

Polk, San Jacinto and Trinity District Court Plan

Prompt Magistration

10/31/2023

A. Arresting Officer Responsibilities

- i. The arresting officer, or the person having custody of the arrestee, shall ensure that every arrestee shall be brought before a magistrate without unnecessary delay, but not later than 48 hours after the person is arrested.
- ii. Unless arrested pursuant to an arrest warrant, bench warrant, capias, or other order of a magistrate or judge, necessary forms establishing probable cause must be completed and filed at the time an arrestee is booked into jail for any felony or misdemeanor punishable by incarceration.
- iii. Release of defendants arrested without warrant
 1. A person arrested for a misdemeanor without a warrant and who is detained in jail must be released not later than the 24th hour after arrest, on a bond in an amount not to exceed \$5,000, if a magistrate has not determined that probable cause exists to believe that the person committed the offense.
 2. A person arrested for a felony without a warrant and who is detained in jail must be released not later than the 48th hour after arrest, on a bond in an amount not to exceed \$10,000, if a magistrate has not determined that probable cause exists to believe that the person committed the offense.
 3. If requested by the state, a magistrate may postpone the release of the defendant for not more than 72 hours after the defendant's arrest if a probable cause determination has not been made, in compliance with the procedure set forth in Article 17.033, Texas Code of Criminal Procedure.

B. Magistrate Duties

- i. At the Magistrate's hearing, the magistrate should determine if accused can speak and understand English, or if the defendant is deaf.
- ii. After making such determination, the magistrate shall, in an appropriate manner consistent with Texas Code of Criminal Procedure Articles 38.30 and 38.31, do the following:
 1. Advise the accused of the accusation against him/her and any affidavit filed therewith;

2. Admonish the accused of:
 - a. The right to retain counsel;
 - b. The right to remain silent;
 - c. The right to have an attorney present during any interview with peace officers or attorneys representing the state;
 - d. The right to terminate an interview at any time;
 - e. The right not to make a statement and that any statement made by the accused may be used against him/her; and
 - f. The right to an examining trial.
 3. Inform the accused of the right to appointed counsel if the person cannot afford counsel and the procedures for requesting appointment of counsel.
 4. Inquire as to whether accused is requesting that counsel be appointed.
 5. Provide accused persons requesting appointed counsel with necessary forms for requesting appointment of counsel and ensure that reasonable assistance in completing required forms is provided to the accused at the time of the magistrate's hearing.
 6. If the magistrate has reason to believe the accused is not mentally competent, the magistrate shall enter a request for counsel on behalf of the accused. Such a request will alert the appointing authority that counsel competent to represent mentally ill persons should be appointed.
- iii. In cases where the individual was arrested without an arrest warrant, bench warrant, capias, or other order of magistrate or judge, the magistrate shall determine if there is probable cause to believe the person committed the offense.
1. If probable cause has not been determined by a magistrate:
 - a. A person arrested for a misdemeanor must be released on bond, in an amount not to exceed \$5,000, not later than 24 hours after the person's arrest.
 - b. A person arrested for a felony must be released on bond, in an amount not to exceed \$10,000, not later than 48 hours after the person's arrest.
 - c. If requested by the state, the magistrate may postpone the release of the defendant for not more than 72 hours after the defendant's arrest, in compliance with the procedure set forth in Article 17.033, Texas Code of Criminal Procedure.

- iv. The magistrate shall set the amount of bail and any conditions of bond for the accused, if bail is allowed by law and has not been set by the court or magistrate issuing a warrant.
- v. The magistrate shall record the following:
 - 1. The date and time the accused was arrested and the date and time when he/she was brought before the magistrate.
 - 2. Whether the magistrate informed the accused of the right to request appointment of counsel and asked the accused whether he/she wants to request counsel.
 - 3. Whether the accused requested appointment of counsel
- vi. If the magistrate is not authorized to appoint counsel and if the accused requests appointment of counsel, the magistrate shall transmit or cause to be transmitted the magistrate form and any other forms requesting appointment of counsel to a District Judge. (the appointing authority) The forms requesting appointment of counsel shall be transmitted without unnecessary delay, but not later than 24 hours after the person arrested requests appointment of counsel.
- vii. If the magistrate is authorized to appoint counsel, the magistrate shall make a determination of indigence and appoint counsel if the defendant is indigent within three working days unless the County has a U.S. Census population over 250,000, in which case counsel shall be appointed within one working day.
- viii. If a request for counsel was made at magistration, the appointing authority shall forward the magistrate form and any other forms requesting appointment of counsel to the appropriate clerk to be put into the case file.
- ix. If a request for counsel was not made at magistration, the magistrate will forward the magistrate form to the clerk to be put into the case file.
- x. 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

10/31/2015

A. Definitions, as used in this rule:

- i. “Indigent” means a person who is not financially able to employ counsel.
- ii. “Net household income” means all income of the accused and spousal income actually available to the accused. Such income shall include: take-home wages and salary (gross income earned minus those deductions required by law or as a condition of employment); net self-employment income (gross income minus business expenses, and those deductions required by law or as a condition of operating the business); regular payments from a governmental income maintenance program, alimony, child support, public or private pensions, or annuities; and income from dividends, interest, rents, royalties, or periodic receipts from estates or trusts. Seasonal or temporary income shall be considered on an annualized basis, averaged together with periods in which the accused has no income or lesser income.
- iii. “Household” means all individuals who are actually dependent on the accused for financial support.
- iv. “The cost of obtaining competent private legal representation” includes the reasonable cost of support services such as investigators and expert witnesses as necessary and appropriate given the nature of the case.

