



## OFFICE OF COURT ADMINISTRATION COUNTY INDIGENT DEFENSE PROCEDURES REPORT – COVER SHEET

COUNTY/COUNTIES Travis County, Austin, Texas

Local Administrative District Judge/District Judge Judge John K. Dietz  
Name

**OR**

Local Administrative Statutory County Court Judge/County Judge \_\_\_\_\_  
Name

**OR**

Chairman of the Juvenile Board or Designee \_\_\_\_\_  
Name

Report Prepared By: <u>Debra Hale</u>
Mailing Address <u>P. O. Box 1748</u> <u>Austin, Texas 78767</u>
Position/Title <u>Court Management Director -Travis County Criminal Courts</u>
City <u>Austin</u> State <u>TX</u> ZIP Code <u>78767</u>
Telephone Number: <u>512-854-9244</u>
Email Address: <u>debra.hale@co.travis.tx.us</u>

PLEASE INDICATE THE COURTS COVERED BY THIS REPORT:	
<input checked="" type="checkbox"/>	This is a <b>combined</b> report for all criminal courts in the county.
<input type="checkbox"/>	This is a <b>separate</b> report for the <b>District</b> Courts trying criminal cases in the county.
<input type="checkbox"/>	This is a <b>separate</b> report for the <b>County</b> Court and Statutory County Courts trying criminal cases in the county.
<input type="checkbox"/>	This is a report of the <b>Juvenile Board</b> for the <b>Juvenile</b> Courts trying juvenile cases in the county

PLEASE INDICATE WHETHER YOU ARE SUBMITTING A PLAN:	
<input checked="" type="checkbox"/>	This report <b>includes</b> the indigent defense plan and procedures for the courts indicated above.
<input type="checkbox"/>	This report does <b>not include</b> the indigent defense plan and procedures for courts indicated above. Please use the plan and procedures submitted previously and currently found on the Task Force's website. (Must also complete Adult or Juvenile Indigent Defense Plan Summary)

Please email your Cover Sheet, Plan Summary (if applicable) and updated plan and forms to [djohnson@ppri.tamu.edu](mailto:djohnson@ppri.tamu.edu). A Word template for the Cover Sheet, Plan Summary and plan is available for download at [www.courts.state.tx.us/tfid](http://www.courts.state.tx.us/tfid).

Alternatively, you may **mail** the Cover Sheet, Plan Summary, and plans/procedures described above to:

Office of Court Administration  
Attn: Task Force on Indigent Defense  
P.O. Box 12066  
Austin, Texas 78711

**Contact Person for Out of County Arrests:** This is the person who should be contacted to arrange for appointments of counsel when a person is arrested in another county based on an arrest warrant or directive to apprehend issued in your county on behalf of your jurisdiction (District, County, or Juvenile Courts):

Name: Jeanette Deleon  
Title: Judicial Aide  
Telephone Number: 512-854-9244  
Fax Number: 512-854-4681  
Email Address: [jeannette.deleon@co.travis.tx.us](mailto:jeannette.deleon@co.travis.tx.us)



# Travis County Criminal Courts Fair Defense Act Program Table of Contents

---

---

## **a. Program Guidelines Standards and Procedures**

Section 1: Attorney Appointment Method.....	4
Section 2: Criteria and Procedures for Determining Indigence .....	5
Section 3: Appointment of Counsel.....	6
Section 4: Duties of Newly Appointed Attorney.....	7
Section 5: General Qualifications for Court Appointed Attorneys.....	7
Section 6: Qualifications for Misdemeanor Court Appointed Attorneys.....	8
Section 7: Mental Health Court Appointed Attorneys.....	8
Section 8: Qualifications for Felony Court Appointed Attorneys.....	9
Section 9: Felony Criminal Defense Attorney Rating System .....	9
Section 10: Distribution of Cases.....	10
Section 11: Suspension or Removal of Attorneys from Appointment List and Readmission to List....	11
Section 12: Compensation of Appointed Counsel.....	13
Fee Guidelines for Appointed Council in Misdemeanor Criminal Cases .....	(see appendix)
Fee Guidelines for Appointed Council in Felony Criminal Cases .....	(see appendix)

## **b. Appendix I**

Eligibility Guidelines.....	ii
Indigence Form.....	iii
Order Appointing Attorney.....	iv
County Courts Voucher .....	v
District Courts Voucher.....	vii
Fee Guidelines for Appointed Counsel in Misdemeanor Criminal Cases.....	ix
Fee Guidelines for Appointed Counsel in Felony Criminal Cases.....	xi



## **Travis County Criminal Courts Fair Defense Act Program Guidelines Standards and Procedures**

These rules are adopted by the District Judges and the County Court at Law Judges and are applicable to all attorneys certified to handle felony and misdemeanor criminal appointments. Each attorney presently on the list shall be provided a copy of these rules and procedures by the Court Administrator who shall also provide a copy to any new attorney added to the list.

Local law enforcement agencies shall ensure that persons arrested are taken before a magistrate without unnecessary delay and not more than 48 hours after arrest. If a person is in jail after being arrested without a warrant and the magistrate has not determined probable cause within the time limits set forth in Art. 17.033, Texas Code of Criminal Procedure, local law enforcement personnel shall comply with the requirements of that provision.

