

Dallas County Court Plan

Prompt Magistration

9/29/2016

The County Criminal and Criminal District Courts signed, October 1, 2001, a joint court order to the Dallas County Sheriff and all arresting Agencies in Dallas County. In order for the Courts of Dallas County with criminal jurisdiction to comply with new state legislation, the Dallas County Sheriff is ordered to transport all county prisoners from all Dallas County municipal jails to the Lew Sterrett Justice Center daily. Each and every individual who has been arrested, and not posted bond from a municipal jail, must be booked into the Lew Sterrett JusticeCenter not later than forty-eight (48) hours from the initial arrest.

All Dallas County law enforcement agencies making arrests for class A or B misdemeanor offenses must have charges filed within five (5) business days from the "date aware" date for those individuals who remain in custody.

The Judges of the County Criminal Courts and the County Criminal Courts of Appeal, signed an order of release dated January 13, 2015. The Judges determined that following a probable cause determination made in accordance with the requirements of *Gerstein v Pugh*, 420 U.S. 103 (1975), no person shall be detained in the Dallas County Jail on investigative holds only, unless a showing of good cause is made. This Order applies to those prisoners accused of a misdemeanor who have had no charges filed against them and are being detained solely on investigative holds or misdemeanor warrants.

An arresting agency which has not filed charges on a person detained in the Dallas County Jail on investigative holds or misdemeanor warrants must appear before a County Criminal Court Judge or County Criminal Court of Appeals Judge of Dallas County, Texas, within five days of incarceration in the Dallas County Jail. The agency representative must present a sworn, written statement containing good cause why the arrested person should be detained, why the agency has been unable to file charges and present adequate proof that charges will be filed within a reasonable period of time if further detention is ordered.

The statement must state whether any prior requests for continued confinement have been granted or denied. If continued confinement has been previously denied, the new statement must set out additional grounds for continued confinement which were not previously presented. The judge may, in his or her discretion, permit sworn testimony by the arresting agency in addition to the written statement.

For the purposes of this Order, five days is defined as five County working days, exclusive of Saturdays, Sundays, or official Dallas County Holidays.

For purposes of this Order, charges will be considered "filed" when they have been presented to, accepted by the Dallas County District Attorney's Office, and had the filed date added by the County Clerk.

It shall be the duty of the arresting agency to see that charges are filed within the prescribed time periods. No additional notice shall be given to the agency prior to the release of persons who have been detained for five days or more without charges being filed.

Any defendant who has been released pursuant to this order shall be given a return date for a first setting appearance in the court that the unfiled or filed case has been assigned.

Pursuant to Article 15.17, Texas Code of Criminal Procedure, for persons booked into the Lew Sterrett Justice Center, not later than 48 hours after a defendant is arrested for a Class "A" or "B" misdemeanor, the detaining authority shall bring the defendant before either a Dallas County Criminal Law Hearing Officer, Magistrate, or the judge presiding in the court in which the case is filed for a hearing as provided by the Tex. Code Crim. P. Article 15.17. Criminal law hearing officers conduct proceedings 24 hours a day, 7 days a week.

(a) At the hearing the judicial officer shall deliver admonishments; determine probable cause for further detention; set bail; inform each defendant of the process for requesting an appointed attorney; and ask the defendant if he requests appointed counsel. If a person is arrested on an out-of-county warrant, the magistrate shall ask if the person wants to request that counsel be appointed, inform the person of the procedures for requesting counsel, and ensure that the person is provided reasonable assistance in completing the necessary forms for requesting counsel in the county that issued the warrant.

(b) If the defendant affirmatively requests appointed counsel, the judicial officer shall instruct the Deputy District Clerk to assist the defendant in signing the affidavit of indigence. If a person arrested on an out-of-county warrant requests counsel, the magistrate shall transmit, or cause to be transmitted, the request to a court or the appointing authority of the county issuing the warrant within 24 hours of the request being made.

