



BEXAR COUNTY
COUNTY COURT ADMINISTRATION
PAUL ELIZONDO TOWER
101 W. NUEVA, SUITE 325
SAN ANTONIO, TEXAS 78205
(210) 335-2115
FAX: (210) 335-2935

POLICY FOR INVESTIGATORS AND EXPERTS AND DEFENSE COUNSEL:

The County Court judges have adopted the District Court's list of investigators. This list is highly recommended, and the appointment of investigators who are not on the list will require prior approval by the presiding county court judge hearing the case. The following guidelines will apply to any investigator or expert request:

- All requests must be **reasonable and necessary** to prepare an adequate defense. It is crucial that a defendant seeking appointment of expert assistance make a preliminary showing that the assistance is necessary to address a significant issue at trial. See *Ake v. Oklahoma*, 470 U.S. 68, 74, 105 S.Ct. 1087, 1091-92. Defense counsel must offer more than "undeveloped assertions that the requested assistance would be beneficial." See *Caldwell v. Mississippi*, 105 S.Ct. 2633 (1985).
- All investigator charges and invoices must be attached and submitted with the attorney voucher at the conclusion of the case. The investigators must be paid through the attorney of record. Any claims for payment by an investigator that are not submitted through the attorney voucher may be denied. The presiding county court judge will only approve non-conforming submissions in exceptional circumstances.
- Investigators must not itemize for performing duties that are considered the job of defense counsel. These may include obtaining or conveying plea bargains and offers, attending court proceedings unless involving testimony, discussing defense direction or strategy and/or discussing state's direction or position with defendant, and any trial preparation considered the duty of defense counsel. Such itemizations will be denied.
- Appointed counsel may file with the trial court a pretrial ex parte confidential request for advance payment of expenses to investigate potential defenses. The request for expenses must state:
 - (1) the type of investigation to be conducted;
 - (2) specific facts that suggest the investigation will result in admissible evidence; and
 - (3) an itemized list of anticipated expenses for each investigation.
- The court shall grant the request for advance payment of expenses in whole, or in part, if the request is reasonable. If the court denies in whole, or in part, the request for expenses, the court shall:
 - (1) state the reasons for the denial in writing;
 - (2) attach the denial to the confidential request; and
 - (3) submit the request and denial as a sealed exhibit to the record.
- Expenses incurred without prior court approval may be reimbursed only if the expenses are reasonably necessary and reasonably incurred, in the discretion of the judge.