The Director of Court Management for the District and County Criminal Courts shall manage the appointment system. The Director will ensure that all indigents in need of appointed counsel are assigned an attorney in a timely manner and that the attorney establishes contact with the defendant. All applications for appointed counsel shall be filed with the Office of Court Administration and records will be maintained on all attorneys in the system. The Director or designee will monitor compliance with the requirements and regulations of the Court appointment system. The Administration Office shall maintain a system to ensure that attorneys on the appointment list are only given those appointments for which they are eligible (based on how the Judges have rated them).

Only District Judges may vote on attorneys appointed to felony cases, and County Court at Law Judges may vote on attorneys appointed to misdemeanor cases.

### **Sec. 1: Attorney Appointment Method**

- a. Appointments shall be made using a rotation system following an alphabetical listing of the names of the eligible attorneys (taking into account the type of appointments they may receive). When the end of the list is reached, the process will begin again starting with the first name on the list.
- b. Appointments for Spanish speaking cases shall be made using a separate rotation system following an alphabetical listing of the names of attorneys eligible to receive Spanish-speaking clients.
- c. Appointments for Mental Health Attorneys and the Misdemeanor Mental Health Public Defender shall be made using a separate rotation system. Eligible attorneys will be appointed following an alphabetical listing of their names. The MHPD will receive 4 appointments under the name "Public Defender" for each turn of the wheel, such that

MHPD will be appointed about 500 times a year in accordance with the requirements of the grant.

- d. A judge may elect to appoint an attorney or Mental Health Public Defender without using the rotation system to a defendant when the judge finds it is in the best interests of all parties concerned. The judge making such appointment shall make a finding setting forth the reason for such appointment and shall notify the Court Administration Office of the appointment.
- e. The Criminal Courts Administration Office shall maintain a list of attorneys who are eligible to receive court appointments. The Office also will manage several systems to ensure attorney compliance with the Judges' rules regarding inmate contact, continuing legal education, and any other requirements set forth by the Judges. Court Administration will maintain records on disciplinary actions on attorneys by the Judges, and provide orientation training for new attorneys.
- f. The Court Administration Office shall solicit applications for new attorneys twice each year two weeks in the spring and fall), with the exception of the Mental Health court appointed attorneys, receive requests from lawyers who wish to handle more serious cases, screen all of these new requests, and assist the Judges in making decisions regarding the attorneys who will be allowed to receive court appointments. The Court Administration Office shall solicit applications for new attorneys to the Mental Health court appointed attorney list on an as needed basis.
- g. Court Administration will screen applicants to the list of Spanish speaking attorneys. (Applications may be obtained in the Court Administration Office).
- h. The District and County Court-at-law Judges shall approve new applicants to the respective court appointment lists by majority vote.
- i. The Court Administration Office will conduct studies of the system as needed, plan for future needs, and prepare an annual budget for the court appointed attorney function and related expenses (e.g., investigators, psychiatric evaluations, expert witnesses, etc.).

## **Sec. 2: Criteria and Procedures for Determining Indigence**

- a. The Pretrial Services Department staff shall interview defendants in jail after arrest to determine personal bond status and screen for the person's ability to hire an attorney. If defendant requests appointed counsel, Pretrial staff will provide the person with reasonable assistance filling out the Indigence Form. Pretrial Staff will make a recommendation as to whether the defendant meets the eligibility standards for appointment of counsel. If a determination of indigence is made, the Order Appointing Attorney Form is approved by the District and County Court-at-Law Judges or their designee.
- b. Indigence Standards:

1. A defendant is considered indigent if the defendant's household income does not exceed 150% of the Poverty Guidelines as established and revised annually by the U.S. Department of Health and Human Services and the difference between the defendants' monthly net income and reasonable necessary expenditures is less than \$500.
  2. A defendant is considered indigent if, at the time of requesting appointed counsel, the defendant, or the defendant's dependents have been determined to be eligible to receive Food Stamps, Medicaid, Temporary Assistance for Needy Families, Supplemental Security Income, or public housing.
  3. A defendant is considered indigent if the defendant is currently serving a sentence in a correctional institution, is currently residing in a public mental health facility, or is the subject of a proceeding in which admission or commitment to such a mental health facility is sought, and has no assets or property in excess of the amounts specified above.
  4. A defendant who does not meet any of the financial standards above shall nevertheless be determined indigent if the defendant is otherwise unable to retain private counsel without substantial hardship to the defendant or the defendant's dependents, taking into account the nature of the criminal charge(s), the anticipated complexity of the defense, the estimated cost of obtaining competent private legal representation for the matter charged, and the amount needed for the support of the defendant and the defendant's dependents.
- c. Defendants who are determined to be indigent and request a court appointed attorney, shall sign the Indigence Form containing a statement that they are unable to hire their own attorney.
  - d. If a defendant does not request an appointed attorney, the person will sign and date the Indigence Form at the appropriate top section indicating counsel is not requested.
  - e. An arrested person shall be brought before a Magistrate within 48 hours of arrest. Persons in custody brought before a Magistrate shall be informed by the Magistrate of the right to request counsel under Article 15.17 Subsection (e) and (f) of the Texas Code of Criminal Procedure. A record will be made of these proceedings and shall be preserved as required by Article 15.17.
  - f. If the arrested person does not speak and understand the English language or is deaf, the Magistrate shall ensure that the information and assistance are provided with the assistance of an interpreter consistent with Articles 38.30 and 38.31 of the Code of Criminal Procedure.
  - g. Pretrial Services shall transmit the completed Indigence Form/Order Appointing Attorney Form to the Court Administration Department no later than 24 hours after the request is made. If a defendant is released on bond prior to appointment of counsel, an attorney shall be appointed during the first court appearance, after eligibility guidelines have been met.

