



Policy Monitoring Review of Chambers County's Indigent Defense Systems

April 2019

Table of Contents

| | |
|--|----|
| Background | 4 |
| Methodology | 5 |
| Program Assessment | 6 |
| REQUIREMENT 1: CONDUCT PROMPT AND ACCURATE ARTICLE 15.17 PROCEEDINGS. | 6 |
| REQUIREMENT 4: APPOINT COUNSEL PROMPTLY. | 10 |
| Conclusion | 14 |
| Summary of Findings and Recommendations..... | 15 |
| Appendix A: <i>Advisory Form on Representation</i> | 16 |
| Appendix B: <i>Judge’s Explanation of Rights to Defendants Without an Attorney</i> | 19 |
| Appendix C: <i>Answers to Frequently Asked Questions</i> | 21 |

Background

The Texas Indigent Defense Commission (TIDC) monitors local jurisdictions' compliance with the Fair Defense Act through on-site reviews.¹ These reviews seek to promote local compliance and accountability with the requirements of the Fair Defense Act and to provide technical assistance to improve county indigent defense processes where needed.

In March 2018, TIDC received a complaint about Chambers County from a local defense attorney. The complaint alleged (among other matters not in TIDC's monitoring scope) that defendants were not informed of their right to counsel after arrest and that counsel was not appointed in a timely manner.

In June 2018, the attorney submitted a supplemental complaint, alleging that defendants must speak with the prosecutor before they may make an in-court request for counsel. The complaint included an "Advisory Form on Representation" from the Chambers County Attorney's Office that prosecutors allegedly read to unrepresented misdemeanor defendants at a first appearance docket.² The form stated that defendants "should have been advised by a judge" of their right to counsel and provided a space to sign to waive counsel and speak to the prosecutor.

In August 2018, TIDC staff presented these complaints to its Policies and Standards Committee. Staff also presented Chambers County's misdemeanor attorney appointment rates, which have been lower than state averages of around 40-45% (see Table 1). In its August 2018 meeting, the Committee directed staff to conduct a limited-scope review to examine Chambers County's methods for accepting and ruling upon requests for counsel and waivers of counsel in misdemeanor cases.

¹ TEX. GOV'T CODE § 79.037(a)–(b).

² The complaint and form are attached as Appendix A.

Table 1: Estimated Misdemeanor Appointment Rates for Chambers County³

| | FY12 | FY13 | FY14 | FY15 | FY16 | FY17 |
|---------------------------------------|------|------|------|------|-------|-------|
| Misdemeanor Cases Disposed | 869 | 834 | 981 | 965 | 1,046 | 1,079 |
| Misdemeanor Cases Retained | 95 | 77 | 127 | 95 | 149 | 188 |
| % Retained Counsel Cases | 11% | 9% | 13% | 10% | 14% | 17% |
| Misdemeanor Cases Paid (appointed) | 6 | 44 | 123 | 139 | 247 | 246 |
| % Cases Paid | 1% | 5% | 13% | 14% | 24% | 23% |
| Estimated Pro Se Cases | 768 | 713 | 731 | 731 | 650 | 645 |
| % Pro Se Cases | 88% | 86% | 75% | 76% | 62% | 60% |

Methodology

TIDC staff members Joel Lieurance, Claire Buetow, and Morgan Shell conducted a limited scope review with visits to Chambers County on October 30-November 1 and December 10-11, 2018. The review focused on two core requirements of the Fair Defense Act:

REQUIREMENT 1: CONDUCT PROMPT AND ACCURATE ARTICLE 15.17 PROCEEDINGS.

REQUIREMENT 4: APPOINT COUNSEL PROMPTLY.

TIDC reviewed 85 misdemeanor case files and 73 magistration forms from FY2018 (October 2017 – September 2018); observed two misdemeanor first appearance dockets at the Chambers County Courthouse; observed one magistration at the Chambers County Jail; and met with local officials.

