

# Review of Bexar County's Indigent Defense Systems

Task Force on Indigent Defense

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## **Executive Summary**

In December 2009, Senator Jeff Wentworth requested that the Task Force on Indigent Defense (Task Force) assess the indigent defense systems of Bexar County. The Task Force, in collaboration with the Office of Court Administration (OCA), interviewed representatives from various departments in the criminal justice system, observed a variety of court proceedings, and examined indigent defense records to document local processes for managing the requirements of the Fair Defense Act (FDA).

Bexar County is located in South-Central Texas. In 2008, there were 1,588,136<sup>1</sup> residents according to the Census Bureau's American Community Survey, which makes it the fourth largest county in Texas and the 19<sup>th</sup> largest in the country. In the county, 16.8 percent of individuals live below the poverty line, which is above the US average of 13.2 percent. Bexar County has fifteen statutory county courts, twenty-six district courts, two child support courts, two children's courts, and a felony drug court.

### **Improve Appointment Procedures**

The FDA sets basic requirements to protect defendants' constitutionally guaranteed right to representation. The FDA statutorily requires judges to adopt and publish countywide procedures governing indigent defense. The procedures are designed to create uniformity across the courts of a specific jurisdiction within each county. The procedures set qualifications for attorneys applying to be on the appointment list, financial standards for determining indigence, a methodology for appointing counsel, and a standard attorney payment process. These rules systematize the treatment of indigent defendants across courts.

While Bexar County has solid procedures for conducting timely magistrate warnings and for determining indigence, our review found that courts at each level (felony, misdemeanor, and juvenile) had appointment distributions outside the Task Force's presumptive level for fair, neutral, and non-discriminatory appointment systems. Specifically, misdemeanor courts differed greatly on methods for making in-court appointments, with some appointments even going to attorneys not on the lists adopted by the judges. Texas Code of Criminal Procedure Article 26.04(a) states "the court shall appoint attorneys from among the next five names on the appointment list in the order in which the attorneys' names appear on the list." To remedy this distribution disparity, we recommend all appointments, whether made in court or by Pre-Trial Services, follow the appointment wheel unless good cause is found on the record to appoint another attorney on the list.

<sup>1</sup> Bexar County, Texas, US Census Bureau, 2006-2008 American Community Survey

### **Provide Adequate Investigative Support Services**

Article 26.05(d) states that attorneys shall be reimbursed for reasonable and necessary expenses, including expenses for investigation and for mental health and other experts. Information obtained during this assessment indicates that defense counsel rarely seeks reimbursement for such services and that courts sometimes deny even those requests. This raises questions about whether defendants are receiving adequate legal support services.

The National Study Commission on Defense Services (NSC) issued a standard regarding investigators that required one investigator for every three attorneys,<sup>2</sup> assuming that attorney caseloads fell within levels set by the National Advisory Commission on Criminal Justice Standards and Goals (NAC).<sup>3</sup> This investigator caseload equates to a full-time investigator for every 450 felony cases, 600 juvenile cases, or 1200 misdemeanor cases. In FY2009, Bexar County reported 11,712 felony appointments, 28,325 misdemeanor appointments, and 3,832 juvenile appointments. Assuming one full-time investigator receives \$50,000 in annual compensation operating under the NSC standard, Bexar County would have spent just over \$2.8 million on 56 fulltime equivalent (FTE) investigator positions under the NSC standards; however, the county's actual investigative expenditures totaled \$200,893. This disparity needs to be examined in order to ensure that defendants are receiving adequate support services.

### **Assign Counsel to Juvenile Offenders Timely**

The Bexar County program assessment reviewed juvenile procedures as well as adult procedures. Juveniles have a constitutional and statutory right to counsel that generally cannot be waived. Judicial actions often have a great impact on a juvenile's future, so it is imperative that the juvenile has an advocate to speak on his/her behalf.

Section 51.10(f) of the Family Code states that the court shall appoint counsel for a juvenile if the child's parent, or other person responsible for the support of the child, is financially unable to employ an attorney. In Bexar County, counsel is promptly appointed after a determination of indigence; however, many families do not immediately visit Juvenile Pre-Trial Services for a determination of indigence. Parental inaction, common in detention hearings, affects juveniles who then lack representation at their initial detention hearing. Section 51.10(c) requires immediate appointment of counsel if there is a decision to detain the juvenile, but in Bexar County counsel is not typically appointed until the family meets with Juvenile Pre-Trial Services. Bexar County must adjust its appointment procedures for juveniles so that counsel is appointed for critical hearings even if a juvenile's parents have not met with Juvenile Pre-Trial Services. In particular, the county must comply with Section 51.10(c) of the Family Code requiring immediate appointment of counsel if a decision is made to detain the child.

<sup>2</sup> National Study Commission on Defense Services, *Guidelines for Legal Defense Systems in the United States*, Guideline 4.1 (1976).

<sup>3</sup> National Advisory Commission on Criminal Justice Standards and Goals, *Task Force on Courts*, Standard 13.12 (1973).

In sum, there are three key areas for Bexar County to improve the delivery of indigent defense services:

- **Improve Appointment Procedures** -- in-court appointment procedures must be consistent with the local indigent defense plan and uniform between courts. Appointments must be made from the appointment list.
- **Provide Adequate Investigative Support Services** -- Indigent defendants are entitled to effective assistance of counsel. This includes providing funding for adequate investigative support services.
- **Assign Counsel to Juvenile Offenders Timely** -- Juveniles have a constitutional right to counsel and a statutory right of counsel being assigned timely. Bexar County must address its local practices to ensure counsel is assigned timely.

We thank Bexar County officials and staff for their cooperation with this review. This report assesses potential obstacles and provides direction for revisions to strengthen the indigent defense system. As mandated by statute, we will monitor the county's efforts to address the recommendations in this report.

## **I. Summary of Findings**

### Prompt and Accurate Magistration

Article 15.17(a) of the Code of Criminal Procedure guarantees the right to a hearing before a magistrate within 48 hours of arrest. At the hearing an arrestee is to be asked if he requests counsel, and there is to be a record made of whether the arrestee requested counsel. Bexar County operates the San Antonio Central Magistration Facility to centralize processes. Among other things, the monitor concluded:

- Bexar County created and implemented a solid process to quickly bring arrestees before a magistrate;
- The process provides adequate, clear and comprehensive information regarding the right to court appointed counsel;
- Felony warnings occurred on average 5.75 hours after arrest; and,
- Misdemeanor warnings occurred on average 4.9 hours after arrest.

### Determine Indigence According to Standard Set in the Indigent Defense Plan

The Bexar County Pre-Trial Services Department handles indigence determinations for adults requesting counsel prior to a court appearance. The Juvenile Pre-Trial Services Department handles indigence determinations for juveniles requesting counsel. The monitor found:

- The standard for indigence is a net income test based upon an income of 125 percent of the federal poverty guidelines; and,
- Bexar County determines indigence according to standards directed by the indigent defense plan.

### Minimum Attorney Qualifications

Bexar County judges generate and maintain a list of qualifications to determine eligibility to take assigned cases. They created nine appointment lists (five levels of appointment lists to represent arrestees in felony cases, one for misdemeanors, and three for juvenile). The monitors found:

- Bexar County maintained records for all attorneys on the appointment lists that included each attorney's CLE hours; and
- Bexar County meets and exceeds the minimum attorney CLE requirements set by the Task Force.

### Timely Appointment of Counsel

Articles 1.051(c) and 1.051(j) require timely appointment of counsel for adults determined to be indigent. The county's procedures appear to provide for timely appointment of counsel; however, a review of case files revealed several instances where appointments of counsel were made in court and were made at a time much later than the request. Denials of indigence are documented by the county but are not typically in the case file. These late appointments were likely instances where a denial of indigence was initially made, but the defendant was still too poor to afford counsel, and so eventually the court appointed counsel. The monitor will follow up with this



matter by examining cases in FY2011. The monitor, as a result of these findings, recommends that Bexar County continue to examine the appointment process to ensure persons requesting counsel receive application assistance and timely assignments.

For juveniles, Section 51.10(c) of the Family Code requires that if a juvenile does not have counsel at a detention hearing, counsel be immediately appointed if there is a decision to detain the juvenile. If a petition is filed by the prosecutor, counsel must be appointed within five working days of the petition being served on the juvenile. The monitor's recommendations are:

- Bexar County must set up a process to appoint an attorney for unrepresented juveniles regardless of the meeting status between parents and Pre-Trial Services.
- If no parent or guardian appears for the juvenile's detention hearing, the court must appoint a guardian ad litem per Texas Family Code § 54.01(d). An attorney appointed for the detention hearing may act as a guardian ad litem.
- Bexar County must ensure that there is proper documentation regarding attorney appointments for detention hearings. Ideally, detention hearing forms would always list when attorneys appeared on behalf of juveniles.

#### Fair, Neutral, and Non-Discriminatory Selection

Under Task Force rules, a county is presumed to be in substantial compliance with the fair, neutral, and non-discriminatory attorney appointment system requirement if, in each level of proceedings (felony, misdemeanor, and juvenile cases), the percentage of appointments received by the top 10 percent of recipient attorneys does not exceed three times their representative share. Based upon FY2009 payment data submitted by the auditor, all court levels exceeded the threshold for presumption of a fair, neutral, and non-discriminatory system.

In reviewing Bexar County's policies, the monitor found:

- The out-of-court appointment process, which Pre-Trial Services and Juvenile Pre-Trial Services manage using a rotating wheel, is a fair, neutral, and non-discriminatory selection process.
- Attorneys who did not appear on the public appointment list obtained indigent clients.
- Neither the county courts nor the district courts have a standardized in-court assignment process.
- Appointments would be more evenly distributed between attorneys if in-court attorney assignments followed standard operating procedures.
- Of 645 attorneys receiving payment for criminal or juvenile appointments, 20 attorneys had appointed caseloads in excess of those recommended by National Advisory Commission on Criminal Justice Standards and Goals (NAC) standards for total caseloads.<sup>1</sup>

<sup>1</sup> National Advisory Commission on Criminal Justice Standards and Goals, *Task Force on Courts*, Standard 13.12 (1973).

Key recommendations include:

- The county must review its appointment procedures at all levels to ensure appointments are made in a fair neutral, and non-discriminatory manner;
- The county courts must follow the standard method for appointing counsel as set in the local indigent defense plan; and
- The county must make all appointments from a public appointment list.

#### Fee Schedules and Payment Processes

Article 26.05 sets rules governing indigent payment processes. Attorneys are to be paid a reasonable fee for time spent in court and reasonable and necessary time spent out of court, supported by proper documentation. A fee schedule is to govern these payments, taking into account reasonable and necessary overhead costs. No payment is to be made to the attorney unless the judge approves the payment. If the judge disapproves the requested amount, the judge must make written findings stating the amount of payment and the reasons for any disapproval. An attorney whose request for payment is disapproved may appeal the disapproval. Counsel is to be reimbursed for reasonable and necessary investigation and expert witness fees. Expenses incurred without prior court approval must be reimbursed if the expenses were reasonably necessary and reasonably incurred.

In reviewing Bexar County's payment processes, the monitor found:

- Less than one percent of the cases reviewed listed claims for reimbursement beyond attorney fees.
- Vouchers have reductions without documentation.
- If there is a question about reducing a voucher, the judges may make use of a review committee to submit an independent opinion on the matter.

As a result, the monitor recommends:

- When considering attorney requests for expense reimbursements, the judges must comply with Article 26.05(d) that states attorneys shall be reimbursed for reasonable and necessary expenses.
- A judge may reduce payment, but must annotate the change to include the reason for the payment cuts.

