) 770-5264

TARA WILSON
OFFICIAL COURT REPORTER

ROLANDO ROMERO
OFFICIAL COURT SECURITY OFFICER

October 3, 2017

Texas Indigent Defense Commission
209 West 14th Street, Room 202
Austin, Texas 78701

Re: Texas Indigent Defense Commission – onsite review

Dear Mr. Lieurance

Please express our appreciation to the Commission for their grace in allowing us to respond late. As you are well aware, things have been pretty hectic in Galveston County after Tropical Storm Harvey. And while I had only an inch of water in my house, other judges are still living at La Quinta while their houses are being repaired.

Your report and the findings are divided between misdemeanor and district courts as well as the county in general. Consequently, attached to this cover letter you will find the Administrative County Judge's response. Also attached I will address the findings and recommendations for the District Courts. The County Auditor will address findings associated with the county in general. We appreciate your help so much. If we can be of further assistance, please do not hesitate to call.

Sincerely,

A handwritten signature in black ink that reads "Lonnie Cox".

Lonnie Cox
Administrative District Judge

cc: The Honorable Mark Henry, County Judge for Galveston County

**THE COUNTY COURT ADMINISTRATION'S RESPONSE TO TIDC LIMITED SCOPE POLICY
MONITORING REVIEW FOR GALVESTON COUNTY**

The following are the Responses of County Court Administration to the above Review. These Responses are addressing solely those issues relating to the three (3) County Courts at Law of Galveston County. The Responses are as follows:

REQUIREMENT 4: APPOINT COUNSEL PROMPTLY

FINDING 2 (misdemeanor cases): Article 1.051 (c) (1) requires the court 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.

Resolution: The following procedures have been created to resolve this issue:

- 1) If a person requests an appointment of counsel at the time of magistration, the magistrate will have the defendant complete a Pauper's Oath Affidavit.
- 2) The Pauper's Oath Affidavit will on that day, or by the morning of the next business day, be reviewed by the Judge assigned to the weekly Jail Docket to make a finding of indigency or non-indigency.
- 3) If the defendant is found to be indigent, the Judge will sign an Order of Appointment of Attorney. The appointed counsel will be one of the two attorneys appointed that week for jail docket.
- 4) The County Clerk's office will receive and file the Pauper's affidavit and Order of Appointment of Attorney.
- 5) The court appointed attorney will be given notice by County Court Administration of their appointment.
- 6) If the defendant is released on bond before the appointed attorney is able to meet with the defendant, the Notice of the Appointment and first setting is sent to the defendant by mail at the address provided by the defendant.

FINDING 3 (misdemeanor cases): The County does not have a process in place to ensure all misdemeanor requests for counsel are ruled upon prior to a defendant's waiver of counsel.

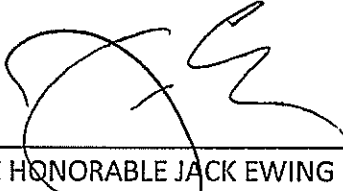
Resolution: Any defendant who is requesting counsel will be given a Pauper's Oath Affidavit to complete at magistrate court. Affidavits will be taken to the Judge assigned to the weekly Jail Docket and processed as above. A waiver of right to counsel will not be given to defendant unless the Judge makes a finding of non-indigency.

FINDING 4 (Misdemeanor cases): Article 26.04 (j)(2) requires that once counsel has been appointed, counsel continue with a case through disposition unless permitted or ordered by the court to withdraw after a finding of good cause has been entered on the record.

Resolution: On the initial appointment order prepared by the jail coordinator, the language of Article 26.04 (j)(2) will appear in bold letters explaining the requirement of counsel to remain as the court appointed attorney unless permitted or ordered by the court to withdraw after a finding of good cause.

Finding 5 (misdemeanor cases): Under Article 26.04 (p), once a defendant has been determined to be indigent, the defendant is presumed to remain indigent unless a material change in the defendant's financial circumstances occurs.

Resolution: After a finding of indigency, the defendant is presumed to remain indigent unless a material change in the defendant's financial circumstances occurs and is brought to the courts' attention. The defendants found to be indigent at jail docket will not be required to re-qualify as indigent at bond dockets.



THE HONORABLE JACK EWING
LOCAL COUNTY COURT ADMINISTRATIVE JUDGE

**THE DISTRICT COURT ADMINISTRATION'S RESPONSE
TO TIDC LIMITED SCOPE POLICY**

The following are the Responses of the District Court Administration to the above review. These Responses are addressing solely those issues relating to the five (5) Criminal District Courts of Galveston County. The Responses are as follows:

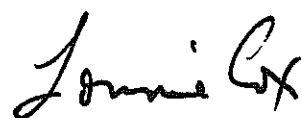
Requirement 4: Appoint Counsel Promptly

Finding 1 (felony cases): Article 1.0(c)(1) requires the court 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. At the time of the onsite review the rate of appointment in a timely manner was 86.4%, while the presumed compliance requires at least 90%. At the time of the review, judges were marking "Pauper's Oaths" as "Needing further study" when the oaths were incomplete or ambiguous.

Resolution: Upon further study and consideration by the District Court Judges, "Pauper's Oath" applications will be approved or denied promptly, not studied further. Those applications that are denied will be reviewed after initial denial to clear-up applicant's misinformation or incompleteness.

Finding 4 (felony and misdemeanor cases): Article 26.04(j)(2) requires that once counsel has been appointed, counsel continue with a case through disposition unless permitted or ordered by the court to withdraw after a finding of good cause has been entered on the record. At the time of the review, felony District Courts rotated a "jail docket" with an appointed "jail docket attorney." That attorney conveyed a plea offer to the defendants. If the defendant accepted the offer, the jail docket attorney represented the defendant in court. If the defendant rejected the offer, the case was random assigned to one of the 5 Criminal District Courts and each District Court assigned an attorney based on the Fair Defense Plan.

