



Supplement to Williamson County Monitoring Report (2022): Additional Observations on Attorney Qualifications

Part I. Performance Indicators

TIDC has historically monitored how counties admit attorneys to lists, but not how counties review their performance.¹ TIDC is piloting key performance indicators related to attorney representation—caseloads, investigation, and client contact—to assess counties’ procedures for ensuring effective and ethical representation. For this supplemental report, TIDC is relying on counties’ expenditure reports and indigent defense plans, interviews and surveys, and additional sources as available.

During this pilot period, the following observations about attorney performance are not policy monitoring findings and do not affect TIDC funding. No response is required, though TIDC welcomes feedback.

Since its passage, the Fair Defense Act has required local jurisdictions to review qualifications for attorneys on the appointment list. Under Article 26.04(b)(5) of the Code of Criminal Procedure, counties must adopt procedures that

ensure that each attorney appointed from a public appointment list to represent an indigent defendant perform the attorney’s duty owed to the defendant in accordance with the adopted procedures, the requirements of this code, and applicable rules of ethics.

Performance Review

TIDC reviewed Williamson County’s District Court and County Court indigent defense plan² and interviewed local officials and staff to learn about procedures for performance review. The judges recognize the duty to oversee attorney performance and state in the plan, “The judges will monitor attorney performance on a continuing basis to assure the competency of attorneys on the list.” The judges provide oversight of attorney performance through three methods: (1) a complaint system; (2) observations at court dockets; and (3) an annual review of attorney applications.

Jail staff forward defendant complaints to the courts. Each judge can address these complaints at dockets. If issues cannot be resolved at the docket, the judges discuss the issue when they annually review attorney applications or at their next meeting for more serious matters. The plan lists the minimum qualifications for each

¹ Attorney qualifications for appointment lists are one of six core Fair Defense Act requirements that TIDC monitors. 1 TEX. ADMIN. CODE § 174.28(c)(3).

² <http://tidc.tamu.edu/IDPlan/ViewPlan.aspx?PlanID=380>

appointment list and procedures for removing attorneys from lists. Every year attorneys must reapply to be on an appointment list, and at this time, the judges discuss relevant matters. Judges can remove attorneys from lists for failing to contact clients on time, violating rules of professional responsibility, or other listed factors.

Caseloads

Attorneys need to spend enough time on each case to perform their basic duties.³ TIDC, in partnership with the Public Policy Research Institute at Texas A&M University, studied the maximum number of cases an attorney could handle in a year while providing ethical representation.⁴ The study found that, in Texas, a private attorney should dispose no more than 226 misdemeanors, 128 felonies, 31 appeals, or a weighted combination of these cases.

Williamson County's indigent defense plans specify Standards and Responsibilities for Attorneys, including that they must "manage the attorney's workload to allow for the provision of quality representation and the execution of the responsibilities listed in these rules in every case." Williamson County can track caseloads from within the County but does not have caseload limits. In FY2019:

- Twenty-six percent (32 of 124) attorneys who were paid for felony, misdemeanor, or appellate cases in Williamson County had statewide indigent defense caseloads above the Texas caseload guidelines.⁵
- Their median statewide indigent defense caseload was 45% of the guidelines.
- Including non-indigent-defense cases, 19 attorneys had total caseloads more than twice the guidelines.⁶
- Thirty-three attorneys who were paid for Williamson County appointments did not file practice time reports for Williamson County.⁷

³ TEX. DISCIPLINARY RULES PROF'L CONDUCT R. 1.01. (see commentary: "A lawyer's workload should be controlled so that each matter can be handled with diligence and competence.")

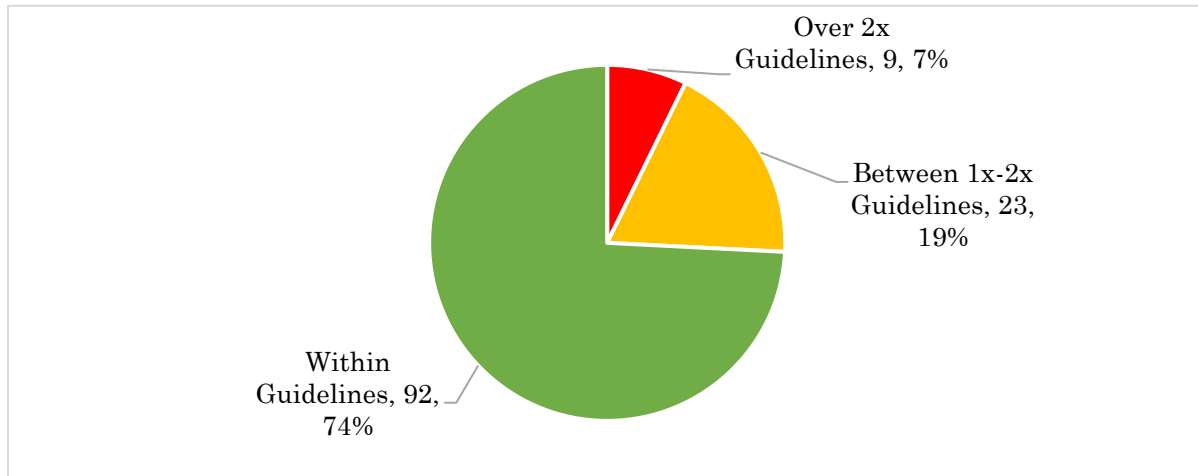
⁴ <http://tidc.texas.gov/caseloads>

⁵ This estimate is from county auditor data, available at <http://tidc.tamu.edu/public.net/Reports/AttorneyCaseLoad.aspx>. This estimate does not include capital or juvenile indigent defense cases, civil appointments, or retained cases.

⁶ This estimate combines county auditor data with data from attorneys on the percent of their practice time dedicated to indigent defense. For this estimate, TIDC divides attorneys' statewide indigent defense caseload (excluding juvenile and capital cases) by their reported percent of practice time devoted to appointed criminal cases.

⁷ The local plan requires attorneys to file these reports to stay on appointment lists. CODE OF CRIM. PROC. ART. 26.04(j)(4) also requires attorneys to file these reports. Attorneys may not have filed reports if they finished work in FY18 and were paid in FY19.

Williamson County FY19 Attorney Statewide Caseloads vs. Texas Guidelines



Use of Investigators

Attorneys have a duty to investigate the facts of each case.⁸ Some investigation can be performed by attorneys. Other investigation requires an investigator, because, for instance, attorneys cannot testify to facts that the attorney has investigated, or because of the need for added capacity or specialization.⁹ TIDC's caseload guidelines recommend that, on average, for misdemeanors, 5.3% of case time (28.5 minutes) is spent on investigator investigation and, for felonies, 7.7% (85.3 minutes) of case time.¹⁰

The District Court and County Court plan's Standards for Attorneys state that they must "investigate, either personally or by 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." In first degree felony cases, attorneys may automatically incur \$750 (10 hours at \$75 per hour) of investigation expenses without filing a motion. Attorneys do not have this option for lower-level offenses. In FY2019:¹¹

- Less than 1% of total misdemeanor expenditures (0.1%, \$1,000 of \$1,039,980 across 4,013 cases) was for investigation.
- Around 3% of total felony expenditures (3.1%, \$54,798 of \$1,777,955 across 2,055 cases) was for investigation.

⁸ TEX. DISCIPLINARY RULES PROF'L CONDUCT R. 1.01.

⁹ TEX. DISCIPLINARY RULES PROF'L CONDUCT R. 3.08.

¹⁰ These recommendations are for cases that do not go to trial. More investigation time is recommended for cases that go to trial.

