

Cameron District Court and County Court Plan

Preamble

11/5/2015

The following Local Rules replace the current local rules for Cameron County Criminal District Courts Plan and Standing Rules and Orders Related to Appointment of Counsel for Indigent Defendants. These subsections affect all county and district courts with criminal law jurisdiction. The rules in this section will govern criminal procedures in all criminal courts in Cameron County, Texas and will take precedence over any other local rule to the contrary. These rules are adopted pursuant to Texas Government Code 74.093. These amended local rules are effective September 14, 2010.

Prompt Magistration

11/5/2015

1. Prompt Magistration

- a. An arresting officer must complete and file probable cause affidavit information prior to or at the time that an arrested person is booked into jail and submit an offense report to the District Attorney's Office within 24 hours of the booking of the arrested person.
- b. No one will be booked into the Cameron County Jail unless a probable cause affidavit is filed by the arresting officer prior to or at the time of booking.
- c. The arresting officer shall without unnecessary delay, but not later than 24 hours after the person is arrested, take the person arrested or have him taken to the appropriate magistrate for such magistrate to hold a probable cause hearing as well as to set bail and inform the person arrested of their rights including the right to court-appointed counsel as set out in Article 15.17 of the Code of Criminal Procedure as hereinafter described.
- d. Pursuant to Article 17.033 of the Code of Criminal Procedure, a person who is arrested without a warrant and who is detained in jail must be released on bond, in an amount not to exceed \$5,000, not later than the 24th hour after the person's arrest for a misdemeanor and a magistrate has not determined whether probable cause exists to believe that the person committed the offense. If the person is unable to obtain a surety for the bond or unable to deposit money in the amount of the bond, the person must be released on personal bond.
- e. Pursuant to Article 17.033 of the Code of Criminal Procedure, a person who is arrested without a warrant and who is detained in jail must be released on bond in an amount not to exceed \$10,000, not later than the 48th hour after the person's arrest for a felony and a magistrate has not determined whether probable cause exists to believe that the person committed the offense. If the person is unable to obtain a surety for the bond or unable to deposit money in the amount of the bond, the person must be released on personal bond.

- f. On the filing of an application by the attorney representing the state, a magistrate may postpone the release of a person (under Rule 1.d or 1.e of the Prompt Magistration section) for not more than 72 hours after the person's arrest. An application filed under this subsection must state the reason a magistrate has not determined whether probable cause exists to believe that the person committed the offense for which the person was arrested.
- g. Whenever an arrested person is first brought before a magistrate, the magistrate shall perform the duties described in Article 15.17 of the Code of Criminal Procedure, conducting what will hereinafter be referred to as an Article 15.17 hearing, which will include the following:
 - 1. The magistrate shall specifically inform the person arrested of the person's right to request appointment of counsel if the person cannot afford counsel.
 - 2. The magistrate shall specifically ask the person arrested whether the person wants to request appointment of counsel.
 - 3. The magistrate shall inform the person arrested of the procedures for requesting appointment of counsel.
 - 4. The magistrate shall ensure that reasonable assistance in completing the necessary forms for requesting appointment of counsel is provided to the person at the time of the Article 15.17 hearing.
 - 5. If the arrested person does not speak and understand the English language or is deaf, the magistrate shall inform the person in a manner consistent with Articles 38.30 and 38.31 of the Code of Criminal Procedure.
- h. In each case in which an arrested person is taken before a magistrate for an Article 15.17 hearing, the magistrate will make a written record on a form titled "Magistrate Warning" and available in both English and Spanish, of the following information:
 - 1. That the magistrate informed the person of the person's right to request appointment of counsel;
 - 2. That the magistrate asked the person whether the person wanted to request appointment of counsel; and
 - 3. Whether or not the person requested appointment of counsel.

(See Attachment One for the English version and Attachment Two for the Spanish version).
- i. If the arrested person requests appointment of counsel, the magistrate shall transmit or cause to be transmitted to the Cameron County Pre-Trial Services Office the name of the arrested person requesting appointment of counsel so the Pre-Trial Services can interview the person to determine if he/she qualifies for a court-appointed attorney. This transmittal will occur no later than 24 hours after the request is made to the magistrate.
- j. For persons arrested on out-of-county warrants, the magistrate will ask the defendant if he/she would like to request appointed counsel. The magistrate will record the response, and if counsel is requested, the magistrate will provide the arrestee with the appropriate forms for requesting counsel. The magistrate will ensure assistance in

completing the forms at the same time. The forms will be transmitted to the appointing authority in the county issuing the warrant within 24 hours of the request being made.