B. Eligibility for Appointment

- i. An accused is presumed indigent if any of the following conditions or factors are present:
 1. At the time of requesting appointed counsel, the accused or accused’s dependents are eligible to receive food stamps, Medicaid, Temporary Assistance for Needy Families, Supplemental Security Income, or public housing;
 2. The accused’s net household income does not exceed the Poverty Guidelines as revised annually by the United States Department of Health and Human Services and published in the Federal Register; or
 3. The accused is currently serving a sentence in a correctional institution, is currently residing in a public mental health facility, or is subject to a proceeding in which admission or commitment to such a mental health facility is sought.
- ii. An accused who does not meet any of the standards above shall nevertheless be considered indigent if the accused is unable to retain private counsel without substantial hardship to the accused or the accused’s dependents. In considering if obtaining private counsel will create a substantial hardship, the appointing authority shall take into account:

1. the nature of the criminal charge(s),
 2. anticipated complexity of the defense,
 3. the estimated cost of obtaining competent private legal representation for the matter(s) charged;
 4. the amount needed for the support of the accused and the accused's dependents;
 5. accused's income,
 6. source of income,
 7. assets and property owned,
 8. outstanding obligations,
 9. necessary expenses,
 10. the number and ages of dependents, and
 11. spousal income that is available to the accused.
- iii. Factors NOT to be considered in determining indigence:
1. The accused's posting of bail or ability to post bail may not be considered in determining whether the accused is indigent.
 2. The resources available to friends or relatives of the accused may not be considered in determining whether the accused is indigent.
- iv. Only the accused's financial circumstances as measured by the financial standards stated in this rule shall be used as the basis for determining indigence.

C. Indigence Proceedings:

- i. The appointing authority can require the accused to respond to questions about the accused's financial status, produce documentation supporting financial information provided, and/or order a court official to verify financial information provided.
- ii. Information gathered for determining indigence, both in the affidavit of indigence and through oral examination, may not be for any purpose other than:
 1. Determining if accused is (or is not) indigent; or
 2. Impeaching direct testimony of accused regarding the accused's indigence.
- iii. A request by the appointing authority for additional information, documentation, and/or verification cannot delay appointment of counsel beyond the timelines specified in Parts I and IV of these rules and contained in Code of Criminal Procedure article 1.051.

- iv. An accused determined to be indigent is presumed to remain indigent for the remainder of the case unless a material change in the accused's financial circumstances occurs.
 1. An accused's status as indigent or not indigent may be reviewed in a formal hearing at any stage of court proceedings, on a motion for reconsideration by the accused, the accused's attorney, or the attorney representing the state. The accused's indigent status will be presumed not to have changed. The presumption can be rebutted in the review proceedings based on the following:
 - a. Evidence of a material change in the accused's financial circumstances, as a result of which the accused does not meet any of the standards for indigence contained in these rules; or
 - b. Additional information regarding the accused's financial circumstances that shows that the accused does not meet any of the standards for indigence contained in these rules.
 2. If an accused previously determined to be indigent is subsequently determined not to be indigent, the attorney shall be compensated by the county according to the fee schedule for hours reasonably expended on the case.
- v. If the court determines that a defendant has financial resources that enable him to offset in part or in whole the costs of the legal services provided, including any expenses and costs, the court shall order the defendant to pay during the pendency of the charges or, if convicted, as court costs the amount that it finds the defendant is able to pay.

Minimum Attorney Qualifications

10/31/2015

- A. The Judges hearing criminal cases shall establish attorney appointment lists for the following categories of offenses. Attorneys may apply for and be placed on multiple lists. To be eligible for an appointment list, an attorney must meet the following minimum requirements:
 - i. Misdemeanor Qualification Requirements:
 1. All attorneys on the appointment list must ensure all information on their application is correct;
 2. An attorney must be a licensed practicing attorney and a member in good standing of the State Bar of Texas;