Resolution: While there are varying interpretations of Article 26.04, the judges have agreed to eliminate the jail docket, and file the cases immediately on a random basis in the District Courts, thereby eliminating the need for a jail docket attorney. This also would have an additional positive effect on above mentioned cases where defendants' applications (Pauper's Oaths) are incomplete or inaccurate. At this time, jail dockets and jail docket attorneys have been scheduled until the end of the year. Our change of process has already been announced to take place on January 1, 2018.



GALVESTON COUNTY



Office of County Auditor

Randall Rice CPA CISA CIO, County Auditor
Kristin Bulanek CIA, First Assistant County Auditor

P.O. Box 1418, Galveston, Texas 77553

(409) 770-5304

722 Moody Ave 4th Floor, Galveston, TX 77550

August 2, 2017

Honorable Lonnie Cox
56th District Court
Galveston County District Court Administrative Judge
600 59St, Suite 3302
Galveston, Texas 77551

Re: County Auditor Response to TIDC Limited Scope Monitoring Review June 2017

Dear Judge Cox:

Under Section 79.036(e) of the Texas Government Code, the County Auditor (or other person designated by the Commissioners Court) must annually prepare and send indigent defense data to the Commission for its Indigent Defense Expense Report (IDER).

The monitor noted the following findings and recommendations in reference to the indigent defense data reported for FY2015. Below each finding and recommendation is the response provided by the County Auditor's Office.

Finding 6 and Recommendation: The county overstated its expenses by including general court costs on the FY2015 IDER. To accurately capture indigent defense expenditures, the county should ensure supporting documents provide evidence the expenses were requested by the defense attorney, where the results are shared exclusively with the defense team. The county should attach this supporting documentation to the related voucher so that only costs incurred for indigent defense are included on the IDER.

County Response to Finding 6: Support documentation provided by the courts for psychological evaluations, court reporter expenditures and other expenses other than attorney fees will provide evidence the expenditures were requested by the defense attorney. This support documentation will be included on or attached to the related voucher to clearly designate if the expenditure should be included on the IDER or considered as a general court expenditure. All transactions to date for FY2017 have been reviewed to verify the requesting party to ensure only defense requested expenditures will be included on the FY2017 IDER. Beginning in FY2018, the general ledger accounts have been modified to separate indigent defense expenditures and general court expenditures.

Finding 7 and Recommendation: The county overstated its expenses by including the annual payment to the Regional Public Defender Office (RPDO) program in both the court costs section and the payments to the regional program section of the IDER. The RPDO payment should only be recorded in the funds paid to the regional programs section of the IDER.

County Response to Finding 7: In FY2015, a change in staff occurred which transferred the responsibility of completing the IDER to a new staff member who incorrectly reported the RPDO twice. In FY2016, the RPDO payment was only recorded in the funds paid to the regional programs section of the IDER.

Finding 8 and Recommendation: The county is underreporting the number of cases disposed by appointed attorneys. The county must put in place procedures to ensure the accurate reporting of disposed indigent defense cases. To accomplish this objective, jail docket attorneys must accurately document the number of cases they dispose, and the auditor must track and report these case totals on the IDER.

County Response to Finding 8: Beginning in FY2016, each disposed case is listed individually on a purchase order. This allows the Auditor's Office to accurately document the number of cases disposed and report case totals on the IDER. To improve the accuracy of reporting case totals for jail docket cases, Court Administration will begin documenting the total number of disposed cases on the PO to tie to list of cases on the jail docket voucher.

Finding 9 and Recommendation: The county did not report indigent defense cases and expenses handled through its veteran's court. As required by Section 79.036(e) of the Texas Government Code, the county must report these cases and expenses.

Finding 10 and Recommendation: If Galveston County continues to use a contract defender for its veteran's court docket, it must utilize a written contract that conforms to the Contract Defender Rules.

County Response to Finding 9 and Finding 10: According to Chapter 124 of the Government Code, Veteran's Treatment Court Program is defined as a "program" that has essential characteristics. A defendant is eligible to participate in this program if the attorney presenting the state consents to the defendant's participation in the program and if the court in which the criminal case is pending finds the defendant is a veteran or current member of the US armed forces and meets the statute described requirements. If a defendant successfully completes the program, after notice of the attorney representing the state and a hearing in the veteran's treatment court at which the court determines that a dismissal is in the best interest of justice, the court in which the criminal case is pending shall dismiss the case against the defendant.

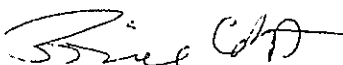
In Galveston County, an original criminal case is heard in the court in which the criminal case is pending. If the defendant meets the requirements of Government Code 124, the court will issue an order authorizing participation in the Galveston County Veteran's Treatment Court Program. This program is treated as a pretrial intervention program. The Veteran's Treatment Court Program has an attorney acting as advocate for the veterans to commit time to the processes and working relationships to solidify the program. This attorney is not considered an indigent defense attorney.

Upon completion of the program, a recommendation is made by the state to the court in which the original criminal case is pending. This original criminal case may or may not have an appointed indigent defense attorney. If an indigent defense attorney is appointed to the pending criminal case, expenditures for the indigent defense attorney are paid and recorded on the IDER.

Counting the cases and expenditures in the veteran's treatment court program on the IDER would be duplicating these cases and expenditures as the original criminal cases and expenditures (if an indigent defense attorney is appointed to the case) is accounted for on the IDER in the court the original criminal case was assigned.

If any additional information needed regarding this matter, please contact me at (409) 770-5301.

Sincerely,



Randall Rice CPA
County Auditor