Indigence Determination Standards

6/24/2024

2. Procedures and Financial Standards for Determining Whether a Defendant is Indigent

- a. After the Article 15.17 hearing, if the defendant has informed the magistrate that he/she does not want to request court-appointed counsel, this will be reflected on the Magistrate Warning form. If at any time after the Article 15.17 hearing the defendant decides that he/she would like to be interviewed after telling the magistrate that he/she did not want to request court-appointed counsel, he/she will be referred to the Pre-Trial Services Office for an interview (see below). If at any time after magistration the arrested person decides that he/she does not want to be interviewed for court-appointed counsel, after making the request with the magistrate, he/she will be referred to the Pre-Trial Services Office to sign a form reflecting the declination (Attachment Three).
- b. After the Article 15.17 hearing, if the defendant has informed the magistrate that he/she wants to request court-appointed counsel, the arrested person will be interviewed by the Pre-Trial Services Office whether or not they are able to make bond. If the defendant makes bond, he/she will be given a form with the contact information for the Pre-Trial Services Office and instructing them to contact the Pre-Trial Services Office by the end of the next business day to schedule an interview.
- c. As soon as possible following the Article 15.17 hearing, a Pre-Trial Services Officer shall interview each defendant who has requested Appointment of counsel. The Pre Trial Officer shall advise a defendant who is requesting counsel in the following manner prior to gathering financial information utilized in the appointments process: "If you will be asking the Court to appoint a lawyer to assist you with the charges pending against you, you will need to complete under oath a questionnaire concerning your financial resources. You may also be required to respond under oath to an examination by the Judge about your finances. The information you provide must be truthful and you may be subject to penalty of perjury if you intentionally or knowingly provide false information. The information you provide may be shared with the Court, the District Attorney, other court staff, and possibly other agencies. If you refuse to provide the requested financial information or to complete this questionnaire under oath, your request for appointment of counsel will not be considered. You may submit a request for appointed counsel at any time."

- d. An arrestee or defendant shall truthfully provide answers to the financial questionnaire and to the questions posed by the Pretrial Officers. The Pretrial Officers shall fill out the responses to each category of information that is part of the financial questionnaire and which is prompted by the system. Every category of information should be addressed with an arrestee. Additionally, Pretrial Officers are required to make an entry in the comment section of the electronic financial questionnaire for each category of the financial questionnaire. Moreover, any specific information which is necessary to be communicated to the Court, shall be included on the financial questionnaire or on the comment portion of the form by the Pretrial Officers. This will include any language preference of the arrestee, an email address, and a cell phone number, if applicable. All responses to the financial questionnaire will be recorded electronically on the financial questionnaire.
- e. The court or its designee must evaluate each request for a court appointed attorney to determine whether the defendant is indigent. In determining whether a defendant is indigent, the court or court's designee may consider the defendant's income, source of income, assets, property owned, outstanding obligations, necessary expenses, the number and ages of dependents, and spousal income that is available to the defendant. The court or its designee may not consider whether the defendant has posted or is capable of posting bail, except to the extent that it reflects the defendant's financial circumstances as measured by the following factors: (a) the defendant's income; (b) the source of the defendant's income; (c) the assets and property owned by the defendant; (d) the defendant's outstanding obligations and necessary expenses; (e) the number and (f) income of the defendant's spouse that is available to the defendant.

Definitions – Terms used to determine eligibility for an indigent's defense services shall have the following meanings:

"Income" shall include the total cash receipts, before taxes, from all resources, including money wages and the net receipts from non-farm or farm self-employment. Further, "income" shall include regular payments from a governmental income maintenance program, public or private pensions, annuities, and income from dividends, interest, rents, royalties or periodic receipts from estates or trusts, regular payments from Social Security, strike benefits from union funds, veteran's benefits, training stipends, alimony, child support and military family allotments, or other regular support from an absent family member or someone not living in the household, or foster care payments, benefits from a governmental income maintenance program (AFDC, SSI, unemployment compensation, or state or county general assistance or home relief), food or rent received in lieu of wages, money which is received from sale of real or personal property or received from tax refunds, gifts, one-time insurance payments or compensation for injury, non-cash benefits (food stamps, etc.).