3. 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 begins on October 1 and ends on September 30. The report must be submitted through the online form to the Texas Indigent Defense Commission/form prescribed by the Texas Indigent Defense Commission to the court administration office in the county.
 4. An attorney shall complete a minimum 6 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 court administration office each year attesting to completion of the required CLE or submit documentation showing that the attorney is certified as a specialist in criminal law. Continuing legal education activity completed with-in a one year period immediately preceding an attorney's initial reporting period may be used to meet the educational requirements for the initial year. Continuing legal education activity completed during any reporting period in excess of the minimum of 6 hours for such period may be applied to the following period's requirement. The carryover provision applies to one year only;
 5. An attorney may not have been the recipient of any public disciplinary action by the State Bar of Texas or any other attorney licensing authority of any state or the United States within the last 3 year(s);
 6. An attorney must maintain an office capable of receiving email, fax, and telephone calls;
 7. An attorney must have the ability to produce typed motions and orders;
 8. 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.
- ii. State Jail and Third Degree Felony Case Qualification Requirements
1. An attorney must meet general requirements for misdemeanor appointments;
 2. An attorney must have a minimum 1 year(s) experience in criminal law;
- iii. First and Second Degree Felony Case Qualification Requirements
1. An attorney must meet the general requirements for State Jail and Third Degree Felony appointments.

2. An attorney must have a minimum 2 year(s) experience in criminal law;
3. An attorney must have experience as 1st or 2nd chair in at least 2 felony cases tried to verdict before a jury. The styles and cause numbers of these cases must be listed in the District Courts appointment application form.

iv. Capital Case Qualification Requirements:

1. Lead trial counsel must be on the list of attorneys approved by the local selection committee of this Administrative Judicial Region for appointment as lead counsel in death penalty cases, as provided in Article 26.052, Texas Code of Criminal Procedure.
2. Second chair counsel must be on the list of attorneys approved by the local selection committee of this administrative judicial region for appointment as lead trial counsel or second chair counsel in death penalty cases, as provided in Article 26.052, Texas Code of Criminal Procedure.
3. Appellate counsel must be on the list of attorneys approved by the local selection committee of this administrative judicial region for appointment as appellate counsel in death penalty cases, as provided in Article 26.052, Texas Code of Criminal Procedure.

v. Appeal Qualification Requirements - An attorney must meet at least one of the following criteria:

1. Be currently board certified in criminal law by the Texas Board of Legal Specialization; or
2. Have personally authored and filed at least three criminal appellate briefs or post-conviction writs of habeas corpus; or
3. Have submitted an appellate writing sample approved by a majority of the judges; or
4. Have worked as a briefing clerk of an appellate court for a period of at least one year.

B. Approval for Appointment Lists

- i. Misdemeanor List – An attorney must be approved by a majority of the Statutory County Court Judges hearing criminal cases.
- ii. State Jail and Third Degree Felony, First and Second Degree Felony List, Capital Case List, and Appeal List - An attorney must be approved for each list by a majority of the District Court Judges hearing criminal cases.

C. Removal from Appointment List - The judges will monitor attorney performance on a continuing basis to assure the competency of attorneys on the list. An attorney may be removed or suspended, as appropriate,

from one or more appointment lists by a majority vote of the judges.

D. Reinstatement to Appointment Lists

- i. An attorney who was removed from the appointment list for non-completion of the required CLE hours may be immediately reinstated upon providing proof that the attorney has completed the required hours so long as the attorney otherwise meets the other qualifications under this Plan.
- ii. An attorney who was removed from the appointment list for not submitting the attorney's annual practice time report may be immediately reinstated upon submission of the report so long as the attorney otherwise meets the other qualifications under this Plan.
- iii. An attorney who has been removed from the appointment list for any other reason and who wishes to be reinstated must apply through the original application process.

E. Duties of Appointed Counsel - Appointed Counsel shall:

- i. Notify the court within 72 hours of the receipt of appointment;
- ii. Make every reasonable effort to:
 1. Contact the defendant by the end of the first working day after the date on which the attorney is appointed; and
 2. Interview the defendant as soon as practicable after the attorney is appointed;
- iii. Represent the defendant until:
 1. Charges are dismissed;
 2. The defendant is acquitted;
 3. Appeals are exhausted; or
 4. The attorney is relieved of his duties by the court or replaced by other counsel after a finding of good cause entered on the record.
- iv. Investigate, either by self or through an investigator, the facts of the case and be prepared to present any factual defense(s) that may be reasonably and arguably available to the defendant;
- v. Brief the law of the case and be prepared to present any legal defense(s) that may be reasonably and arguably available to the defendant;
- vi. Be prepared to negotiate with the prosecutor for the most favorable resolution of the case as can be achieved through a plea agreement;
- vii. Be prepared to try the case to conclusion either with or without a jury;

- viii. Be prepared to file post-trial motions, give notice of appeal and appeal the case pursuant to the standards and requirements of the Texas Rules of Appellate Procedure;
- ix. Maintain reasonable communication and contact with the client at all times and keep the client informed of the status of the case;
- x. Advise the client on all matters involving the case and such collateral matters as may reasonably be required to aid the client in making appropriate decisions about the case;
- xi. Perform the attorney's duty owed to the defendant in accordance with these procedures, the requirements of the Code of Criminal Procedure, and applicable rules of ethics; and
- xii. Manage attorney's workload to allow for the provision of quality representation and the execution of the responsibilities listed in these rules in every case.

