



3rd Follow-up Review of Randall County's Indigent Defense Systems

September 2025



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Mission: Protecting the right to counsel, improving public defense.

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Background

In 2012 the Texas Indigent Defense Commission (TIDC) conducted an initial monitoring review of Randall County's indigent defense practices. For adult cases, the policy monitoring report made recommendations that focused on the transmittal of counsel requests to the appointing authority and on the timely appointment of counsel. For juvenile cases, the report made recommendations regarding the timely appointment of counsel at detention hearings and in instances when the juvenile was served with a petition. The 2012 report found the County's procedures met TIDC core requirements for the local standard of indigence, minimum attorney qualifications, attorney selection method, and attorney payment methods.

Randall County improved the transmission of counsel requests, requiring magistrates to make a paper record reflecting whether arrestees requested counsel (formerly the record was part of a hearing video), and forward the requests to individuals designated in the Indigent Defense Plan. In juvenile cases, Randall County responded with an action plan to summon the parents of a juvenile to court to either fill out paperwork to request counsel or retain counsel.

TIDC returned to Randall County and issued a follow-up report in 2016. TIDC staff found magistrates did not always ask arrestees whether they wanted to request appointed counsel. When incarcerated defendants requested counsel, the financial paperwork was not always promptly transmitted to the courts, and the resulting appointments of counsel often occurred beyond statutory time frames. When misdemeanor defendants appeared in court, the procedures for requesting counsel were not readily apparent until after a waiver of counsel had been procured. For juvenile matters, the report found that counsel was appointed timely when detention hearings were conducted but found there were gaps in timely appointments when juveniles were served with a petition.

After the follow-up visit and report, Randall County began scanning and emailing counsel requests and financial paperwork to all pertinent court coordinators, and the misdemeanor courts adopted a new form for arraignment dockets clearly explaining the process for requesting counsel, and requiring defendants to indicate if they chose to request appointed counsel, re-set to retain counsel, or waive counsel and speak with the prosecutor. During the second follow-up in 2019, TIDC found that paperwork was timely transmitted, and counsel was timely appointed in felony and misdemeanor matters, and for juveniles at detention hearings. However, counsel was not appointed timely for youth served in juvenile delinquency matters by petition. Additionally, magistrates did not consistently ask persons arrested on out-of-county warrants if they wanted to request the appointment of counsel. The follow-up report also found that justices of the peace did not consistently report the number of persons requesting counsel at the Article 15.17 hearing to the Office of Court Administration.

Table 1: History of Monitoring Findings

Topic	Description and Initial Year of Finding	Status after 2025 Review	
		Satisfied	Pending
Magistrate Warnings	Article 15.17 hearings must occur within 48 hours of arrest (2012)	✓(2016)	
Magistrate Warnings	Requests for counsel must be promptly transmitted to the appointing authority (2012)	✓(2019)	
Magistrate Warnings	Magistrates do not always ask arrestees if they want to request the appointment of counsel. (2016)	✓(2019)	
Magistrate Warnings	Magistrates do not ask persons arrested on out-of-county warrants if they want to request the appointment of counsel. The request must be transmitted to the warrant-issuing county. (2019)		✓
Magistrate Warnings	As part of the Texas Judicial Council Monthly Court Activity Reports, justices of the peace must report the number of persons requesting counsel at the Article 15.17 hearing. (2019)	✓(2025)	
Prompt Appointment of Counsel	In felony cases, counsel must be appointed within three working days of a request being made (plus 24 hours allowed in transmitting the request to the appointing authority). (2012)	✓(2019)	
Prompt Appointment of Counsel	In misdemeanor cases, counsel must be appointed within three working days of a request being made (plus 24 hours allowed in transmitting the request to the appointing authority). (2016)	✓(2019)	
Prompt Appointment of Counsel	In juvenile cases, counsel must be appointed prior to a detention hearing. (2012)	✓(2016)	
Prompt Appointment of Counsel	In juvenile cases, counsel must be appointed within five working days of service of a petition on a juvenile. (2012)	✓(2025)	
Waivers of Counsel	Requests for counsel must be ruled upon prior to a waiver of counsel and a defendant's uncounseled communication with the prosecutor. (2016)	✓(2019)	

2025 Follow-up Review

Staff members Wesley Shackelford, Ashley De La Garza, and William R. “Bill” Cox conducted the third follow-up review with a visit to Randall County on January 24, 2024. The purpose of this review was to examine whether Randall County successfully addressed the recommendations from the 2019 report. To determine whether the recommendations had been successfully implemented, TIDC observed Article 15.17 hearings, met with local officials, and examined juvenile files.