“Equitable assets”: Equitable assets shall include, but are not limited to, cash, savings and checking accounts, stocks, bonds, certificates of deposit, and equity in real and personal property, as well as any interest in retirement accounts.

An “indigent” is any person with a household income at or below 125% of the Federal Poverty Level guidelines as established and revised periodically by the Federal Government, and who has available assets that do not exceed \$15,000.

- f. At the conclusion of the interview with the Pre-Trial Services Office, the defendant will be asked to swear to and sign an "Affidavit of Indigence." (See Attachment Four for the English version and Attachment Five for the Spanish version).
- g. Based on the financial data given by the defendant, the office will calculate and determine whether the person meets the financial standard for indigency in Cameron County. That standard follows:
 - 1. A defendant is presumed indigent if, at the time of requesting appointed counsel, the income of the defendant does not exceed 125% of the Federal Poverty Guidelines as revised annually by the US Department of Health and Human Services.
 - 2. A defendant who does not meet the financial standard set above is not presumed to be indigent. The Pre-Trial Services Office also may refer a defendant who is presumed not to be indigent to a court for further screening.
- h. As set forth in the Texas Code of Criminal Procedure art. 26.04 (p), a defendant who is determined to be indigent is presumed to remain indigent for the remainder of the proceedings in the case unless a material change in the defendant's financial circumstances occurs. If there is a material change in financial circumstances after a determination of indigency or non-indigency is made, the defendant, the defendant's counsel, or the attorney representing the state may move for reconsideration of the determination.
- i. A written or oral statement elicited from the defendant during this process or evidence derived from the financial data provided may not be used for any purpose, except to determine the defendant's indigency or to impeach the direct testimony of the defendant.
- j. A defendant may request a court-appointed attorney at any time, and the court judge who presides over the defendant's case has the discretion to appoint any attorney to

that defendant, according to the method of assignment outlined in the Attorney Selection Process section of the plan.

- k. A defendant may be required to reimburse Cameron County in whole or in part, the cost of legal services provided as set forth in Texas Code of Criminal Procedure art. 26.05. If a defendant is placed on probation or deferred adjudication, the Court may impose as a condition of probation repayment of all or a portion of the county's cost for providing legal representation, if after a hearing, the Court determines that repayment does not impose a substantial financial hardship upon the defendant or dependents.
- l. Any person who is not defined as indigent in accordance with the Plan, but who has received court appointed counsel, shall be required to make payments for the reimbursement of the cost of legal services at the discretion of the Court.

Minimum Attorney Qualifications

11/5/2015

3. Minimum Attorney Qualifications

- a. Attorneys shall be appointed to represent indigent defendants from public appointment lists using a system of rotation as described later in this subsection.
- b. The judges hereby establish the following public appointment lists from which counsel for indigent defendants shall be appointed:
 1. A Misdemeanor list;
 2. A State Jail Felony list;
 3. A Second and Third Degree Felony list;
 4. A First Degree and 3(g) Felony list;
 5. An Appellate list for State Jail and Third Degree Felonies;
 6. An Appellate list for First, Second and 3(g) Felonies.
- c. Appointment of counsel to represent a defendant in a motion to revoke probation proceeding or a motion to adjudicate guilt proceeding shall be from the list appropriate for the underlying offense.
- d. Attorneys may apply to be included on one or more of the public appointment lists. (See Attachment Six). Attorneys do not need to re-apply for lists they are already on, but may apply for additional lists if they have met the qualifications. All attorneys already on one or more appointment lists also need to certify each January that they have completed at least six hours of CLE in criminal law in the previous year, even if they are not applying for additional lists. (See Attachment Six)