The monitor would also like to note that Bexar County's use of a voucher review committee is an exemplary practice and should serve as a model for other counties.

## **II. Introduction**

In January 2002, the 77<sup>th</sup> Texas Legislature established the Task Force on Indigent Defense (“Task Force”). The mission of the Task Force is to improve the delivery of indigent defense services through fiscal assistance and professional support to State, local judicial, county, and municipal officials. The Task Force promotes justice and fairness to all indigent persons accused of criminal conduct, including juvenile respondents, as provided by the laws and constitutions of the United States and Texas. Texas Government Code § 71.062(b) directs the Task Force to monitor local jurisdictions’ compliance with the Fair Defense Act (FDA).

Senator Jeff Wentworth sent the Task Force a letter, provided in Appendix A-1, in December 2009, requesting an assessment of Bexar County’s indigent defense systems. In response, the Task Force collected information on the movement of indigent defendants through the criminal justice system. The goal of this monitoring review is twofold: first, promote local compliance and accountability regarding the requirements of the FDA using evidence-based practices; and, second, provide technical assistance to remodel processes as needed. This assessment is intended to help the local jurisdiction better meet the requirements of the FDA.

The core requirements of the FDA, upon which this monitoring review focused, are enumerated below:

1. Conduct prompt and accurate magistration proceedings:
  - a. Inform and explain right to counsel to accused;
  - b. Provide reasonable assistance to accused in completing necessary forms to request counsel; and,
  - c. Maintain magistrate processing records.
2. Determine indigence according to standards directed by the indigent defense plan;
3. Establish minimum attorney qualifications;
4. Appoint counsel promptly;
5. Institute a fair, neutral, and non-discriminatory attorney selection process; and,
6. Promulgate a standard attorney fee schedule and payment process.

The Bexar County review team consisted of members of the Task Force and the Office of Court Administration (OCA). The team was led by Joel Lieurance and Jessica Tyler. Staff from OCA and the Task Force both contributed greatly to this review. Team members included Carl Reynolds (Administrative Director of OCA), Jim Bethke (Director of the Task Force), Wesley Shackelford, Carol Conner, Jennifer Willyard, and Dominic Gonzales. In an attempt to document local processes for managing the requirements of the FDA, we conducted a review between February and May 2010, where we interviewed representatives from various departments in Bexar County’s criminal justice system and examined records related to indigent defense. The team observed hearings, interviewed key stakeholders, and collected fiscal year 2009 data from various sources, see Appendix A-2 for Review Agenda.

### III. Case Flow and Analysis for Adults

#### Magistrate Warnings

The FDA requires an arrested person be brought before a magistrate without unnecessary delay, but not later than 48 hours after the arrest. At this hearing, the arrestee is to be informed in clear language of his/her right:

- to hear the accusation against him/her and of any affidavit filed;
- to retain counsel;
- to remain silent;
- to have an attorney present during any interview with peace officers or attorneys representing the state;
- to terminate the interview at any time;
- to have an examining trial; and
- to request the appointment of counsel if the person cannot afford counsel.<sup>2</sup>

The magistrate must inform the arrested person of the procedures for requesting appointment of counsel. The magistrate must ensure that reasonable assistance in completing the necessary forms for requesting appointment of counsel is provided to the person at the same time. If the arrestee requests appointed counsel, the arrestee is required to complete under oath a questionnaire concerning his financial resources. If the magistrate does not have authority to appoint counsel, the requesting forms must be transmitted to the appointing authority within 24 hours.<sup>3</sup>

The record of the magistrate's warning must contain information indicating that:

- (1) the magistrate informed the person of the person's right to request appointment of counsel;
- (2) the magistrate asked the person whether the person wanted to request appointment of counsel; and
- (3) whether the person requested appointment of counsel.

This record may consist of written forms, electronic recordings, or other documentation as authorized by procedures adopted in the county under Article 26.04(a).<sup>4</sup>

#### Local Practices Relating to Magistrate Warnings

The magistrate warning form is a record of the events transpiring at the Article 15.17 hearing and of the requirement under Article 15.17(e) that the magistrate record whether counsel is being requested. These forms were formerly kept by the District Attorney's Office as part of the prosecutorial case file. Bexar County is now beginning to keep copies in the district and county clerks' files. It is important that this file be kept in the clerks' records as *Rothgery v. Gillespie County* declared the Article 15.17 hearing to be the initiation of adversarial judicial

<sup>2</sup> Tex. Code Crim. Proc. art. 15.17(a).

<sup>3</sup> *Id.*

<sup>4</sup> Tex. Code Crim. Proc. art. 15.17(e)-(f).

proceedings.<sup>5</sup> The magistrate warning form is important for determining whether counsel is appointed timely and if a waiver of counsel is made, whether the waiver is valid.

Bexar County uses centralized magistrate warnings. All persons arrested in Bexar County are brought before a magistrate at the San Antonio Central Magistration Facility. The magistrate warnings are conducted around the clock every day of the year. The magistrate sets bond and asks arrestees if they would like to request appointed counsel. If an arrestee tells the magistrate that he/she would like to request counsel, the arrestee is interviewed by Pre-Trial Services to see if the arrestee qualifies for a court appointed attorney.

During fiscal year 2009, officials noticed that many arrestees who expected to make bond would not complete the forms necessary to request counsel because they felt that completing the forms would delay their release from jail. If an arrestee requested counsel, there would be an ensuing interview with Pre-Trial Services that the arrestee may not have wanted to attend. These arrestees would later appear in court without counsel. To rectify this problem, all arrestees were required to either interview with a financial screener or to sign an affidavit stating that they did not want to apply for appointed counsel at that time. This process change forced arrestees wishing to immediately post bond to wait at the jail and complete either a financial request for counsel or an affidavit refusing counsel; thus, the incentive to refuse counsel in order to immediately post bond was removed.

The monitor examined data to determine timely magistrate warnings.<sup>6</sup> This data was obtained by examining 339 instances (82 felonies and 257 misdemeanors) where the time from arrest to magistrate warnings could be determined. All of the magistrate warnings fell within the 48 hour time deadline imposed by Article 15.17. One of the misdemeanor warnings occurred more than 24 hours after arrest. From the overall sample, magistrate warnings occurred on average 5 hours 8 minutes after arrest. Felony warnings in the sample averaged 5 hours 45 minutes after arrest. Misdemeanor warnings averaged 4 hours 56 minutes after arrest.

**Table 1: Time between Arrest and Magistrate’s Warning**

<b>Bexar County Time to Magistrate’s Warnings Data</b>	<b>Number from Sample</b>	<b>Percent</b>
Magistrate’s warnings in sample	339	
Magistrate’s warnings occur x hours after arrest		
0 – 6 hours	254	74.9%
6 – 12 hours	78	23.0%
12 – 24 hours	6	1.8%
24 – 48 hours	1	0.3%
<b>Timely warnings per Article 15.17 requirements</b>	339	<b>100.0%</b>

<sup>5</sup> *Rothgery v. Gillespie County*, 554 U.S. 191 (2008).

<sup>6</sup> The monitor’s examination of magistrate warnings only analyzed data related to Article 15.17 of the Texas Code of Criminal Procedure. No analysis or data collection involving mental health proceedings was undertaken.

**Commendation:** Bexar County created and implemented a solid process to quickly bring arrestees before a magistrate.

One way to determine whether arrestees understand the rights explained through the magistrate warnings is to examine the portion of arrestees that request counsel. The monitor examined 525 instances where an arrestee could have requested counsel from a magistrate.<sup>7</sup> A total of 398 of the 525 arrestees requested counsel (76% requesting counsel) with misdemeanor arrestees requesting at a higher rate than felony arrestees (78% compared to 69%). This high percentage of requesting persons is an indication that arrestees generally understand their right to appointed counsel and that the Article 15.17 hearing is the appropriate time to request counsel. See Appendix D showing sample requests rates for various offenses.

**Commendation:** Sample data indicates that Bexar County provides adequate, clear and comprehensive information regarding the right to court appointed counsel.

### **Standards and Determination of Indigence for Adults**

After a person has requested counsel, there must be a determination of indigence. Each jurisdiction must establish procedures and financial standards for determining indigence. The procedures must apply to each defendant equally, regardless of whether or not bail has been posted.<sup>8</sup> To determine whether a defendant is indigent, the court or the court's designee may consider the defendant's income, source of income, assets, property owned, outstanding obligations, necessary expenses, the number and ages of dependents, and spousal income that is available to the defendant. The court or the courts' designee may 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 previously listed.<sup>9</sup>

A defendant who is determined by the court to be indigent is presumed to remain indigent for the remainder of the proceedings in the case unless a material change in the defendant's financial circumstances occurs. If there is a material change in financial circumstances after a determination of indigence or non-indigence is made, the defendant, the defendant's counsel, or the attorney representing the state may move for reconsideration of the determination.<sup>10</sup>

### **Local Practices Relating to Determinations of Indigence**

Article 26.04(b)(1) of the Code of Criminal Procedure authorizes only the judges of the county courts, statutory county courts, and district courts trying criminal cases in the county, or the judges' designee, to appoint counsel for indigent defendants in the county. In Bexar County, the statutory county courts and the district courts have designated Pre-Trial Services with authority to appoint counsel. Not every jurisdiction in Texas uses a pre-trial services department. Those that do, do so in order to remove administrative burdens from the judges and to bring

<sup>7</sup> The monitor's sample of records noting whether counsel was requested at magistration was greater than the sample noting whether magistrate's warnings were timely.

<sup>8</sup> Tex. Code Crim. Proc. art. 26.04(l).

<sup>9</sup> Tex. Code Crim. Proc. art. 26.04(m).

<sup>10</sup> Tex. Code Crim. Proc. art. 26.04(p).

uniformity to the indigence determination process. Under Texas statute, the current format of utilizing a pre-trial services department to appoint counsel is only allowable because of the designated authority by the district and county court judges stated in the indigent defense plans.

On the national level, there has been considerable discussion regarding who should screen for indigence. The consensus has been that an independent third party is the most appropriate entity to screen.<sup>11</sup> As part of their designated appointing authority, Pre-Trial Services screens applicants for indigence. In Bexar County, Pre-Trial Services operates as a judicial services entity under the Commissioner's Court.

National organizations such as the American Bar Association (ABA) endorse screening for indigence because it brings uniformity to the indigence determination process and because it allows for the most efficient use of resources.<sup>12</sup> Bexar County's presumptive standard of indigence is that someone is indigent if that person's net income is below 125 percent of the federal poverty guidelines.<sup>13</sup> When Pre-Trial Services screens for indigence, the department asks the applicant questions regarding income, assets, and expenses.

The financial standard of indigence is set in each jurisdiction's indigent defense plan. Article 1.051 defines the question of indigence as whether one can afford counsel. Article 26.04(m) then lists the factors the courts may consider in determining indigence. When Bexar County makes a presumption of indigence at 125 percent of the federal poverty guidelines, the stated net income level is used as an initial guidepost. If the applicant's net income is below the 125 percent level, indigence is presumed and counsel is appointed. If a person requests counsel and has net income above the 125 percent threshold, indigence will initially be denied by Pre-Trial Services; however, when the individual goes to court, the judge may make a determination the individual is unable to afford counsel, and will appoint counsel for the individual.

**Commendation:** Bexar County is consistent with state law when it determines indigence according to standards directed by the indigent defense plan.