### **Sec. 3: Appointment of Counsel**

- a. Twice daily (Monday-Friday) Court Administration staff will obtain the Indigence Form/Order Appointing Attorney Forms from Pretrial Services personnel. The Judges trying criminal cases shall appoint counsel no later than the end of the first working day after the date on which the appointing judge receives the defendant's request for counsel.
- b. Each morning (Monday-Friday) by 8:00 A.M. the Travis County Sheriff's Office will forward a list of people accused of felonies and misdemeanors to the Criminal Courts Administration Office. This list will be comprised of those defendants who were arrested within the past 24 hours. Court Administration will cross-reference this list with the appointment forms received from Pretrial Services to ensure all indigent defendants receive appointments.

### **Sec. 4: Duties of Newly Appointed Attorney**

- a. Court-appointed attorneys will be notified of their appointment by fax. The attorney shall, within three working days of receiving notice of appointment, enter into the Travis County Appointment Management System (the internet based application) an acknowledgment of the appointment and a confirmation that the attorney made a reasonable effort to contact the defendant by the end of the first working day after the date of the appointment. Reasonable effort includes letter, fax, phone, videoconference, or personal visit.
- b. In felony cases, Court appointed attorneys shall visit all appointed clients incarcerated at the Travis County jail in person (or utilize videoconferencing) at their earliest possible time and in no case shall that initial visit be later than ten days from notification of assignment. This visit shall be noted in the Travis County Appointment Management System by the attorney within three working days.
- c. In misdemeanor cases, Court appointed attorneys shall visit all appointed clients incarcerated at the Travis County jail in person (or utilize videoconferencing) at their earliest possible time and in no case shall that initial visit be later than five days from notification of assignment. This visit shall be noted in the Travis County Appointment Management System by the attorney within three working days.

### **Sec. 5: General Qualifications for Court Appointed Attorneys**

- a. An attorney must have on file with the Criminal Courts Administration Office a completed application approved by the criminal court judges. This form must be notarized. All attorneys on the appointment list must ensure all information on their application is correct and current.

- b. An attorney must be a licensed practicing attorney and a member in good standing of the State Bar of Texas.
- c. An attorney must live in Travis County, or if residing in an adjoining county, shall maintain an office within Travis County.
- d. An attorney shall attend any CLE course required by the District and County Court-at-Law Judges.
- e. An attorney shall complete a minimum of ten hours of CLE in the area of criminal law and procedure each year. All attorneys on the appointment list must file a certificate with the Criminal Courts Administration Office each year attesting to completion of the required CLE.
- f. An attorney must have a secretary, receptionist, answering service, or a regularly monitored answering machine or voice mail system. An attorney must have a functioning fax machine in their home or office to receive court appointments and notices regarding procedural changes. In addition, an attorney must respond promptly to a phone call from the Court.
- g. An attorney must have the ability to produce typed motions and orders.
- h. An attorney shall notify the Court Administration Office promptly, in writing, of any matter that would disqualify the attorney by law, regulation, rule or under these guidelines from receiving appointments to represent indigent defendants.

#### **Sec. 6: Qualifications for Misdemeanor Court Appointed Attorneys**

- a. Must have met General Qualifications.
- b. Must have a minimum of one-year work experience in criminal law.
- c. Must have a minimum of experience as lead counsel in at least 2 jury trials. Experience as 2<sup>nd</sup> chair in a felony case may substitute for 1 misdemeanor trial. The styles and cause numbers of these cases should be listed in the County Courts appointment application form.
- d. To be assigned appeals an attorney must have prior appellate experience.
- e. After approval by the judges, attorneys must attend a general orientation conference regarding the operation of the County Court's appointment process and first setting procedures. This orientation conference must be scheduled with the Director of Court Management prior to being placed on the list.



## **Sec. 7: Qualifications for Mental Health Court Appointed Attorneys**

- a. Must have met the General Qualifications.
- b. An attorney applying for mental health court appointments must have served in a county or district attorney's office for at least two years or have practiced criminal defense law on a regular basis for a minimum of two years.
- c. An attorney must have the recommendations of at least two judges who believe the applicant is qualified to represent defendants with mental health issues.
- d. An attorney must have been lead counsel in at least 3 mental health cases (whether misdemeanor or felony) with one of the following issues presented: competency, sanity or court ordered mental health treatment. The styles and cause numbers of these cases must be listed in the appointment application form.
- e. An attorney must have received 3 hours of CLE in mental health criminal issues or receive training within 3 months of placement on the list.
- f. An attorney must be knowledgeable concerning criminal law and the Texas Mental Health Code.
- g. An attorney applying for the felony mental health list must meet requirements for placement on the Category B felony list (Sec. 9.a.3).