Prompt Appointment of Counsel

10/31/2015

A. Prompt Appointment of Counsel

- i. Counsel shall be appointed as soon as possible to indigent defendants, but no later than the end of the third working day after the date on which the appointing authority receives the defendant's request for court appointed counsel. Working day means Monday through Friday, excluding official state holidays. Counsel must be appointed whether or not a case has been filed in the trial court.
- ii. If the defendant is released from custody prior to the appointment of counsel, appointment of counsel is not required until the defendant's first court appearance or when adversarial judicial proceedings are initiated, whichever comes first.
- iii. If an indigent defendant is arrested in another county based on this county's warrant, counsel will be appointed within three working days of this county's receipt of the request for counsel.
- iv. 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.
- v. 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/> or from the District Clerk or County Clerk. The defendant may submit these forms to the District Clerk or the County Clerk who will promptly forward same to the appropriate court. The court will rule on all requests for counsel submitted in this manner.

vi. Appointment Authority

1. If no case has been filed in the trial court, the appointing authority for misdemeanors is: the County Court at Law, the County Court or the Indigent Defense Coordinator, if any.
2. If no case has been filed in the trial court, the appointing authority for felonies is: the District Court or the Indigent Defense Coordinator, if any.
3. If the case has been filed in the trial court, the appointing authority is: the Court in which the case is filed or the Indigent Defense Coordinator, if any.

B. Defendants Appearing Without Counsel - If a defendant appears without counsel in any adversary judicial proceeding that may result in punishment by confinement:

- i. 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.
- ii. If the defendant has requested appointed counsel, the court may not direct or encourage the defendant to communicate with the attorney representing the state unless the appointing authority has denied the request and, subsequent to the denial, the defendant:
 1. Has been given a reasonable opportunity to retain and has failed to retain appointed counsel; or
 2. Waived or has waived the opportunity to retain private counsel.
- iii. The attorney representing the state may not:
 1. Initiate or encourage an attempt to obtain from the defendant a waiver of the right to counsel; or
 2. Communicate with a defendant who has requested the appointment of counsel, unless the appointing authority has denied the request and subsequent to the denial, the defendant:
 - a. Has been given a reasonable opportunity to retain counsel; or
 - b. Waives or has waived the opportunity to retain private counsel.

C. Waiver of the Right to Counsel

- i. A defendant may voluntarily and intelligently waive the right to counsel.
- ii. A waiver obtained in violation of section IV.B above is presumed invalid.

iii. If a defendant wishes to waive the right to counsel for purposes of entering a guilty plea or proceeding to trial, the court shall advise the defendant of the nature of the charges against the defendant and, if the defendant is proceeding to trial, the dangers and disadvantages of self-representation. If the court determines that the waiver is voluntarily and intelligently waived, the court shall provide the defendant with a statement substantially in the following form, which, if signed by the defendant, shall be filed with and become part of the record of the proceedings.

“I have been advised this ___ day of ____, 2010, by the (name of court) Court of my right to representation by counsel in the case pending against me. I have been further advised that if I am unable to afford counsel, one will be appointed for me free of charge.

Understanding my right to have counsel appointed for me free of charge if I am not financially able to employ counsel, I wish to waive that right and request the court to proceed with my case without an attorney being appointed for me. I hereby waive my right to counsel. (signature of defendant)”

iv. A defendant may withdraw a waiver of the right to counsel at any time but is not entitled to repeat a proceeding previously held or waived solely on the grounds of the subsequent appointment or retention of counsel. If the defendant withdraws a waiver, the trial court, in its discretion, may provide the appointed counsel 10 days to prepare.

Attorney Selection Process

11/9/2020

- A. The appointing authority will identify which of the appointment lists, discussed in the Section III (attorney qualifications), is most appropriate based on the accusations against the defendant and will appoint the attorney whose name is first on the list, unless the court makes a finding of good cause on the record for appointing an attorney out of order. Good cause may include:
- i. The defendant requesting counsel does not understand English, in which case the judge will appoint the lawyer whose name appears next in order and speaks the clients' language, if one is available;
 - ii. The defendant has an attorney already appointed on a prior pending or concluded matter. The same attorney will be appointed to the new matter, unless the attorney is not on the list for the type of offense involved in the current case; or
 - iii. Other good cause exists for varying from the list.

B. Once appointed, an attorney's name will be moved to the bottom of the appointment list. An attorney who is not appointed in the order in which the attorney's name appears on the list shall remain next in order on the list.

C. Judicial Removal from Case:

- i. The judge presiding over a criminal case may remove appointed counsel upon entering a written order showing good cause for such removal, including without limitation, the following:
 1. Counsel's failure to appear at a court hearing;
 2. Counsel's failure to comply with the requirements imposed upon counsel by this plan;
 3. Current information about the defendant and the charges against the defendant indicate that another qualified attorney is more appropriate for the defendant under these rules;
 4. Replacement of appointed counsel in a death penalty case is required under Article 26.052(e), Texas Code of Criminal Procedure;
 5. The appointed counsel shows good cause for being removed, such as illness, workload or scheduling difficulties;
 6. The defendant requests an attorney, other than trial counsel, for appeal; or
 7. The defendant shows good cause for removal of counsel, including counsel's persistent or prolonged failure to communicate with the defendant.
- ii. Appointment of Replacement Counsel - Whenever appointed counsel is removed under this section, replacement counsel shall immediately be selected and appointed in accordance with the procedures described in this plan.