### **Timing of Counsel Appointments for Adults**

An indigent defendant is entitled to have an attorney appointed to represent him/her in any adversarial judicial proceeding that may result in punishment by confinement and in any other criminal proceeding if the court concludes that the interests of justice require representation.<sup>14</sup> If the magistrate is authorized under Article 26.04 to appoint counsel for indigent defendants in the county, the magistrate must appoint counsel in accordance with Article 1.051. If the magistrate is not authorized to appoint counsel, the magistrate must without

<sup>11</sup> *Supplemental Publication re: The Costs and Benefits of an Indigent Defendant Verification Study* (Texas Task Force on Indigent Defense 2007) at 5.

<sup>12</sup> *ABA Ten Principles of a Public Defense Delivery System*, Principle 3 (American Bar Association 2002).

<sup>13</sup> The period on which this review focused was FY2009. At that time, Bexar County's indigent defense plan assumed persons with monthly net income less than \$841 were considered indigent. The net income test is income less necessary expenses. The net income threshold is an expected net income of one having gross income of 125% of the Federal Poverty Guidelines with minimal expenses.

<sup>14</sup> Tex. Code Crim. Proc. art. 1.051(a).

unnecessary delay, but not more than 24 hours after the request, transmit or cause to be transmitted to the appointing authority, the forms requesting counsel.<sup>15</sup> For counties with a census population over 250,000, if an indigent defendant is not released from custody prior to the appointment of counsel, the court or court's designee must appoint counsel as soon as possible, but not later than the end of the first working day after the date on which the court or the court's designee receives the defendant's request for appointment of counsel.<sup>16</sup> If an indigent defendant is released from custody prior to the appointment of counsel under this section, appointment of counsel is not required until the defendant's first court appearance or when adversarial judicial proceedings are initiated, whichever comes first.<sup>17</sup>

### **Local Practices Relating to Timing of Counsel Appointments**

In Bexar County, if the arrestee requests counsel from the magistrate, the arrestee is interviewed by Pre-Trial Services to see if the arrestee qualifies for a court appointed attorney. If the arrestee is considered too poor to hire counsel by the county's financial standards, Pre-Trial Services appoints counsel. If the arrestee does not meet the financial standard, indigence is denied, and the arrestee is expected to retain counsel. Bexar County appoints counsel in the same manner whether or not an arrestee makes bond. This practice comports with the findings in *Rothgery v. Gillespie County*.

If a defendant comes to court without counsel, he/she may apply for counsel in court. Often, a defendant may not have qualified for appointed counsel under Bexar County's financial standard, but the defendant is unable to afford counsel. Many of these defendants who were initially determined not to be indigent by Pre-Trial Services will be appointed counsel by the court of dispositive jurisdiction.

The Pre-Trial Services director stated that about 85 percent of applicants initially qualify for appointed counsel. A large portion of applicants who do not initially qualify later receive appointed counsel when a court determines that the defendant is unable to afford counsel. The initial denials of indigence were stored off-site, and so the monitor did not examine when indigence was denied. All persons whose indigence status was re-evaluated and who received appointed counsel appeared as late appointments in the monitor's sample. The monitor was able to see a request to the magistrate and an appointment at a much later time but could not see if indigence was initially denied. In this way, the county's percent of timely appointments was understated.

The monitor's sample indicated that 357 of the 419 cases examined received timely appointment of counsel (85.2% timely). This percentage of cases with timely appointments is about the same as the rate of persons requesting counsel who are initially deemed indigent. A primary reason for late sample appointments may be that defendants who were initially denied

<sup>15</sup> Tex. Code Crim. Proc. art. 15.17(a).

<sup>16</sup> Tex. Code Crim. Proc. art. 1.051(c).

<sup>17</sup> Tex. Code Crim. Proc. art. 1.051(j). See also *Rothgery v. Gillespie County*, 554 U.S. 191 (2008) which held that the Article 15.17 hearing marks the initiation of adversarial judicial proceedings.



indigence later received appointed counsel. See Table 2 detailing the timeliness of sample felony and misdemeanor counsel appointments.

**Table 2: Timely Appointment of Counsel**

	Number of Appointments in Sample	Number of Timely Appointments	Percent of Timely Appointments
Overall Sample	419	357	<b>85.2%</b>
Felonies	92	77	83.7%
Misdemeanors	327	280	85.6%

Task Force rules require that a recommendation be made regarding timely appointments of counsel if less than 90 percent of the monitor’s sample is timely. The recommendation in this instance is that the county continue to examine its processes to ensure that every person who requests counsel receives proper assistance in filling out the necessary forms and receives timely appointment of counsel. The Task Force will re-examine this issue in fiscal year 2011 by tracking all requests for counsel (made to the magistrate) in a specified week during said period. The Task Force will go back to these requests one week later to see if all determinations of indigence were timely.

**Recommendation:** Bexar County must examine the appointment process to ensure persons requesting counsel receive application assistance and timely assignments.

One issue that arrestees may face is that they may be denied indigence but yet not be able to make bond. The denial of indigence will not be revisited until the arrestee comes to court for the initial appearance. The arrestee will remain incarcerated during this entire time. These cases were designated as untimely appointments in the monitor’s sample because denials of indigence were stored off-site and could not be reviewed. Instances of these untimely appointments occurred more frequently for detained defendants than for defendants who made bond. These instances where pre-trial defendants remain in jail for large amounts of time without counsel may have sizeable financial consequences for Bexar County.

Just over 5 percent of the monitor’s misdemeanor case sample was composed of arrestees who did not make bond and who were appointed counsel at a time much later than the request. The median time before being appointed counsel for this sub-group was 21 days after the request (mean time of 41 days). At a rate of \$50 per day in the jail, these misdemeanor arrestees would have already cost Bexar County a median amount of \$1050 before counsel was appointed. If counsel could have been initially appointed at the time of request, counsel may have been able to obtain the client’s release through a motion for bond reduction. Under this scenario, the county could have saved a significant amount of money by avoiding needless jail costs.<sup>18</sup> Possible

<sup>18</sup> See *Second Interim Report: An Evaluation of the Bexar and Hidalgo County Public Defender Offices After One Year of Operation* at 62 (The Spangenberg Group 2007). In this study, Hidalgo County reduced its pre-trial misdemeanor jail population by appointing public defenders to inmates. The public defenders were very successful in obtaining personal recognizance bonds and bond reductions.

solutions to this problem (where a person is initially denied indigence but then later appointed counsel because he/she is unable to afford counsel) would be to re-visit the county's financial standard of indigence or to perform weekly follow-ups of incarcerated individuals.

#### **IV. Case Flow and Analysis for Juveniles**

After a juvenile is accused of an offense, the juvenile is typically brought to the intake division of the juvenile probation office and if the juvenile is not released, a detention hearing must be conducted within two working days (unless the juvenile is detained on Friday or Saturday, in which case the detention hearing must be held within one working day).<sup>19</sup> At the detention hearing, the juvenile may be represented by counsel.<sup>20</sup> Prior to the detention hearing, the court must inform the parent, or other person responsible for the juvenile, of the juvenile's right to appointed counsel if the responsible person is found indigent.<sup>21</sup> If the parents are not present for the detention hearing, the court must appoint a guardian ad litem for the juvenile.<sup>22</sup> If there is a decision at the detention hearing to detain the juvenile, 51.10 grants the juvenile immediate representation of counsel.<sup>23</sup> This right to counsel is not contingent upon the parents requesting counsel for the juvenile or the parents filling out an affidavit of indigence.<sup>24</sup>

If a petition is filed by the prosecutor, the juvenile court must determine if the juvenile's family is indigent.<sup>25</sup> If the family is determined to be indigent, an attorney must be appointed for the juvenile within five working days of the petition being served on the juvenile.<sup>26</sup>

#### **Standards and Determination of Indigence for Juveniles**

In Bexar County, the standard of indigence for juveniles is the same as adults (a net income test based upon an expected net income for someone earning 125 percent of the federal poverty guidelines).<sup>27</sup> However, in juvenile cases, indigence is tested with respect to the parent and not the juvenile.

In order for a juvenile to be determined indigent in Bexar County, there must be a financial interview with Juvenile Pre-Trial Services. As soon as a child is brought into the intake division of Juvenile Probation, the parents are directed to meet with Juvenile Pre-Trial Services so that there can be a determination of indigence. If there are later hearings and the juvenile does not yet have an attorney, the parents are again directed to meet with Juvenile Pre-Trial Services. If the family qualifies as indigent, Juvenile Pre-Trial Services immediately appoints counsel. In some instances, the person responsible for the juvenile may not technically qualify as indigent,

<sup>19</sup> Tex. Fam. Code § 54.01(a).

<sup>20</sup> Tex. Fam. Code § 51.10(a).

<sup>21</sup> Tex. Fam. Code § 54.01(b).

<sup>22</sup> Tex. Fam. Code § 54.01(d).

<sup>23</sup> Tex. Fam. Code § 51.10(c).

<sup>24</sup> *Indigent Defense in the Texas Juvenile Justice System* at 3 (Texas Task Force on Indigent Defense and Texas Juvenile Probation Commission 2007).

<sup>25</sup> *Id.*

<sup>26</sup> Tex. Fam. Code § 51.101(d).

<sup>27</sup> *Supra* note 11.

but if the department feels there are reasons that may require the appointment of counsel, staff will meet with a judge about the matter, and the judge may appoint counsel.

**Timing of Counsel Appointments for Juveniles**

The monitor examined juvenile case files to determine if counsel was appointed timely. For juveniles, the right to counsel may be triggered by being detained or by being served with a petition. In Bexar County, an attorney may be appointed to represent a juvenile after there has been a determination of indigence. The determination of indigence occurs after the parents interview with Juvenile Pre-Trial Services to see if they qualify as indigent.

The monitor examined 88 juvenile case files where counsel was appointed after serving the juvenile with a petition and found 83 of the 88 juveniles had counsel appointed timely (94.3%). Five of the appointments did not meet the five working day time frame for appointment when served with a petition. Under Bexar County’s system for appointing counsel to juveniles, parents are strongly encouraged to meet with Juvenile Pre-Trial Services so that a determination of indigence may be made. However, some parents do not promptly meet with Juvenile Pre-Trial Services and may only meet with the department after a court hearing where the judge directs the parents to interview with the department. Under Bexar County’s system, late appointments occur in those instances when the juvenile’s parents do not promptly meet with Juvenile Pre-Trial Services.

**Table 3: Timeliness of Counsel Appointments When a Petition Was Served on the Juvenile**

Instances where Petition Served on Juvenile	110
Instances where Juvenile Retained Counsel	22
Counsel Appointed within 5 Working Days	83
Counsel Appointed Later than 5 Working Days	5
<b>Percent of Timely Appointments</b>	<b>94.3%</b>

Detention hearings are the most critical test for timeliness of juvenile appointments in Bexar County. A juvenile may go to detention immediately after an incident, even before a petition is filed. Under Section 54.01 of the Texas Family Code, the detention hearing must be conducted shortly after the juvenile is put into detention. The quick turnaround means parents often cannot meet with Pre-Trial Services; therefore, the juvenile does not have representation at the initial hearing.

After reviewing 42 initial hearings in which the court made the decision to detain the juvenile, the monitor found 30 instances, or 71.4 percent, of timely appointments. A decision to detain allows the county to detain the juvenile for up to ten working days, after which additional hearings must be held every ten working days. From the 42 member sample, the county chose to detain 22 juveniles a second time. The rate of timeliness increased to 95.2 percent for the second hearing. By the third hearing, the county achieved 100 percent timeliness. Table 4 summarizes juvenile appointment rates.

When reviewing the data showing whether counsel was appointed for detention hearings, there were a few conflicts where the local database indicated an appointment for a hearing but the detention hearing form did not include the attorney’s signature.

