



199th Judicial District, Judge Angela Tucker
219th Judicial District, Judge Scott J. Becker
296th Judicial District, Judge John Roach, Jr.
366th Judicial District, Judge Ray Wheless
380th Judicial District, Judge Ben Smith
401st Judicial District, Judge Mark Rusch
416th Judicial District, Judge Chris Oldner
417th Judicial District, Judge Cynthia Wheless
429th Judicial District, Judge Jill Willis
469th Judicial District, Judge Piper McCraw
470th Judicial District, Judge Emily A. Miskel

Office of Court Administrator
Collin County, Texas
2100 Bloomdale Road, Suite 10146
McKinney, TX 75071
972-548-4542

County Court at Law No. 1, Judge Corinne Mason
County Court at Law No. 2, Judge Barnett Walker
County Court at Law No. 3, Judge Lance Baxter
County Court at Law No. 4, Judge David Ripple
County Court at Law No. 5, Judge Dan Wilson
County Court at Law No. 6, Judge Jay Bender
County Court at Law No. 7, Judge David Waddill
County Probate Court, Judge Weldon Copeland

April 6, 2016

Mr. Joel Lieurance
Policy Monitor
Texas Indigent Defense Commission
209 W. 14th Street, Room 202
Austin, TX 78701

Re: Collin County Policy Monitoring Review

Dear Mr. Lieurance:

This letter is in response to the monitoring review and related recommendations for improvement to Collin County's Indigent Defense System.

Recommendation 1: Collin County magistrates must perform each duty listed in Article 15.17(a), including giving the required warnings to non-English speaking or deaf arrestees in a manner consistent with Articles 38.30 and 38.31.

All arrestees not detained by the Frisco or Plano Police Departments receive their magistrate warnings at the Collin County Jail. The following changes to magistration procedures at the Collin County jail have been implemented:

- In compliance with Articles 15.17 and 38.30, ALL Collin County magistrates will ask each arrestee whether they want to request appointed counsel, and
- ALL Collin County magistrates will provide Article 15.17 warnings *directly* through a qualified interpreter for those non-English speaking or deaf arrestees.

Mr. Joel Lieurance

Page 2

April 6, 2016

Recommendation 2: Collin County must make a record of the *magistrate* asking whether the arrestee wants to request appointed counsel.

Collin County magistrates have implemented a process to ensure that a record is made of inquiries to all inmates of their intention to request a court appointed attorney.

Recommendation 3: The magistrate warning form must track the language of Article 15.17(e) regarding whether the arrestee would like to request counsel.

The magistrate warning form has been modified to comply with the language of Article 15.17(e) – (see attached as Appendix A):

The accused requests court-appointed counsel

Yes___ No___

If NO:

The accused intends to hire an attorney

Yes___ No___

The accused waives the right to counsel

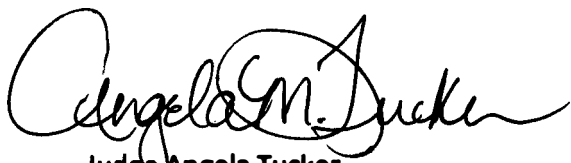
Yes___ No___

Recommendation 4: Collin County must implement processes that ensure timely appointment of counsel when there is a petition served on a juvenile who is out of custody.

See attached Appendix B

The Courts of Collin County are dedicated to ensuring compliance with the Fair Defense Act and will provide additional information if requested.

Best regards,



Judge Angela Tucker
Local Administrative Judge
199th Judicial District Court



Judge Corinne Mason
Local Administrative Statutory Judge
County Court-at-Law #1

Mr. Joel Lieurance

Page 3

April 6, 2016



Judge Cynthia Wheless
Chair, Juvenile Board
417th Judicial District Court



Judge Paul Raleeh
Local Administrative JP Judge
Justice of the Peace Court #1

Attachments

cc: The Honorable Keith Self, Collin County Judge
Mr. Jeffrey May, Collin County Auditor
Ms. Janna M. Benson-Caponera, Grants and Payroll Manager
Ms. Tracye Sparks, Indigent Defense Coordinator
Mr. James D. Bethke, Director, Texas Indigent Defense Commission

Appendix A

MAGISTRATION NOTIFICATION

NAME: _____ SO _____ DOB: _____

As the Magistrate in this case, I hereby certify that:

- The law enforcement agency having custody of the accused, brought the accused before this Magistrate not later than (24) (48) hours after arrest.
- I have informed the accused of his/her right to request appointment of counsel and the procedures for requesting appointment of counsel.
- If the accused does not speak and/or understand the English language or is deaf, I have informed the accused in a manner consistent with Texas Code Articles 38.30 and 38.31.
- I have ensured that all reasonable assistance in completing the necessary forms for requesting appointment of counsel has been provided.
- A record (written forms, electronic recordings, or other documentation as authorized) of the Magistrate's advising the accused of right to appointed counsel has been prepared in accordance with the law and such record consists of this document signed by me as Magistrate, a copy of which was placed in the accused jail and/ or court packet.