¹¹ <http://tidc.tamu.edu/public.net/Reports/CountyFinancialReport.aspx?cid=246&fy=2019>

Client Contact

Attorneys have a duty to communicate with defendants about their case.¹² Attorneys should be in regular contact, especially with clients who are in custody.¹³ They should also attempt to contact out-of-custody clients and discuss their cases out-of-court to ensure confidentiality¹⁴ and time to prepare.¹⁵ TIDC's caseload guidelines recommend that, on average, 13.9% (75 minutes) of misdemeanor case time and 16.1% (168.8 minutes) of felony case time be spent on client communication.¹⁶

The District Court and County Court plan requires attorneys to “maintain reasonable communication and contact with the client at all times and keep the client informed of the status of the case.” Specifically, it requires attorneys to contact clients by the first working day after appointment (as required by Code of Criminal Procedure Art. 26.04(j)(4)(1)) and personally interview clients within 10 days if the client is in the Williamson County jail. Failure to contact clients according to these timelines is grounds for removal.

The judges of the district and statutory county courts noted that the most complaints they receive from defendants concerns attorneys not meeting with clients. The courts expect attorneys appointed in felony cases to notify the court of when they first contacted the client. In its case file review, TIDC found that 74% of sample felony case files included a notification from the attorney about how they attempted to contact their client.

Summary

Williamson County recognizes the need to oversee attorney performance and has some methods for doing so. The courts have procedures to collect complaints about attorneys and to remove attorneys who fail to promptly meet with their clients. The courts can track caseloads within the county but have not established maximum caseloads. The courts have procedures to make investigators easily accessible in first degree felony cases but not lower-level cases.

¹² TEX. DISCIPLINARY RULES PROF'L CONDUCT R. 1.03. *See also* TEX. CODE CRIM. PROC. art. 26.04(j)(4)(1), requiring appointed attorneys to contact and interview clients as soon as practicable.

¹³ *Id.*

¹⁴ TEX. DISCIPLINARY RULES PROF'L CONDUCT R. 1.05.

¹⁵ TEX. DISCIPLINARY RULES PROF'L CONDUCT R. 1.01.

¹⁶ These recommendations are for cases that do not go to trial. More communication time is recommended for cases that go to trial.

Part II. Indigent Defense Attorney Survey

In July 2021, with assistance from local courts, TIDC distributed an online survey to Williamson County indigent defense attorneys and received 40 responses.¹⁷ Respondents were self-selected and may not be representative of views. Full responses are below. Notable observations included:

- **Oversight.** Most attorneys (65%) said there is adequate oversight of attorneys in Williamson County. Some said there is no oversight and unqualified attorneys are appointed.
- **Caseloads.** Most attorneys (57%) said that Williamson County attorneys have manageable caseloads. Many (40%) said they don't know how manageable others' caseloads are, and some noted that the pay structure encourages high caseloads.
- **Investigation.** Attorneys most often said they requested an investigator 0 times in the past year for misdemeanors (40%) and 1-10 times for felonies (62%). Some noted that some judges have a policy of refusing or reducing payment for investigators.
- **Client Communication.** Attorneys most often said they can "often" communicate effectively with clients (58%). When asked about barriers to meeting with clients, some noted access to the jail (and asked for more options for virtual or phone meetings) and others noted clients' disinterest, disability, or lack of resources.
- **COVID-19 and Online Courts.** Attorneys had mixed reactions to online courts. Most said they were in some ways better and in some ways worse and in-person courts (63%).
- **Payment Vouchers.** Most attorneys (58%) said they do not bill for out-of-court time in misdemeanors; some (29%) said they do not for felonies. When asked why, many said that pay is too low and judges will not approve the actual costs of representation, due to pressure from commissioners' court.
- **Williamson County.** When asked about what is and is not working well in Williamson County, some attorneys noted that appointments are processed quickly, while others noted that paper vouchers are inefficient. Many said that they are not compensated fairly.
- **Attorney Interview.** One attorney said that his only complaint with the system in Williamson County was the pay. The attorney stated the defense bar believes an hourly rate would be fairer and are talking with the judges about the feasibility of an hourly rate.

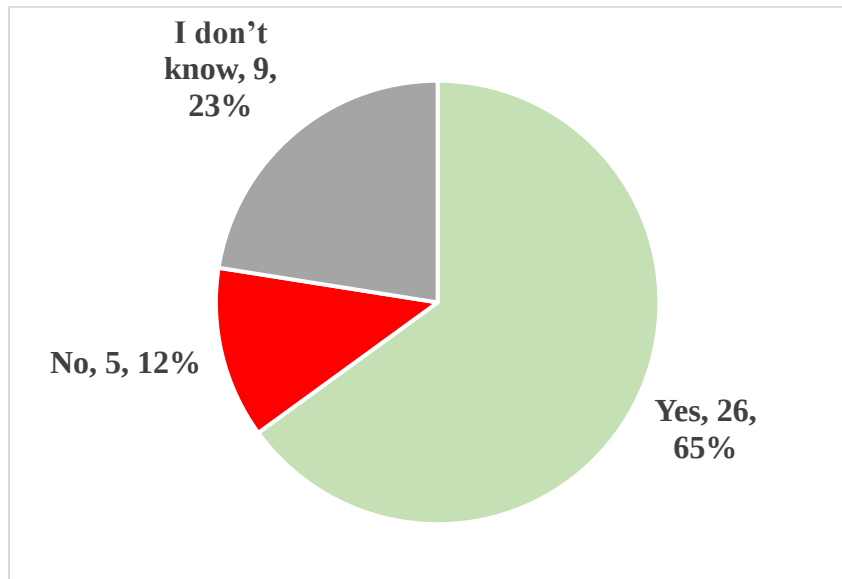
¹⁷ In FY2019, 124 attorneys had indigent defense cases in Williamson County.

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Oversight

1. Is there adequate oversight of appointed attorneys in Williamson County?

[Provided answers: Yes; No; I don't know; Other]



2. If you have other comments on oversight, please share them here:

I know that some attorneys work their cases vigorously while others are very lax. I do not know if some attorneys take on too many cases due to the low rate of pay and the fact that judges regularly cut attorney invoices.

Not all attorneys adhere to the legal requirements for court-appointed counsel.

There doesn't appear to be any oversight or review of the quality of the work that court appointed attorneys in williamson county do.

There is little oversight. MH cases are appointed to attorneys with no experience

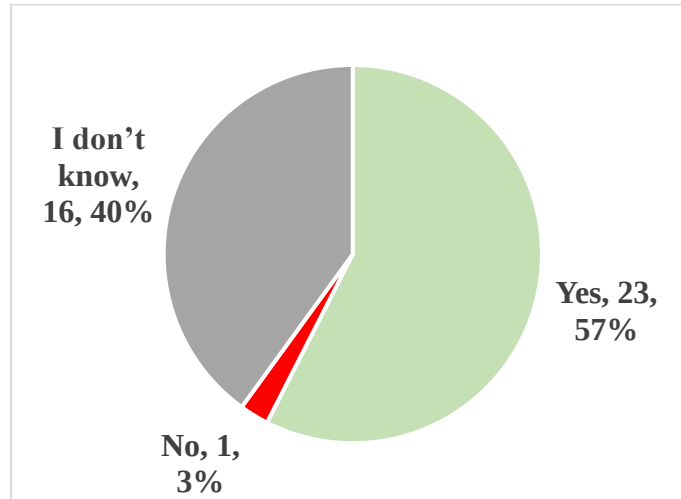
Caseloads

3. What types of work do you do beside indigent defense, if any?

all criminal law. also do retained cases and work with other attorneys on their cases.
Civil Family Law, Part time Mun Ct Judge
CIVIL LITIGATION
CPS and Family
Criminal - hired
Criminal and Probate
Criminal Defense
Criminal Defense
Criminal defense and family law.
Family Law and CPS
Family law, CPS, juvenile, retained defense
general defense practice including juvenile and CPS cases
Guardianship, civil commitments
Hired criminal defense
Hired defense work.
I handle paid clients as well.
I represent clients that hire me on misdemeanor and felony offenses.
None
Occasionally retained to handle criminal defense matters, mostly in counties other than Williamson
Private Criminal Defense, Wills, Private Juvenile Defense, Private Drivers License Work
Private Practice
Regular practice with retained clients
Retained cases as well
Retained counsel on most criminal defense matters
Retained criminal
Retained criminal
retained criminal and cps, pro bono post adoption services
Retained criminal and indigent CPS
Retained criminal case work and some family law
Retained Criminal Clients
Retained Criminal Defense
Retained criminal defense at trial and appellate levels.
Retained criminal defense, Family Law
Retained criminal, family, bankruptcy and probate
Retained defense work
retained for criminal defense,