**Table 4: Timely Appointments for Juvenile Detention Hearings**

	Counsel Not Appointed by Date of Detention Hearing	Counsel Appointed by Date of Detention Hearing	Retained Counsel	Timely Appointment of Counsel
Initial Detention Hearings with a Decision to Detain the Juvenile	12	30	0	71.4%
Second Detention Hearings with a Decision to Detain the Juvenile	1	20	1	95.2%
Third Detention Hearings with a Decision to Detain the Juvenile	0	9	2	100.0%

The monitor also observed a detention hearing for two juveniles. The court detained one juvenile who had neither parental support, nor a guardian ad litem, nor an appointed attorney. This meets neither the needs of detained juveniles nor the statutory requirements of Texas Family Code § 54.01(d).

**Recommendation:** Bexar County must set up a process to appoint an attorney for unrepresented juveniles regardless of the meeting status between parents and Pre-Trial Services. Under Texas Family Code § 51.101(b), the attorney appointed for the detention hearing continues to represent the child until the case is terminated, the family retains new counsel, or the court appoints new counsel.

**Recommendation:** If no parent or guardian appears for the juvenile’s detention hearing, the court must appoint a guardian ad litem per Texas Family Code § 54.01(d). An attorney appointed for the detention hearing may act as a guardian ad litem.

**Recommendation:** Bexar County must ensure that there is proper documentation regarding attorney appointments for detention hearings. Ideally, detention hearing forms would always list when attorneys appeared on behalf of juveniles.

## **V. Selecting Qualified Counsel and Establishing Standard Payment Methods**

Judges of the statutory county courts are to establish an appointment list of qualified attorneys to provide representation in misdemeanor cases. Likewise, judges of the district courts are to establish an appointment list of qualified attorneys to provide representation in felony cases. The judges are to specify objective qualifications necessary to be included on the list and may establish graduated lists, according to the seriousness of the offense. Each attorney applying to be on an appointment list must be approved by a majority of the judges who try criminal cases at that court level. In a county where a public defender is used, the courts may appoint the public defender to represent defendants.<sup>28</sup> Attorneys accepting appointments are required to annually obtain six hours of criminal law continuing legal education (CLE) credit.<sup>29</sup>

For juveniles, the juvenile board is to establish qualifications necessary for an attorney to be included on the appointment list. The plan must recognize differences in necessary experience and qualifications for appointments in various proceedings.<sup>30</sup> Attorneys accepting appointments are required to annually obtain six hours of juvenile CLE credit.<sup>31</sup>

### **Attorney Qualifications**

In Bexar County, the felony courts created five levels of attorney lists, which include:

1. First degree and 3g felonies,<sup>32</sup>
2. Second and third degree felonies,
3. State jail felonies,
4. Appeals for first and second degree felonies, and,
5. Appeals for third degree and state jail felonies.

To maintain a position on the list, attorneys must complete at least ten CLE hours annually in criminal law. Those on tier one, representing clients with first degree felonies, must complete twelve hours of CLE annually.

The monitor examined the felony attorney lists and found that for April 2010, that there were 372 attorneys approved to handle different levels of felony trial cases and that there were 79 attorneys approved to handle different levels of felony appeals cases. One hundred percent of the listed attorneys submitted required CLE hours per the court administrator's process.

Misdemeanor courts require six CLE hours in criminal law. The monitor reviewed 292 attorneys and, again, found 100 percent compliance.

Judges in juvenile court have three levels of attorney lists:

<sup>28</sup> Tex. Code Crim. Proc. art. 26.04(d)-(f).

<sup>29</sup> Title 1 §174.1 Texas Administrative Code.

<sup>30</sup> Tex. Fam. Code § 51.102.

<sup>31</sup> Title 1 §174.2 Texas Administrative Code.

<sup>32</sup> See Tex. Code Crim. Proc. art. 42.12 § 3g. for a list of 3g offenses.

1. Determinate or Habitual felonies, Certification and Transfer cases, 3g offenses including Capital Murder, and first degree felonies;
2. Other felonies; and,
3. Misdemeanor & Child in Need of Supervision (CINS).

Attorneys at any tier must obtain six CLE hours in juvenile law on an annual basis and those at the top tier must acquire twelve CLE hours in juvenile law annually. The monitor reviewed 137 attorneys and again found 100 percent in compliance.

Table 5 summarizes the requirements and compliance for the three levels discussed.

**Table 5: Establishing Minimum Attorney Qualifications through CLE achievements**

	Level	Number Reviewed	CLE Required	Percent Compliant	Date Reviewed
Felony	Tier 1-3, Felony Cases	372	Tier 1: 12 hours criminal Tier 2-3: 10 hours criminal	100%	April 2010
	Tier 4-5, Felony Appeals	79	10 hours criminal	100%	
Misdemeanor		292	6 hours criminal	100%	
Juvenile	Tier 1	137	12 hours juvenile	100%	March 2010
	Tier 2-3		6 hours juvenile	100%	

**Commendation:** Bexar County’s requirements for participation on a public appointment list meet and exceed the minimum attorney CLE requirements set by the Task Force.

**Commendation:** Bexar County maintained records for all attorneys on the appointment lists that included each attorney’s CLE hours.

**Attorney Selection Process**

Attorney appointments are to be allocated among qualified attorneys in a fair, neutral, and non-discriminatory manner.<sup>33</sup> Article 26.04(a) states: “A court shall appoint an attorney from a public appointment list using a system of rotation, unless the court appoints an attorney under Subsection (f), (h), or (i).” Subsection (f) allows for the court to appoint the public defender. Subsection (h) allows the court to appoint counsel via an alternative program. Subsection (i) allows for appointment of attorneys from the court’s administrative judicial region when a person is accused of a felony and the court is unable to adequately appoint appropriate counsel. When a rotational system is used for appointments, “the court shall appoint attorneys from among the next five names on the appointment list in the order in which the attorneys’ names appear on the list, unless the court makes a finding of good cause on the record for appointing an

<sup>33</sup> Tex. Code Crim. Proc. art. 26.04(b).

attorney out of order.”<sup>34</sup> When an alternative system is used for appointments, procedures must ensure that “appointments are reasonably and impartially allocated among qualified attorneys”.<sup>35</sup>

The Task Force has established rules regarding fair, neutral, and non-discriminatory appointment processes. Under these rules, a county is presumed to be in substantial compliance with the requirement if, in each level of proceedings (felony, misdemeanor, and juvenile cases), the percentage of appointments received by the top 10 percent of recipient attorneys does not exceed three times their respective share.

### **Local Practices for Selecting Attorneys**

The monitor examined the distribution of attorney appointments from FY2009 data supplied by the auditor’s office. When attorneys are appointed after an arrestee makes a request to the magistrate, the appointment is made by Pre-Trial Services. The choice of attorney for these appointments follows a rotating wheel. Pre-Trial appointments do not include motions to revoke probation.

In-court appointments are typically made by the judge of a court of dispositive jurisdiction after the case has been filed. The choice of attorney with in-court appointments will depend on the methods used by each court. These in-court appointments occur in a few situations. First, only courts of dispositive jurisdiction appoint counsel for motions to revoke probation. In other cases, a person may not request counsel from the magistrate but will make a later request in court. Still other persons may not meet the financial standards set by Bexar County during the indigence screening. These persons will initially be declared non-indigent, yet may later be assigned counsel.

### **Distribution of Misdemeanor Appointments**

For the misdemeanor courts, the monitor examined the distribution of attorney appointments for attorneys who were present on the misdemeanor appointment list during all of 2009.<sup>36</sup> Recipients of appointments were grouped according to the number of appointments they received. The top 10 percent of attorneys received 31.9 percent of the total appointments (or 3.2 times their representative share).<sup>37</sup>

<sup>34</sup> Tex. Code Crim. Proc. art. 26.04(a).

<sup>35</sup> Tex. Code Crim. Proc. art. 26.04(g)(2)(D).

<sup>36</sup> To generate the 2009 appointment list, the monitor examined lists from January 2009 and April 2010. Only attorneys on both lists were considered to be on the list for the entire year.

<sup>37</sup> The pie chart’s total appointments amount to 18,334 misdemeanor cases. This amount is the total number of appointments to attorneys on the list for the entire year. If an attorney received an appointment but was not on the appointment list for the entire year, that appointment was not included in the pie chart. Total misdemeanor appointments in FY2009 as reported by the auditor were 28,325 cases.

**Figure 1: Distribution of Attorney Appointments from Misdemeanor Appointment List**

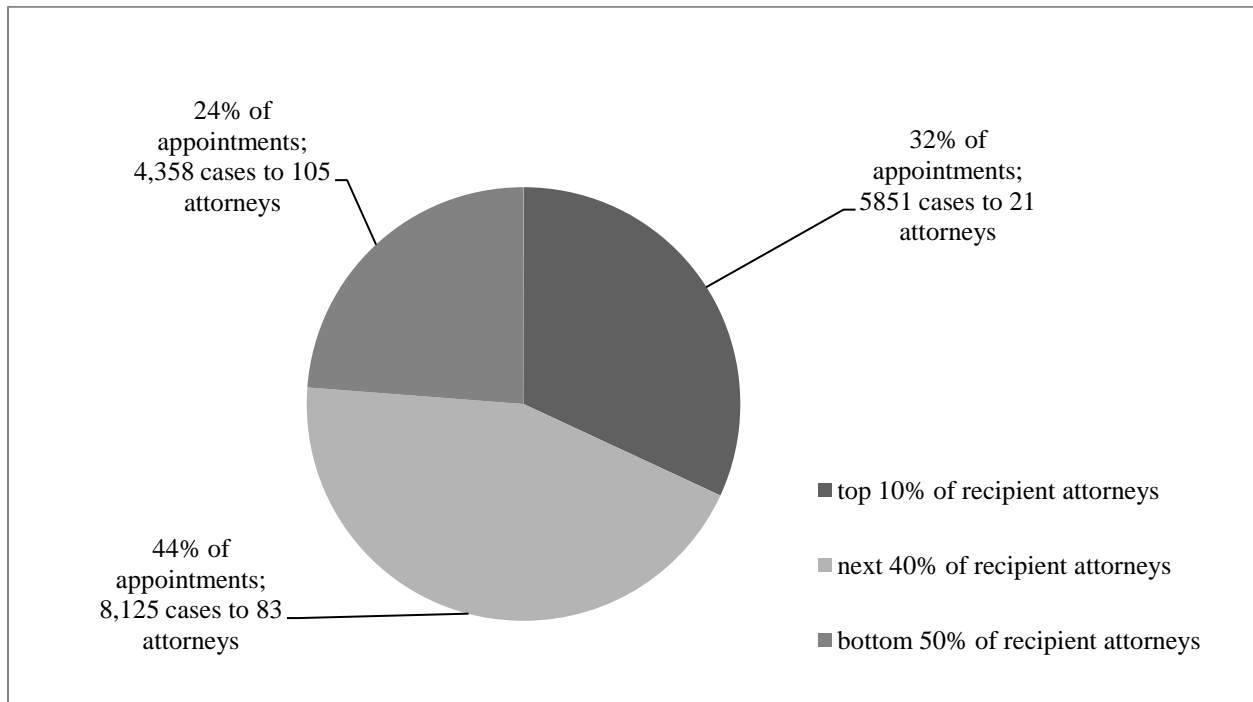
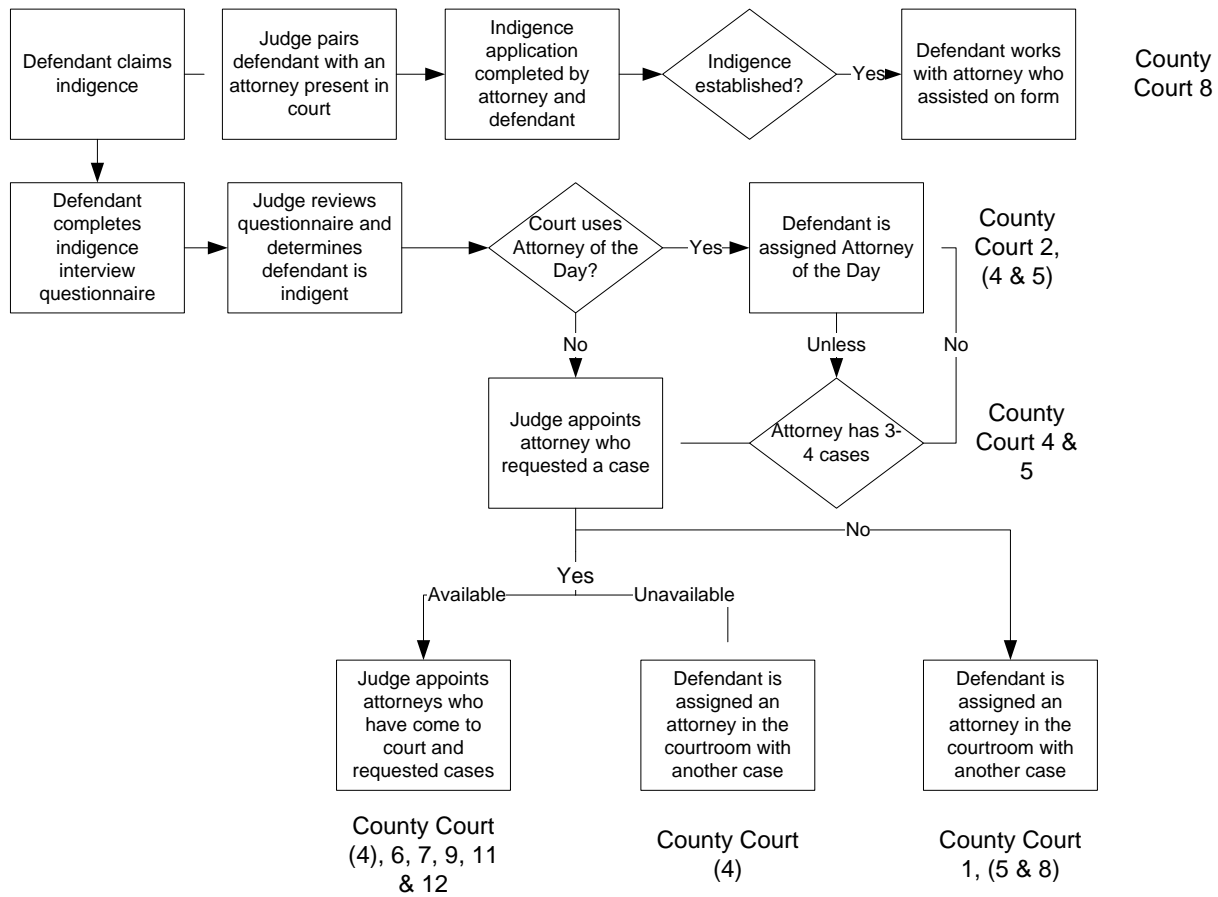