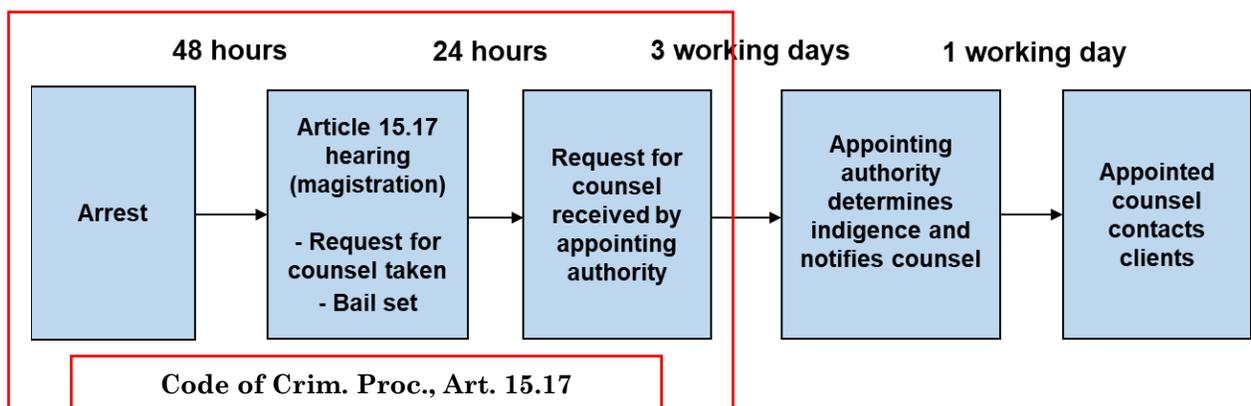
³ Rates estimated from data reported to the Office of Court Administration (OCA) and TIDC. All estimates are based on the percent of cases disposed over the fiscal year from October through September. The number of appointed cases was based upon the number of misdemeanor cases paid as reported by the county's financial officer to the Commission. The number of retained cases was reported by the county clerk to OCA. The number of pro se cases was estimated according to the formula: pro se cases = total cases disposed – total cases retained counsel – total cases appointed counsel.

Program Assessment

REQUIREMENT 1: CONDUCT PROMPT AND ACCURATE ARTICLE 15.17 PROCEEDINGS.

Under Article 15.17 of the Code of Criminal Procedure, an arrested person must be brought before a magistrate within 48 hours.⁴ At this hearing, the magistrate must inform the accused of his or her right to counsel; inform the accused of the procedures for requesting counsel; and ensure the accused has reasonable assistance in completing the necessary forms for requesting assistance of counsel.⁵ Finally, within 24 hours of receiving a request for counsel, the magistrate must transmit this request to the entity authorized to appoint counsel.⁶ If an arrestee is arrested on an out-of-county warrant, the magistrate must perform the same duties as if the arrestee were an arrested on an in-county warrant.⁷

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



1.a. Timeliness of Warnings

The accused must be brought before a magistrate within 48 hours of arrest.⁸ TIDC presumes a county is in substantial compliance with the prompt magistration requirement if at least 98% of Article 15.17 hearings are conducted within 48 hours.⁹ To

⁴ TEX. CODE CRIM. PROC. art. 15.17(a).

⁵ TEX. CODE CRIM. PROC. art. 15.17(a).

⁶ TEX. CODE CRIM. PROC. art. 15.17(a).

⁷ TEX. CODE CRIM. PROC. art. 15.18(a). A list of contacts to send counsel requests made by arrestees from out-of-county warrants is available at:

<http://tidc.tamu.edu/public.net/Reports/OutOfCountyArrestContacts.aspx>.

⁸ TEX. CODE CRIM. PROC. art. 15.17(a).

⁹ 1 TEX. ADMIN. CODE § 174.28(c)(1). Article 15.17(a) requires magistrate warnings occur within 48 hours of arrest. To simplify time measurement, TIDC assumes warnings are timely if they occur within 2 days of arrest.

determine the timeliness of Article 15.17 warnings in Chambers County, TIDC staff examined 62 sample case files in which staff could determine the time from arrest until the Article 15.17 hearing. All sample cases had Article 15.17 hearings occurring within two days of arrest, indicating Chambers County is providing warnings in a timely manner (see Table 2).