- e. To be eligible for placement on each public appointment list, attorneys must meet the following minimum qualification:
1. To qualify for misdemeanor appointments, including appeals, an attorney must have completed six hours of CLE in criminal law or procedure in the past year, including carryover from the previous year only. Also a State Bar approved Legislative Update Seminar in Criminal Law must be attended in any year the Legislature meets.
 2. To qualify for any felony appointment, including appeals, an attorney must have completed six hours of CLE in criminal law or procedure in the past year, including carryover from the previous year only. Also, a State Bar approved Legislative Update Seminar on Criminal Law must be attended in any year the Legislature meets.
 3. To qualify for the State Jail Felony list, an attorney must meet the general felony qualifications, have at least one year prior experience in criminal litigation and prior experience as lead or co-counsel in at least three criminal jury trials.
 4. To qualify for the Second and Third Degree Felony list, an attorney must meet the general felony qualifications, have at least two years prior experience in criminal litigation and prior experience as lead or co-counsel in two or more felony jury trials.
 5. To qualify for the First Degree and 3(g) Felony list, an attorney must either be board certified in criminal law, or
 - a. meet the general felony qualifications;
 - b. have at least four years' prior experience in criminal litigation;
 - c. have prior experience as counsel in four felony jury trials in the last five years, having served as lead counsel in at least two of those trials; and
 - d. have completed ten hours of CLE in criminal law or procedure in the last calendar year.Suggested courses are: The Criminal Law Institute, Advanced Criminal Law Course, and The Short Course. Other courses authorized by the State Bar of Texas in criminal law or procedure are acceptable.
 6. To qualify for the Appellate list for State Jail and Third Degree Felonies, an attorney must meet the general felony qualifications, have at least two years' prior experience in criminal litigation and/or appellate litigation, and have filed at least one brief in a criminal or juvenile case.
 7. To qualify for the Appellate list for First, Second, and 3(g) Felonies, an attorney must meet the general felony qualifications, have at least three years' prior experience in criminal litigation and/or appellate litigation, and have filed at least two briefs in a criminal or juvenile case.
- f. In addition to the above qualification requirements, in order to be placed on one or more of the appointment lists, a majority of the district court judges must vote to approve the attorney's placement on each such list.

- g. An attorney shall submit by October 15th each year a statement that describes the percentage of the attorney's practice time that was dedicated to work based on appointments accepted in this county for adult criminal cases and juvenile delinquency cases for the prior 12 months that begin on October 1 and ends on September 30. The report must be submitted through the Texas Indigent Defense Commission's online portal.
- h. An attorney shall be immediately removed from the appointment wheel and from any case to which an attorney has been appointed to the following:
 - 1. the attorney is convicted or receives deferred adjudication for any felony, including controlled substance offenses;
 - 2. the attorney is convicted or receives deferred adjudication for any crime of moral turpitude;
 - 3. the attorney intentionally misrepresents any information on an Application for Court-Appointments, on any Defense Claim for Fee Payment/Expenses or on any Annual Certification of Attorney; or
 - 4. the attorney fails to complete 6 hours of CLE in criminal law or procedure each year; or
 - 5. the attorney is sanctioned by the State Bar of Texas.
- i. An attorney shall be removed from one or more of the public appointment lists by a majority vote of the Board of Judges whenever the judges determine that the attorney no longer meets the objective qualifications for that list (as set out in Rule 3.e of the Minimum Attorney Qualifications section) or is not fully competent to adequately handle the category of cases associated with that list. The judges may in their discretion remove an attorney from one or more lists, while continuing to approve the attorney for other lists.
- j. An attorney may be removed from one or more of the public appointment lists by vote of a majority of the district and county court judges for any of the following reasons:
 - 1. When an attorney intentionally or repeatedly violates the requirement that the attorney make every reasonable effort to contact the defendant not later than the end of the first working day after the date on which the attorney is appointed and to interview the defendant as soon as practicable after the attorney is appointed.
 - 2. When, after a hearing, it is shown that the attorney requested and/or received any money or anything else of value for representing an indigent defendant subject to court appointment other than what is paid or anticipated to be paid to them by the county; or

3. for good cause at the discretion of a majority of the Board of Judges.

Prompt Appointment of Counsel

8/25/2016

4. Prompt Appointment of Counsel

- a. Counsel shall be appointed in the manner specified in the Rule below (contact with defendant, determination and order of appointment), as soon as possible, but not later than the end of the first working day after the date on which the Pre-Trial Services Office receives the defendant's request for counsel. "Working day" means Monday through Friday, except for official county holidays. In accordance with *Rothgery v. Gillespie County*, this one working day time frame for ruling on counsel requests applies to both persons who are in custody and to persons who have been released from custody.
- b. In any adversary judicial proceeding that may result in punishment by confinement, the court may not direct or encourage the defendant to communicate with the attorney representing the state until the court advises the defendant of the right to counsel and the procedure for requesting appointed counsel and the defendant has been given a reasonable opportunity to request appointed counsel.
- c. If an indigent defendant is arrested in another county based on this county's warrant, counsel will be appointed within one working day of this county's receipt of the request for counsel.
- d. If a defendant is arrested in this county based on another county's warrant, counsel will be appointed for the defendant if, on the eleventh day after the arrest, the defendant is still in this county's custody.
- e. If a defendant wishes to request counsel prior to the initial appearance, the forms required to request counsel may be obtained at the Texas Indigent Defense Commission's website at <http://tidc.tamu.edu/public.net/>. The defendant may submit these forms to: the appointing authority listed below. The court will rule on all requests for counsel submitted in this manner.
- f. Appointment Authority - The appointing authority for all filed or unfiled cases in Cameron County is the Cameron County Pre-Trial Services Office.