(b.1) The magistrate shall provide forms for requesting appointment of counsel to the arrested person upon request at the time of the Article 15.17 arraignment. Completed forms may be returned to the magistrate who shall forward the request for appointment of counsel to the assigned court or to the out-of-county appointing authority as appropriate. Persons who have been released on bond and have not previously requested counsel may obtain forms to request counsel from the court coordinator of the court the person's case has been assigned to. The completed forms may then be returned to the court coordinator.

(c) The Deputy District Clerk shall immediately, but not later than 24 hours after the defendant requests appointment of counsel, file the request for appointment of counsel and transmit it to the judge in the court in which the case is pending.

(d) The Clerk will research any Dallas County justice agencies including the courts, District Clerk, Sheriff, Constables, and the Community Supervision and Corrections Department to record all events relating to the case.

(e) The Coordinator, who is the Judge's designee to court appoint attorneys, has a wheel of qualified court appointed attorneys that is updated quarterly. The Coordinator will assign attorneys from the list in alphabetical order as Attorneys of the Day. Each attorney on their assigned date will handle indigent defendants whether they are in jail or on bond.

(f) Dallas County also has a Public Defenders Office. There are eleven county criminal courts and two county courts of appeal. Of the eleven county criminal courts; four have two public defenders, seven have one public defenders. Of the two courts of appeals; one has one public defenders and one has none. The coordinator may appoint the Public Defender's Office instead of the Attorney of the Day.

Indigence Determination Standards

11/22/2010

In determining whether a defendant is indigent the court of the court's designee will take into consideration the defendant's income, source of income, assets, property owned, outstanding obligations, necessary expenses, the number and ages of dependents and spousal income available to the defendant. If the court of the court's designee determines that the amount of real disposable income is less than the fee charged by competent counsel in Dallas County, Texas, then a defendant will be presumed to be indigent. The court or the court's designee will 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 considerations listed above. A defendant who has been found indigent is presumed indigent unless a material change in the defendant's financial circumstances occurs. If the court determines the defendant has the financial resources to pay for any expenses and costs of legal services the court has provided, the court shall order the defendant to pay during the pendency of the charges or, if convicted, as court costs the amount the court determines the defendant is able to pay.

A person earning 150% or less of the federal HHS poverty guidelines is considered indigent for the purpose of appointment of counsel.

Minimum Attorney Qualifications

10/2/2017

Mandatory

A. General Qualifications

1. An attorney must be a member in good standing with the State Bar of Texas.
2. An attorney must have a secretary, receptionist, local area code-answering service, or a local area code-regularly monitored answering machine.

3. An attorney must have a functioning fax machine and an e-mail address, both available 24 hours a day.
4. An attorney shall have on file with the Court Managers Office a completed sworn application approved by the Judge of the County Criminal Courts.
5. An attorney shall promptly notify, in writing, the Court Managers Office and each individual Court Coordinator of any changes to the information contained in the application for appointments.
6. An attorney shall promptly notify, in writing, the Court Manager of any matter that would disqualify the attorney by law, regulation, rule or under these guidelines from receiving appointments in representing indigent defendants.
7. An attorney shall annually file with the Court Managers Office each year a copy of his/her State Bar of Texas Continuing Legal Education annual reporting form which demonstrates the annual completion of at least six hours of criminal law continuing legal education AND at least three hours of Immigration continuing legal education. (at least one hour related to criminal law consequences). None of the nine hours of CLE may be self study, juvenile, civil or family. Your CLE report must be filed by January 15th of each year to remain eligible on the wheel or you must reapply the next quarter. Hours are counted by calendar year, not birth month.
8. An attorney must be licensed for at least one year before applying for the misdemeanor wheel.
9. An Attorney must either live in Dallas County or have an office in Dallas County.
10. An attorney shall meet any additional requirements that may be later imposed by the Judges of the County Criminal Courts trying misdemeanor cases. Submit an Attorney Re
11. Submit an Attorney Reporting form annually between September 30th and October 15th.