D. Capital Cases - The Regional Public Defender for Capital Cases shall be appointed to all capital felony cases in counties that are part of the regional office unless good cause exists to appoint private counsel. If a co-defendant requests appointment of counsel and is determined to be indigent, the Appointing Authority shall appoint counsel pursuant to the standards and procedures stated in this Section.

Fee and Expense Payment Process

10/31/2015

A. Court appointed counsel shall be compensated for all reasonable and appropriate services rendered in representing the accused. Compensation shall be reasonable for time and effort expended and will be in accordance with a fee schedule adopted and approved by a majority of the judges hearing criminal cases in the county.

B. Payment Process: No payment of attorney's fees will be made other than in accordance with the rules set forth below.

- i. An appointed attorney shall fill out and submit a fee voucher to the court for services rendered.
- ii. The trial judge presiding over the proceedings shall review the request for compensation and either approve or disapprove of the amount requested.
 1. If a judge disapproves a request for compensation, 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.
 2. An attorney whose request for payment is disapproved or is not otherwise acted on by the 60th day after the date the request for payment is submitted may appeal the disapproval or failure to act by filing a motion with the presiding judge of this administrative judicial region.

C. Payment of Expenses:

- i. Court appointed counsel will be reimbursed for reasonable and necessary expenses incurred, including expenses for investigation and for mental health and other experts. Expenses incurred with and without prior approval shall be paid according to the procedures set forth below. Whenever possible prior court approval should be obtained before expenses are incurred.
- ii. Procedure With Prior Court Approval:
 1. 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 the below, as applicable:
 - a. The type of investigation to be conducted or the type of expert to be retained;
 - b. 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
 - c. An itemized list of anticipated expenses for each investigation and/or each expert.
 2. 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:
 - a. State the reasons for the denial in writing;

- b. Attach the denial to the confidential request; and
 - c. Submit the request and denial as a sealed exhibit to the record.
- iii. Procedure Without Prior Court Approval: Appointed counsel may incur investigative or expert expenses without prior approval of the court. On presentation of a claim for reimbursement, the court shall order reimbursement of counsel for the expenses, if the expenses are reasonably necessary and reasonably incurred. Unreasonable or unnecessary expenses will not be approved.

Plan Documents

- Polk San Jacinto Trinity District Court Affidavit of Indigence.pdf (10/31/2015 1:24:18 PM) [view](#)
- Polk San Jacinto Trinity District Court Attorney Application for Appointment.pdf (10/31/2015 1:24:50 PM) [view](#)
- Polk San Jacinto Trinity District Court Attorney Fee Schedule & Fee Voucher (Combined).pdf (7/6/2010 9:49:09 AM) [view](#)
- Polk San Jacinto Trinity District Court Attorney Fee Schedule.pdf (10/31/2015 1:25:42 PM) [view](#)
- Polk San Jacinto Trinity District Court Attorney Fee Voucher.pdf (10/31/2015 1:26:11 PM) [view](#)
- Polk San Jacinto Trinity District Court Magistrate's Warning Form.pdf (10/31/2015 1:23:55 PM) [view](#)

Defendant's Name: _____ Date: _____

D.O.B. _____ Cause # _____ Special Needs: _____

Booking # _____

Affidavit of Indigence

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

Size of family Unit (Members of immediate family that you support financially (List name, age & relationship))		
Name:	Age:	Relationship:

Monthly Income		Necessary Monthly Living Expenses		Non-exempt Assets	
Your Salary		Rent / Mortgage:		Cash on hand	
Spouse's Salary		Transportation: Make: Model: Year:		Value of Stocks and Bonds	
SSI/SSDI		Car Payment		Amount in Savings Account	
AFDC		Car Insurance			
Social Security Check		Utilities (gas, electric, etc.)			
Child Support		Clothes/Food			
Other Government Check		Day Care / Child Care			
Other Income		Health Insurance			
		Medical Expenses			
		Credit Cards			
		Court-Ordered Monies			
		Child Support			
TOTAL INCOME:		TOTAL NECESSARY EXPENSES:		TOTAL ASSETS:	

STAFF USE ONLY:

Comments:

Total Monthly Income: _____
Total Monthly Expenses: - _____
Difference (net income): = _____

Defendant Meets Eligibility Requirements
 ___ 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.*

 Defendant's Signature

 Date

a. If yes, what year: _____

3. Have you had at least 6 C.L.E. hours in criminal law in the last year?

YES NO

4. Have you had at least 6 C.L.E. hours in juvenile law in the last year?

YES NO

III. CRIMINAL AND JUVENILE TRIAL/APPEALS EXPERIENCE

1. Approximately how many felony defendants have you represented as lead counsel?

2. Approximately how many misdemeanor defendants have you represented as lead counsel? _____

3. Approximately how many juvenile cases and family law cases have you handled as lead counsel? _____

4. Do you have experience in appellate brief writing and/or writ applications?

YES NO

IV. OTHER SKILLS

1. Are you fluent in any language other than English?

YES NO

a. If yes, what language(s): _____

V. ETHICS AND PRIOR SANCTION HISTORY DISCLOSURE

1. Have you ever been sanctioned or reprimanded by the State Bar? YES

NO

a. If Yes, explain: _____

By my signature below, I swear or affirm that the information I have provided in this application is true and correct.