Table 2: Timeliness of Article 15.17 Hearings

| | Sample Size | Percent |
|---|-------------|-------------|
| Article 15.17 hearing occurs x days after arrest: | 62 | — |
| 0 days | 17 | 27.4% |
| 1 day | 43 | 69.4% |
| 2 days | 2 | 3.2% |
| Timely Hearings | 62 | 100% |
| More than 2 days | 0 | 0% |

1.b. Ability of Arrestees to Request Counsel

At the Article 15.17 hearing, the magistrate must inform the accused of his or her right to counsel, ask whether the accused wants to request counsel, and receive the accused’s request for counsel.¹⁰ The magistrate must make a record of each step of this exchange.¹¹ This data is reported to OCA by justices of the peace and municipal judges as part of their Judicial Council Monthly Court Activity Reports. TIDC uses these reports as well as court observations and case file records to determine if magistrates inform arrestees of their right to counsel and if arrestees are able to invoke that right.

TIDC observed Article 15.17 hearings at the Chambers County Jail on December 11, 2018. The magistrate, the Justice of the Peace for Precinct 2, read magistrate warnings to a group of arrestees, then spoke to each person individually to read their charges, tell them their bond amount, and ask whether they wanted to request counsel. All 7 arrestees requested counsel, and the magistrate marked these requests on forms that the arrestees signed, acknowledging they had received warnings.¹² They then completed indigence forms, with assistance from the magistrate and jail staff.

¹⁰ TEX. CODE CRIM. PROC. art. 15.17(a).

¹¹ TEX. CODE CRIM. PROC. art. 15.17(e).

¹² An eighth arrestee was magistrated separately because of the unusual nature of his case (i.e. dozens of out-of-state warrants). He also requested counsel and completed an indigence application form.

Of the 73 magistration forms TIDC reviewed, 9 included requests for counsel. Based on its observation and file review, TIDC concludes that defendants in Chambers County can request counsel at the Article 15.17 hearing.

TIDC notes, however, that on 15 of the magistration forms it reviewed, there was no mark for whether the arrestee had requested counsel. Article 15.17(e)(3) requires that the magistrate record whether the arrestee requested counsel. This requirement extends to out-of-county arrestees.¹³

TIDC also notes that not all justices of the peace are reporting requests for counsel in their Judicial Council Monthly Court Activity Reports (see Table 3). These data are required to be reported by justice courts per Title 1 Tex. Admin. Code § 171.7.

Table 3: Texas Judicial Council Monthly Court Activity Reports for Chambers County (Oct. 2017 – Sept. 2018)

| Court | Misd. Requests | Misd. Warnings | Misd. Req. Rate | Felony Requests | Felony Warnings | Fel. Req. Rate |
|--------------|-----------------------|-----------------------|------------------------|------------------------|------------------------|-----------------------|
| JP1 | 18 | 150 | 12% | 38 | 147 | 26% |
| JP2 | 143 | 602 | 24% | 242 | 810 | 30% |
| JP3 | 0 | 0 | -- | 0 | 0 | -- |
| JP4 | 0 | 152 | 0% | 0 | 120 | 0% |
| JP5 | 0 | 0 | -- | 0 | 0 | -- |
| JP6 | 4 | 72 | 6% | 7 | 65 | 11% |
| Total | 165 | 976 | 17% | 287 | 1,142 | 25% |

1.c. Transmitting Forms to the Appointing Authority

Within 24 hours of a defendant requesting counsel, the magistrate must transmit this request to the entity authorized to appoint counsel.¹⁴ For persons arrested on out-of-county warrants, the magistrate must transmit the request to the warrant issuing county.¹⁵ According to interviews with Chambers County staff, if a defendant requests counsel at the Article 15.17 hearing, magistrates fax requests for counsel from the jail to the courts. The misdemeanor case sample used to assess timely appointments showed several instances in which arrestees requested counsel at the Article 15.17 hearing, but the court had no record of the requests, indicating that not all requests for counsel are transmitted to the appointing authority within 24 hours.

¹³ TEX. CODE CRIM. PROC. art. 15.18(a) – (a-1).

¹⁴ TEX. CODE CRIM. PROC. art. 15.17(a).

¹⁵ TEX. CODE CRIM. PROC. art. 15.18 (a-1).

FINDINGS AND RECOMMENDATIONS FOR REQUIREMENT 1

Conduct prompt and accurate magistration proceedings.