Pursuant to Article 26.04(j) of the Code of Criminal Procedure, I hereby swear and affirm that I will submit an Attorney Reporting Form to Dallas County, I understand this form is used to report all adult criminal cases that I have been appointed during a fiscal year period that begins on October 1 and ends on September 30. I understand that the statement is due no later than October 15th immediately following the close of each fiscal year. For example, if, during the fiscal year that begins on October 1, 2013 and ends on September 30, 2014, an attorney accepts appointments in Dallas County, he/she must submit separate practice-time statements to Dallas County by October 15, 2014.

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B. Experience

Licensed to practice law and provide proof of participation in a law school criminal clinic; or attend either the Criminal Defense Lawyers Project Criminal Trial Advocacy Institute, (held at Sam Houston State University in Huntsville, in March each year) or The National Institute of Trial Advocacy Course, (held in Dallas at SMU every June). Participation in a criminal clinic must be within thirty (30) months of being placed on the misdemeanor wheel; or

Licensed to practice law and have been lead counsel in two (2) or more criminal jury trials class B or higher; or

Licensed to practice law and have sat co-counsel in 3 or more criminal jury trials in the last ten (10) years.

Licensed to practice law and are employed as a public defender, district, county, or city attorney.

If applying for appeals, you must have authored briefs on at least 3 appeals;

And, be of sound mind and good character.

C. Distribution of cases.

1. Appointments will be made from a rotating list of eligible attorneys.

2. The Court Appointed Attorney list will be updated quarterly. All necessary applications and information should be delivered to the Court Managers Office by the 4:00 PM on the following dates; March 1, June 1, September 1 and December 1 or the first Monday of that month if those dates fall on a week-end or holiday.

3. Court Appointed Attorneys are appointed to the defendant within 24 hours of the request. The Court Appointed Attorney shall remain on that case through disposition/appeal.

4. Each Attorney Appointments will be at 250 per year.

Attorney Reporting Requirements regarding their appointed counsel practice time are listed below and in an attached plan form.

Attorney Reporting Requirements Contained in Article 26.04, Code of Criminal Procedure

Pursuant to Article 26.04(j) of the Code of Criminal Procedure, I hereby swear and affirm that I will submit an Attorney Reporting Form to Dallas County, I understand this form is used to report all adult criminal cases that I have been appointed during a fiscal year period that begins on October 1 and ends on September 30. I understand that the statement is due no later than October 15th immediately following the close of each fiscal year. For example, if, during the fiscal year that begins on October 1, 2013 and ends on September 30, 2014, an attorney accepts appointments in Dallas County, he/she must submit separate practice-time statements to Dallas County by October 15, 2014

I understand that the statement submitted to Dallas County must describe (1) the percentage of an attorney's total practice time (time spent in legal practice in all jurisdictions) that was dedicated to work on trial and appeal appointments in adult criminal cases in Dallas County Criminal Courts during the fiscal year beginning on the preceding October 1.

I understand that the percentages reported in the Attorney Reporting Form submitted to Dallas County should not include time dedicated to work on appointments to cases (such as CPS cases and guardianship cases) that are not adult criminal cases and should not include time dedicated to federal criminal appointments.

I understand that I shall submit the Attorney Reporting Form to the Commission's electronic attorney reporting portal, on the attached Commission reporting form, or on any other physical or electronic form specified by the county that captures all of the information requested on the Commission form. Dallas County may require attorneys who accept appointments in the county to use a specific method to submit their Attorney Reporting Form.

TIDC recognizes that attorneys who accept criminal appointments use a variety of case management systems, and attorneys are not required to use any single methodology to complete the Attorney Reporting Form. However, the statement should provide percentages that are as accurate as possible given the attorney's chosen case management system.

The attached worksheet may help attorneys calculate the percentages that must be included in the Attorney Reporting Form submitted to Dallas County. Attorneys are not required to submit the worksheet to the Dallas County or TIDC.