Figure 1 shows that 32 percent of appointments went to 21 attorneys. This top 10 percent of recipient attorneys who received an average of 279 misdemeanor appointments can be contrasted with the next 40 percent of recipient attorneys who received an average of 98 misdemeanor appointments and with the bottom 50 percent of recipient attorneys who received an average of 42 appointments. The primary reason for the differences between groups was the number of in-court appointments. Typically, the judge or court coordinator makes these in-court appointments without using the wheel. Figure 2 shows the divergent methods employed across county courts to make appointments in court.



**Figure 2: In Court Appointment Process for County Courts in Bexar County**



After the court determines indigence, a defendant receives an attorney in methods that vary by court. In County Courts 2 and 4, the defendant will receive the *Attorney of the Day*. In County Courts 4 and 5, the *Attorney of the Day* is allowed a maximum of three to four cases a day by the judge. If the attorney has received the allotment, the judge will appoint an attorney from the bench. County Courts 1, 4, 5, 6, 7, 8, 9, 11, and 12 appoint from the bench.

County Courts 4, 6, 7, 9, 11, and 12 appoint attorneys who directly request clients. If an attorney solicits a client, then County Court 4 appoints another attorney present. County Courts 1, 5, and 8 appoint attorneys who are present in the courtroom on other business.

The current local indigent defense plan for the county courts lists the method for appointing counsel as always following the appointment wheel unless good cause is found:

The appointing authority will use the "attorney rotation wheel" discussed in Section III (attorney qualifications), unless the court makes a finding of good cause on the record for appointing an attorney out of order.

The language from the local plan provides a fair, neutral, and non-discriminatory manner of appointing counsel. If all of the courts followed this procedure, the distribution of appointments would be more equitable.

**Recommendation:** The statutory county courts must review their misdemeanor appointment procedures to ensure that appointments are made in a fair, neutral, and non-discriminatory manner.

**Recommendation:** The county courts must follow the standard method for appointing counsel as set in the local indigent defense plan.

The total number of attorneys receiving misdemeanor appointments far exceeded the number of attorneys on the misdemeanor appointment list. In some cases an attorney could legitimately be appointed for a misdemeanor case but not be on an appointment list. For instance, if a defendant is charged with both a felony and a misdemeanor, the felony attorney will often be assigned to the misdemeanor case even if the felony attorney is not on the misdemeanor list. In other cases, the Bexar County Courts do not consider motions to revoke probation to fall under the Article 26.04(a) requirement that each attorney be appointed from a public appointment list.

Bexar County had 355 attorneys on the misdemeanor appointment list for at least part of the year, but 229 additional attorneys received appointments. One hundred thirteen of the additional attorneys who received misdemeanor appointments were on a felony appointment list but not on the misdemeanor appointment list. Another 50 attorneys were not on a felony appointment list but were noted by the auditor as being a recipient of at least one appointment for a motion to revoke misdemeanor probation. The remaining 66 attorneys who received misdemeanor appointments were neither on a misdemeanor appointment list, a felony appointment list, nor received an appointment for a motion to revoke probation.

**Recommendation:** Article 26.04(a) of the Code of Criminal Procedure requires the courts to appoint attorneys from a public appointment list. The misdemeanor courts must ensure that all misdemeanor appointments are made from a public appointment list.

### **Distribution of Felony Appointments**

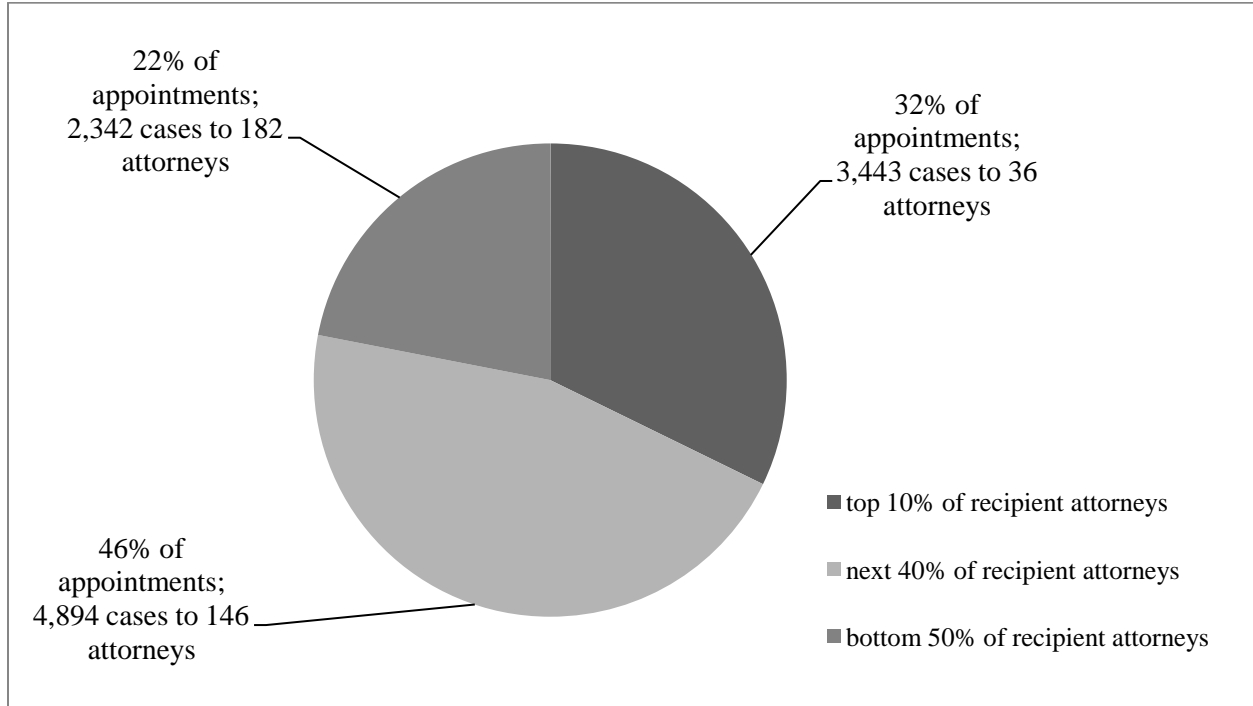
The monitor examined the distribution of felony attorney appointments. For purposes of examining the distribution of appointments, appointments were compared between attorneys who appeared to be on the 2009 appointment list for the entire year.<sup>38</sup> Recipients of appointments were grouped according to the number of appointments they received. The top 9.9 percent of recipient attorneys received 32.2 percent of the total appointments (or 3.3 times their representative share).<sup>39</sup> As one can see from Figure 3, the top 10 percent of recipient attorneys

<sup>38</sup> To generate the 2009 appointment list, the monitor examined lists from April 2010, noting attorneys added in June 2009 and in December 2009 and noting those attorneys asking to be removed during calendar year 2009. Those attorneys who did not appear to have been on the list for the entire year were not included in the distribution.

<sup>39</sup> The pie chart's total appointments amount to 10,679 cases. This amount is the total number of appointments to attorneys on the list for the entire year. If an attorney received an appointment but was not on the appointment list,

received an average of 96 felony appointments and can be contrasted with the next 40 percent of recipient attorneys who received an average of 34 appointments and with the bottom 50 percent of attorneys who received an average of 13 appointments.