5. Contact with Defendant, Determination and Order Appointing Counsel

- a. If it is determined that a person who requests appointment of counsel is not indigent under the standard procedures (described in Rule 2: Procedures and Financial Standards for Determining Whether a Defendant is Indigent), that finding will be entered on the person's

- b. "Affidavit Finding Accused Is Not Indigent" which will be filed in the court's file. (See Attachment Seven) The Pre-Trial Services Office will also hand the defendant a copy of this affidavit, including notice that he/she is presumed not qualified for a court-appointed attorney but may seek judicial review if he/she believes he/she can show that he/she is not financially able to afford counsel.
- c. If it is determined that a person who request appointment of counsel is indigent under the standard and procedures described in (described in Rule 2 (Procedures and Financial Standards for Determining Whether a Defendant is Indigent), the computer will print the name, address, and phone number of the selected court-appointed attorney, as determined according to Rule 6 (Attorney Selection Process), on the Order Appointing Counsel, which will be filed in the court's file. The Pre-Trial Services Office will also provide the defendant a copy of this order, including the attorney's information outlined above. (See Attachment Eight).
- d. At the same time the Pre-Trial Services Director or his/her designee selects the court-appointed attorney's name and it is provided to the defendant by the Pre-Trial Services Office, the attorney will receive the Order Appointing Counsel by e-mail and/or fax. (See Attachment Eight).
- e. According to the Texas Code of Criminal Procedure Article 26.04(j) (1), the appointed attorney shall make every reasonable effort to contact the defendant not later than the end of the first working day after the date on which the attorney is appointed. The initial contact may be by certified letter to the defendant. The attorney also must interview the defendant as soon as practicable after the attorney is appointed.
- f. The defendant will be given a business card by the pre-trial officer. If the defendant has not been contacted by his/her court-appointed attorney within 24 hours. The Pre-Trial Services Office will attempt to verify this information through jail visitation records and/or communication with appointed attorney and request verification that the attorney has complied with the provisions immediately above.

Attorney Selection Process

11/5/2015

6. Attorney Selection Process

- a. The following method shall be used to assign attorneys from the appropriate public appointment list to represent indigent defendants:

1. After the defendant has been interviewed by the Pre-Trial Services Officer and the Officer has completed the calculation and determined that the defendant meets the standard of indigency in Cameron County, the Pre-Trial Services Officer will ask the Director of the Pre-Trial Office or his/her designee to determine the next attorney's name on the appropriate appointment list.

2. The Pre-Trial Services Director or his/her designee will select and provide an attorney's name from the next five attorneys on the list to the Pre-Trial Services Officer, after analyzing the individual requirements of the request and utilizing the following filters:

Language, Degree of Offense, Availability of Attorney

3. The attorney's name selected to be appointed to the case should be one that meets any language requirement (if possible), is qualified to take appointments for the degree of offense, and is not unavailable, and had the oldest date of last appointment. The next four attorneys names will continue with a fifth name added from the next available attorney on the list to form the next five names. The name of the selected attorney will be moved to the bottom of the list. This will result in a system of rotation.

4. At any time, a defendant may appear before the judge presiding over the defendant's case and request a court-appointed attorney and the judge must appoint an attorney to represent that defendant if the defendant is indigent. The attorney appointed must be qualified to take that degree of offense and chosen from the next five names on the wheel, as provided by the Pre-Trial Services Office (See Attachment Nine), unless the judge makes a finding of good cause as set forth below.

5. The judge of District or County Court or the judge's designee may deviate from the rotation system and appoint an attorney in that court who is specifically qualified under the Plan on an ad hoc basis to represent an indigent defendant, or a defendant who in the interest of justice requires appointment of counsel upon a written finding of good cause to deviate from the rotation system.

6. Each attorney appointed under this subsection to represent the defendant shall represent the defendant on all charges (both felony and misdemeanor) starting from his/her arrest until charges are dismissed, the defendant acquitted, all post-trial motions are resolved, notice of appeal is perfected, or until relieved by the court or replaced by other counsel after a finding of good cause is entered on the record.