## **Sec. 8: Qualifications for Felony Court Appointed Attorneys**

- a. Must have met the General Qualifications.
- b. An attorney must have served in a county or district attorney's office for at least two years or have practiced criminal defense law on a regular basis for a minimum of two years.
- c. An attorney must have the recommendations of at least two judges who believe the applicant is qualified to represent defendants charged with felony offenses.
- d. An attorney must have been lead counsel in at least 3 misdemeanor jury trials or first or second chair in at least two felony jury trials. The styles and cause numbers of these cases must be listed in the District Courts appointment application form.
- e. To be assigned appeals an attorney must have prior appellate experience.
- f. Movement of an attorney on the felony or misdemeanor list to a higher list shall be requested by submitting a Status Change Application to the Court Administrator and will be reviewed by the District Judges along with new applications twice each year.

## **Sec. 9: Felony Criminal Defense Attorney Rating System**

- a. Attorneys on the appointment list shall be divided into five categories based on experience and competency. The criminal district judges shall do this evaluation when the applicant applies to be on the list and on a periodic basis thereafter.
  1. Capital - Most experienced. Criteria set by Judicial Region.
  2. Category A – Significant experience with all phases of a criminal practice including aggravated and first degree felony jury trials as lead counsel; very knowledgeable concerning criminal law and procedure, and capable trial lawyer.
  3. Category B – Experience trying misdemeanor and some felony trials to a jury and before the court and second-chairing serious felony cases; experience trying other contested matters such as felony pretrials and probation revocations; capable and knowledgeable but lacking experience in serious/aggravated felony cases.
  4. Category C – Knowledgeable concerning criminal law and procedure and possessing trial skills but lacking significant felony trial experience. Some jury trial experience in misdemeanors and, at least as second chair, in felonies.
  5. Appellate – Knowledgeable concerning criminal law and procedure and appellate procedure; prior experience analyzing appellate records and filing criminal appeals.
- b. Factors Judges consider in their evaluation:
  1. Competence, diligence, and skill
  2. Membership in Travis County Bar Association
  3. Membership in Travis County Criminal Law and Procedure Section
  4. Experience in Travis County District or County Attorney's Office
  5. Experience in any county or district attorney's office
  6. Years actively engaged in the practice of criminal law
  7. Certification as a criminal law specialist
  8. Attendance at advanced criminal law courses
  9. Special skills

## **Sec. 10: Distribution of Cases**

- a. An attorney will receive one defendant per rotation on the appointment list.
- b. Appointments will be made from a rotating list of the names of eligible attorneys, in alphabetical order.
- c. In misdemeanor cases, a joint jail reduction docket will be held daily by the County Courts at Law. Appointments will be made on a rotating basis, in alphabetical order.

Cases in which the attorney does not appear will be reappointed in Court from the alphabetical rotation.

- d. In felony cases, an attorney may receive an appointment for the highest level of offense for which he/she is qualified and for any lower level offense he/she in which he has chosen to participate.
- e. Assignment of felony cases based on Category:
  - 1. Capital attorneys will be assigned to all cases.
  - 2. Category A attorneys will be assigned to all cases (except capital cases).
  - 3. Category B attorneys will be assigned to all cases in which the maximum sentence does not exceed 20 years.
  - 4. Category C attorneys will be assigned to state jail felonies and motions to revoke community supervision.
  - 5. Appellate attorneys will be assigned to appeals.
- f. In mental health cases involving misdemeanors, attorneys will be appointed from the misdemeanor mental health attorney rotation including the Mental Health Public Defender. In mental health cases involving state jail, 2<sup>nd</sup> or 3<sup>rd</sup> degree felony offenses, attorneys will be appointed from the felony mental health attorney rotation.

#### **Sec. 11: Suspension or Removal of Attorney From Court Appointment List and Readmission to List**

- a. General Competence/Review by Judges
  - 1. Once a year at a time set by the judges all court appointed attorneys shall be reviewed. Each judge shall review each attorney using the criteria deemed appropriate by the individual judge. Below are listed some factors which a judge may wish to consider. Each judge will score each attorney on a scale on which 100 is the highest rating and below 75 is unacceptable.
  - 2. General Criteria
    - Efficiency:
      - A. Punctuality - Court appearances, motions, briefs, etc.
      - B. Preparation in all areas
      - C. Efficient use of court time
    - Knowledge:
      - A. Knowledge of individual court's rules and procedures
      - B. Knowledge of Criminal Law
      - C. Knowledge of Criminal Procedures
      - D. Knowledge of probation programs, sentencing options, etc.