4. Do attorneys taking appointments in Williamson County have manageable caseloads?

[Provided answers: Yes; No; I don't know; Other]



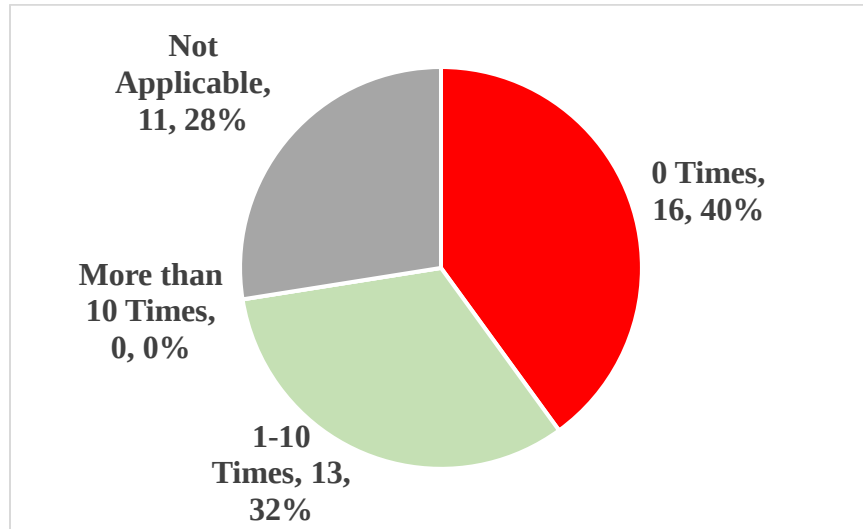
5. If you have other comments on caseloads, please share them here:

A list attorneys are close to getting too many cases, but it is manageable now
At the moment due to the COVID restrictions, delayed disposition of cases has caused significant backlog. It has become very difficult to maintain communication with older clients while initiating communication with new clients and still have sufficient time to manage the cases.
I am unaware of other attorneys caseloads as I only take felony appointments.
I feel that my caseload is manageable, but I really can't speak for others.
I know caseloads are high because the courts pay a pittance and then argue about the voucher once submitted. It's ridiculous. I won't be doing it for much longer.
I often put a hold on new appointments when I know I cannot adequately service more clients. This hold sometimes lasts several months. It hurts financially but I cannot justify overloading to myself.
Yes, maybe?

Investigation

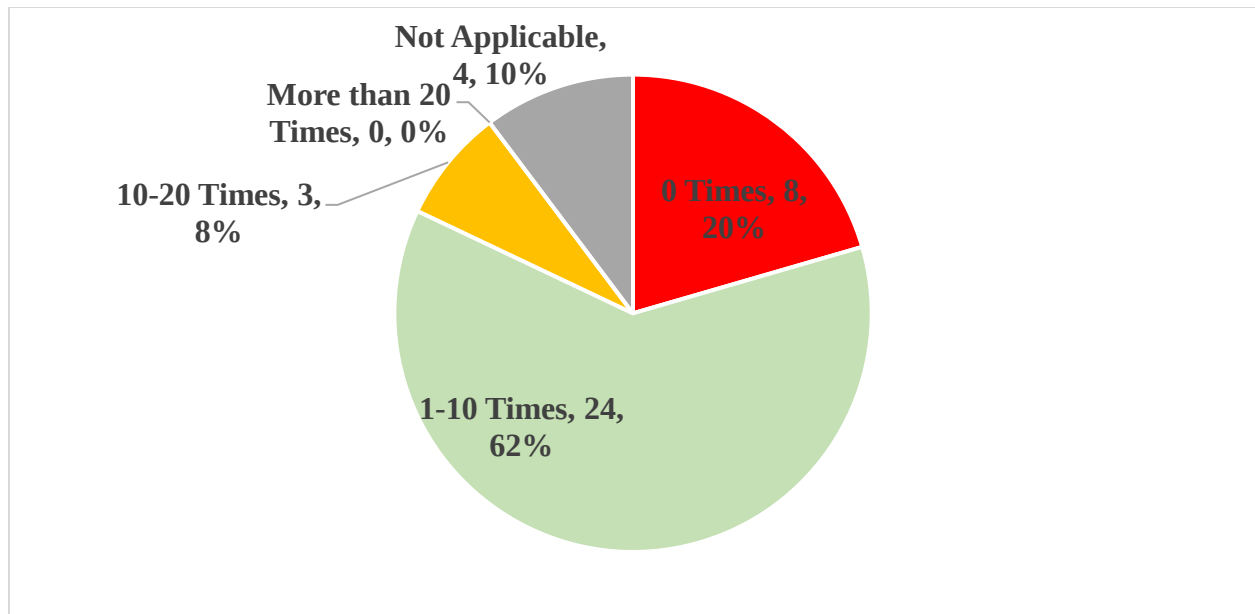
6. About how many times per year do you request an investigator for a misdemeanor case?

[Provided answers: 0 Times; 1-10 Times; More than 10 Times; Not Applicable]



7. About how many times per year do you request an investigator for a felony case?

[Provided answers: 0 Times; 1-10 Times; 11-20 Times; More than 20 Times; Not Applicable]



8. What types of cases almost always require an investigator?

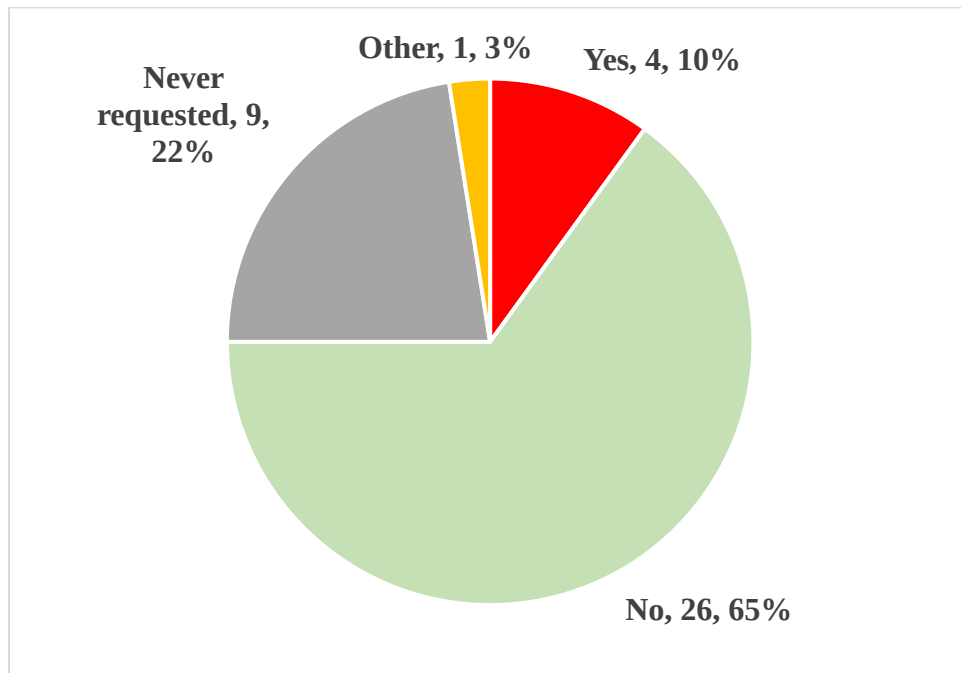
1st and 2nd degree felonies
2nd degree and above cases that are not simply drug possession
a very high percentage of trial cases should have an investigator for effective assistance
All cases should have the option of having an investigator... The County Attorney's office and District Attorney's office have multiple investigators each, yet court appointed defense attorneys have to PROVE to a judge that they are entitled to an investigator. DWI's, Assaults, and any other case where there are multiple witnesses and/or scientific evidence should have an open ended option to have an investigator to assist. I could understand having a cap on investigator fees without good cause, but otherwise it is patently unfair that an indigent defendant does not have the same resources that a defendant with a retained attorney has.
All cases that do not involve a traffic stop, drugs in car, arrest on the spot.
Any time there are witnesses to be interviewed or mental health issues I request an investigator. Witnesses include law enforcement officers, friends and family, and anyone relevant for fact and mitigation defenses.
Assault Bodily Inuury - Family Violence
Assaults, Sexual Assaults
Assaults, Theft from Employer
Contested
Depends
Every case is different
Family Violence
Fiduciary and criminal cases involving clients that know the alleged victim
Homicide cases
Homicide, Assault, sometimes drugs
I haven't had one yet.
Major Felonies
Mental Health cases/incompetency
Murder
murder, sexual assault,
Murder, Sexual Assault, etc
Murder/Agg Assault, Vehicle Collisions, Shooting involved
Sex Assault
sex cases, assaults
Sex cases, cases involving child victims, cases involving abuse, cases involving many witnessesses
Sex crimes and assault cases.
Sexual assault
Sexual Assault
Sexual Assault, Murder, the occasional Assault Family Violence or complicated theft case.
Sexual assaults
Sexual assaults
VARIES