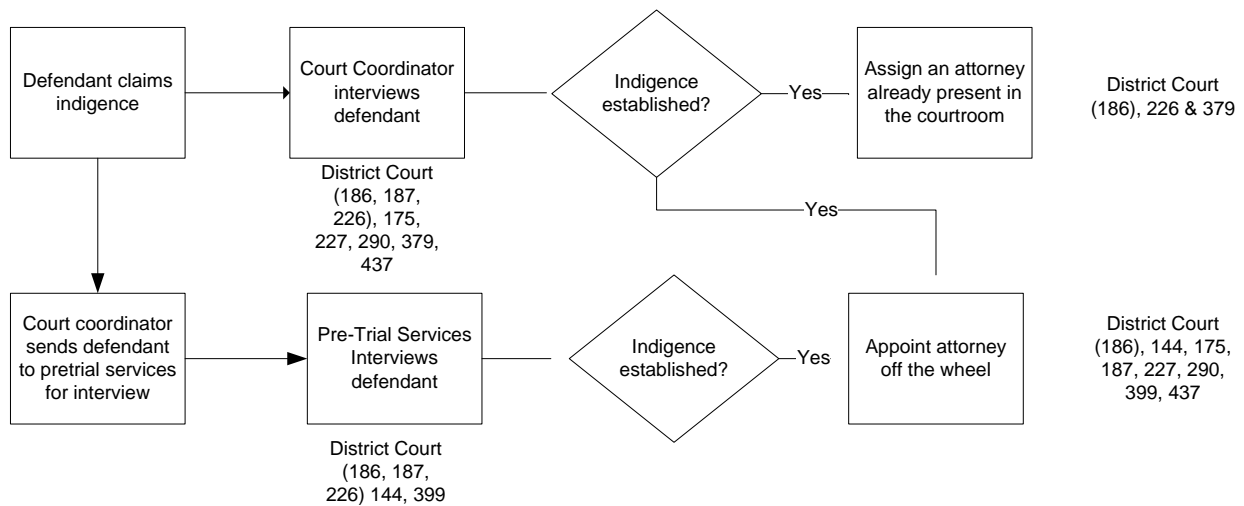
**Figure 3: Distribution of Attorney Appointments from Felony Appointment Lists**



The unequal distribution of appointments has three potential drivers. First, there are three lists for trial-level felony cases (based on the class of offense being charged). Attorneys on each list may take cases at or below their list level, meaning that higher levels are also eligible for cases on the lower levels (see Table 5). Next, resolutions in felony cases take time. An appointment in one year might not end until the following year. Finally, in-court assignments in Bexar County District Courts do not occur with any standardized process. See Figure 4.

that appointment was not included in the pie chart. Total felony appointments in FY2009 as reported by the auditor were 11,712 cases.

**Figure 4: District Court in Court Assignments**



After the defendant requests a court appointed attorney in the 144<sup>th</sup> and 399<sup>th</sup> District Courts, the court coordinators always send the defendant to Pre-Trial Services for an interview. In the 186<sup>th</sup>, 187<sup>th</sup>, and 226<sup>th</sup> District Courts, the court coordinators may conduct the interview, but if they are busy, they may send the defendant back to Pre-Trial Services. The 144<sup>th</sup> and 399<sup>th</sup> District Courts always send the defendant to Pre-Trial Services for the indigence determination interview.

After indigence is established through an interview, with either Pre-Trial Services or the court coordinator, the 144<sup>th</sup>, 175<sup>th</sup>, 187<sup>th</sup>, 227<sup>th</sup>, 290<sup>th</sup>, 399<sup>th</sup> and 437<sup>th</sup> District Courts appoint an attorney from the relevant wheel to the defendant. The court coordinators in the 226<sup>th</sup> and 379<sup>th</sup> District Courts assign an attorney who is not only on the wheel, but also present in the courtroom. The 186<sup>th</sup> District Court is the only court using both methods, i.e., assigning an attorney from the wheel or from the courtroom.

The process is far less disjointed than for misdemeanors, but the District Courts would benefit from standard operating procedures for in-court assignments.

The current local indigent defense plan for the district courts lists the following method for making in-court appointments of counsel:

At any time, a defendant may appear before the judge presiding over the defendant’s case and request a court appointed attorney, and the judge has the discretion to appoint an attorney to represent that defendant. The attorney must be qualified to take that degree of offense, and may be chosen from the next five names on the wheel, as provided by the Criminal District Courts Administration Office. (See Attachment Eleven). The judge may make a finding of good cause on the record for appointing out of order, and may appoint any qualified, willing attorney regardless of whether the attorney’s name is among the next five names on the appropriate list. (See Attachment Twelve).

**Recommendation:** Bexar County must review its felony appointment procedures to ensure that appointments are made in a fair, neutral, and non-discriminatory manner. Specifically, standard operating procedures for making in-court appointments should be reviewed, or created, to ensure that courts coordinate to provide a fair method of allocating appointments that is consistent with its indigent defense plan.

Bexar County had 390 attorneys on trial-level felony appointment lists for at least part of the year,<sup>40</sup> but 101 additional attorneys received appointment. Fifty-four attorneys were not on a felony appointment list but were noted by the auditor as being a recipient of at least one appointment for a motion to revoke felony probation. The remaining 47 attorneys who received felony appointments were neither on a felony appointment list nor received an appointment for a motion to revoke probation. Since the appointments were measured from the time of payment, a large portion of those attorneys listed as receiving an appointment but not being on an appointment list may have been on an appointment list from a previous year but may not have disposed the respective case(s) until fiscal year 2009.

**Recommendation:** Article 26.04(a) of the Code of Criminal Procedure requires the courts to appoint attorneys from a public appointment list. The felony courts must ensure all felony appointments are made from a public appointment list.

### **Distribution of Juvenile Appointments**

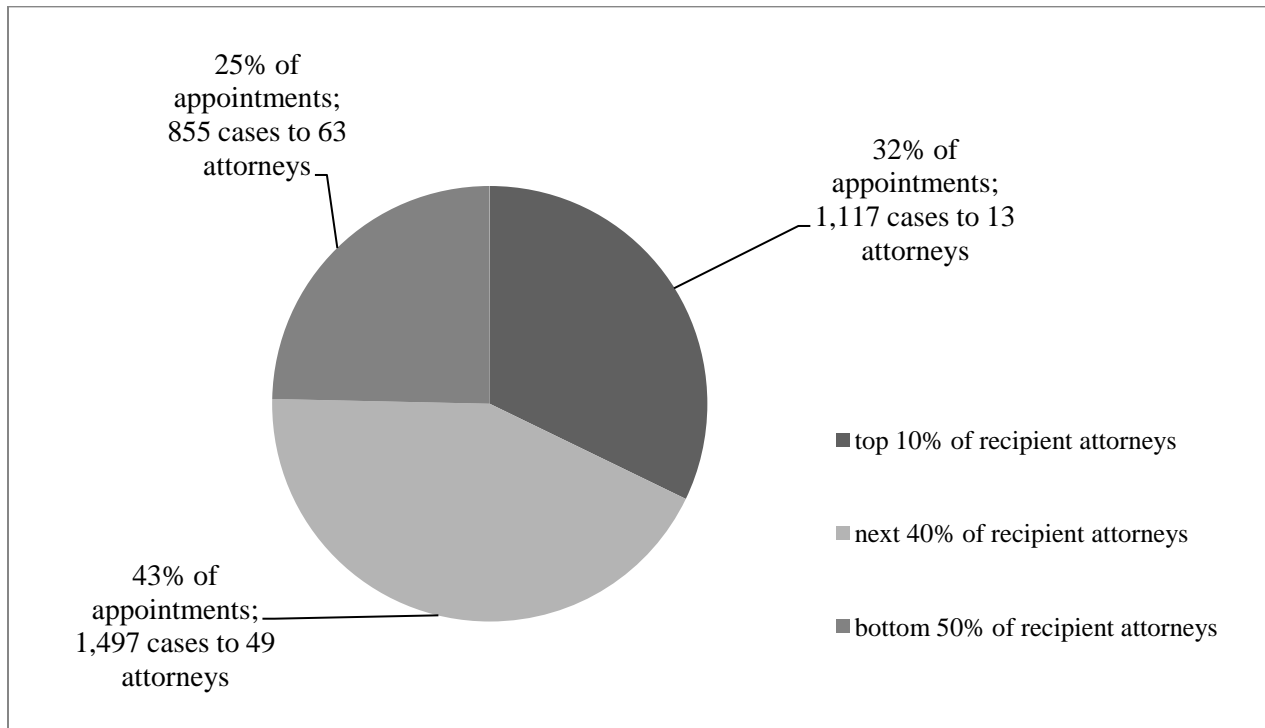
The monitor examined the distribution of juvenile appointments.<sup>41</sup> For purposes of examining the distribution of appointments, appointments were compared between attorneys who appeared to be on the 2009 appointment lists for the entire year. Recipients of appointments were grouped according to the number of appointments they received. The top 10.4 percent of recipient attorneys received 32.2 percent of total appointments, or 3.1 times their representative share. As one can see from Figure 5, the top 10 percent of recipient attorneys received an average of 86 juvenile appointments and can be contrasted with the next 40 percent of recipient attorneys who received an average of 31 appointments and with the bottom 50 percent of attorneys who received an average of 14 appointments.<sup>42</sup>

<sup>40</sup> From the data collected, 390 attorneys were on an appointment list during the year, but 364 attorneys appeared to be on the list for the entire year. The distribution of appointment analysis only examined those attorneys approved for an entire year.

<sup>41</sup> For the juvenile courts, the monitor looked at the January 2009 juvenile appointment lists and the March 2010 juvenile appointment lists. Those attorneys who were not on both lists were not included in the distribution analysis.

<sup>42</sup> The pie chart's total appointments amount to 3469 juvenile cases. This amount is the total number of assignments to attorneys on the list for the entire year. If an attorney received an appointment but was not on the appointment list for the entire year, the appointment was not included in the chart. Total juvenile assignments in FY2009 as reported by the auditor were 3832 cases.

**Figure 5: Distribution of Attorney Appointments from Juvenile Appointment Lists**



There are two likely causes of unequal distributions of appointments in the juvenile courts. First, the court prefers to pair a juvenile client with an attorney for the entirety of the client’s youth. Second, there are three tiers of appointments on the juvenile list (See Table 4 detailing the appointment list). Those attorneys receiving greater numbers of appointments tended to be on two or three appointment tiers.

**Recommendation:** Bexar County must review its juvenile appointment procedures to ensure that appointments are made in a fair, neutral, and non-discriminatory manner that is consistent with its indigent defense plan.

Eighteen attorneys received juvenile attorney fee payments in fiscal year 2009 but were not on a juvenile appointment list. Several of these attorneys had a greater number of payment vouchers than associated cases. These attorneys appear to be continuing with the representation of juveniles for appointments that they received when they were on a juvenile appointment list.

**Attorney Satisfaction with Local Practices of Appointing Counsel**

The Task Force on Indigent Defense surveyed members of six San Antonio criminal defense groups between April 14 and April 26, 2010, including: San Antonio Criminal Defense Lawyers Association; National Association of Criminal Defense Lawyers; Texas Criminal Defense Lawyers Association; the Criminal Justice Section of the American Bar Association; the CJA panel in San Antonio; the San Antonio Bar Association. The survey provides quantitative and qualitative information from the area’s criminal defense attorneys. These data compliment

information observed by our research team and fiscal year 2009 measurements provided by Bexar County. This report provides the survey instrument and results in Appendix H.

Criminal defense respondents expressed moderate satisfaction with the selection process for misdemeanor and felony cases. The responses regarding the juvenile selection process indicated neutrality on the process. Table 6 contains the survey responses.

**Table 6: Satisfaction with the Attorney Selection Process in Bexar County**

	Very Satisfied = 1	Satisfied	Neutral = 3	Dissatisfied	Very Dissatisfied = 5	Mean	N
<b>Misdemeanor</b>	6	15	13	14	3	2.9	51
Percent	12%	29%	25%	27%	6%	Positive Neutral	
<b>Felony</b>	5	21	11	9	2	2.6	48
Percent	10%	44%	23%	19%	4%	Positive Neutral	
<b>Juvenile Delinquency</b>	2	9	15	4	5	3.0	35
Percent	6%	26%	43%	11%	14%	Neutral	

No appointment process stands out as a model, nor do the responses generate concern about one type. The respondents did add comments about the process, which centered on perceived favoritism. For example:

- *A few lawyers are receiving an inordinate number of appointments and cannot be doing an adequate job; and,*
- *If you review every court and the amounts that certain lawyers make in each court you can see the bias and favoritism.*

The respondents specifically addressed the fairness of the appointment list. The overwhelming majority indicated fairness, but negative comment noted patronage and difficulty gaining experience as areas needing further attention. Making fair, neutral, and non-discriminatory appointments will solve the matters addressed in comments. It is likely the satisfaction scores will also increase.