The accused has announced that he/she **requests court-appointed counsel.** YES _____ NO _____

If NO:

The accused has announced that he/she **intends to hire an attorney.** YES _____ NO _____

The accused has announced that he/she **waives the right to counsel.** YES _____ NO _____

ARE YOU A U.S. CITIZEN? YES _____ NO _____ Accused is a Citizen of: _____

- ☐ The accused has announced that he/she is not a citizen of the United States, and would like for the consular representatives to be notified of the arrest.
- ☐ The accused has announced that he/she is not a citizen of the United States and would NOT like for the consular representatives to be notified of the arrest.*

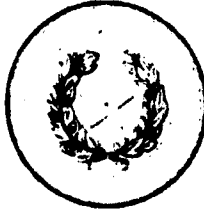
****If you are a citizen of a country that has a mandatory notification, we shall notify your consular representatives as soon as possible.**

Defendant Signature: _____

Warrant Number	Charges	Degree	Agency	Bond/Fine
_____	_____	_____	_____	_____

SIGNATURE OF MAGISTRATE: _____ DATE: _____

Appendix B



Honorable Cynthia McGrann Wheless

Chairman, Collin County Juvenile Board
417th Judicial District Court
2100 Bloomdale Rd, Suite 30290
McKinney, Texas 75071
cwheless@co.collin.tx.us
972-648-4858
972-424-1460 ext. 4858

To Whom It May Concern:

Appointment of Counsel in Juvenile Cases:

In response to the county not meeting the commission threshold the county has implemented the following procedures:

1) Letter served with the Summons and Petition apprising parents of their duty to hire legal counsel or if they are indigent, ordering them to appear in court before the first appearance and within 5 days of service of the petition to fill out an affidavit of indigence for purposes of appointing an attorney. Letter attached and incorporated by reference.

2) The juvenile probation department has stepped up their efforts to assist the court in receiving a declaration of intent to hire counsel for the child by parent or seeking an affidavit of indigence form BEFORE the District Attorney's office files a petition in EVERY case. This procedure was coordinated and approved by the assistant district attorneys before the policy was enacted by the Director of Juvenile Services. Memorandum to employees from Director of Juvenile Services, H. Lynn Hadnot attached and incorporated by reference.

3) If the child is brought into detention - i.e. not filed at large - then, the juvenile detention staff or probation staff or the bailiffs serving the security at detention hearings held at the detention center, will continue to obtain the declaration of parent's intent to hire counsel for their child or if they check that they are indigent, they are given an affidavit of indigence to fill out and these are immediately screened.

4) If all of these methods fail, then the indigent defense coordinator, Tracye Sparks, will appoint provisional counsel until affidavits of indigence can be screened. Indeed, Ms. Sparks has increased her physical presence at the detention center. Ms. Sparks checks in with the staff at detention to pick up affidavits needing screening or to check if any families have been missed upon the release of their child - e.g. middle of the night releases, etc.

Thank you for your diligence in upholding the letter and the spirit of the TFDA by your efforts and audits.

Sincerely,

Judge Cyndi Wheless
417th Judicial District Court



**HONORABLE CYNTHIA MCCRANN WHELESS
417TH JUDICIAL DISTRICT COURT**

**COLLIN COUNTY COURTHOUSE
2100 Bloomdale Road, Suite 30290
McKINNEY, TEXAS 75071**

972-548-4685 • METRO 424-1460 EXT 4685 • FAX NO. 972-548-4298

To the Parents, and/or Conservators, and/or Guardians, and/or Custodians of the Respondent/Child named in the attached Petition and/or Motion to Modify (hereinafter "the Respondent/Child"):

Pursuant to §51.115 of the Texas Family Code (FC), each of you shall attend the hearing in the Respondent/Child's case unless (1) the Court waives your appearance, or (2) you do not reside in Texas, or (3) you are a parent of the Respondent/Child but a managing conservator has been appointed for that Respondent/Child and you are not a conservator of the Respondent/Child.