FINDING 1 AND RECOMMENDATION: Per Article 15.17(e)(3), magistrates must record whether an arrestee requested counsel. Justices of the peace must mark whether each arrestee made a request or not.

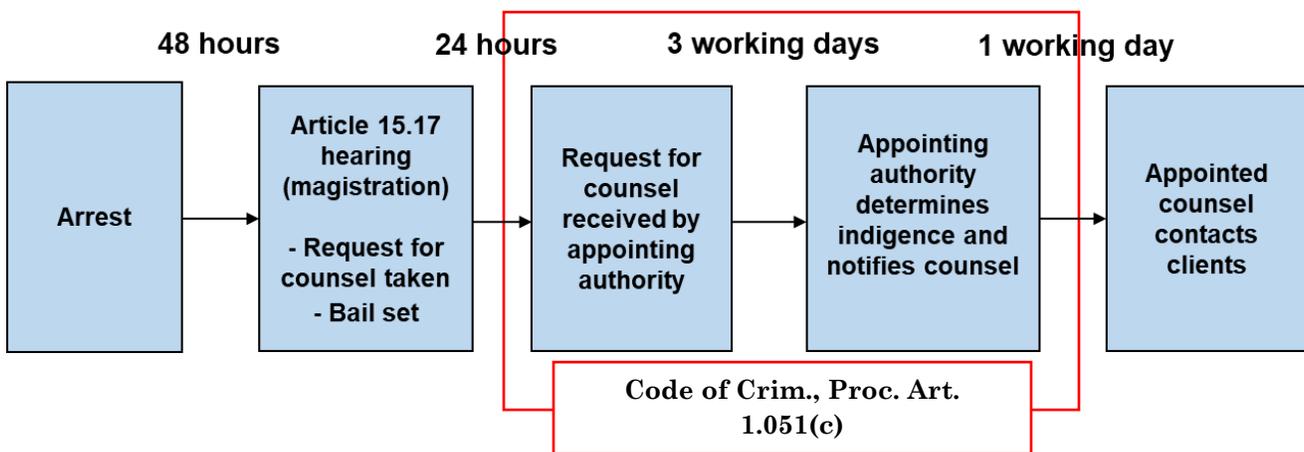
FINDING 2 AND RECOMMENDATION: Per Title 1 Tex. Admin. Code § 171.7, justices of the peace are required to report requests for counsel as part of their Judicial Council Monthly Court Activity Reports. All justices of the peace must create procedures to report this data.

FINDING 3 AND RECOMMENDATION: Article 15.17(a) requires requests for counsel to be transmitted to the courts within 24 hours of the requests being made. Chambers County must ensure that whenever a request for counsel is made at the Article 15.17 hearing, the associated paperwork is sent to the courts within 24 hours of the request being made.

REQUIREMENT 4: APPOINT COUNSEL PROMPTLY.

In counties with a population less than 250,000, Article 1.051(c) of the Code of Criminal Procedure requires the court or its designee to appoint counsel within three working days of receiving a request for counsel.¹⁶ If an arrestee makes bail, Article 1.051(j) sets the deadline for appointing counsel to be the defendant's first court appearance or the initiation of adversarial judicial proceedings, whichever comes first. *Rothgery v. Gillespie County* clarified that the initiation of adversarial judicial proceedings occurs at the Article 15.17 hearing.¹⁷ After magistration, courts must provide a method for defendants to request and obtain appointed counsel.¹⁸

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



Timeliness of Appointments in Misdemeanor Cases

TIDC presumes a county is in substantial compliance with this requirement if at least 90% of cases in a sample have appointments within three working days (plus 24 hours to transfer the request). To assess the timeliness of Chambers County's current appointment procedures in misdemeanor cases, TIDC staff examined 85 sample misdemeanor cases filed in FY2018 (October 2017 – September 2018); defendants requested counsel in 22 of these cases. Counsel was appointed timely in 15 of 22 cases (**68% timely**), which does not meet TIDC's 90% threshold (see Table 4). The misdemeanor courts must put in place procedures to ensure timely appointment of counsel. Many of the sample cases not receiving timely rulings were cases in which

¹⁶ If an arrestee requests counsel at the Article 15.17 hearing, the request must be transmitted to the court within 24 hours of the request being made. TEX. CODE CRIM. PROC. art. 15.17(a).