9. What types of cases almost never require an investigator?

Can't answer that. Depends on the case.
Criminal Trespass
Criminal Trespass and Criminal Mischief
Drug cases
Drug cases
Drug cases
Drug cases
drug cases unless it was a sting
Drug charges, theft, and fraud.
Drug Possession
Drugs
DWI
DWI
DWI, Drugs
DWLI
Evading with a motor vehicle
Every case is different.
I don't know.
I don't think that you can claim that a "type" of case does not require an investigator. Each case is different.
Low-level POCS
Minor felonies
misdemeanors
misdemeanors, drug cases
No mental health issues and client admission of guilt, but there are exceptions even there.
PCS
POCS
POCS
POCS,
POCS, Theft, Burglary
Regular possession cases.
Theft
They generally need one unless evidence shows conviction
Traffic stop, drugs in car, arrest on spot.

10. Have you had any difficulties receiving adequate funding for investigation in Williamson County?

[Provided answers: Yes; No; Never requested; Other]



Other responses:

One of the district courts reviews all expert and investigator requests very strictly

11. If you have other comments on investigation, please share them here:

Certain judges are more hesitant to provide funding and it is more problematic. Others are much more receptive and understanding of counsel's obligation.

Experts and investigators in this area are now very hesitant to take court appointed work because of the propensity of judges to radically slash requested compensation. It is impossible for a judge who has never done the work of experts and investigators to possibly know with any reasonable certainty how many hours a particular activity takes, let alone the complexities of a particular case effecting time requirements. This practice is a naked violation of due process.

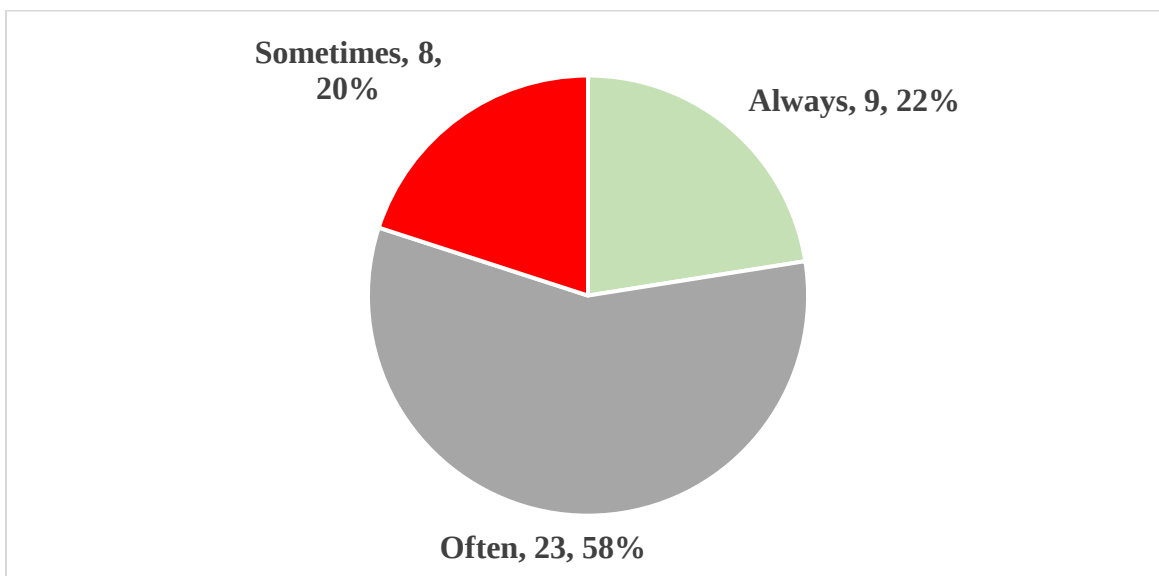
It is quite common for some of the judges to automatically cut an investigator's bill without providing reasons and/or good cause. It seems to be a policy for some of the judges to cut any and all bills by 1/3 without specific feedback. I do not feel comfortable naming specific judges, but judge kennon and judge matthews are a couple of the exceptions and are very responsive to requests for investigators.

Sometimes the courts are reluctant to approve funds for independent drug testing, which can make clients less trusting of the process and the "system."

Client Communication

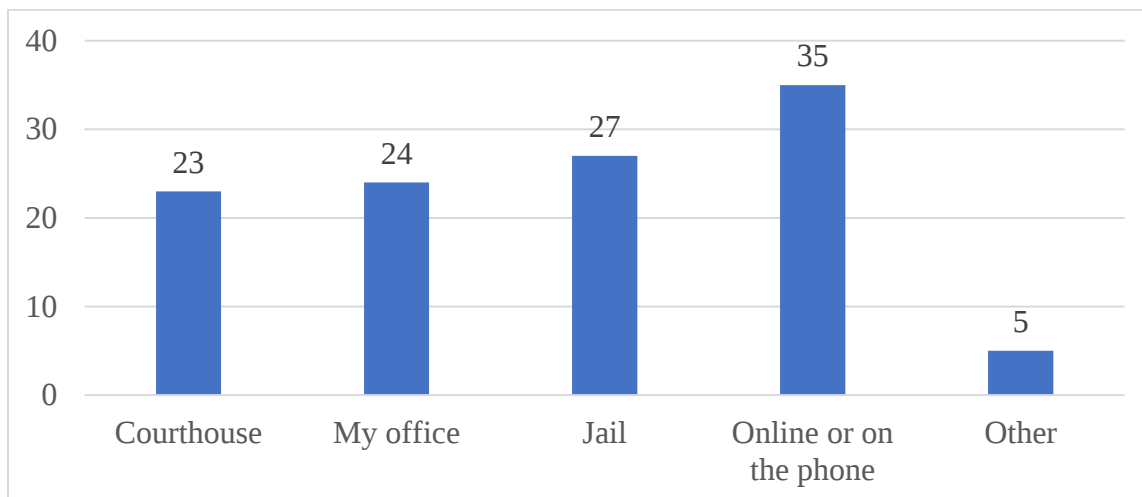
12. How often are you currently able to communicate effectively with clients?

[Provided answers: Always (Every Case); Often; Sometimes; Rarely; Never (No Cases); Not Applicable]



13. Where do you most often meet with clients? Select all that apply.

[Provided answers: Courthouse; My office; Jail; Online or on the phone; Other]



Other responses:

By text message as well
My investigator's office - I typically use the same investigator.
Public place
Public areas near clients' homes/jobs
It used to be the courthouse and things moved quicker because of it. Now due to covid it is phone based.