CONDUCT PROMPT AND ACCURATE MAGISTRATION PROCEEDINGS

Article 15.17 Hearings

Under Article 15.17 of the Code of Criminal Procedure, an arrested person must be brought before a magistrate within 48 hours.¹ 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.² Finally, within 24 hours of receiving a request for counsel, the magistrate must transmit this request to the entity authorized to appoint counsel.³ In Randall County, justices of the peace are the primary magistrates who conduct Article 15.17 hearings, while other judges (county court at law and district judges) often fill in on weekends.

On January 24, 2024, TIDC observed Article 15.17 hearings at the Randall County Jail. TIDC also viewed video-recorded Article 15.17 hearings for the period from December 1-15, 2023. TIDC observed that all persons arrested for Randall County offenses were told of the right to counsel and were asked whether they wanted to request the appointment of counsel, and, if so, if the defendant wanted to keep the attorney the defendant already has or request a new one. In one case, a defendant with both Potter and Randall County charges responded to this question by indicating he wanted to keep the attorney on his existing Randall County cases. The judge advised the defendant that he did not need to request a new attorney. As a result, the defendant did not complete an application for appointed counsel on his Potter County charges. Another defendant was not asked if he wanted to request counsel for his out-of-county charges on the recorded magistration hearings TIDC reviewed.

Article 15.18 requires out-of-county arrestees to be asked if they want to request counsel.⁴ Once a request is made, the request and associated paperwork must

¹ TEX. CODE CRIM. PROC. art. 15.17(a).

² TEX. CODE CRIM. PROC. art. 15.17(a).

³ TEX. CODE CRIM. PROC. art. 15.17(a).

⁴ Article 15.18(a) - (a-1) states:

(a) A person arrested under a warrant issued in a county other than the one in which the person is arrested shall be taken before a magistrate of the county where the arrest takes place or, to provide more expeditiously to the arrested person the warnings described by

be transmitted to the warrant-issuing county within 24 hours. A list of contacts for each county is available on the TIDC website at: <http://tidc.tamu.edu/public.net/Reports/OutOfCountyArrestContacts.aspx>. Randall County staff indicated that requests for counsel on out-of-county arrests are not consistently transmitted to the county which issued the arrest warrant for appointment of counsel. TIDC staff identified two individuals arrested on warrants from neighboring Potter County who requested appointed counsel, and neither Randall nor Potter County's records reflected that the requests were transmitted timely.

Justices of the Peace must report summary data of Article 15.17 hearings to the Office of Court Administration (OCA) as part of the Texas Judicial Council Monthly Court Activity Reports. These summary data points include the number of magistrate warnings given and the number of persons who request counsel at the Article 15.17 hearings.⁵ Based on TIDC's review of justice court data reported to OCA, the justice courts of Randall County consistently reported their data for magistrations and requests for counsel.

Article 15.17, before a magistrate in any other county of this state, including the county where the warrant was issued. The magistrate shall:

- (1) take bail, if allowed by law, and, if without jurisdiction, immediately transmit the bond taken to the court having jurisdiction of the offense; or
- (2) in the case of a person arrested under warrant for an offense punishable by fine only, accept a written plea of guilty or nolo contendere, set a fine, determine costs, accept payment of the fine and costs, give credit for time served, determine indigency, or, on satisfaction of the judgment, discharge the defendant, as the case may indicate.