¹⁷ *Rothgery v. Gillespie County*, 554 U.S. 191, 212 – 13 (2008).

¹⁸ 1 TEX. ADMIN. CODE § 174.51.

defendants requested counsel at the Article 15.17 hearing, but the court did not have a record of the request. Timely appointments could be greatly improved by ensuring that all requests for counsel are promptly sent to the court.

Table 4: Times to Appointment in Misdemeanor Cases

| | Sample Size | Number from sample | Percent |
|--|-------------|--------------------|------------|
| Number of case files examined | 85 | | |
| Total cases with a counsel request | | 22 | |
| Appointment / denial of indigence occurred in: | | | |
| 0 work days | | 10 | |
| 1 – 3 work days + 24-hour transfer | | 5 | |
| Total timely appointments / denials | | 15 | 68% |
| More than 4 work days + 24-hour transfer | | 2 | |
| No ruling on request | | 5 | |
| Total untimely appointments / denials | | 7 | 32% |

Waivers of Counsel in Misdemeanor Cases

TIDC received a complaint alleging that defendants had to request counsel from the prosecutor in Chambers County.¹⁹ TIDC reviewed case files, interviewed Chambers County officials and staff, and observed misdemeanor dockets.

In two of the cases TIDC reviewed, defendants requested counsel, but never received an appointment, and ultimately waived counsel and pled guilty. The waivers occurred approximately one month and eight months after the initial request, respectively. TIDC also observed first appearance dockets in the Chambers County Courthouse on November 1, 2018. During these proceedings, the judge explained that defendants would have an opportunity to speak to the County Attorney about their cases and informed them of their right to counsel. A court clerk then read aloud the Advisory Form on Representation (included in the complaint against Chambers County), stating that defendants have a right to counsel. The clerk directed defendants to speak to the prosecutor about requesting counsel. The prosecutor explained the procedure for requesting counsel and took requests. TIDC interviews with local officials confirmed this process.

In pertinent part, Article 1.051(f-1) states the following:

In any adversary judicial proceeding that may result in punishment by confinement, the attorney representing the state may not:

¹⁹ Attached as Appendix A.

- (1) initiate or encourage an attempt to obtain from a defendant who is not represented by counsel a waiver of the right to counsel; or
- (2) communicate with a defendant who has requested the appointment of counsel, unless the court or the court's designee authorized under Article 26.04 to appoint counsel for indigent defendants in the county has denied the request ...

In pertinent part, Article 1.051(f-2) states the following:

In any adversary judicial proceeding that may result in punishment by confinement, the court may not direct or encourage the defendant to communicate with the attorney representing the state until the court advises the defendant of the right to counsel and the procedure for requesting appointed counsel ... [Emphasis added.]

TIDC case file reviews, court observation, and interviews indicated that courts hearing misdemeanor cases were directing or encouraging defendants to communicate with attorneys representing the state before acting on counsel requests, and that the attorney representing the state initiated or encouraged an attempt to obtain from a defendant who is not represented by counsel a waiver of the right to counsel.

After the November 1 docket, TIDC met with the County Judge and County Attorney to share its observations, interviews, and record reviews.²⁰ Officials changed local practice so that the court explains the procedures for requesting counsel, takes in-court requests, and has those persons wishing to speak with the prosecutor to sign a waiver of counsel (for purposes of this communication).

TIDC returned December 10, 2018 to observe the same docket. The judge advised defendants of their right to counsel and explained that they would have an opportunity to request counsel from a court clerk. The clerk then read aloud an updated advisory form, which was derived from TIDC's model form and included space to mark whether defendants wanted to request appointed counsel.²¹

The court recessed, and the clerk called defendants individually to complete the form. Represented defendants waited for their attorneys to arrive. Unrepresented defendants who did not request an attorney went to the county attorney's office.²² Unrepresented defendants who requested appointed counsel were given indigency applications, which they completed in the courtroom. When the judge returned, he reviewed these applications and approved requests in all four cases. The judge advised

²⁰ <http://tidc.texas.gov/policies-standards/model-forms-procedures/>

²¹ Attached as Appendix B.