- Skill:
- A. Ability to communicate and conduct business with judges, court staff, and district attorney in a civil and effective manner
  - B. Ability to deal effectively with clients
  - C. Ability to present legal arguments to court
  - D. Ability to examine witnesses, make objections and argue to a jury - trial skills
- Ethics:
- A. Follows rules of professional conduct
  - B. Honesty in dealings with court, other lawyers, staff, and clients

3. All scores will be tendered to the Presiding Judge, who with the assistance of the Court Administrator shall determine the average score of each attorney. Any attorney whose average score falls below 75 shall be removed from the list. Such a suspension shall be for a minimum period of one year. The judges may vote to allow an attorney to handle court appointed cases on a lower level if appropriate (felony appointments only).
4. In the event an attorney:
  - A. scores an average below 80; or
  - B. is removed from the misdemeanor court appointment list; or
  - C. is incapacitated physically, mentally, or otherwise, in such a way as to call into question his/her ability to provide adequate representation;

the judges shall discuss the attorney's level of proficiency and may vote to reduce his classification to a lower level or remove him from the list. Under these circumstances, a majority vote is required to remove or reclassify an attorney. If an attorney is removed from the list or reclassified to a lower level, the Presiding Judge shall schedule a meeting with the Court Administrator, Presiding Judge and attorney to discuss the reasons for the action. After a period of six months, the attorney may request reinstatement to the previous level or list. The request should be submitted in writing to the Presiding Judge. After the request is reviewed, the Judges will make a determination on the request for reinstatement. A majority vote is required to reinstate or return an attorney to the previous level or list.

5. Any attorney whose average score falls between 75 and 80, even if not reclassified, shall be requested to meet with the Presiding Judge to review his performance and receive feedback concerning reasons for his rating.
6. The notice to set the meeting under #5, above shall generally inform the attorney of the areas where the judges noted deficiencies. In order to address noted deficiencies, and in addition to any other appropriate action, the Presiding Judge may appoint a

mentor from a list of volunteers provided by ACDLA to work with the attorney until the next attorney review.

b. Specific Incidents Of Misconduct

1. If a judge experiences a specific problem with an attorney such as failure to attend court in a punctual manner, failure to timely visit clients, or other unethical or improper conduct, the judge may informally request an investigation by the court administrator or undertake his own investigation.
2. If the matter is not resolved to the Judge's satisfaction or the judge determines that the nature or circumstances of the conduct is sufficiently serious, the judge may request that the Presiding Judge immediately suspend the attorney from the appointment list.
3. The Presiding Judge shall suspend the attorney and instruct the court administrator to immediately notify him/her of said suspension. The notice shall further inform the attorney of the grounds for suspension and that the attorney has 7 days from date of notice to file a written response with the administrator.
4. The court administrator shall circulate any response to all judges and the suspension shall be voted on at the next regular meeting. Three or more votes ratify the suspension, which shall remain in effect until a majority of judges vote to return the attorney to the list.
5. As a matter of routine practice all unexcused absences from court and failures to visit clients in a timely fashion should be reported to the court administrator so her office can maintain a cumulative record for all district courts. When the administrator observes a recurring problem with an attorney it should be brought to the judges' attention at the earliest appropriate time. The judges will then take whatever action they deem appropriate, to include written warning or suspension under these rules.

c. Readmission to List

Any attorney suspended from the list may reapply after 1 year if suspended at annual review. The reapplication should contain information detailing all steps taken by the attorney to correct deficiencies or improve skills, together with any other information the attorney deems relevant.

At the same time that new applications are received, the Judges will review the appointment list to determine whether attorneys on the list should be removed from the list or reclassified to a lower category. The Judges may remove or reclassify an attorney from the appointment list for the following reasons:

- a. The attorney has failed to satisfy the requirements in these guidelines.
- b. The attorney has failed to effectively represent appointed defendants.

- c. The attorney has failed to respond promptly to communication from the Court.

## **Sec. 12: Compensation of Appointed Counsel**

In consideration of reasonable compensation for court appointed counsel, taking into account necessary overhead costs and availability of qualified attorneys willing to accept the stated rates, the following guidelines shall be used to claim attorney's fees for court appointed counsel in Felony and Misdemeanor Criminal cases effective January 1, 2003, pursuant to the Code of Criminal Procedure, Art. 26.05.

- a. Compensation Rates and Requests for Payment

See Appendix:

### **Travis County Fee Guidelines For Appointed Counsel in Misdemeanor Criminal Cases Travis County Fee Guidelines For Appointed Counsel in Felony Criminal Cases**

- b. Court appointed counsel will be compensated for all necessary expenses, i.e., long distance telephone charges, copying expenses, auto mileage (IRS rate) outside of Travis County. All major expenses, such as investigators and expert witnesses, will require written approval by the Court prior to the expense being incurred.
- c. Expenses incurred without prior court approval will not automatically be reimbursed. Such expenses shall be reimbursed if the Court determines that they are reasonably necessary and reasonably incurred upon presentation of a claim for reimbursement.
- d. At the conclusion of the case, the appointed counsel shall present the completed voucher to the presiding judge for approval according to the fee schedules adopted by the District and County Court at Law Judges. No payment shall be made until the form for itemizing the services performed is submitted to the judge presiding over the proceedings and the judge approved the payment.
- e. An attorney whose request for payment is disapproved is entitled to a copy of the judge's findings for approving an amount different from the requested amount. The attorney may appeal the disapproval by filing a motion with the presiding judge of the Administrative Judicial Region, as provided in Article 26.05(c) Texas Code of Criminal Procedure.