Attorney's Signature

Subscribed and sworn to before me this ____ day of _____, 20__.

Notary Public, State of Texas

My Commission Expires: _____

ATTORNEY FEES EXPENSE CLAIM

UNDER ARTICLE 26.05, CODE OF CRIMINAL PROCEDURE AS AMENDED
 As Approved by the Board of Judges - Polk, Trinity & San Jacinto Counties

Revised 01/01/07

INSTRUCTIONS:

1. SHOW ONLY ONE DEFENDANT AND TYPE OF CASE PER CLAIM.
2. BEFORE PAYMENT CAN BE AUTHORIZED, EACH ITEM MUST BE COMPLETED LEGITIMATELY IN INK.
3. FOR INVESTIGATIONS, PAID BILLS MUST BE SUBMITTED BY THE ATTORNEY FOR EXPENSES CLAIMED.
4. FORWARD COMPLETED CLAIM TO THE PRESIDING JUDGE FOR APPROVAL.

COURT NUMBER:

(Appeal / Family Law / Felony / Juvenile / Misdemeanor / Parent-Child)

COURT APPEARANCE INFORMATION

DEFENDANT 	CASE NUMBERS
-----------------------	--------------------------

<input type="checkbox"/> Standard Appointment	<input type="checkbox"/> Arraignment, Non Issue Appearance		\$	50	75	
	<input type="checkbox"/> Motion Hearing					
<input type="checkbox"/> Capital	<input type="checkbox"/> Disposition (Other than Trial)					
<input type="checkbox"/> Habeas Corpus	<input type="checkbox"/> Felony Trial Per Day					
	<input type="checkbox"/> Misdemeanor Trial Per Day					
	<input type="checkbox"/> Capital Trial Per Day (OR Negotiated Flat Fee)					
	<input type="checkbox"/> 3 rd Chair - Capital Trial Per Day					
	<input type="checkbox"/> Hourly Rates - Out of Court					
	<input type="checkbox"/> Investigation (only with Court Approval)					
	<input type="checkbox"/> Non Capital Appeal					
	<input type="checkbox"/> Capital Appeal					
	<input type="checkbox"/> Interpreter					
	<input type="checkbox"/> Medical Expert					
	<input type="checkbox"/> Mileage - Out of County					
	TOTAL					\$

Enter type of Case followed by Dates (Example: Felony - 3/13, 3/13, 3/14/09)

PERSONAL INFORMATION

Social Security Number	Telephone Number	Bar Card Number
Mailing Address (Number)	(Street)	(City) (State) (Zip Code)

CERTIFICATION

I, _____, Attorney at Law, swear or affirm to the Court and to the County Auditor, that the County Auditor may rely on this information to make payments due to Article 26.05, Code of Criminal Procedure and/or to Article 51.10 of the Family Code and that the fees authorized by the Court in the above-mentioned case do not exceed the maximum amount permitted under Federal Laws and Regulations, and the Executive Orders and Regulations issued thereunder. I further swear or affirm that I have not received nor will I receive any other monies or anything else of value for my representation in the above case.

Printed Name _____	Attorney at Law (Signature) _____
SWORN TO AND SUBSCRIBED BEFORE ME ON THIS, THE _____ DAY OF _____, 20 <u>10</u>	
Approved: _____ Presiding Judge (Signature)	_____ District Clerk Deputy or Notary (Signature)
Court Number _____	

ATTORNEY FEE SCHEDULE

The appointed attorney shall be paid for all time reasonably necessary for the adequate representation of the Defendant, as approved by the Presiding Judge, according to the following fee schedule adopted as provided under Article 26.05(b) of the Texas Code of Criminal Procedure. Court Appointed Attorneys may elect to be paid under Plan A or Plan B. Additionally, reasonable and necessary expenses shall be paid in accordance with the County Indigent Defense Plan.

Plan A.

Appointed Attorneys shall be paid \$60.00 per hour for all documented in court and out of court time that is actually spent on the case that reasonable professionals would agree was objectively necessary for a qualified criminal defense attorney in the community to represent the Defendant.

Claims for payment based on an hourly rate must include an itemized statement reflecting the date, service performed, and time expended to the nearest 1/10th of an hour.