I understand that an attorney who keep time records for all or a portion of their caseload may use those records to calculate their practice-time percentages or, in the case of partial records, to complete some of

the lines on the worksheet. Time records will provide the most accurate method for calculating practice-time percentages.

I understand that attorneys who do not keep time records may consider using a case-counting methodology to calculate practice-time percentages. This methodology involves looking at the numbers and types of cases in an attorney's total caseload, and calculating practice time percentages based on the number of cases in different case type categories. An attorney may keep track of the number and types of different cases the attorney handles during an entire fiscal year, or may choose to base the calculation on the number of cases the attorney has open at a specific point in time.

For example, an attorney who is appointed to 50 adult criminal cases in Dallas County and is retained by 50 individual clients may calculate 50% of the attorney's practice time is dedicated to adult criminal appointments in Dallas County, if the appointed cases and retained cases are similar in complexity. The attorney may adjust the percentages as necessary to account for any significant differences in the degree of complexity of cases in each category.

I understand that attorneys who do not keep time records or use the case counting methodology are encouraged to use the worksheet attached to help them consider all of the types of cases they handle when calculating their practice time percentages. The worksheet is designed to help attorneys avoid over-or under-estimating the percentages of time they spend on appointments and report to the county.

Penalties

I intend to comply and understand that the penalties for failing to submit the required Attorney Reporting Form by the October 15 due date each year, may be set by the judges trying the criminal cases in each court. Penalties may include an attorney's removal from the list of attorneys eligible to receive future court appointments.

Attorney Signature

Printed Name

Sworn to and subscribed before me on this _____ day of _____, 20 ____.

NOTARY PUBLIC, in and for the State of Texas

Prompt Appointment of Counsel

9/29/2016

Each County Criminal Court and County Criminal Courts of Appeals, or its designee, will only appoint qualified and competent attorneys to represent indigent defendants that are contained on a master list of qualified attorneys which will include qualified attorneys from the Dallas County Public Defenders Office.

The master list will be comprised of attorneys that meet specified minimal standards and qualifications established by order of the judges of the County Criminal Courts and County Criminal Courts of Appeals.

Each County Criminal Court and County Criminal Courts of Appeals will have a copy of the master list which will originate in alphabetical order. On a quarterly basis the Judges will by majority vote update the master list adding names of newly qualified attorneys and remove names of attorneys who fail to appear in court on their specified appointment date or who fall below the minimal standards and qualifications. The list will include; name, state bar number, address, e-mail address, fax number, office phone number, cellular phone number, pager number and any secondary language that is spoken.

The County Criminal Court Manager will create and maintain the master wheel and each court will maintain its own list or use a public defender or a combination thereof. When an appointment is to be made, the Court or its designee will select an attorney from the individual court list in a fair, neutral and nondiscriminatory manner taking in account the complexity of the case and the immediacy of the requirement for representation.

If the defendant bonds out of jail prior to the appointment of counsel the appointment of counsel is not required until the defendant's first court appearance or when adversarial judicial proceedings are initiated, whichever come first.

If the defendant does not bond out of jail, the court must appoint counsel within 24 hours of receiving the request for appointment of counsel.

If a person who has been arrested on an out-of-county warrant is entitled to and requests appointment of counsel, and the person has not been transferred or released into the custody of the county issuing the warrant before the 11th day after the date of arrest, and the person has not

been appointed counsel, the magistrate shall appoint counsel for the purpose of writ matters under Chapter 11 of the Code of Criminal Procedure or bond matters under Chapter 17 of the Code of Criminal Procedure. The jail population coordinator for Dallas County shall notify the magistrate if a person arrested on an out-of-county warrant has not been transferred or released into the custody of the county issuing the warrant within the eleven day period following the arrest.

Requests for appointment of counsel from persons arrested in a county other than Dallas County on a Dallas County warrant shall be forwarded to the County Criminal Court Manager's Office who shall then forward the request to the assigned court for a ruling on the request. The ruling and, if appropriate, the appointment of counsel shall be made within one working day of receipt of the request for appointment of counsel.