²² Two returned to enter pleas when the court was back in session.

the defendants whose requests he had approved to wait at the courthouse until they learned which attorney would be representing them.

TIDC concludes that this updated form and procedure meet the requirements of Article 1.051 (f-2). Chambers County should clarify whether it has processes in place to ensure compliance with Article 1.051(f-1).

FINDINGS AND RECOMMENDATIONS FOR REQUIREMENT 4

Appoint Counsel Promptly.

FINDING 4 AND RECOMMENDATION: Article 1.051(c)(1) requires the court (or its designee) to rule on all requests for counsel within three working days (plus 24 hours for transferring requests to the courts) of the request being made. The monitor's sample of misdemeanor cases fell below the Commission's 90% timely threshold for presuming a jurisdiction's appointment system ensures timely appointment of counsel. The County must implement practices that satisfy the appointment timeline in Article 1.051(c)(1).

FINDING 5 AND RECOMMENDATION: TIDC interviews, case file reviews, and court observation indicate that the attorney representing the state may be communicating with defendants who have requested the appointment of counsel when the court or its designee has not acted on the request. Chambers County should clarify whether it has processes in place to ensure compliance with Article 1.051(f-1).

FINDING 6: TIDC interviews, case file reviews, and court observation indicate that courts hearing misdemeanor cases may be directing or encouraging defendants to communicate with attorneys representing the state before acting on requests for counsel. Chambers County has amended its process to ensure compliance with Article 1.051(f-2).

Successfully Addressed.

Additional Observations

These observations do not constitute TIDC findings or recommendations. TIDC offers these additional observations as an aid to Chambers County.

Chambers County's County Attorney website advises the public and criminal defendants:

Do I need an attorney at my first appearance docket?

No, an attorney is not necessary at the first docket, or in any Court setting for misdemeanors. If an individual makes a decision to hire an attorney, the case will be reset to the next appropriate docket.

If I am indigent, how can I get a "free" lawyer?

A common misconception, but court-appointed attorneys are not "free". The taxpayers are the ones that pay for a court-appointed attorney. If a defendant claims indigency and is granted a court-appointed attorney, the costs of the attorney may be assessed upon the defendant if he or she is found guilty.

The website may lead criminal defendants to believe that they do not have a right to an attorney under *Argersinger v. Hamlin* and deprive persons of their right to counsel under the United States and Texas Constitutions. The County Attorney may wish to strike this information from its website.

Conclusion

TIDC thanks Chambers County officials for their assistance during its visits and commends them for their commitment to improving local indigent defense practices. TIDC will continue to monitor whether the County has satisfied its five pending recommendations. TIDC is available for technical assistance; please contact Joel Lieurance, Senior Policy Monitor, with questions.

Summary of Findings and Recommendations

FINDING 1 AND RECOMMENDATION: Per Article 15.17(e)(3), magistrates must record whether an arrestee requested counsel. Justices of the peace must mark whether each arrestee made a request or not.

FINDING 2 AND RECOMMENDATION: Per 1 Tex. Admin. Code § 171.7, justices of the peace are required to report requests for counsel as part of their Judicial Council Monthly Court Activity Reports. All justices of the peace must create procedures to report this data.

FINDING 3 AND RECOMMENDATION: Article 15.17(a) requires requests for counsel to be transmitted to the courts within 24 hours of the requests being made. Chambers County must ensure that whenever a request for counsel is made at the 15.17 hearing, the associated paperwork is sent to the courts within 24 hours of the request being made.

FINDING 4 AND RECOMMENDATION: Article 1.051(c)(1) requires the court (or its designee) to rule on all requests for counsel within three working days (plus 24 hours for transferring requests to the courts) of the request being made. The monitor's sample of misdemeanor cases fell below the Commission's 90% timely threshold for presuming a jurisdiction's appointment system ensures timely appointment of counsel. The county must implement practices that satisfy the appointment timeline in Article 1.051(c)(1).

FINDING 5 AND RECOMMENDATION: TIDC interviews, case file reviews, and court observation indicate that the attorney representing the state may be communicating with defendants who have requested the appointment of counsel when the court or its designee has not acted on the request. Chambers County should clarify whether it has processes in place to ensure compliance with Article 1.051(f-1).