# **APPENDIX**



## Travis County Criminal Courts Fair Defense Act Program

---

---

### 2001 INCOME ELIGIBILITY GUIDELINES

---

---

#### BASIC PROGRAM INCOME GUIDELINES

150% OF POVERTY GUIDELINES

Household Size	Annual	Monthly
1	\$12,885	\$1,074
2	\$17,415	\$1,451
3	\$21,945	\$1,829
4	\$26,475	\$2,206
5	\$31,005	\$2,584
6	\$35,535	\$2,961
7	\$40,065	\$3,339
8	\$44,595	\$3,716
For each additional person, Add	+ \$4,530	+ \$378



Defendant's Name: \_\_\_\_\_ Date: \_\_\_\_\_ Cause # \_\_\_\_\_

(print)

DOB: \_\_\_\_\_

Special Needs \_\_\_\_\_

Booking No: \_\_\_\_\_

### Indigence Form

To determine eligibility for Court Appointed Attorney, you must complete this form.

*I will retain my own attorney:* \_\_\_\_\_ *Date:* \_\_\_\_\_

*Defendant's Signature*

Do not continue filling out form if Defendant to retain own attorney

**Size of family Unit** (Members of immediate family that you support financially (List name, age & relationship))

Name:	Age:	Relationship:

Does applicant have a parent or other close relative who is able to make a voluntary contribution toward attorney's fees? Explain. \_\_\_\_\_

Monthly Income		Necessary Mo. Living Expenses	
Your Salary		Rent / Mortgage:	
Spouse's Salary		Utilities (gas, electric, etc.)	
SSI/SSDI		Transportation: Make:      Model:      Year:	
AFDC		Clothes/Food	
Social Security Check		Day Care / Child Care:	
Child Support		Medical Expenses	
Other Government Check		Credit Cards	
Other Income		Court-Ordered Monies:	
		Child Support:	
<b>TOTAL INCOME*</b>		<b>TOTAL NECESSARY EXPENSES*</b>	

**STAFF USE ONLY:**

Comments: \_\_\_\_\_

<b>TOTAL MONTHLY INCOME:</b>	_____
<b>TOTAL MONTHLY EXPENSES:</b>	_____
	-
<b>DIFFERENCE (net income)</b>	_____
	=

<b>DEFENDANT MEETS ELIGIBILITY REQUIREMENTS</b>	
_____ YES _____ NO	
_____ UNDETERMINED	

*I have been advised of my right to representation by counsel in the trial of the charge pending against me. I certify that I am without means to employ counsel of my own choosing and I hereby request the court to appoint counsel for me. I swear that the above information is true and correct. The information I listed is accurate and I will immediately notify the court of any changes in my financial situation.*

**\*All information is subject to verification. Falsification of information is a criminal offense.**

\_\_\_\_\_  
*Signature of Defendant*

\_\_\_\_\_  
*Date*

NO \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

THE STATE OF TEXAS

IN THE \_\_\_\_\_ COURT

VS

OF

\_\_\_\_\_

TRAVIS COUNTY, TEXAS

DOB: \_\_\_\_\_

**ORDER APPOINTING ATTORNEY**

In the above numbered and entitled cause the court finds the following:

- 1) The defendant has been determined to be indigent and in need of legal services pursuant to the Code of Criminal Procedure, Chapter 26.
- 2) The attorney hereby appointed is duly qualified to represent the defendant.
- 3) The attorney is appointed in compliance with the procedures adopted by the Criminal Courts of Travis County or is appointed in a manner which deviates from the general appointment procedures, but with good cause; to wit:

\_\_\_\_\_  
\_\_\_\_\_

- 4) Defendant is incarcerated/on bond at the time of this appointment.

**THEREFORE, IT IS ORDERED** that \_\_\_\_\_,

an attorney found by the Court to be competent to represent the defendant in this cause, is hereby appointed to represent the defendant in this cause until the case is concluded, including appeals, if any, or until released by order of the Court.

\_\_\_\_\_  
Date

\_\_\_\_\_  
Judge Presiding



# IN THE COUNTY COURTS AT LAW OF TRAVIS COUNTY TEXAS

Cause No(s). \_\_\_\_\_ Court \_\_\_\_\_

State vs. \_\_\_\_\_

Offense \_\_\_\_\_

## Request for Payment for Services Rendered as Court Appointed Counsel

In the above numbered and entitled cause(s) I, the undersigned attorney, represent to the court the following are true and correct.

- 1) The defendant has been determined to be indigent and in need of legal services pursuant to the Code of Criminal Procedure Chapter 26.
- 2) The undersigned attorney was duly qualified and appointed by the court to represent the defendant in this cause according to local guidelines or in the interest of justice.
- 3) All services claimed below were rendered to the defendant in the disposition of this cause, and were reasonable and necessary.