14. What are your biggest barriers to meeting with clients?

Bad contact information
Changing contact information.
Changing phone numbers and addresses
Client homelessness and mental health issues
client's changing their phone numbers, email addresses or mailing addresses and failing to notify counsel.
clients disappearing, clients changing phone numbers without notification, clients simply not understanding and wanting to argue based on what they believe the situation to be rather than what the law is and the procedural process (jailhouse lawyers), pointing out deficiencies in their cases that work against them and having them accuse me of "not working for them"
clients not staying in contact with me and missing meetings
Client's phones being disconnected and emails bouncing.
Client's that do not have transportation to meet with me
Clients' lack of funds for housing, transportation and cell phones
COVID
COVID
COVID
COVID shut down prison visits
Covid, transportation issues of clients, lack of contact
Covid.
COVID-19
getting a good phone number when appointed
I have no barriers; there is always a way. I use SmartJailMail extensively.
If not in jail, sometimes finding them.
If they are unstable and cannot come to visitation. Only 1 attorney visitation room per pod
Indigency, poverty, homelessness, mental health and substance abuse.
Jail frequently now fails to have client's call attorneys at the scheduled time.
Jail policies.
Losing track of whereabouts; phone numbers getting disconnected; etc.
Many do out of custody clients not provide correct contact information and frequently change information without informing the office.
N/A
No big issues with jail clients.
Not having wifi that works in the jail to review discovery there that is put in the Cloud system by the State and would take hours and hours to download
On-bond appointed clients who don't respond to calls or emails
Scheduling
The clients themselves. Many are not interested in setting up face to face or virtual meetings.
Their stupidity

They don't make contact.
Time spent during jail visits
waiting for the jail to let me my clients. being forgotten waiting for my clients to be brought to me my the jail staff (happens almost every time I see a client in jail).

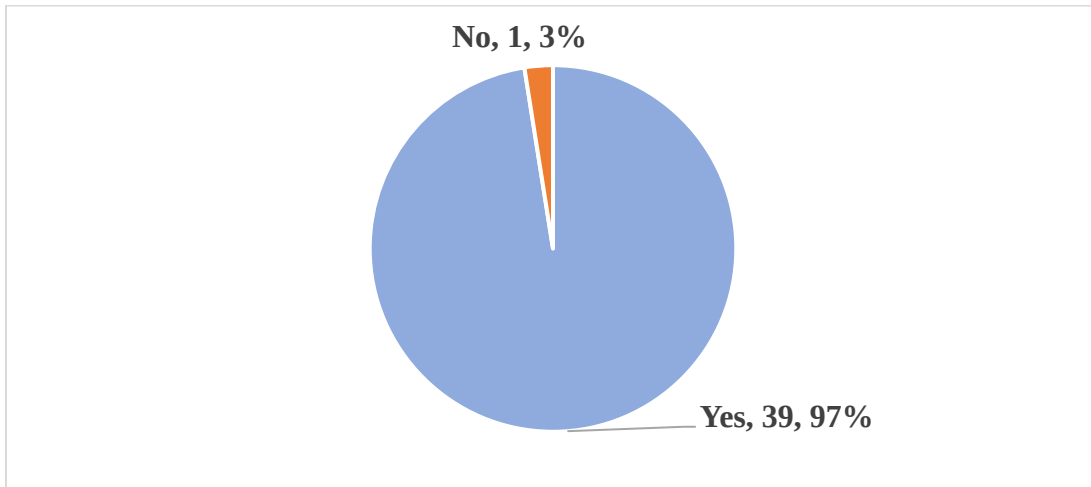
15.If you have other comments on client communication, please share them here:

Honestly, it's a tad insane what we get paid to be treated like garbage. My retained clients are generally gracious, understanding, kind and appreciative. Whereas my court appointed clients yell, curse, treat me like an indentured servant and nothing is ever good enough. This is why I got off the A list for felonies, because those clients are typically the worst and frankly, I would rather live in a cardboard box than be treated the way they treat us.
It would be great if there was a secure jail email system rather than just the non-secure one we have now. I'd like to have the option of doing a 5-minute email exchange with privileged information rather than an hour long meeting with client in the appropriate circumstance
Jail seems to have staffing issues and excessive sign-in procedures that slow down the in-person visitation process. Continuing the system of allowing attorneys to make jail phone calls with clients, seems to be a simple solution to the staffing issues. Simply put it takes a lot less manpower to have one jailer move an inmate to a phone, than it does to get an attorney signed in and a defendant moved around the jail to meet with them. But it seems that this is an issue of the jail wanting "to go back to the way we have always done it" that is preventing the jail from adapting.
The scheduled jail calls are a nice tool that I hope we can continue, but I am aware of the resource burdens that they place upon the corrections staff.
The williamson county jail continues to do a very good job of providing access to clients. They are usually very responsive to an attorney request to contact a client in person, via phone, or virtually.
There is not enough time in the day to accept or return every call from inmates. It also untenable to schedule visits for every request from the jail.
There should be video visitation with clients where they can see video and photographic evidence. Clients in jail are at an extreme disadvantage to review their case and maintain privileged communications with their attorney.
Video conferencing from the jail would be a game changer

COVID-19 and Online Courts

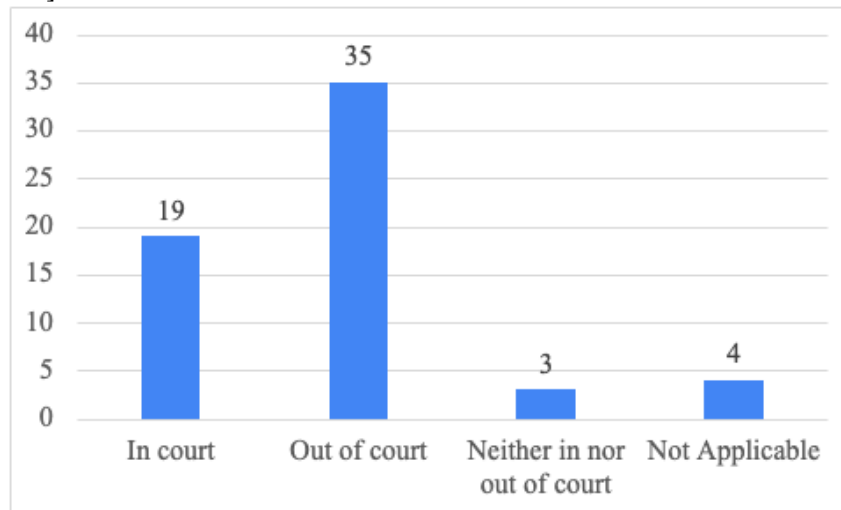
16. Have you appeared in online courts?

[Provided answers: Yes; No; Other]



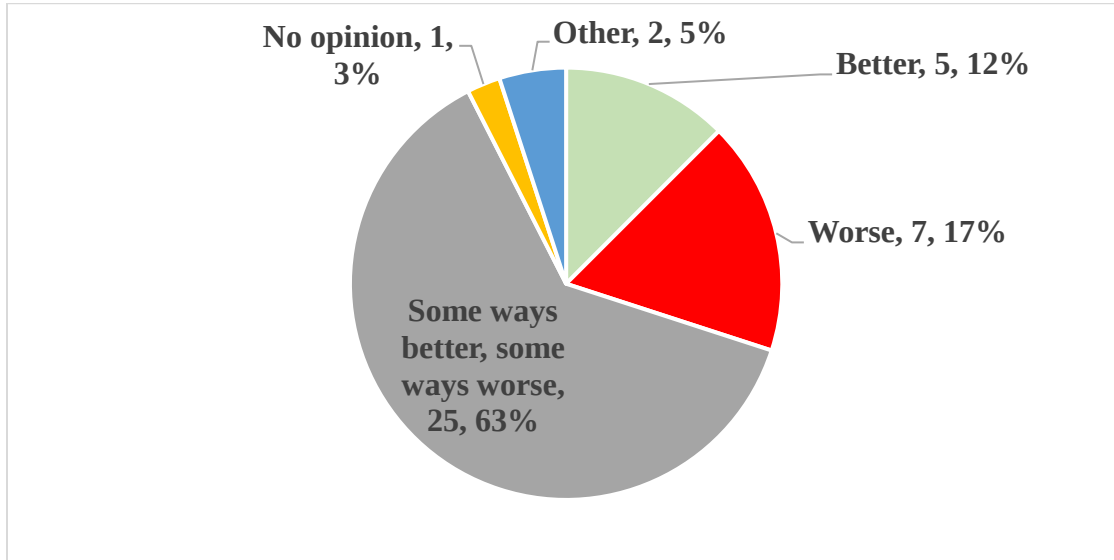
17. When you have hearings online, at what times are you able to confidentially communicate with clients? Select all that apply.

