



Office of Court Administration
Montgomery County

Hon. Tracy Gilbert, District Courts
Hon. Claudia Laird, County Courts at Law

Chad Peace, Director
Berenice Greathouse, Manager
Camara McWashington, Admin. Assist.

August 10, 2021

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

Re: Montgomery County 2019 Policy Monitoring Visit

Dear Mr. Lieurance:

Enclosed you will find Montgomery County's response to the policy monitoring report. We will continue to focus on meeting TIDC standards with the modifications and new implementations established. Please let me know if you need any additional information.

Montgomery County looks forward to working with TIDC Commission again. Thank you for your time, patience, and cooperation during the fiscal and policy monitoring review process.

Sincerely,

A handwritten signature in blue ink that reads "Berenice".

Berenice Greathouse
OCA Manager
Montgomery County, Texas

(Enclosure)

Montgomery County's Response to TIDC Policy Monitoring Review of FY19 Indigent Defense Systems

REQUIREMENT 1: CONDUCT PROMPT AND ACCURATE MAGISTRATION

PROCEEDINGS.

FINDING 1: Article 15.17(e) requires magistrates to ask and record whether each defendant requests counsel. Magistrates must ask each defendant whether he or she requests counsel, regardless of bail bond status.

County Response

After receiving guidance from TIDC, all the defendants at Probable Cause are asked by the Magistrate if he or she is requesting counsel, regardless of bail bond status.

Montgomery County Action Plan

Montgomery County will continue to gather all requests for court appointed attorney at the Probable Cause Hearing.

REQUIREMENT 4: APPOINT COUNSEL PROMPTLY.

FINDING 2 (FELONY CASES): Montgomery County's felony appointment process did not meet TIDC's threshold for timely appointment of counsel (90% timely). Under Article 1.051(c)(2), district courts must rule on all requests for counsel within one working day. The County must implement practices that satisfy Article 1.051(c)(2)'s timeline.

County Response

Montgomery County modified the Magistration procedure and implemented the Bail Review Hearing in 2020. The Office of Indigent Defense assists in completing an Affidavit of Financial Condition for the arrestee prior to the magistrate court. If the defendant requests court appointed attorney at the time of Magistration, the Office of Indigent Defense certifies the accuracy of their Affidavit for the purpose of determining eligibility for court appointed counsel.

Montgomery County Action Plan

Montgomery County believes the modifications on Magistration and Bail Review Hearing procedure will meet TIDC's threshold for timely appointment of counsel (90% timely).

FINDING 3 (MISDEMEANOR CASES): Montgomery County’s misdemeanor appointment process did not meet TIDC’s threshold for timely appointment of counsel (90% timely). Under Article 1.051(c)(2), statutory county courts must rule on all requests for counsel within one working day. The County must implement practices that satisfy Article 1.051(c)(2)’s timeline.

County Response

Montgomery County modified the Magistration procedure and implemented the Bail Review Hearing in 2020. The Office of Indigent Defense assists in completing an Affidavit of Financial Condition for the arrestee prior to the magistrate court. If the defendant requests court appointed attorney at the time of Magistration, the Office of Indigent Defense certifies the accuracy of their Affidavit for the purpose of determining eligibility for court appointed counsel.

Montgomery County Action Plan

Montgomery County believes the modifications on Magistration and Bail Review Hearing procedure will meet TIDC’s threshold for timely appointment of counsel (90% timely).

FINDING 4 (MISDEMEANOR CASES): The absence of a ruling on a pending request raises the possibility of several statutory violations, including untimeliness (Art. 1.051(c)) and invalid waiver of counsel (Art. 1.051(f-2)). Montgomery County must ensure that its procedures for ruling on counsel requests meet the requirements of both Article 1.051(c) and 1.051(f-2).

County Response

Montgomery County modified the Magistration procedure and implemented the Bail Review Hearing in 2020. The Office of Indigent Defense assists in completing an Affidavit of Financial Condition for the arrestee prior to the magistrate court. If the defendant requests court appointed attorney at the time of Magistration, the Office of Indigent Defense certifies the accuracy of their Affidavit for the purpose of determining eligibility for court appointed counsel.

Montgomery County Action Plan

Montgomery County believes the modifications on Magistration and Bail Review Hearing procedure will meet TIDC’s threshold for timely appointment of counsel (90% timely).

FINDING 5 (JUVENILE CASES): For cases in which the juvenile is not detained, Montgomery County's juvenile appointment process did not meet TIDC's threshold for appointment of counsel (90% timely). Section 51.101(d) of the Family Code requires the appointment of counsel within five working days of petition service on the juvenile. Montgomery County must implement procedures that ensure timely appointments of counsel in cases in which a petition is served on the juvenile.

County Response

Montgomery County implemented a procedure with the County Attorney's office and the Juvenile Department. The County Attorney's office will notify the Juvenile Department when they file a petition. The Juvenile Department will notify the parents and inform them the need to have an attorney. The Juvenile Department will give the contact information to Indigent defense. The parents will be contacted by Indigent Defense and go through the interview process.

Montgomery County Action Plan

Montgomery County believes the procedure implemented with the County Attorney's office and the Juvenile Department will meet TIDC's threshold for appointment of counsel (90% timely).

Summary

Montgomery County would like to thank TIDC for their time and guidance during the Fiscal and Policy Monitoring Review.