**FINAL CASE DISPOSITION:**  No Charges Filed  Plea  Trial  Dismissal  Appeal OR  Attorney Released

### Fixed Rates:

- |   |          |
|---|----------|
| <input type="checkbox"/> Obtaining jail release   | \$50     |
| <input type="checkbox"/> Discovery and dismissal (single case only) - \$50 each succeeding case | \$150    |
| <input type="checkbox"/> Pretrial (including preparation)                                       | \$150    |
| <input type="checkbox"/> Plea and Sentence (1 defendant, 1 case)                                | \$175    |
| <input type="checkbox"/> Plea and Sentence (1 defendant, multiple cases)*                       | \$175    |
| *\$50 each succeeding case  | \$ _____ |

### Fixed Rate Continued

- |   |          |
|---|----------|
| <input type="checkbox"/> Misdemeanor 12.45's    | \$50     |
| <input type="checkbox"/> Uncontested Competency | \$100    |
| <input type="checkbox"/> Appeals                | \$500    |
| <b><u>Sub Total</u></b>                         | \$ _____ |

### Daily Rates:

- |  |       |
|--|-------|
| <input type="checkbox"/> Trial before the Court  | \$350 |
| <input type="checkbox"/> Jury trial (including discovery and preparation; actual trial time) | \$500 |

## Daily Rate Total

**I RESPECTFULLY REQUEST PAYMENT IN THE TOTAL AMOUNT OF: \$ \_\_\_\_\_ FOR SERVICES PROVIDED**

**FROM: \_\_\_\_\_ TO \_\_\_\_\_.**

Pay to: \_\_\_\_\_ Vendor # \_\_\_\_\_

Attorney's Address: \_\_\_\_\_ Phone: \_\_\_\_\_  
Street Address City Zip

Attorney signature as verification of claim accuracy: \_\_\_\_\_

## ORDER

Having reviewed the foregoing motion, and considering the facts of this case and the local guidelines for payment of counsel, I find that \$ \_\_\_\_\_ is proper, and order that payment be made in that amount.

\_\_\_\_\_  
Presiding Judge





**IN THE CRIMINAL DISTRICT COURTS  
OF TRAVIS COUNTY TEXAS**

Cause No(s). \_\_\_\_\_ Court \_\_\_\_\_

State vs. \_\_\_\_\_

Offense \_\_\_\_\_

**Request for Payment for Services Rendered as Court Appointed Counsel**

In the above numbered and entitled cause(s) I, the undersigned attorney, represent to the court the following are true and correct.

- 1) The defendant has been determined to be indigent and in need of legal services pursuant to the Code of Criminal Procedure Chapter 26.
- 2) The undersigned attorney was duly qualified and appointed by the court to represent the defendant in this cause according to local guidelines or in the interest of justice.
- 3) All services claimed below were rendered to the defendant in the disposition of this cause, and were reasonable and necessary.

**FINAL CASE DISPOSITION:**  No Charges Filed  Plea  Trial  Dismissal  Appeal OR  Attorney Released

**Fixed Rates\*:**

- Secure release from jail \$75
- Case dismissed prior to indictment \$200
- Non-evidentiary pre-trial (necessary motions) \$100
- Evidentiary pre-trial (less than half day) \$250
- Non-jury trial (less than half-day) \$500
- Plea and Sentence (same setting) \$350
- Plea and Sentence (separate settings) \$400
- Plea and Sentence (boot camp or shock probation) \$450
- Probation Revocation (non-contested) \$250
- Writ hearings \$250
- Appeals \$1500

**Fixed Rate Sub Total**

\$ \_\_\_\_\_

**Daily Rates: minimum 6 hours per day\***

- Evidentiary Pretrial \$ \_\_\_\_\_  
\$400 x \_\_\_\_\_ (# of days)
- Non-jury trial \$ \_\_\_\_\_  
\$600 x \_\_\_\_\_ (# of days)
- Jury trial \$ \_\_\_\_\_  
\$800 x \_\_\_\_\_ (# of days)

**Daily Rate Sub Total**

\$ \_\_\_\_\_

**Hourly Rate Approved at:**

- For In Court Time \$ \_\_\_\_\_
- For Out of Court Time \$ \_\_\_\_\_

Total In Court Time from Itemized Statement \$ \_\_\_\_\_  
(attached and incorporated)

Total out of court time from itemized statement \$ \_\_\_\_\_  
(attached and incorporated)

**Hourly Rate Sub Total**

\$ \_\_\_\_\_

**\*If defendant has more than one case, compensation will be based on the amount for one case plus an amount for whatever additional time is expended to dispose of the other cases.**

**I RESPECTFULLY REQUEST PAYMENT IN THE TOTAL AMOUNT OF: \$ \_\_\_\_\_ FOR SERVICES PROVIDED FROM: \_\_\_\_\_ TO \_\_\_\_\_.**

Pay To: \_\_\_\_\_ Vendor # \_\_\_\_\_

Attorney's Address: \_\_\_\_\_ Phone: \_\_\_\_\_  
Street Address City Zip

Attorney signature as verification of claim accuracy: \_\_\_\_\_

**ORDER**

Having reviewed the foregoing motion, and considering the facts of this case and the local guidelines for payment of counsel, I find that \$ \_\_\_\_\_ is proper, and order that payment be made in that amount.

\_\_\_\_\_  
Judge Presiding

**ITEMIZED STATEMENT TO SUPPORT HOURLY RATE  
OR DEVIATION FROM FIXED RATE**

Date of Service	Description of Service:	Time		Rate (Per hour)	Total
		In Court	Out of Court		
					\$
					\$
					\$
					\$
					\$
					\$
					\$
					\$
					\$
					\$
					\$
					\$
					\$
					\$
					\$
					\$
					\$
					\$
					\$
					\$
					\$
					\$
					\$
					\$
					\$
					\$
					\$
					\$
					\$
					\$
					\$
					\$
	Totals:				\$

**Judge's Findings:**

---



---



---



---



---

**TRAVIS COUNTY FEE GUIDELINES**  
**FOR APPOINTED COUNSEL IN MISDEMEANOR CRIMINAL**  
**CASES**

**EFFECTIVE 01/01/02 FOR SERVICES RENDERED ON OR AFTER THAT DATE**

The goal of these payment guidelines is to assure quality representation for indigent persons charged with misdemeanor crimes in Travis County. Those cases appropriate for trial should be tried and those appropriate for plea should be pled.