Plan B

The Court finds the following to be reasonable fixed rates, taking into consideration reasonable and necessary overhead costs:

- \$325.00 Plea or dismissal of a single case
- \$450.00 Plea or dismissal of multiple cases for the same defendant
- \$500.00 per day - trial to the court
- \$700.00 per day - jury trial
- \$300.00 Suppression hearing
- \$150.00 Writ of Habeas Corpus or bond reduction hearing
- \$250.00 Motion to revoke or adjudicate - single case
- \$350.00 Motion to revoke or adjudicate - multiple cases for same defendant

Attorney Fee Voucher

1. Jurisdiction <input type="checkbox"/> District <input type="checkbox"/> County <input type="checkbox"/> County Court at Law Court # _____	2. County _____	3. Cause Number _____ Offense _____ _____ _____	4. Proceedings <input type="checkbox"/> Trial-Jury <input type="checkbox"/> Trial-Court <input type="checkbox"/> Plea-Open <input type="checkbox"/> Plea- Bargain <input type="checkbox"/> Other _____
5. In the case of: _____ State of Texas v _____			
6. Case Level <input type="checkbox"/> Felony <input type="checkbox"/> Misdemeanor <input type="checkbox"/> Juvenile <input type="checkbox"/> Appeal <input type="checkbox"/> Capital Case <input type="checkbox"/> Revocation – Felony <input type="checkbox"/> Revocation – Misdemeanor <input type="checkbox"/> No Charges Filed <input type="checkbox"/> Other _____			
7. Attorney (Full Name) _____		9. Attorney Address (Include Law Firm Name if Applicable) _____	
8. State Bar Number _____	8a. Tax ID Number _____	10. Telephone _____	
			11. Fax _____
12. Flat Fee – Court Appointed Services			12a. Total Flat Fee _____ \$
13.	In Court Services		Hours _____ Dates _____
	_____		_____
	_____		_____
	Rate per Hour = _____	Total hours _____	_____
			13a. Total In Court Compensation. _____ \$
14.	Out of Court Services		Hours _____ Dates _____
	_____		_____
	_____		_____
	Rate per Hour = _____	Total hours _____	_____
			14a. Total Out of Court Compensation. _____ \$
15.	Investigator		Amount _____
	_____		_____
			15a. Total Investigator Expenses _____ \$
16.	Expert Witness		Amount _____
	_____		_____
			16a. Total Expert Witness Expenses _____ \$
17.	Other Litigation Expenses		Amount _____
	_____		_____
			17a. Total Other Litigation Expenses _____ \$
18. Time Period of service Rendered: From _____ Date _____ to _____ Date _____			
19. Additional Comments _____			20. Total Compensation and Expenses Claimed _____
21. Attorney Certification – I, the undersigned attorney, certify that the above information is true and correct and in accordance with the laws of the State of Texas. The compensation and expenses claimed were reasonable and necessary to provide effective assistance of counsel.			
<input type="checkbox"/> Final Payment <input type="checkbox"/> Partial Payment _____			
_____ Signature			_____ Date
22. SIGNATURE OF PRESIDING JUDGE: _____			Amount Approved: _____
Reason(s) for Denial or Variation _____			

Law Enforcement Agency: _____
Date Of Arrest: _____
Time Of Arrest: _____
Place Of Arrest: _____

Court #: _____
County/State: _____
Warrant #, If Any: _____
Bail Set: \$ _____

HAS A PROBABLE CAUSE AFFIDAVIT BEEN FILED? YES NO

MAGISTRATE'S WARNING FORM

THE STATE OF TEXAS
COUNTY OF _____

§
§

Before me, the undersigned, magistrate of _____ County, Texas on the _____ day of _____, at _____ O'clock AM/PM.,
appeared _____ . I gave said person the following warning:

- You are charged with the offense of _____ a felony a misdemeanor
- You have a right to hire an attorney to represent you.
- You have the right to have an attorney present prior to and during any interview and questioning by peace officers or attorneys representing the State.
- You have the right to remain silent.
- You are not required to make a statement, and any statement you make can and may be used against you in court.
- You have the right to stop any interview or questioning at any time.
- You have the right to have an examining trial (felonies only).
- You have the right to request appointment of counsel if you cannot afford counsel. *

***THE MAGISTRATE SHALL ENSURE THAT THE PERSON IS INFORMED OF THE FOLLOWING PROCEDURES:**

- a. That an application for a court appointed attorney must be completed to determine if he/she qualifies for a court appointed attorney;
- b. That reasonable assistance will be provided to him/her when filling out the application for a court appointed attorney, if needed;
- c. That a financial affidavit must be signed;
- d. That an affidavit is a written or printed declaration or statement of facts made voluntarily and confirmed by oath before a person having authority to administer such oath;
- e. That if he/she meets indigence standards he/she will qualify for court appointed attorney; and,
- f. Attorney should attempt to contact him/her by the end of the first working day after appointment and to interview him/her as soon as practicable after appointment. If appointment is made when the accused is before the court, the accused will be given attorney's name, address, and phone number.

If you are not a United States citizen and you have been arrested or detained, you may be entitled to have us notify your country's consular representatives here in the United States. Do you want us to notify your country's consular officials?