FINDING 6: TIDC interviews, case file reviews, and court observation indicate that courts hearing misdemeanor cases may be directing or encouraging defendants to communicate with attorneys representing the state before acting on requests for counsel. Chambers County has amended its process to ensure compliance with Article 1.051(f-2). *Successfully Addressed.*

Appendix A: *Complaint and Advisory Form on Representation*



713-739-9455

P.O. Box 2813
Houston, TX 77252
Drew@Law-DW.com
www.Law-DW.com
713-510-1950 f

June 26, 2018

TIDC
209 W. 14th St., Rm. 202
Austin, TX 78701

RE: Supplement to Complaint against Chambers County

I wanted to formally submit more specific information to supplement my prior complaint against Chambers County. I have obtained a copy of the script and document read and presented to defendants by the prosecutors before they are appointed counsel.

Chambers County holds a separate arraignment hearing for bonded misdemeanor defendants without any defense attorneys present. At this hearing, prosecutors are present and read a script that is likely discouraging defendants from requesting an attorney (this must be why 70% are non-attorney cases). If a defendant wants to request an attorney, they must do so from the prosecutors who have just read this "admonishment" and have forced the defendants to sign the script. After that script is read, every defendant meets with the prosecutors or their administrative assistant and offers are given. After sitting with the prosecutor is the first opportunity defendants have to request an attorney. I have been told that many times, the county attorney administrative assistant is actually the one communicating plea offers to the defendants, without ever giving any real opportunity to request counsel. I have attached a copy of the script read at this hearing.

Thank you,

/s/ Drew Willey
Drew Willey

Cause No. [REDACTED]

Advisory Form on Representation

For Pro Se Defendant

Dear Sir or Ma'am:

Prior to disclosing the contents of the State's file, this form clarifies that you have been advised of certain rights regarding the decision to either represent yourself or seek an attorney at this time.

Before speaking to a prosecutor, you should have been advised by a judge (either at your "magistration" by a JP or when appearing for County Court), of the following:

1. You have a right to counsel,
2. The procedure for requesting appointed counsel, and
3. If you choose to request appointed counsel, you will be given a reasonable opportunity to do so.

You also have the right to hear the State's Plea Offer and learn the contents of the State's file at this time, without an attorney.

In summation, you have the right to hire an attorney, request a court appointed attorney, or represent yourself at this time. These rights exist prior to speaking with a prosecutor on your case, and shall exist after you learn the State's Plea offer and contents of the State's file, if you choose to do so at this time.

By signing below, you understand the above mentioned rights, and desire to speak to the prosecutor on your case.

FILED FOR RECORD

AM 8:20

Heather J. DeWitt
COUNTY CLERK
CHAMBERS COUNTY, TEXAS

[REDACTED]

Printed Name of Defendant

Ashley Land

Scott R. Peal, County Attorney
Alissa Beard, Asst. County Atty.
Barbara Fox, Asst. County Atty.
Ashley Land, Asst. County Atty.

Appendix B: *Judge's Explanation of Rights to Defendants Without an Attorney*

JUDGE'S EXPLANATION OF RIGHTS TO DEFENDANTS WITHOUT AN ATTORNEY

Dear Sir or Ma'am:

Prior to meeting with a prosecutor and their disclosing the contents of the State's file, I am notifying you of certain rights regarding the decision to either represent yourself or seek an attorney at this time.

Before speaking to a prosecutor, you have been advised of the following:

1. You have a right to counsel,
2. The procedure for requesting appointed counsel, and
3. If you choose to request appointed counsel, you will be given a reasonable opportunity to do so.

You also have the right to hear the State's Plea Offer and learn the contents of the State's file at this time, without an attorney.

In summation, you have the right to hire an attorney, request a court appointed attorney, or represent yourself at this time. These rights exist prior to speaking with a prosecutor on your case, and shall exist after you learn the State's Plea offer and contents of the State's file, if you choose to do so at this time.

By signing below, you understand the above mentioned rights, and desire to speak to the prosecutor on your case.

DEFENDANT'S CHOICE [Mark initials next to only ONE choice]:

- I want to reset this case to hire my own attorney.
- I have hired an attorney, whose name is: _____
- I want to apply for court-appointed counsel.
- I want to waive my right to an attorney and represent myself.
- I want to speak with a prosecutor about my case, and decide after learning the contents of the State's file and the prosecutor's Plea Offer whether to hire an attorney, apply for a court-appointed attorney, or represent myself.