A Petition and/or Motion to Modify has been filed against the Respondent/Child. The Respondent/Child must be represented by an attorney. Thus, you must employ an attorney for the Respondent/Child and have that attorney present at the time and date of the Appearance Hearing referenced in the Summons. If you are claiming indigence and an inability to employ an attorney for the Respondent/Child, you must appear in the Juvenile Court within five working days after the date the Petition/Motion was served on the Respondent/Child to show proof of your indigence. See email, court phone number, address, and schedule below.

If you are seeking the appointment of an attorney for the Respondent/Child, any and all persons responsible for the support of the Respondent/Child must bring to court current year-to-date paycheck stubs and the last three years' tax returns and any and all written documentation to support your claim of indigency or disability.

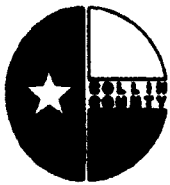
NOTICE to Parents/Conservators/Custodians (hereinafter "adult[s]"): Under § 54.041 of the Texas Family Code (FC), the Court can, upon a finding of delinquency or a finding of a child in need of supervision, enter orders that affect adults, including ordering them to do any act reasonable and necessary for the welfare of the Respondent/Child or to refrain from doing any act that is injurious to the welfare of the Respondent/Child. These orders can require an adult to make financial restitution for damages or injuries resulting from the Respondent/Child's actions, and an adult could be ordered to attend a class such as a G.E.D., E.S.L., or parenting skills. Further, an adult can be ordered to pay the following fees: FC §54.061, probation fees; FC §54.0411, \$20.00 as cost of court; FC §54.046, a graffiti eradication fee; FC §54.06, a reasonable amount of child support if the Respondent/Child is placed outside the family home; and FC §51.10, the expenses of an attorney, even reimbursement for the cost of a court-appointed attorney. These orders are enforceable by Civil Contempt proceedings, which could result in confinement in jail for a period not to exceed six (6) months and/or a fine up to five hundred dollars (\$500.00).

Indigency Hearing Appearance Times: To request a Court Appointed Attorney, please appear at the 417th District Court in person to make this request. You may appear Monday through Thursday at 9:00 a.m. or at 2:00 p.m. For any questions please contact Court Officer Rick Willey via Email. RWILLEY@CO.COLLIN.TX.US

Cordially,

Cynthia McCrann Wheless

Judge Presiding
417th Judicial District Court



COLLIN COUNTY

JUVENILE PROBATION DEPARTMENT
4690 Community Avenue
McKinney, Texas 75071
(972) 548-6470
Metro (972) 424-1460 Ext. 6470
www.collincountytx.gov

Date: February 16, 2016

To: All Juvenile Probation Staff

From: H. Lynn Hadnot

Re: Fair Defense Act

MEMORANDUM

Pursuant to the Texas Fair Defense Act, all juveniles are required by law to have an attorney (legal representation) retained or appointed within in five (5) days of an original petition and/or motion to modify being served. Considering that all petitions, whether original petitions or motions to modify begin with case filings with the juvenile prosecutor from juvenile probation officers, it will be the responsibility of juvenile probation officers to ensure all cases filed with the Collin County District Attorney have been screened for indigence prior to a petition being filed.

In order to ensure compliance, probation officers are required to meet with families to obtain an affidavit of indigence or written declaration to hire legal counsel prior to all case filings with the prosecutor for petition consideration. All case filing will be logged with probation supervisors regarding respondent's name, referral type, and date of filing. Additionally, the required affidavit or declaration will be logged as well and forwarded to the indigence clerk at the time of case filing for timely processing. In cases of exigent circumstances, wherein the parent/guardian of a child is unable to be located or refuses to cooperate with indigence screening, a blank affidavit will be filed with the indigence clerk at the time of case filing detailing circumstances.

Further, all cases formally referred to the juvenile detention center will continue to be screened by the Detention Center Court Liaison in conjunction with initial detention hearings.

H. Lynn Hadnot, Director
Collin County Juvenile Services

INDIGENCE ACKNOWLEDGEMENT FORM

CAUSE NUMBER

CHILD'S NAME

My Child is (please circle one) in Juvenile Detention Living W/Relative Living at home Placement

Legal Name of Parent _____

Applicant's Home Address _____

City, State, Zip _____

Home Phone _____ **Cell Phone** _____

Parent Email Address _____

☐ **I will hire an attorney for my child**

☐ **I am requesting a court appointed attorney**

☐ **I have hired** _____ **as attorney for my child.**

Other: _____

Parents Signature: _____

Date: _____