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 Court or its designee. The defendant may submit these forms to: The Court or its designee.

The court will rule on all requests for counsel submitted in this manner.

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. 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 court or the court's designee authorized under Article 26.04 to appoint counsel for indigent defendants in the county 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 private counsel;

(2) waives or has waived the opportunity to retain private counsel.

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 made, 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 proceedings;

"I have been advised this ___ day of _____, 20___, 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).

Attorney Selection Process

10/2/2017

The master list will be comprised of attorneys that meet specified minimal standards and qualifications established by order of the judges of the County Criminal Courts and the County Criminal Courts of Appeals.

The County Criminal Court Manager will create and maintain the master wheel and each court will maintain its own list or use a public defender or a combination thereof. When an appointment is to be made, the Court or its designee will select an attorney from the individual court list in a fair, neutral and nondiscriminatory manner taking into account the complexity of the case and the immediacy of the requirement for representation.

If the court or the court's designee determines that the defendant does not speak and understand the English language or that the defendant is deaf, the court or the court's designee shall make an effort to appoint an attorney who is capable of communication in a language understood by the defendant. If such attorney is not available, an interpreter will be appointed. Any attorney speaking a second language will also be included on the master list.

An attorney who is appointed from the master list must either personally appear in Court on their specified appointment date or make alternative arrangements through the Court. Cases may not be transferred or traded. An appointed attorney will represent a defendant until the defendant is acquitted, appeals are exhausted, or the court, after entering a finding of good cause on the record, relieves the attorney and replaces the attorney with other counsel.

If appointed counsel does not appear on his or her specified appointment date, the Court or its designee may appoint at its discretion any qualified attorney from the court's list who is available. An attorney's intentional or repeated failure to appear in court or make every reasonable effort to contact the defendant may be grounds for removal from the master list. An attorney may be removed from the master list by a majority vote (7 Judges) of the County Criminal Court's and County Criminal Court of Appeals.

When an attorney has been appointed and subsequently the defendant retains other counsel, the appointed attorney will be restored to his or her place on the list. The burden of notification of such change will be on the appointed attorney.

Removal from Misdemeanor Court Appointment List

1. An attorney shall be removed from the misdemeanor court appointment list for the following reason(s):

- a. Conviction or deferred adjudication for any felony, or
 - b. Conviction or deferred adjudication for any crime of moral turpitude, or
 - c. Under indictment or formally charged with a felony or crime of moral turpitude, or
 - d. Intentional misrepresentation by the attorney on the application for misdemeanor court appointment.
2. An attorney may be removed from the misdemeanor court appointment list and from any case to which the attorney has been appointed for the following:
- a. Failing to perform the attorney's duty owed to the defendant, or
 - b. A finding by the court that the attorney provided ineffective assistance of counsel, or
 - c. Failing to maintain compliance with each of the misdemeanor court appointed guidelines and qualifications.
 - d. If after a hearing it is shown that the attorney submitted a claim for services not performed by the attorney, or for good cause at the discretion of the county criminal court judges.
 - e. Any attorney called for an appointment who cannot appear or notify the court by 9:30 a.m. the following morning, will be removed from that appointment and his/her name will go back on the bottom of the list for appointments in the future. Excessive tardiness or failure to appear is grounds for removal from the wheel and case (s).
 - f. Disbarment or suspension by the State Bar of Texas.
 - g. Refusing four (4) or more appointments during the fiscal year between October 1st and September 30th .
3. Removals from the list shall be for a minimum of one year. Removals from the list may be probated. For removals or probated removals the judges may require the completion of rehabilitative measures as a condition of the probation or re-application. Upon a showing of good cause the county criminal court judges may remove an attorney from the list for a period longer than one year or permanently.
4. If you are removed from the attorney wheel you may make a written request for a hearing. If you are in danger of being removed from the attorney wheel, you will be notified in writing via U.S. mail at the address provided by you on your application, prior to the next judges meeting.