7. At the conclusion of all proceedings in the trial court, including post-trial motions, if an indigent defendant wishes to file an appeal, trial counsel must

assist the defendant in the filing of the notice of appeal. Once these steps have been complete, the court-appointed trial attorney's representation of the defendant is concluded. No motion to withdraw is necessary. The trial court may then appoint an appellate attorney from the appropriate appeal list unless a material change in the defendant's financial circumstances has occurred. The trial court shall appoint a lawyer from the next five names on the appropriate appellate list, as provided by the Pre-Trial Services Office. The judge may make a finding of good cause on the record for appointing out of order.

7. Selection and Appointment of Counsel in Capital Cases

a. Subject to Rule 7.b below, when a defendant is arrested on capital murder charges, the District Clerk's Office will notify the district court where the case is filed on the first working day after arrest. The judge of that court will then have two working days to appoint counsel to represent the defendant. The presiding judge of the district court in which a capital felony case is filed shall appoint two attorneys, at least one of whom must be qualified under Article 26.052 of the Code of Criminal Procedure, to represent an indigent defendant as soon as practicable after charges are filed, unless the state gives notice in writing that the state will not seek the death penalty.

b. If an arrested person is charged with capital murder and requests a court-appointed attorney at magistration, the Pre-Trial Services Officer shall interview the defendant to determine if the person meets the standard of indigency in Cameron County. If the defendant qualifies for a court-appointed attorney, the judge presiding in the court to which the capital murder case is assigned will appoint two attorneys, one of whom must be qualified under Article 26.052 of the Code of Criminal Procedure, within the time limit set forth in Rule 4 (Prompt Appointment of Counsel).

c. To be assigned as lead counsel in a death penalty case an attorney must:

1. Be on the list of attorneys approved by the local selection committee of the administrative judicial region for appointment in death penalty cases as provided in Article 26.052 of the Code of Criminal Procedure; and

2. Meet the following qualifications outlined in Article 26.052 of the Code of Criminal Procedure, approved by the district court judges in Cameron County:

a. Be a member of the State Bar of Texas;

b. Exhibit proficiency and commitment to providing quality representation to defendants in death penalty cases;

c. Have not been found by a federal or state court to have rendered ineffective assistance of counsel during the trial or appeal of any capital case;

- d. Have at least five years' experience in criminal litigation;
- e. Have tried to a verdict as lead defense counsel at least eight felony cases including homicide trials and other trials for offenses punishable as second or first degree felonies or capital felonies;
- f. Have experience as counsel in at least one death penalty case that was handled conclusion.
- g. Have trial experience in the use of and challenges to mental health or forensic expert witnesses;
- h. Have trial experience in investigating and presenting mitigating evidence at the penalty phase of a death trial;
- i. Have participated in continuing legal education courses or other training relating to criminal defense in death penalty cases. Five hours death penalty related CLE.

3. In addition to meeting the above listed qualifications requirements, in order to be included on the list of attorneys qualified for appointment in death penalty cases in the Fifth Administrative Judicial Region, a majority of the members of the local selection committee must vote to approve the attorney's placement on that list.

d. To be assigned as a second chair counsel in a death penalty case an attorney must meet the qualifications outlined in Rule 3(e)(5) (Minimum Attorney Qualifications) for the First Degree and 3(g) Felony List.

e. If the state gives notice in writing that it will not seek the death penalty before counsel is appointed, counsel will be appointed from the First Degree and 3(g) list according to Rule 3 (Minimum Attorney Qualifications).

Fee and Expense Payment Process

6/24/2024

8. Attorney Fee Schedule and Compensation of Appointed Attorneys

a. Counsel appointed to represent a defendant in a criminal proceeding, including a habeas corpus hearing, shall be paid a reasonable attorney's fee for performing the following services, based on the time and labor required the complexity of the case, and the experience and ability of the appointed counsel:

- 1. Time spent in court making an appearance on behalf of the defendant as evidenced by a docket entry, time spent in trial, and time spent in a proceeding in which sworn oral testimony is elicited;

2. Reasonable and necessary time spent out of court on the case, supported by any documentation that the court requires;
3. Preparation of an appellate brief and preparation and presentation of oral argument to a court of appeals or the Court of Criminal Appeals; and
4. Preparation of a motion for rehearing.

b. Appointed attorneys shall be compensated in accordance with the fee schedule approved by the District and County Court Judges. This fee schedule takes into consideration reasonable and necessary overhead cost and the availability of qualified attorneys willing to accept the stated rates.