[Provided answers: In court; out of court; Neither in court nor out of court; Not Applicable]



18. Overall, do you think that online courts are better or worse for clients than in-person courts?

[Provided answers: Better than in-person; Worse than in-person; In some ways better, in some ways worse; No opinion; Not applicable; Other]



Other responses:

I think they are better for DA conferences and worse for merits hearings and trials.

Some types of cases need to be conducted in-person, however there are several types of lower level offenses that result in pleas that can very easily and more efficiently be dealt with in online courts.

19. If you have other comments on COVID-19 and online courts, please share them here:

Appearances are easier to make online for the clients. It removes the transportation barrier. however, there is less pressure to resolve cases when clients are not required to appear at all.

Big benefit in time management. Did two pleas in person that could have been done in 30 minutes by video. Video is better for clients with jobs

Connectivity can be an issue, hearing and seeing everyone, too impersonal

Contested matters need to be in court.

Dkt calls and chit chat dkts should be remote. Pleas and snt can go either way. Real hearings and trials need to be in real court

For pleas, whether the individual is in custody or on bond, online seems to work fine, for evidentiary matters, in-person is preferred because of the need to actually confront the witness and ensure that no extraneous means of communication are being used.

I can get more cases done, resulting in better client service. But, sometimes I need to be able to nudge my client or keep them quiet, which I can't do virtually.

I hope that we do not simply revert to the way things were done prior to Covid-19. Covid-19 has been a difficult period for everyone. We were required to invest a lot of time and resources into creating new procedures and utilizing technology to efficiently handle cases. I do believe that we discovered new ways to more efficiently utilize the Court's

time, the attorneys' time, and even the client's time. A hybrid system that takes advantage of the benefits of both in-person and online Court would be ideal.
I think there's tremendous pent-up demand for clients to appear in person in court. The attorneys have been meeting and can communicate with the judges, but the clients have had no opportunity to do so at all and many of them don't trust that anything has been happening on their cases
It depends on the circumstances. Online is not practical for jury settings and in some cases because the client is not required to show in person they are not motivated to take action on their case, whether it be accept an offer or move forward with trial. An attorney should be able to recognize this or the court (lots of settings with nothing getting done) and set the case for an in-person status. However, online alleviates the travel barrier that many of our indigent clients face. They are more likely to show if they have access to the technology, less likely to bond forfeit etc. An effective hybrid docket could be administered to reduce crowding at the courthouse and free up courtrooms to clear the back log.
In my opinion, the focus should mainly be on trying to get as many jury trials operational simultaneously as possible. This would mean that the courts would have to be creative in their dockets to reduce courthouse traffic for juror safety. Hybrid dockets would at least have to be part of this plan.
judges are inefficient in setting cases. Many judges do not work a full day and their time slots are limited. this causes clients to stay in jail longer than necessary.
Online appearances for pre-indictment cases are great and keep clients from missing time from work. It also streamlines having to bring clients over from the jail.
Online court has been effective and easier for meeting with the prosecutor and very simple pleas with clients that I trust. However, I have found a marked increase in "disappearing clients" and clients who are choosing not to participate in their defense because they do not have to physically appear in court anymore.
Online court has significantly improved client participation in hearings
Online courts are good for routine settings and pleas. They are not good for trials.
Online courts should become the norm for most cases. I have been very disappointed by the fact that a lot of the Williamson Judges have very differing policies for using virtual courts. Williamson County did a very poor job in presenting unified policies for the use of virtual courts during the pandemic. There is no logical reason for making a defendant appear in person unless a prosecutor files a Motion requesting an appearance or provides a reason why a Judge should require a Defendant's presence in person. Defendants are people who have jobs, families, children and day to day responsibilities. It is absurd that some judges require a that a Defendant appear in court (and take a half day off from work or their other responsibilities) only to call their name, have them stand up, and tell them that there case has been reset for them to come back and do the same thing again in 30 - 45 days...
Online does not benefit anyone 90% of the time. (In regards to defense.) CPS virtual hearings work for the most part, but criminal is entirely different story. There is zero accountability on behalf of the clients and often the lawyers (Defense and prosecution). Why return phone calls? Why do anything? Why not just move to a different state without telling anyone? Because we aren't going to court, so who cares??? I have lost contact with many clients during COVID. Then, for some reason it is incumbent upon me to track them down and explain to the court what happened to them. Sorry, but again, \$350 bucks to be someone's personal babysitter/private investigator is not worth it.
Further, having a contested (or even non-contested hearing) online is not feasible when you are trying to advise your client during the hearing. There is no way to communicate

things like "stop talking!!" or answer questions they may have during the hearing. We cannot timely object, because most of the time we can't unmute fast enough to even make the objection.

People's internet is sketchy. We can't hear half the people half the time. People are driving. People are not on the screen. It's absurd. Zoom is for "meetings that could have been an email" not court proceedings.

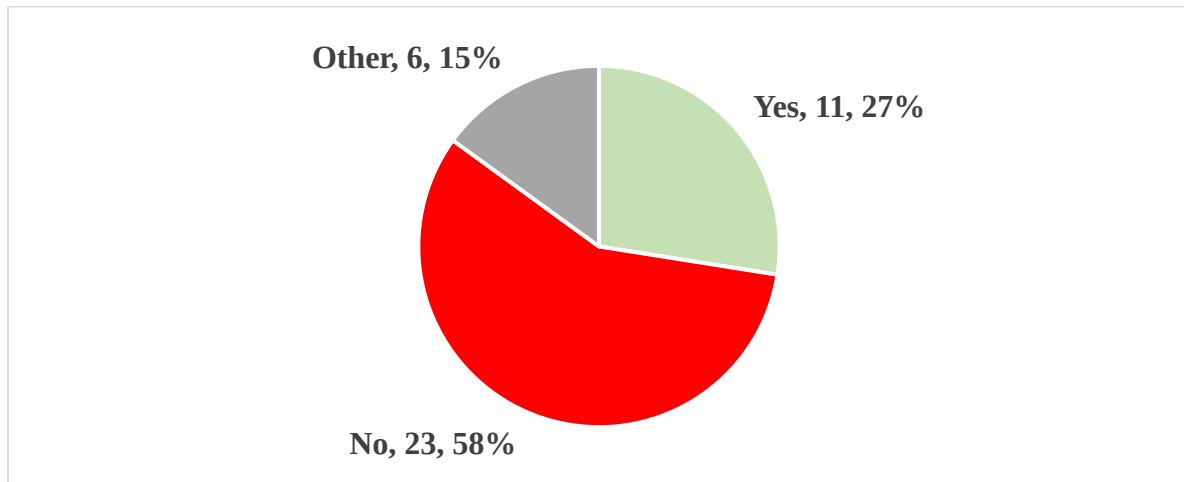
Online settings for the first 120 days of a case at a minimum. It takes that long to do discovery, talk with the client, communicate with the state, etc. No reason for client or I to appear to get what will be a 10 minute appearance and reset.