- No. _____ YES. _____
- If you responded "YES," what country? _____

If you are a citizen of a country that requires us to notify your country's consular representative, we shall notify them as soon as possible.

THE ACCUSED DOES / DOES NOT WANT TO REQUEST COURT APPOINTED ATTORNEY.

Circle One

I acknowledge that I was given the above
warning (This is NOT an admission of guilt):

Magistrate

Person warned

Place of warning:

Time:

Date:

Accused refused to sign acknowledgement
of warning:

Witness (if any):

Name:

Address:

Magistrate

Remarks:

This hearing was interpreted by: _____
(Name of Interpreter)

**Note: THIS IS A TWO-SIDED FORM: SPANISH ONE SIDE, ENGLISH OTHER SIDE
ESTE FORM TIENE DOS LADOS: EN ENGLIS UN LADO Y ESPANOL EN LO OTRO**

Dependencia del orden público: _____
Fecha del arresto: _____
Hora del arresto: _____
Lugar del arresto: _____

Juzgado #: _____
Condado / Estado: _____
No. de la orden de aprehensión, si existe: _____
Fianza fijada en: \$ _____

¿SE HA PRESENTADO UNA DECLARACIÓN DE CAUSA PRESUNTA? SÍ NO

ADVERTENCIAS DEL JUEZ DE INSTRUCCIÓN

ESTADO DE TEXAS
CONDADO DE _____

§
§

Ante mí, el juez de instrucción del condado de _____, Texas, el día _____ de _____, a las _____ horas de la mañana/tarde, compareció _____, a quien se le dieron las siguientes advertencias:

- Usted está acusado del siguiente delito: _____ delito mayor (*felony*) delito menor (*misdemeanor*)
- Tiene derecho a contratar a un abogado que lo represente.
- Tiene derecho a que su abogado esté presente cuando usted sea entrevistado o interrogado por los agentes del orden público o abogados fiscales del estado, o antes de participar de una entrevista o interrogatorio.
- Tiene derecho a guardar silencio.
- No se le puede exigir que declare nada, pero cualquier declaración que haga puede ser y va a ser usada en su contra en el tribunal.
- Tiene derecho a interrumpir su interrogatorio o entrevista en cualquier momento.
- Tiene derecho a una audiencia previa al juicio para examinar la acusación (sólo para delitos mayores).
- Tiene derecho a que le nombren un abogado que lo represente si no tiene los recursos necesarios para contratar uno.*

***EL JUEZ DE INSTRUCCIÓN SE ASEGURARÁ QUE EL ACUSADO ESTÉ INFORMADO DE LOS SIGUIENTES PROCEDIMIENTOS:**

- g. Debe completarse una solicitud para el nombramiento de un abogado defensor para que el tribunal determine si el acusado reúne los requisitos necesarios para dicho nombramiento.
- h. En caso de ser necesario, se le ayudará al acusado en la medida de lo razonable, a llenar la solicitud para que le nombren un abogado.
- i. Debe firmarse la declaración de situación económica del acusado (*financial affidavit*).
- j. La declaración (*financial affidavit*) debe ser por escrito, detallar los hechos relacionados al estado económico del acusado, debe ser dada por propia voluntad, y bajo juramento de decir verdad ante una autoridad competente.
- k. En caso de que se demuestre que el acusado es indigente, se le nombrará un abogado para que represente al acusado, y
- l. El abogado defensor nombrado por el tribunal debe comunicarse con el acusado en el transcurso del primer día hábil después de su nombramiento. Si el acusado está ante el juez en el momento del nombramiento, se le hará saber el nombre, dirección y teléfono del abogado.

Si usted no es ciudadano de los Estados Unidos y ha sido arrestado o detenido, posiblemente tenga derecho a que se notifique a los representantes consulares de su país en los Estados Unidos. ¿Desea que notifiquemos al consulado de su país?

No. _____ Sí. _____

Si respondió afirmativamente, ¿de que país es usted? _____

Si usted es ciudadano de un país que nos exige notificar a sus representantes consulares, notificaremos a los mismos tan pronto sea posible.

EL ACUSADO DESEA / NO DESEA SOLICITAR UN ABOGADO NOMBRADO POR EL TRIBUNAL PARA DEFENDERLO.
indicar la opción

He sido informado de las advertencias mencionadas anteriormente (Ésta NO es una admisión de culpabilidad):

Persona a la que se le dieron las advertencias

El acusado rehusó firmar el reconocimiento de las advertencias of warning:

Juez de instrucción
Comentarios:

Juez de instrucción

Lugar en que se dieron las advertencias: _____

Hora: _____

Fecha: _____

Testigo (si hay):

Nombre y apellido: _____

Dirección: _____

Esta audiencia fue interpretada por:

_____ (Nombre del intérprete)

**Note: THIS IS A TWO-SIDED FORM: SPANISH ONE SIDE, ENGLISH OTHER SIDE
ESTE FORM TIENE DOS LADOS: EN ENGLIS UN LADO Y ESPANOL EN LO OTRO**