

**220th Judicial District Court
Bosque, Comanche & Hamilton Counties
State of Texas**

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Phil Robertson
Judge

Linda Meinkowsky
Court Coordinator

November 7, 2017

Honorable Don Pool
Bosque County Judge
P.O. Box 647
Meridian, TX 76665

Honorable James R. Arthur
Comanche County Judge
Courthouse, 101 W. Central
Comanche, TX 76442

Joel Lieurance
Senior Policy Analyst
Texas Indigent Defense Commission
209 West 14th Street, Room 202
Austin, Texas 78701

Re: 2017 Policy Monitoring Reviews of Bosque County's and Comanche County's
indigent defense processes

Gentlemen:

This letter is sent to address the deficiencies in the process for appointing counsel to adult indigent defendants in the 220th District Court for both Bosque and Comanche Counties. After receiving the Monitoring Reviews, I wrote the Judges, Justices of the Peace, and Sheriffs in both counties and have visited with many of them since that date.

The reports indicate a failure to rule and a failure to timely rule on requests for appointed counsel by the District Court. As far as I can determine, many of those instances resulted from the untimely transmission of the requests to the court. Many of our inmates for Bosque County are housed outside the county which makes it difficult to track the time of the request for counsel. Most of our inmates for Comanche County are housed there unless the inmate was arrested outside the County or transferred to another jurisdiction for some other reason.

Rural counties have some unique issues, but our law enforcement and magistrates are well educated about their duties. I believe the magistrates understand both the obligation to inform individuals of their right to counsel and to assist in timely completing the applications for appointed counsel. It

Letter concerning appointment of counsel

November 7, 2017

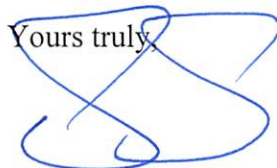
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seems that the majority of the delays in appointing counsel occur in the completion and transmission of the applications from the inmates. In order to raise awareness of the time limitations and to accurately track the transmission of the applications, it is important to document the times each step is begun and completed. The magistrates document on the magistration form the time the accused is informed of his right to counsel. The Sheriff's offices (or the magistrates) will note on the application form the times the application is delivered to and completed by the accused. It is also important to record the time the completed application is transmitted to the judge making the ruling.

For felony cases, the District's Court Coordinator will note both the time the application for appointed counsel is received and the time a ruling is made. She too understands the time limitations involved and will help expedite and document the process. The Court Coordinator keeps copies of the applications and rulings and sends copies of the orders to the office from which the application was received.

At least at the felony / district level, I believe these changes will result in a noticeable improvement in performance.

Yours truly,

A handwritten signature in blue ink, appearing to be "Phil Robertson", written over the text "Yours truly,".

Phil Robertson

Bosque Summary of Findings and Recommendations

The county must respond in writing as to how it will address each of these findings.

REQUIREMENT 1: CONDUCT PROMPT AND ACCURATE MAGISTRATION PROCEEDINGS.

Bosque County has processes in place to promptly bring arrestees before a magistrate.

FINDING and RECOMMENDATION 1: Article 15.17(a) requires that magistrates ensure reasonable assistance in completing forms necessary to obtain appointed. These forms must then be transmitted to the appointing authority within 24 hours. Bosque County magistrates must ensure arrestees receive this assistance and financial forms are promptly transmitted to the courts.

REQUIREMENT 2: DETERMINE INDIGENCE ACCORDING TO STANDARDS DIRECTED BY THE INDIGENT DEFENSE PLAN.

No findings. County practices and procedures comport with statutory requirements.

REQUIREMENT 3: ESTABLISH MINIMUM ATTORNEY QUALIFICATIONS.

No findings. County practices and procedures comport with statutory requirements.

REQUIREMENT 4: APPOINT COUNSEL PROMPTLY.

FINDING and RECOMMENDATION 3 (misdemeanor cases): Article 1.051(c)(1) requires the court (or its designee) to rule on all requests for counsel within three working day (plus 24 hours allowed for transferring requests to the courts) of the request being made. The monitor's sample of attorney appointments in 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 Article 1.051(c)(1)'s appointment timeline in misdemeanor cases.

County Court at Law Judge along with the Jail Administrator have arranged to have each application completed and fax or emailed to our office. We have been able to look and respond to and every application received within 24 hours. We have also implemented that we fax or email each application with conformation with the qualified attorney's contact information.

FINDING and RECOMMENDATION 4 (misdemeanor cases): The county does not have processes in place to ensure misdemeanor requests for counsel are ruled upon prior to a defendant's waiver of counsel. As required by Article 1.051(f-2), the court must rule upon requests for counsel prior to procuring a waiver of counsel for the purpose of speaking with the prosecutor.

County Court at Law has implemented a procedure that each application is dated and signed with the appropriate approval or denial and reason why on each application received by fax or email.

FINDING and RECOMMENDATION 5 (misdemeanor cases): If a defendant wishes to enter an uncounseled plea, the defendant must sign a waiver of counsel which substantially conforms to Article 1.051(g).

County Court at Law will have the defendant will sign a waiver of counsel.

REQUIREMENT 5: INSTITUTE A FAIR, NEUTRAL, AND NONDISCRIMINATORY ATTORNEY SELECTION PROCESS.

No findings. County practices and procedures comport with statutory requirements.

REQUIREMENT 6: PROMULGATE STANDARD ATTORNEY FEE SCHEDULE AND PAYMENT PROCESS.

No findings. County practices and procedures comport with statutory requirements.

REQUIREMENT 7: STATUTORY DATA REPORTING.

No findings. County practices and procedures comport with statutory requirements.