They are terrible and need to cease

Payment Vouchers

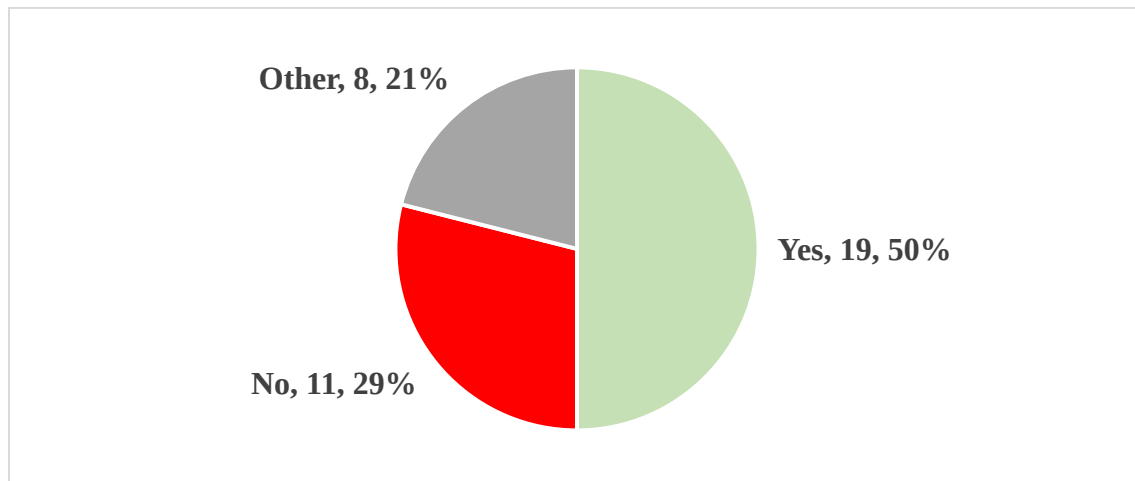
20. When submitting payment vouchers for misdemeanor cases, do you typically include out-of-court time?

[Provided answers: Yes; No; Other]



21. When submitting payment vouchers for felony cases, do you typically include out-of-court time?

[Provided answers: Yes; No; Other]



Other responses for Question 20 (Misdemeanors):

I do not handle misdemeanors, only felonies, unless they trail felonies. Usually there is nothing to bill as the misdemeanors are usually dismissed.
If it is significant
Na
Only 1 court requires that we submit time, even when we want the flat rate, which seems to contradict the IDC plan. When a case is on the trial docket and does not resolve until after trial preparation has occurred, then I do submit that time. With that said, I do track all of my time, both in-court and out of court.
Very rarely. The judges won't pay for it anyway
We wouldn't be paid for it, so there is no point

Other responses for Question 21 (Felonies):

Depends on complexity of case
I track all of my time, but only seek compensation for pre-trial preparation once the case is on the trial docket.
If it is significant, or on the jury trial docket
In some cases - if the case has involved more work/time than a typical amount of work.
N/a
N/a
On cases where I have spent an extraordinary amount of time I will do an hourly voucher
Only in cases where I know the judge will approve more fees because the amount of work involved FAR exceeded \$750/\$600. On B list cases, I have never submitted additional hours. Only A list cases, simply because I don't want my voucher slashed and it's not worth the time to even ask.
Sometimes if it is more than 1/2 hour of work.
Sometimes if the case is very complicated and requires more than average work.

22.If you typically do not bill for out-of-court time, why not?

Answer is above: we get our vouchers slashed consistently. Knowing that, it is not worth my time to itemize everything and go through the trouble of billing only to get the standard amount. Plus, there is this unspoken culture that we shouldn't be asking for more, because judges are always worried about budgets, etc. Even when I do add hours and ask for more, it is significantly less than what I actually did. It's like you know your limitations so just stick with them to not waste time or be disappointed or questioned as if you didn't really do the work.
Because it generally does not get paid
Because the courts are slow to pay and the some of the judges undercut my vouchers arbitrarily.
Flat fee structure
Flat rate for cases

For most misdemeanors it's just not worth the effort.
Having to convince the judge that it is worthy of being paid for.
I generally only bill for out of court time when my work exceeds what is expected of basic representation. Meaning, I do something above and beyond what is expected when I was appointed. I itemize trial billing. But short of trial prep I do not typically bill unless above and beyond type work.
I have been practicing with a flat fee mentality for so many years that I tend to forget to bill my time. In addition, in no way most courts (specifically the misdemeanor courts) would ever pay me the hourly wage that I have earned. I would rather avoid that source of anger for me.
It is often rejected and we are told "it all averages out"
Many cases are resolved without a lot of time. More profitable to take flat fee
Misdemeanor judges have made it abundantly clear that they will only pay the flat fee from the fee schedule and will very rarely deviate from that fee. This is a big reason why most competent and experienced attorneys do not take court appointed cases - they lose money based on the time that they need to expend on the case. This has become even more unbalanced with the advent of digital media. Now a court appointed attorney must review 4 - 10 hours of video even for the most simple of cases. As a result, most court appointed defendants get young, inexperienced, or disinterested counsel who don't have established practices that sometimes do a good job and sometimes do not do a good job. I stay on the court appointed list because I feel an obligation to indigent clients, but it is a thankless job and most of the misdemeanor (and some of the felony judges) judges openly treat court appointed attorneys with disdain and regularly deny and cut vouchers under the auspices that they have to save taxpayer money.
My understanding is hourly billing only for extraordinary cases. I bill for out of court time when I itemize, which is usually only in jury cases.
Payments are flat rates and I rarely request additional payment
Probably because I do not track it.. I do track the work but not the time spent on criminal cases. I am accustomed to a flat fee approach on these types of cases.
Rarely in misdemeanor cases as fee schedule is typically fair
The fees are not generally based on time but disposition, unless it is on the jury trial docket.
There are set amounts and I only bill for out of court time if the case is unusually time intensive.
There is a fee schedule and it seems fair to follow it except in an extraordinary case
Williamson county only pays a flat fee unless it is trial prep time.

23.If you have other comments on payment vouchers, please share them here:

All but one of the misdemeanor courts approve vouchers within 30 days one court seems to take 60-90 days and cannot provide an explanation why - everyone is busy, that is not really an excuse for failing to timely approve vouchers - especially when they seek the flat rate.
All needs to be done hourly or the flat fees need to be dramatically raised ... it should not be a battle for the judges to "appease the commissioner's court" as some have told me.
Attorneys should be compensated for non-english speaking clients.
Court appointments for indigent clients is perhaps one of the most important, but grossly under funded endeavors of the criminal justice system.
CPS needs to approve faster. I don't live hand to mouth, but if I did, I would be in trouble. Sometimes it has taken 9 months to be paid on vouchers. Use techshare for vouchers. In bell county, if I turned in a voucher by wednesday, I was paid on saturday. Not months later.
Hourly, hourly, hourly. Please move to hourly. The representation will be better, and the county probably won't pay more for better indigent defense.
I understand that this is a statewide (and nationwide) problem, but this is why public defenders offices are a much better option for indigent defendants. Until williamson county can get to a point where they can get a public defenders office, the best solution is to keep pressuring the judges to annually review and raise indigent defense rates. Some judges routinely claim that they can't pay higher court appointed fees because they have to answer to the commissioner's court, but the law clearly states that a judge is only supposed to determine whether the fee requested is reasonable and necessary, not whether it is going to make the commissioners upset.
Indigent defense attorney's should be paid more per case
It is a constant and never-ending refrain, but the reality is that indigent defense is not properly funded and criminal defense attorneys are not properly compensated for their time representing indigent clients. I think our courts do a good job trying to properly compensate criminal defense attorneys for the work they do. But they can only work within the budget the commissioners set and the rates that the commissioners approve. You only have to compare the hourly rates that the commissioners approve for civil attorneys to the rates they approve for criminal defense attorneys to see the disparity. Furthermore, the compensation for indigent defense has not even kept up with the rate of inflation. (I believe in almost 20 years the felony appointment fee has only gone from \$400 to \$600.)
Some vouchers are straightforward, however, i'm being requested to itemize a standard voucher
There needs to be a standard hourly rate for all felonies where the fee would exceed the designated flat rate. I have been ripped off by judges who cut down my vouchers with no explanation.
They are sometimes cut because the indigent defense plan for wilco allows cases to be regarded as "standard" and allow standard fees even if more time is spent- also if less time. But I never come out well on standard fee assessments. Behind the scenes work is often crucial, and even if no hearings are held it gets better results.
Vouchers take a long time to be paid.
We're getting paid around \$25/hr. Not worth it.