Reinstatement

An attorney who is removed from the court appointed attorney list for the reasons stated in 1. a., b., or c., above, may be immediately reinstated upon providing proof that the charges were dismissed or that the attorney was acquitted.

An attorney who is removed from the misdemeanor court appointment list for any reason may apply for reinstatement to the list upon the expiration of one year from the date the attorney was removed from the list, unless the county criminal court judges removed the attorney for a longer period of time.

Fee and Expense Payment Process

11/29/2010

A. Pursuant to Texas Code of Criminal Procedure article 26.05, the county criminal court judges have promulgated a fee schedule to be paid to attorneys appointed to represent defendants in cases filed in the County Criminal Courts.

B. A judge is free to use either the "Fixed Daily Rate" or "Hourly Rates" or any combination of the two in determining what fee to pay for a case. (See Forms)

C. Where the attorney disposes of multiple cases for a defendant, the court should pay the attorney for each case. However, the court may pay the same fee per case or different amounts for each case.

D. If the judge disapproves the requested amount of payment, the judge shall make written findings stating the amount of payment the judge approves and each reason for approving an amount different from the requested amount. If an attorney is not satisfied with the amount of compensation approved by the judge, the attorney may appeal the judge's decision by following the procedure set for in Article 26.05 (c) of the Code of Criminal Procedure.

E. The appointed attorney is responsible for turning in a paysheet to the court within ten days after disposition of the case. The County Clerk is responsible for forwarding the pay sheet to the County Auditor within a reasonable period of time.

Felony Court Appointed Attorney Wheel

A. The county criminal court judges will adopt the Felony Court Appointed Attorney Wheel, on cases with the same defendant.

B. In situations where a defendant has a court-appointed attorney on a pending felony, the county criminal courts may appoint the same attorney as the felony court on any misdemeanor pending against that defendant.

Appointment of Experts, Investigators or Translators

A. An attorney appointed to represent a defendant in the county criminal courts shall be reimbursed for reasonable and necessary expenses, including expenses for investigation and for mental health and other experts. Expenses incurred with prior court approval shall be reimbursed in the same manner provided for capital cases by Articles 26.052 (f) and (g), and expenses incurred without prior court approval shall be reimbursed in the manner provided for capital cases by Article 26.052 (h). Expenses incurred without prior approval shall be reimbursed if expenses are reasonably necessary and reasonably incurred. [Arts. 26.05(d) & 26.052(h), CCP].

B. To be reimbursed, an investigator used by an attorney appointed to represent a defendant must be licensed under Chapter 1702 of the Texas Occupations Code.

C. Advanced requests to a court for investigative expenses must comply with Texas Code of Criminal Procedure Section 26.052 (f). Denial of advanced requests for investigative expenses will be handled pursuant to Texas Code of Criminal Procedure Section 26.052 (g).

D. To be reimbursed, a translator used by an attorney appointed to represent a defendant must be licensed under Chapter 57 of the Texas Government Code.

E. Expenses incurred without prior court approval shall be reimbursed if the expenses are reasonably necessary and reasonable incurred. An attorney should obtain court approval for any expenses exceeding \$750.00.

Plan Documents

Dallas County Court Affidavit of Indigence.pdf (11/23/2009 3:06:25 PM) [view](#)

Dallas County Court Attorney Fee Schedule.doc (10/2/2017 1:38:03 PM) [view](#)

Dallas County Court Attorney Fee Voucher.pdf (11/23/2009 3:28:59 PM) [view](#)

Dallas County Court Attorney Practice Time Submission Instructions.doc (10/2/2014 1:31:26 PM) [view](#)

Dallas County Court Magistrates Warning Form.pdf (11/23/2009 2:51:08 PM) [view](#)

Dallas County Court Waiver of Counsel.pdf (11/23/2009 3:16:54 PM) [view](#)