(Please refer to the Fee Schedule and Guidelines adopted by the Cameron County Board of Judges)

c. All requests for payment will be required to be submitted via the Indigent Defense Portal. All payments shall be paid after judicial approval, in accordance with the attached fee schedule and guidelines which were adopted by formal action of the Court Judges, with copies sent to the Auditor's Office of Cameron County. (See Attachment Ten). Appointed counsel must submit a voucher within ninety (90) days to the judge presiding over the case for which the appointed attorney seeks compensation. Any voucher submitted more than 90 days of disposition will not be paid.

d. Attorneys must submit a complete accurate sworn voucher in the Defense Portal with the proper documentation, including the date of initial contact with the Defendant, attach the signed order for motion to exceed the maximum payment (if applicable), the date of the disposition of the case, the method of disposition, on the correct voucher type as indicated by the system, at the conclusion of each court appointment to be reimbursed for work on court appointed cases. Submitting a voucher is the only means to close a case in the system. Submitting a voucher and having it accepted for payment will cause the appointment to be updated as no longer active in the Indigent Defense Portal and in the Indigent Defense System. Submission via an electronic voucher applies to all court appointed attorneys. Failure to completely and accurately fill out the electronic voucher and to submit any requested documentation may result in a delay in receiving payment, a failure to receive full payment, or any other remedies available under this plan. Repeated failure to adhere to these requirements related to vouchers may result in automatic removal from the court appointment wheels. (See Attachment Eleven).

e. If a judge requests guidance on how to proceed in authorization of a voucher for payment or bill submitted by an attorney, an investigator, or a court-appointed expert, he/she may forward the voucher or bill in question to the Local Administrative Judge who will form a committee for review of the same. This committee can also review vouchers where the judge has already disapproved all or

part of the requested amount of payment. The committee has limited investigatory powers, such as access to jail records to verify jail visits, contact with the attorney who prepared the voucher, and requests to the attorney to produce information to corroborate claims on the voucher. The committee then makes non-binding recommendations in writing to the judge presiding over the voucher. If the voucher involves an attorney and the attorney is not satisfied with the outcome, he/she may still pursue the statutory remedy outlined in Article 26.05(c) of the Code of Criminal Procedure.

f. An attorney who receives an appointment through the system outlined in this plan or through any other means is not allowed to receive any money or anything else of value for representing the accused, other than what is paid to them by the county, as approved by the court in writing.

g. If the judge disapproves the requested amount of payment, the judge shall make written findings stating the amount of payment that the judge approves and each reason for approving an amount different from the requested amount.

h. Regardless of whether an attorney's voucher has been reviewed by the voucher committee or not, an attorney whose request for payment is disapproved may appeal the disapproval by filing a motion with presiding judge of the administrative judicial region, as provided under Article 26.05(c) of the Code of Criminal Procedure. This motion must be filed within twenty-one (21) days from the date the attorney receives notice of the disapproval of payment unless good cause is shown. An attorney also may file a motion with the presiding judge of the administrative judicial region if a request for payment is not acted on by the 60th day after the request for payment was submitted.

i. On the filing of a motion, the presiding judge of the Fifth Administrative Judicial Region shall review the disapproval of payment or failure to act and determine the appropriate amount of payment. In reviewing the disapproval or failure to act, the presiding judge of the administrative judicial region may conduct a hearing. Not later than the 45th day after the date an application for payment of a fee is submitted Cameron County shall pay to the appointed counsel the amount that is approved by the presiding judge of the administrative judicial region and that is in accordance with the adopted fee schedule.

j. Investigative and Expert Expenses.

Counsel appointed in capital and non-capital case shall be reimbursed for reasonable and necessary expenses, including expenses for investigation and for mental health and other experts. Expenses incurred with and without prior court approval shall be reimbursed, according to the procedures set forth below. When possible, prior court approval should be obtained before incurring expenses for investigation and for mental health and other experts.

k. If a motion to substitute counsel is filed or orally made by an employed attorney for a defendant who has an appointed attorney under these rules, then the Court may find that the defendant has the present financial resources that are available for payment from or on behalf of the defendants. The said employed counsel shall be ordered to pay on behalf of the defendant to appointed counsel his/her reasonable time spent on the case at the rate established by these local rules for appointed counsel in the same order approving the substitution of counsel.

