

V. Attorney Selection Process for Adults (Rotation and Public Defender)

- 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, with the exception of the County Public Defender's Office, 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. Public Defender's Office – The appointment system must provide for the priority appointment of a public defender's office. The judges hearing criminal cases shall consult with the chief public defender to determine what constitutes priority appointment and a corresponding percentage of cases to appoint to the public defender's office. Absent a finding of good cause, the judges shall appoint the

public defender's office accordingly. The public defender's office shall be fully utilized. The public defender's office may refuse to accept appointment to a case, if:

- i. A conflict of interest exists;
- ii. The office has insufficient resources to provide adequate representation;
- iii. The office is incapable of providing representation in accordance with the rules of professional conduct;
- iv. Acceptance of the appointment would violate the maximum allowable caseloads established for the office;_or
- v. The office shows other good cause for refusing appointment.

D. 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.