Williamson County

24. What is working well in Williamson County's indigent defense system?

Allowing inmates free phone calls to their attorneys has been helpful
Appointments are made quickly and it is very helpful that the PC affidavit is now being sent along with the appointment
Being able to set up jail calls with clients IS HUGE. It saves having to run over there for routine communications and introductions. It also allows us to contact our clients within hours of appointment in many cases. It is a definite game-changer, and all jails should set up secure jail calls with attorneys. On the appointment letter it should include the attorney phone number, the call from the jail should be free and secure if either the client or attorney requests an available slot.
The jail has a lot of security concerns related to laptops and things. The jail could set up windows for attorneys to review discovery remotely and go over plea papers remotely through zoom, team's, or another secure method.
A suggestion regarding the vendor for email would be to have the jail talk to them about secure emails to attorneys. Also, may consider a video phone for clients to call attorneys. Increased jail communication has greatly increased my ability to resolve in custody cases.
Coping with covid
Defendants seem to get attorneys appointed to them fairly quickly and impartially.
Email appointment notice with accompanying intake packet works very well.
Ensuring that attorney's have adequate training to handle various types of cases - for instance, if you are on the mental health list, what CLE/training have you undergone to ensure that you can handle those types of cases
Felony judges are receptive to our needs regarding your clients
I don't know.
Information about appointments are thorough
Like new PT office and magistrates. Responsive and smooth appointment process
Lots of appointments. Quick voucher payments from the courts, especially the district judges. Good network of helpful attorneys.
Most things
Most things - especially for felonies.
Most things.
New prosecutors who are willing to negotiate fairly, judges not "busting" deals as often, judges and prosecutors being more respectful of clients, more willingness to use virtual court settings, judges being more flexible on settings, giving clients a break if they miss court due to indigent status (like not having adequate public transportation). This is working better than in the past, about 50% of judges are doing better.
Not a lot.

Number of clients received
Phone calls from inmate clients being scheduled
Plenty of cases available. Some courts are great in giving the resources and money needed to effectively handle the cases.
Prosecutor defense attorney virtual meetings.
Remote court sessions
The appointment process in general. I normally receive an appt. Within 24-48 hours of my client's arrest.
The email notifications from the ID office notifying us of the appointment.
The lawyers are good, and the clients get quick representation.
The three criminal court judges are all very receptive and benevolent toward the defense function and are always looking to get us compensated fairly.
There are still decent attorneys taking the cases. For how much longer, I couldn't tell you.
They seem responsive.
Volume of cases
Works well

25. What is not working well in Williamson County's indigent defense system?

Na
1) we need techshare or some other electronic system for client contact and vouchers. Some of us don't have assistants to do the menial work. And it's such a time suck to print out the receipt of appointment and certificate of attorney. Make contact with the client. Fill out the forms. Scan them separately. Efile them separately. With techshare--your appointments are listed. You log in, click that you made contact and on what date--done. The way we do it takes too much time and also feels demeaning. I visit my clients. Pages of homework to prove it are unnecessary. It feels like we are all being punished for the few that don't do what they are supposed to be doing. If an attorney is not doing what they should be--take it up with that attorney. We don't all need to pay the price.
Attorney payment.
Communication with court personnel
Contact wit clients
Ease of getting on the felony list, payments for standard vouchers
Email communication with inmates. It is not private or secure and is at cost. At the moment it is \$.50 per communication.
Few things
Having to manage all the plea paperwork including e-filing all plea paperwork.
I have represented clients on appointed cases that make more money than me. The courts are too reluctant to force a client to hire a lawyer once out on bond.

If a client can't bond out, it can take a long time to have a hearing or discussion on the matter. When we had more in-person dockets, this process was much faster and easier
Jail matters
Judges have a propensity to remove lawyers from the indigent defense list without notice or process. Experts and investigators are hesitant to do work on appointed cases for lack of compensation. The system has improved vastly over the last 20 years but there is still much work to be done.
Judges who undercut our vouchers with zero explanation.
Low payments to attorneys
Making sure the handwriting on the forms is always legible - occasionally contact numbers are hard to read.
No special training required for handling MH clients, no county funding for monitors and services, jail is a mess - especially for poor, MI clients
No wifi in the jail for discovery review
Not always getting good contact info
Not requiring virtual appearances for the defendants. Unclear expectations on B list felonies when enhancements are added bumping the penalty range above a B list penalty range. Is that still a B list case?
Some of my client's charged with non-violent offenses are not receiving pre-trial release and being held in jail.
The above problems are still happening regularly. Over-zealous and punitive judges and prosecutors are still working for the conviction instead of justice.
The limits on compensation (hourly rates) sometimes do not cover overheads, so even competent attorneys may choose to overload to make a living. Some attorneys are very good, some are very negligent.
The payment is awful. I only take indigent felony cases because I consider them my pro bono duty. Also, the attorney complain system at the jail has reached a level of automatically creating a conflict of interest between the attorney and the client.
The quality of attorneys and work. There are some good attorneys and some so-so attorneys. The open lack of appreciation by some judges of the role that court appointed attorneys play in our system of justice.
The switch back to in person court. Things take longer than necessary.
There should be a requirement that attorneys notify courts if they believe that client's financial situation has changed, i.e. Posting a substantial surety bond or driving an expensive car to counsel meeting sometimes appointments are made too quickly. For instance, I have been appointed to clients who were in-jail at the time of their application for appointed counsel, but who had already posted surety bonds and been released by the time the appointment went through, and who were surely indigent when they were in jail but were likely not once they were out of jail.
Timely payment for services out of one misdemeanor court
Vouchers could always pay more. Billing procedures in misdemeanors vary too much from court to court.

26. How could TIDC help improve indigent defense in Williamson County?

Switch to an hourly system or a combination of hourly flat fee. Also, prohibit judges from slashing vouchers.
Assisting attorneys to get on the list, payment increase, standard vouchers
Compensating for time spent visiting inmates and for time spent on additional court appearances on cases which result in dismissal or plea. Reimbursing cost of email communication with inmates, which is insignificant on a case by case basis to submit on voucher. However, the total annual expenditure can become costly. Make all communication including telephone calls and especially email communication secure, private, and no cost between inmate and attorneys. Indigent inmates should not have to use funds to make calls or leave a voicemail, or have attorneys accept collect calls.
Consistently meet with attorneys who do jobs well to get feedback. Remove attorneys from the list who are not meeting requirements. I have been appointed as a second attorney too many times because the first one wouldn't do anything. Why is that first appointed attorney not doing anything and still on the list and possibly turning in vouchers? Withdrawing happens for legitimate reasons and if so, you should be paid for your work, but getting an appointment and not doing anything creates big problems for the second attorney. I currently have 2 clients who HATED me before we even talked because they are harboring resentment from their previous attorney. So each conversation I have to hear about how the previous attorney didn't do this or didn't do that. There is a reason public defenders have a bad name--it's because of the attorneys who remain on the list who don't do anything.
Dissolve itself
Education for the magistrates on setting bonds and identifying defendants with underlying mental health and substance use issues.
Get the tightwads to pay us by the hour
Get us more money.
Have all three county courts at law have a standard, as opposed to individual SOP
Have the judges follow guidelines for payment of vouchers on flat vs. Hourly rates. Have resources similar to the state to have experts and investigator requests quickly and efficiently handled.
I am happy with it as it stands now.
I don't know.
If a staff/pool of investigators or expert witnesses/consulting experts existed that could be accessed on certain types of cases without the need to seek court approval, it could assist in the more timely resolution of matters, and help bring certain information to light sooner, rather than later.
In person settings
Marshal support for better pay with the county commissioners. To be fair, the district attorneys and judges and court coordinators are as or even more overloaded than defense attorneys and another criminal court is needed.
Pay attorneys for being attorneys.
Press for more oversight, hourly pay, mandatory MH training,

Pressure judges to understand and acknowledge the role that court appointed attorneys play in our system of justice. Have an audit and review of a number of cases every year to see how they were paid and how the court appointed attorney felt about the case. This needs to be confidential because there are a lot of court appointed attorneys who are worried about being retaliated against by judges if they question or complain.

Require judges and prosecutors to do what they have sworn to do : work for , and seek, that justice is done. Make attending cle's on justice mandatory every year. Find ways to hold them accountable.

Somehow increase funding for work done, wifi availability or workstations in the jail that are accessible if they don't want our computers used

27.If you would like TIDC to follow up with you, please provide your name and contact information:

[Answers redacted.]