Procedure with Prior Court Approval:

a. Appointed counsel may file with the trial court a pretrial ex parte confidential request for advance payment of investigative and expert expenses. The request for expenses must state, as applicable:

1. The type of investigation to be conducted or the type of expert to be retained;
2. Specific facts that suggest the investigation will result in admissible evidence or that the services of an expert are reasonably necessary to assist in the preparation of a potential defense; and
3. An itemized list of anticipated expenses for each investigation or each expert.


b. The court may grant the request for advance payment of expenses in whole or in part upon proof that 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.

Procedure without Prior Court Approval:


a. Appointed counsel may incur investigative or expert expenses without prior approval of the court. On presentation of a claim for reimbursement, the court may order reimbursement of counsel for the expenses, if the expenses are reasonably necessary and reasonably incurred. Unreasonable or unnecessary expenses will not be approved.

This amended Indigent Defense Plan was approved on the 26th day of June, 2024 by a majority of the District and County Court Judges in Cameron County.

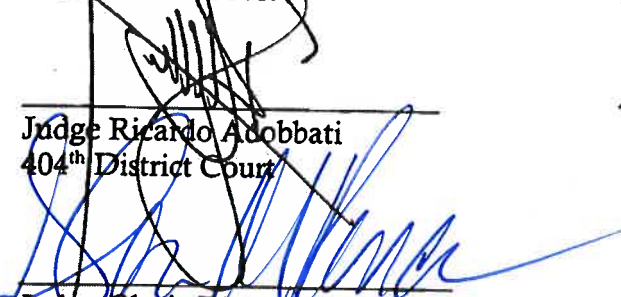


Judge Benjamin Euresti, Jr.
107th District Court

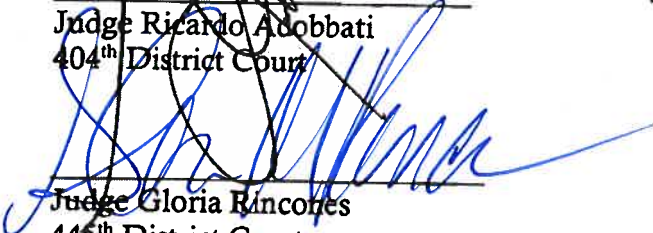
Judge Janet L. Leal
103rd District Court



Judge Gabriela Garcia
138th District Court



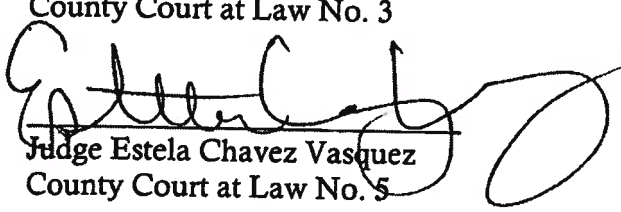
Judge Ricardo Adobbati
404th District Court




Judge Gloria Rincones
445th District Court

Judge Arturo A. McDonald Jr.
County Court at Law No. 1

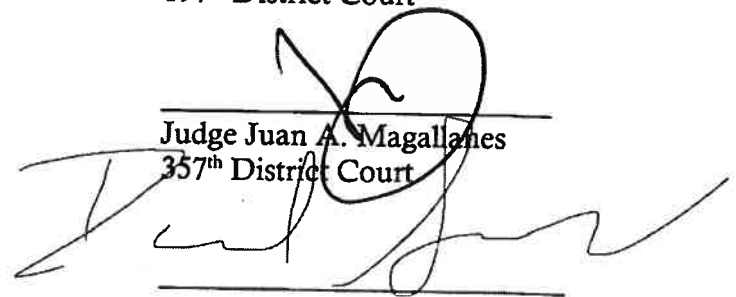
Judge David Gonzales III
County Court at Law No. 3



Judge Estela Chavez Vasquez
County Court at Law No. 5



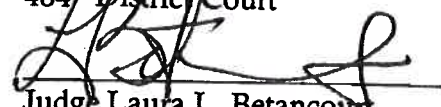
Judge Adolfo Cordova
197th District Court



Judge Juan A. Magallanes
357th District Court

Judge David A. Sanchez
444th District Court

Judge Adela Kowalski Garza
484th District Court



Judge Laura L. Betancourt
County Court at Law No. 2

Judge Sheila Garcia Bence
Probate Court No. 1