(a-1) If the arrested person is taken before a magistrate of a county other than the county that issued the warrant, the magistrate shall inform the person arrested of the procedures for requesting appointment of counsel and ensure that reasonable assistance in completing the necessary forms for requesting the appointment of counsel is provided to the person at the same time. If the person requests the appointment of counsel, the magistrate shall, without unnecessary delay but not later than 24 hours after the person requested the appointment of counsel, transmit, or cause to be transmitted, the necessary request forms to a court or the courts' designee authorized under Article 26.04 to appoint counsel in the county issuing the warrant.

⁵ 1 TEX. ADMIN. CODE § 171.7. Additionally, 1 TEX. ADMIN. CODE § 171.28(c) states: “. . . Policy monitoring may also include a review of statutorily required reports to the Office of Court Administration and Commission. . . .”

Table 2: Requests for Counsel at Article 15.17 Hearings (October 2022 – September 2023)

	JP – Pct. 1	JP – Pct. 4	Randall County JPs Combined
Misdemeanor Warnings	386	473	859
Misdemeanor Requests	139	197	336
% Requesting Counsel	36.0%	41.6%	39.1%
Felony Warnings	633	892	1525
Felony Requests	244	374	618
% Requesting Counsel	38.5%	41.9%	40.5%

2019 Finding and Recommendation 1: Randall County magistrates do not always ask persons arrested on out-of-county warrants if they want to request counsel. As required by Article 15.18, the magistrate must ask each person arrested on an out-of-county warrant whether the person wants to request appointed counsel. The request must be transmitted to the warrant issuing county.

Issue Pending

2019 Finding and Recommendation 2: Texas Judicial Council Monthly Activity Reports do not always include the number of persons who request counsel at the Article 15.17 hearing. Justices of the peace must report the number of persons requesting counsel in their Texas Judicial Council Monthly Court Activity Reports.

Successfully Addressed

JUVENILE CASES

Petitions Served on Juveniles

Under Subsections 51.101(c) and (d) of the Family Code, once a petition is served on the juvenile, the court has five working days to either appoint counsel for the juvenile or order the parents to retain counsel. To determine the timeliness of appointments for juveniles who are served with a petition, TIDC examined 106 juvenile case files from FY2023 (October 2022–September 2023). Randall County served petitions on the juvenile in 39 of these cases, and counsel was timely present in 38 of the 39 cases (97.4% timely). This meets TIDC’s 90% timeliness threshold for presuming a jurisdiction’s appointment procedures ensure timely appointment of counsel. See Table 3 for a summary of the timeliness of counsel appointments in juvenile matters.

Table 3: Times to Appointment in Juvenile Cases

Randall Juvenile Appointment Sample Data	Sample Size	Number from sample	Percent
Number of juvenile case files examined	106		
TIMELINESS OF COUNSEL WHEN THE JUVENILE WAS SERVED WITH A PETITION (either appointment or retention)			
Appointment of counsel occurred within 5 working days of petition being served on juvenile		35	89.7%
Retention of counsel (or order to retain) occurred within 5 working days of petition being served on juvenile		3	7.7%
Total cases in which counsel present in a timely fashion		38	97.4%
Total cases in which counsel not present in a timely fashion		1	2.6%

2019 Finding and Recommendation 3: The statutory county courts do not have adequate processes in place to ensure timely appointment of counsel when a petition is served on a juvenile. Randall County must implement processes that ensure timely appointment of counsel in juvenile cases. ***Successfully addressed.***

Conclusion

TIDC enjoyed meeting with Randall County officials and staff and appreciates their cooperation during this review. TIDC stands ready to provide any assistance the County may need in addressing the issues identified in this report.

Summary of Findings and Recommendations

Core Requirement 1. Conduct prompt and accurate magistration proceedings.

May 2025 Finding and Recommendation 1: Randall County magistrates do not always ask persons arrested on out-of-county warrants if they want to request counsel. As required by Article 15.18, the magistrate must ask each person arrested on an out-of-county warrant whether the person wants to request appointed counsel. The request must be transmitted to the warrant-issuing county. ***Issue Pending***