Each judge reserves the right to deviate from these guidelines in particular cases where the amount or quality of work performed is substantially above or below the norm.

Court appointed attorneys remain attorneys of record until final disposition of their cases unless a motion to withdraw or to substitute counsel is granted.

Expenses reasonably incurred by appointed counsel, such as long distance telephone charges or copying charges for documents will be reimbursed. Interpreters, investigators or expert witnesses must be approved in advance by written order of a judge to assure reimbursement.

**PAYMENT GUIDELINES**

Obtaining jail release	\$50.00 per case
Discovery and dismissal	\$150.00 per case
Plea & sentencing (1 defendant/1 case )	\$175.00 per case
Plea & sentencing (1 defendant/multiple cases)	\$175.00 1st case
	\$50.00 each succeeding case
Misdemeanor 12.45's	\$50.00 per case
Pretrial (including preparation)	\$150 per case
Trial before the court (including discovery and preparation)	\$350 per day
Jury trial (including discovery and preparation)	\$500 per day actual trial time
Uncontested Competency	\$100 per case
Appeals	\$500

**EXPENSES**

Court appointed counsel will be compensated for all necessary expenses: i.e., collect or long distance phone calls, copying expenses, auto mileage (at IRS rate). All major expenses, such as investigators or expert witnesses, will require written approval by the court prior to the expense being incurred.

**REQUESTS FOR PAYMENTS**

Request for payment forms shall be submitted at the time the case is disposed of except for trials. Requests for payment after trials should be submitted within 3 working days of the conclusion of the case. Failure to submit vouchers in a timely manner may result in non-payment.

Payment for all of a defendant(s) cases should be requested on one form.

Payment for expenses such as investigators and expert witnesses should be requested on a separate form.

**CAVEAT**

In an unusual case, the considerations set forth in Texas Rules of Professional Conduct Rule 1.04(b) may dictate a fee that is less than or more than the one established by these guidelines.

Approved and Ordered this \_\_\_\_\_ day of May, 2002.



**TRAVIS COUNTY FEE GUIDELINES**  
**FOR APPOINTED COUNSEL IN FELONY CRIMINAL CASES**

**EFFECTIVE 01/01/02 FOR SERVICES RENDERED ON OR AFTER THAT DATE**

Pursuant to C.C.P. Art. 26.05, the following guidelines shall be used to claim attorney's fees for appointed counsel in criminal cases.

**FIXED RATES**

These fees will be the standard compensation for the following services:

Secure release from jail	\$75
Case dismissed prior to indictment	\$200
Non-evidentiary pre-trial (necessary motions)	\$100
Evidentiary pre-trial (less than half-day)	\$250
Non-jury trial (less than half-day)	\$500
Plea and Sentence (same setting)	\$350
Plea and Sentence (separate settings)	\$400
Plea and Sentence (Boot camp or shock supervision)	\$450
Probation revocation (non-contested)	\$250
Writ hearings	\$250
Appeals	\$1500

**DAILY RATES**

Daily rates are premised on a minimum of six hours spent in court. If less time is spent the fee will be reduced. The Daily Rate fee includes compensation for preparation time.

Evidentiary pre-trial	\$400
Non-jury trial	\$600
Jury trial	\$800

**HOURLY RATES**

Attorneys must have approval of the Court in writing at the outset of a case if a claim is to be based on an hourly rate. If such approval is not obtained in advance an hourly rate shall not be paid.

Appointed counsel will be compensated for time actually required by an appointment at an hourly rate of \$60 to \$90 for in-court time and \$50 to \$80 for out-of-court time. The exact rate will be dependent upon the complexity of the case and the experience and ability of the appointed counsel. Claims for payment should reflect time expended to the nearest 1/10th of an hour.

If an hourly rate is approved, an itemized statement reflecting the date, service performed, and time expended, must be submitted with the request for payment form.

**EXPENSES**

Court appointed counsel will be compensated for all necessary expenses: i.e., collect or long distance phone calls, copying expenses, auto mileage (at IRS rate). All major expenses, such as investigators or expert witnesses, will require written approval by the court prior to the expense being incurred.

**REQUESTS FOR PAYMENTS**

Request-for-payment forms shall be submitted at the time the case is disposed of except for trials. Requests for payment after trials should be submitted within five working days of the conclusion of the case.

If a case is disposed of prior to indictment or is a writ matter, the request-for-payment form should be submitted to the judge who signed the attorney appointment order.

Payment for all of a defendant's cases should be requested on one form.

Payments for expenses such as investigators and expert witnesses should be requested on a separate form.

**CAVEAT**

In an unusual case, the considerations set forth in Texas Rules of Professional Conduct Rule 1.04(b) may dictate a fee that is less than or more than the one established by these guidelines.

Approved and Ordered this \_\_\_\_\_ day of November, 2001.