## **Attorney Caseloads**

In 1973, the National Advisory Commission on Criminal Justice Standards and Goals (NAC) published maximum standard caseloads for public defenders, which are detailed in Table 7.<sup>43</sup>

**Table 7: NAC Caseload Standards**

<b>Type of Case</b>	<b>Maximum caseload</b>
Felonies	150
Misdemeanors	400
Juvenile	200
Mental Health Act	200
Appeals	25

The NAC caseload standards represent the maximum number of cases for each category that are recommended to be handled by a single attorney in a twelve month period. Caseloads given for each category represent the recommended maximum for an attorney handling only cases in that category. For example, on average, an attorney who handles only felonies should not be assigned more than 150 felony cases annually. When an attorney handles a mixed caseload, the standard should be applied proportionally. For example, an attorney who is given 120 felonies annually is working at 80 percent of the caseload maximum and could not be assigned more than 80 misdemeanors (or 20% of the misdemeanor maximum).

The NAC standards are a good starting point in developing caseloads but should not be accepted as universal standards. They may not account for administrative work, travel time, or other professional requirements that reduce the time an attorney can spend on cases. They also are limited by the differences in work required by cases within a category. For example a case involving felony homicide may require significantly more work than a burglary case.

Additionally, the Task Force issued a report in 2008 that examined publications identifying caseload maximums for fifteen states. Table 8 details the upper limit on caseloads as defined by various authorities serving the respective states.<sup>44</sup> The caseloads set by these states are meant to create boundaries that guard against attorneys taking on workloads where they are not able to meet their obligations of providing effective assistance of counsel and diligent representation. While variations between jurisdictions prevent one from being able to look at the standards in absolute terms, looking at different state caseloads can provide a basis for determining if a proposed set of caseload standards is reasonable.

<sup>43</sup> National Advisory Commission on Criminal Justice Standards and Goals, *Task Force on Courts*, Standard 13.12 (1973).

<sup>44</sup> *Review of Dallas County Public Defender: Appellate Division and Caseload Standards* (Texas Task Force on Indigent Defense 2008) at 11 (available at <http://www.courts.state.tx.us/tfid/pdf/Dallas%20PD%20Report-%20FINAL.pdf>).



**Table 8: Maximum Caseloads Established by Varying State Offices**

<b>State</b>	<b>Felony</b>	<b>Misdemeanor</b>	<b>Juvenile</b>	<b>Authority</b>
Arizona	150	300	200	<i>State of Arizona v. Joe U. Smith</i> , 681 P. 2d 1374 (1984).
Colorado	33-386	196-430	249	The Spangenberg Group. <i>Weighted-Caseload Study for the Colorado State Public Defender</i> . November 1996.
Florida	200	400	250	Florida Public Defender Association. <i>Comparison of Caseload Standards</i> . July 1986.
Georgia	150	400	200	Georgia Indigent Defense Council. <i>Guidelines of the Georgia Indigent Defense Council for the Operation of Local Indigent Defense Programs</i> . October 1989.
Indiana	120-200	400	250	Indiana Public Defender Commission. <i>Standards for Indigent Defense Services in Non-Capital Cases: With Commentary</i> . January 1995.
Louisiana	150-200	400-450	200-250	Louisiana Indigent Defense Board. <i>Louisiana Standards on Indigent Defense</i> . 1995.
Massachusetts	200	400	300	Committee for Public Counsel Services. <i>Manual for Counsel Assigned Through the Committee for Public Counsel Services: Policies and Procedures</i> . June 1995.
Minnesota	120	400	175	Minnesota State Public Defender. <i>Caseload Standards for District Public Defenders in Minnesota</i> . October 1991.
Missouri	40-180	450	280	Missouri State Public Defender System. <i>Caseload Committee Report</i> . September 1992.
Nebraska	50	-	-	Nebraska Commission on Public Advocacy. <i>Standards for Indigent Defense Services in Capital and Non-Capital Cases</i> . May 1996.
Oregon	240	400	480	Oregon State Bar. <i>Indigent Defense Task Force Report</i> . September 1996.
Tennessee	55-302	500	273	The Spangenberg Group. <i>Tennessee Public Defender Case-Weighting Study</i> . May 1999.
Vermont	150	400	200	Office of the Defender General. <i>Policy of the Defender General Concerning Excessive Workloads for Public Defenders</i> . October 1987.
Washington	150	300	250	Washington Defender Association. <i>Standards for Public Defender Services</i> . October 1989.
Wisconsin	145	323	207	The Spangenberg Group. <i>"Caseload/workload Study for the State Public Defender of Wisconsin"</i> September 1990

In Bexar County, 645 attorneys received attorney fees for criminal or juvenile cases in FY2009. Twenty of these attorneys received payments for cases that put their caseloads above the NAC standards. These attorneys may have taken retained cases or civil cases in addition to their appointed caseload. Two attorneys received appointed caseloads more than twice the NAC standards for total caseloads. See Appendix E for a full breakdown of appointed case totals, attorney fee payments, and comparison to NAC standards.

### **Standard Payment Method**

Attorneys are to be paid a reasonable fee for the following: time spent in court making an appearance; reasonable and necessary time spent out of court on the case, supported by documentation that the court requires; preparation of an appellate brief and preparation and presentation of oral argument to an appellate court; and preparation of a motion for rehearing. A fee schedule is to govern these payments, taking into account reasonable and necessary overhead rates. No payment is to be made to the attorney unless the judge approves the payment. If the judge disapproves the requested amount, the judge shall make written findings stating the amount of payment and the reasons for any disapproval. An attorney whose request for payment is disapproved may appeal the disapproval.<sup>45</sup>

Counsel is to be reimbursed for reasonable and necessary investigation and expert witness fees. Expenses incurred without prior court approval shall be reimbursed if the expenses were reasonably necessary and reasonably incurred.<sup>46</sup>

Respondents to the criminal defense attorney survey gave a negative picture of the fee structure in Bexar County. Only 12 percent provided positive comments when asked and the overwhelming majority reported they did not like the fee structure. When asked a follow-up regarding the incentive structure created by the county's fee structure, the attorneys stressed an ethical obligation supersedes any financial incentive during their defense; however, a majority indicated the system does not offer an incentive to provide quality representation. A plurality subset noted the structure encourages guilty pleas. See Table 13 in Appendix H for the detailed breakdown.

### **Local Practices for Paying Indigent Defense Expenses**

The monitor examined 1655 cases that were listed on attorney fee vouchers from FY2009 to determine if payments comported with the local fee schedule and with the requirements of Article 26.05. In the vast majority of cases, attorneys chose to be paid on a flat fee basis rather than at an hourly rate. Very few of the cases listed a claim for expenses other than attorney fees (less than 1 percent of the cases reviewed). This is not to say that no other support services were claimed for these cases since investigators and experts can be paid directly by the auditor and do not have to be paid through the appointed attorney. However, the low number of attorney requests for support services is noteworthy.

<sup>45</sup> Tex. Code Crim. Proc. art. 26.05(a)-(e).

<sup>46</sup> Tex. Code Crim. Proc. arts. 26.05(d), 26.052(h).

Interviewees complained that certain expenses, e.g., paper copies and VHS tapes were categorically disallowed. Voucher investigation partially confirmed this in the instance of a \$1552.60 request (\$2.60 of which was for paper copies). The total requested amount was approved, except for the \$2.60 in copies. Article 26.05(d) states, “A counsel in a non-capital case, other than an attorney with a public defender, appointed to represent a defendant under this code shall be reimbursed for reasonable and necessary expenses, including expenses for investigation and for mental health and other experts.”

**Recommendation:** When considering attorney requests for expense reimbursements, the judges must comply with Article 26.05(d) that states attorneys shall be reimbursed for reasonable and necessary expenses.

Our review of voucher payments indicated that requests for payment were generally approved according to both the indigent defense plans and Article 26.05 requirements. In a few cases, judges reduced amounts requested by attorneys. These reduced vouchers generally did not list the reason for the reductions. In Bexar County, when judges believe that an attorney overstates necessary expenses, the judges may submit the claim to a review committee. The role of the review committee is described in the district courts’ indigent defense plan submitted in 2009.

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 the General Administrative Counsel for the Criminal District Courts for referral to the Voucher Recommendation Committee. This committee was formed to assist in pay 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 the General Administrative Counsel for the Criminal District Courts by the judge, defense attorney, investigator, or expert, and the General Administrative Counsel for the Criminal District Courts will request review by the Voucher Recommendation Committee. The Voucher Recommendation Committee is composed of members of the local defense bar, one of whom is the current president of the San Antonio 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 Criminal District Court 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. The use of a review committee is an exemplary practice. However, when the judge approves an amount different than requested, the judge must still follow Article 26.05(c) and make written findings that state the amount of payment that the judge approves and each reason for approving an amount different from the requested amount.

**Recommendation:** If a judge reduces a request for payment, the judge must make written findings as to why the request is being reduced.

Table 9 provides a summary of the examination of attorney fee vouchers.

**Table 9: Fee Voucher Reimbursements**

	<b>Number</b>	<b>Percent of Total</b>
Total Cases Examined	1,655	
Felony Cases	683	41.3%
Misdemeanor Cases	680	41.1%
Juvenile Cases	292	17.6%
Flat Fee Rate	1252	75.6%
Hourly Rate	360	21.8%
Mix of Flat Fee and Hourly	43	2.6%
No Claim for Support Services	1,641	99.2%
Claim for Support Services	14	0.8%
Voucher Paid as Requested	1,645	99.4%
Voucher Reduced and Reason Listed	1	0.1%
Voucher Reduced without Reason Listed	9	0.5%
<b>Conforms to Fee Schedule and Article 26.05 Requirements</b>	<b>1,646</b>	<b>99.5%</b>

**Commendation:** The use of a review committee is an exemplary practice and can serve as a model program for other counties.

The National Study Commission on Defense Services (NSC) drafted a standard for investigative expenses<sup>47</sup> using caseloads based on the NAC public defender standard (see Table 6), which calls for: one full time investigator for every 450 felony cases; one full time investigator for every 1200 misdemeanor cases; and, one full time investigator for every 600 juvenile cases. Assuming the full cost for one investigator is \$50,000<sup>48</sup>, to be in line with national standards suggested by the NSC, Bexar County could expect to pay \$2.8 million on 56 full-time equivalent (FTE) investigators, as seen in Table 10.

<sup>47</sup> National Study Commission on Defense Services, *Guidelines for Legal Defense Systems in the United States*, Guideline 4.1 (1976).

<sup>48</sup> The State of Texas determines benefits and taxes at 28.57 percent of a full time equivalent's salary; therefore, a \$50,000 investigator would not only make a salary of \$38,889.32, but also cost an additional \$11,110.68 per year in benefits.

**Table 10: Predicted versus Actual Cost**

Misdemeanor Investigators Needed per NSC Standards	Felony Investigators Needed per NSC Standards	Juvenile Investigators Need per NSC Standards	NSC Standards Predicted Investigative Costs	Total Investigative Costs	Percent of Predicted Amount Spent
23.6 for 28,325 cases	26.0 for 11,712 cases	6.4 for 3,832 cases	\$2,800,875	\$200,893	7%

Bexar County spent \$200,893 on investigative expenses during fiscal year 2009. Using the above NSC standards, the total predicted cost would have been \$2,800,875; therefore, the county spent 7 percent of the predicted amount. Appendix C provides more formal documentation on this calculation.

