

Model Attorney Fee Voucher Review Procedures

Background

The standard process as outlined by Art. 26.05, Code of Criminal Procedure, is for the judge presiding in the case to review and approve vouchers submitted for indigent defense services from attorneys, investigators, and experts for the defense. The judge may approve an amount different than that requested, but must provide written findings for the difference. The attorney may then appeal a reduction to the presiding judge of the administrative judicial region for review.

Although tasked with the responsibility to review and approve vouchers, judges may not always be in the best position to assess the nature and reasonableness of all the services provided by attorneys as reflected on the vouchers they submit. Inquiries into the nature of the work may be necessary when questions arise. Judges are only able to see what actions an attorney has taken while in court. They may especially need assistance in this review process in cases where an attorney or investigator itemizes the actions taken as part of their representation and where a substantial portion of the work billed for occurred out of court.

The Bexar County District Courts are the only known jurisdiction to have implemented a process for review of the vouchers other than the standard process outlined above. The procedure below is based on their process and includes a form used in the process. The process is used to review vouchers submitted by attorneys, investigators, and court appointed experts and began in 2007. The Bexar County District Courts maintain updated information on the Voucher Recommendation Committee including current members, information on proper voucher completion, and questions about the voucher review process on their website [here](#).

Model Procedure for Review of Fee Vouchers for Indigent Defense Services

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 _____ for referral to the Voucher Recommendation Committee. This committee was formed to assist in fee voucher review on court appointed cases. This committee can also review vouchers where the judge has already disapproved all or part of the requested amount of payment. In this case, the voucher can be referred to _____ by the judge, defense attorney, investigator, or expert, who will request review by the Voucher Recommendation Committee.

The Voucher Recommendation Committee is composed of members of the local defense bar, of whom one is the current president of the _____ Criminal Defense Lawyers' Association. Members of the committee are selected by the current president, and their names are submitted for approval by a majority vote of the judges. Members serve two year terms. 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.

Appeal

Regardless of whether an attorney's voucher has been reviewed by the Voucher Recommendation Committee or not, an attorney whose request for payment is disapproved may appeal the disapproval by filing a motion with the 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 21 days from the date the attorney receives notice of the disapproval of payment.

On the filing of a motion, the presiding judge of the administrative judicial region shall review the disapproval of payment and determine the appropriate amount of payment. In reviewing the disapproval, 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, the 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.

**VOUCHER RECOMMENDATION COMMITTEE OF THE BEXAR COUNTY CRIMINAL DISTRICT
COURTS**

- Initial proposal derived from conversations between Judge Bert Richardson and St. Mary's Law Professor Stephanie Stevens in 2007.
- From 2007 to 2011, the VRC met every month or two to review any itemized vouchers sent to them. This includes vouchers from investigators and experts too.
- In 2011, after pressure from Commissioners Court concerning an increase in court appointed attorney expenditures, the judges voted to expand the program to include ALL itemized state jail felonies and third degree vouchers. Any other itemized vouchers can still be sent to the VRC if the judge wants guidance. At this point the meetings increased in frequency to about 2 per month, so the judges authorized payment to the VRC members of \$250 per meeting.
- The VRC will make recommendations to the judges to clarify fee schedule rules and guidelines.
- The VRC will make recommendations to the judges to send out "warning letters" to the frequent flyers.
- The Chair of the VRC (and myself) will speak at CLE events for defense attorneys about how to properly fill out voucher forms.

VOUCHER RECOMMENDATION COMMITTEE REVIEW FORM

Attorney Name: _____ Bar #: _____ Phone #: _____

Defendant and Case Number(s): _____

District Court: _____ AMOUNT REQUESTED: _____

THIS VOUCHER FORM WAS NOT FILLED OUT CORRECTLY. WE ASK THE COURT COORDINATOR TO CALL THE ATTORNEY LISTED ABOVE AND REQUEST A PROPERLY FILLED-OUT VOUCHER FORM.

THIS VOUCHER FORM WAS NOT SUBMITTED WITHIN ONE YEAR OF THE FINAL DISPOSITION OF THE CASE AS REQUIRED IN THE FEE SCHEDULE GUIDELINES. PAYMENT NOT AUTHORIZED.

COURT APPEARANCE:

- Claimed setting(s) did not appear on the "D" page
- Insufficient explanation regarding setting
- Excessive time claimed
- Other _____

EVIDENTIARY HEARING:

Wrong category listed on voucher; no actual testimony taken or evidence presented (this category not intended to cover stipulations presented as part of a plea agreement)

TRIAL:

Trial hours claimed for actions that are not considered "trial". Pleas and sentencing are not trials for voucher purposes

INITIAL JAIL VISIT:

Does not apply if the voucher is itemized. Claim can be for flat fees only.

OUT OF COURT TIME:

- No documented court approval to exceed the maximum number of hours
- Form not itemized in real time
- Excessive time claimed for legal research/motion prep
- Excessive time claimed for obtaining and reviewing records
- Excessive time claimed for phone calls, correspondence, opening file

OTHER: _____

PAY AS SUBMITTED

REVIEWED BY: _____ **RECOMMENDED PAYMENT:** _____

VRC CHAIR: _____ MEETING DATE: _____