Defendant: _____ Date: _____

After speaking with a prosecutor about my case, I have decided to [Mark initials next to only ONE choice]:

- Request a Court Appointed attorney
- Hire my own attorney
- Represent myself in this cause.
- Consider the above options and decide by the next Court setting.

Defendant: _____ Date: _____

Appendix C: *Answers to Frequently Asked Questions*

ANSWERS TO FREQUENTLY ASKED QUESTIONS

What can I expect at my first court appearance?

Defendants will be permitted to enter the County Courtroom several minutes before the docket is called. Once the docket is called, the County Judge will make a statement regarding each individual's rights regarding counsel as well as the opportunity to speak with a prosecutor, if desired.

Do I need an attorney at my first appearance docket?

No, an attorney is not necessary at the first docket, or in any Court setting for misdemeanors. If an individual makes a decision to hire an attorney, the case will be reset to the next appropriate docket.

If I am indigent, how can I get a "free" lawyer?

A common misconception, but court-appointed attorneys are not "free". The taxpayers are the ones that pay for a court-appointed attorney. If a defendant claims indigency and is granted a court-appointed attorney, the costs of the attorney may be assessed upon the defendant if he or she is found guilty.

Any Defendant who believes themselves to be indigent may fill out an application for a Court Appointed Attorney. Once sworn to, the Application is reviewed by the County Judge who makes a determination whether to appoint an attorney. If an attorney is appointed, the case is moved to the next appropriate docket.

Why would I speak with a Prosecutor?

Every Defendant is entitled to review the evidence in a criminal case. The Prosecutor holds the Peace Officer's "offense report" in the file, as well as a Plea Bargain Offer for each defendant. The Plea Bargain Offer in the file is the same for defendants with or without an attorney. This is an opportunity for each defendant to learn the contents of the State's file and make an informed decision on what step to take next. It also provides the opportunity for a defendant to ask questions about the case, and discuss the terms and conditions of a plea bargain.

What is Probation / Community Supervision?

Community Supervision is an alternative to a jail sentence. Under the terms of probation, a defendant is supervised for a set period of time by a probation officer, reports regularly to that officer, performs community service in the community, completes necessary educational/rehabilitative courses, and pays their fines, court costs, and restitution to victims.

Can my charge be changed or reduced in a plea deal?

If the offense alleged is different from the offense committed, the offense will be changed to reflect the correct nature of that offense.

However, by example, an actual DWI offense will not become an Obstructed Highway, Reckless Driving, or Public Intoxication.

Can I drop charges if I am the victim of an assault case?

No, only the prosecutor can make the determination to dismiss a case. Victims may contact the County Attorney's Office to set an appointment for discussion of the case, including the desire to dismiss. An Affidavit of Non-Prosecution, the written notice of a Victim's desire to drop charges, is taken into consideration for each case.

However, the strength of the evidence in all criminal cases determines whether the case is "dropped" (dismissed) or not.

Does the County Court allow a "payment plan" on criminal cases?

In a probation judgment, the Court requires \$100.00 at the time of the plea. There is a \$25.00 one-time administration fee imposed which is calculated into the fines and costs. Payment of the fines and costs are spread out over the probation term.

Jail sentences require the full fine and costs to be paid at the time of the plea, or for those fines/costs to be laid-out in the jail at the rate of \$100.00 per day.

What happens if I don't come to court?

Individuals on a docket who do not answer will have their bond forfeited. The Court standard is to double the amount of the initial bond. Upon apprehension, a defendant will remain incarcerated until the new bond has been made for release.

How do I file charges with the County Attorney's office?

The County Attorney's Office is comprised of three (3) attorneys and three (3) support staff. There is no Investigator/Peace Officer assigned to the Office. As such, only a few offenses (ex. "Hot Checks") are taken in and filed without a Peace Officer's offense report.

The majority of investigations must originate with a Law Enforcement Agency, which then submits the case for Intake (review) by the County Attorney's Office.

****Please note:** The Chambers County Attorney's Office does not give legal advice or interpretation through this website.