There is a low request rate for investigators in Bexar County at every case level. Respondents to the survey of Bexar County Criminal Attorneys provided information on the percent of cases for which they request an investigator and the approval rate, see Table 11.

**Table 11: Requests for Investigators**

	Misdemeanor	Felony	Juvenile
Percent Requested	7.25%	23.8%	15.8%
N	8	36	9
Approved	92.4%	83.7%	96.4%
N	14	36	11

According to the survey, misdemeanor cases have the lowest rate of request, at 7.25 percent. Of equal interest is the low number of respondents for misdemeanor cases. There were 3.5 times more respondents for felony requests and they were 228 percent more likely to request an investigator.

One third of the 45 respondents indicated obtaining reimbursement if a case does not proceed to trial is difficult. The comments help flesh out the investigative process in Bexar County:

- *It's difficult to obtain payment for legal representation to begin with;*
- *Some misdemeanor judges cut expenses that relate to investigation of a matter if what is discovered does not wind up being introduced into evidence or highly material to a defensive theory; and,*
- *The approved amount is so low that you essentially get nothing from the investigator. I have found it easier to get info myself.*

See Appendix H for all survey results.

The fact that reimbursements for investigative expenses are below what would be expected under NSC standards is not itself a problem, but it may signal a problem. A problem occurs if indigent defendants are not receiving adequate representation. The courts are required pursuant to Article 26.05(d) to reimburse attorneys for reasonable and necessary expenses. We

found in our attorney fee voucher review that less than one percent of indigent cases requested reimbursements for expenses beyond attorney fees and we discovered that a number of those requests were denied.

## VI. Analysis of Case Outcomes

### Jury Trial Comparison

Cases going before a jury often require greater efforts on the part of attorneys than cases ending in a plea. The monitor examined the portion of appointed counsel cases going to jury trial as compared to the portion of retained counsel cases going to jury trial. For all types of cases (misdemeanor, felony, and juvenile), a greater portion of retained counsel cases went to jury trial than appointed counsel cases; for misdemeanor and juvenile cases, the difference was substantial. This data was obtained from multiple sources covering different time periods. Because of the differing time periods, the resulting percentages should be considered approximations and not absolute totals. See Table 12 detailing the portion of cases going to jury trial.

**Table 12: Criminal / Juvenile Cases Going to Jury Trial<sup>49</sup>**

	<b>Misdemeanor</b>	<b>Felony</b>	<b>Juvenile</b>
Bexar County Jury Trials with Appointed Counsel	81	80	9
Bexar County Appointed Counsel Cases	28,325	11,712	3,832
Percent of Bexar County Appointed Counsel Cases Going to Jury Trial	0.3%	0.7%	0.2%
Bexar County Jury Trials with Retained Counsel	198	51	7
Bexar County Retained Counsel Cases	18,650	5,398	697
Percent of Bexar County Retained Counsel Cases Going to Jury Trial	1.1%	0.9%	1.0%
Number of Texas Criminal / Juvenile Jury Trials	3,214	3,206	111
Number of Texas Cases	598,783	283,619	44,300
Percent of Texas Cases Going to Jury Trial	0.5%	1.1%	0.3%

<sup>49</sup> The number of Bexar County jury trials covered calendar year 2009 and was supplied by the County Clerk's Office, the District Clerk's Office, and the Juvenile District Courts. The number of appointed counsel cases was for the time period of Bexar County FY2009 (October 2008 – September 2009) and was obtained from data reported to the Task Force by auditors. The number of retained counsel cases in Bexar County was obtained by subtracting the number of appointed counsel cases reported to the Task Force for Bexar County FY2009 from the number of cases added reported to OCA for Texas FY2009 (September 2008 – August 2009). Since this data covers different twelve month periods, the resulting percentage should be considered an approximation and not the actual percentage of cases going to trial.

### **Case Outcome Comparison**

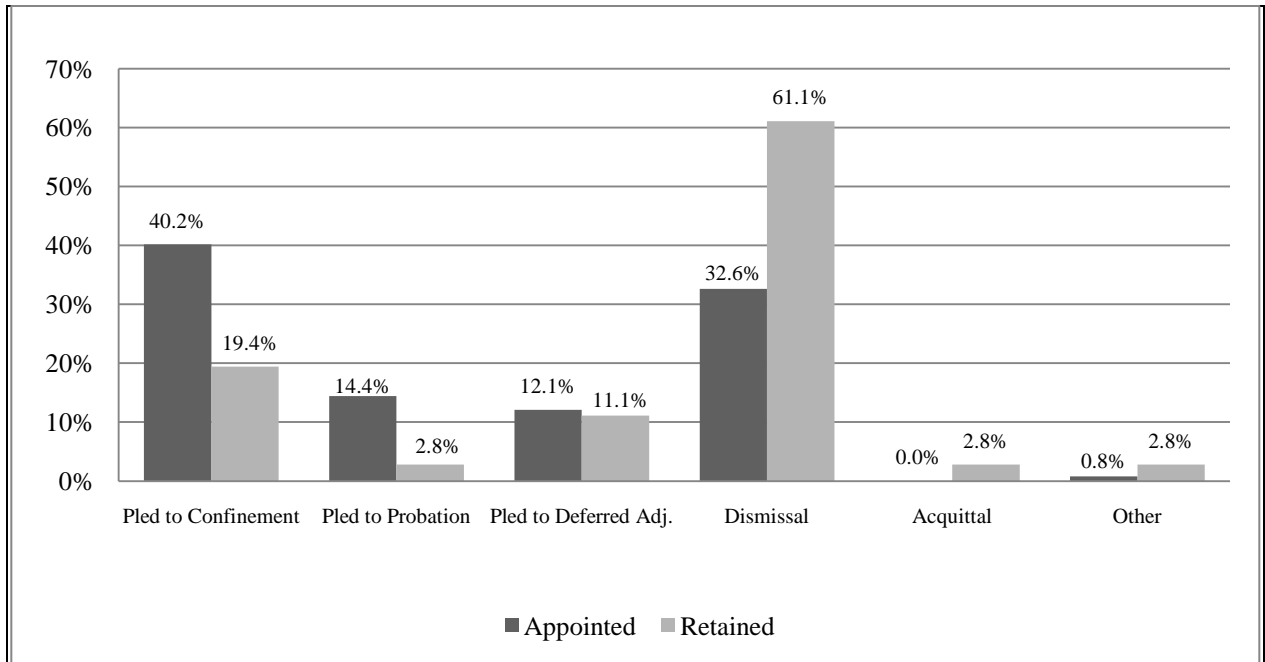
Examining case outcomes provides one approach to analyze the effectiveness of counsel. Using the same cases from the timeliness of attorney appointments analysis, the monitor compared dispositions between cases with appointed and retained counsel. This analysis cannot be seen as definitive for two reasons: first, some defendants switched from appointed to retained counsel, or vice versa, and were categorized based on initial status; and, second, the retained sample was smaller than the appointed sample, so it is less precise. Despite these potential shortcomings, the comparison provides valuable information because it helps to establish general trends and differences between appointed and retained counsel outcomes in the county.

The prevalence of different outcomes between appointed and retained counsel is not itself determinative of the effectiveness of counsel. Other factors may have a very strong effect on case outcomes. One of these factors is whether an arrestee makes bond. Arrestees who are not able to make bond are very likely to receive appointed counsel and are also very likely to plead to time served or to a term of confinement beyond that already served. A question arises as to whether case outcomes, for example a plea to time served or probation, are caused by a person's inability to make bond or by counsel performance. It is possible that both are contributing factors, and this report will not attempt to answer whether either factor causes case outcomes. This report will only note the differences in case outcomes when persons received appointed counsel as opposed to retained counsel and when persons made bond instead of remaining in custody.

### **Class A Misdemeanors**

The monitor compared 132 class A misdemeanor cases in which counsel was appointed in fiscal year 2009 to 36 cases where counsel was initially retained in fiscal year 2009. Figure 6 illustrates the comparison and Appendix E provides greater detail on the cases.

**Figure 6: Comparison of Dispositions of Appointed and Retained Counsel in Class A Misdemeanor Offenses**

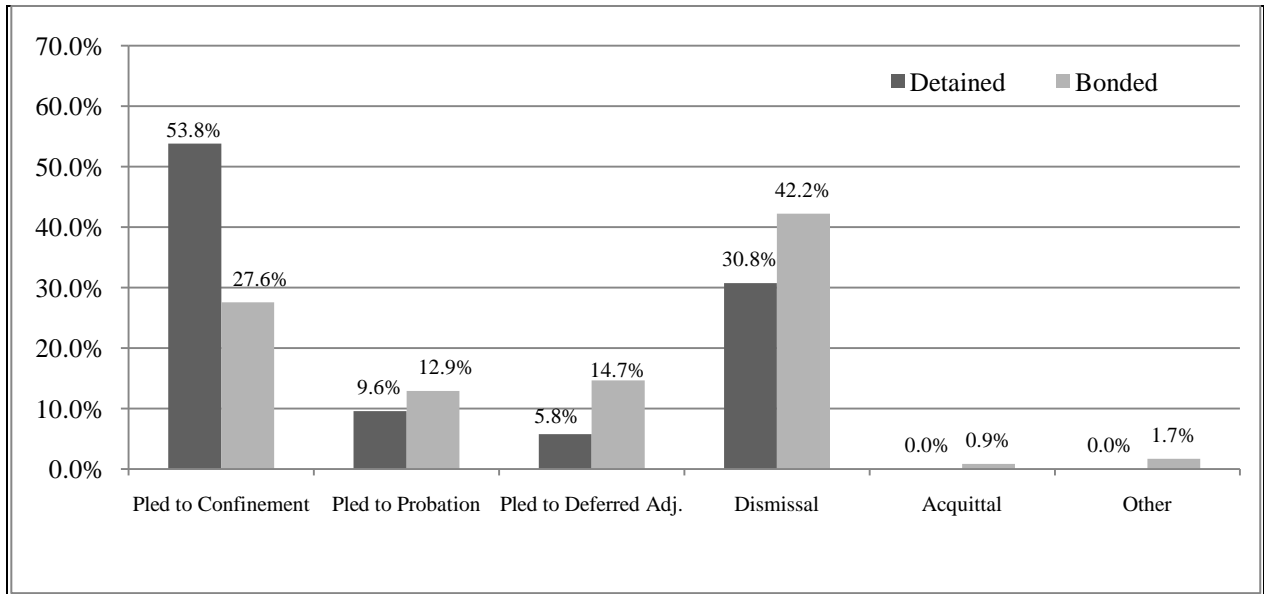


Appointed cases had greater percentages of cases where the defendant pled to confinement, probation or deferred adjudication. Defendants with appointed counsel pled to confinement at more than double the rate of those with retained counsel, with more than half of the pleas being for a term of confinement greater than 90 days. Retained cases had higher rates of dismissal, acquittal or other outcomes. When retained counsel obtained a dismissal, about half occurred through pleas in other cases. For appointed counsel, three quarters of pleas came from pleas in other cases. Only retained cases resulted in an acquittal, and the rate of dismissal for defendants who retained counsel was almost double the appointed rate.

A defendant’s ability to make bond may also contribute to case outcomes. The monitor’s sample contained 52 defendants charged with class A misdemeanors who did not make bond. In 50 of the cases, the defendant received appointed counsel. One may logically infer the outcomes associated with not making bond, noted in Figure 6, correlate with, but are not caused by, appointed counsel. This report does not determine the driving factor, but does explore and illustrate the effect of bonding in Figure 7.



**Figure 7: Comparison of Dispositions of Detained and Bonded Defendants in Class A Misdemeanor Offenses**

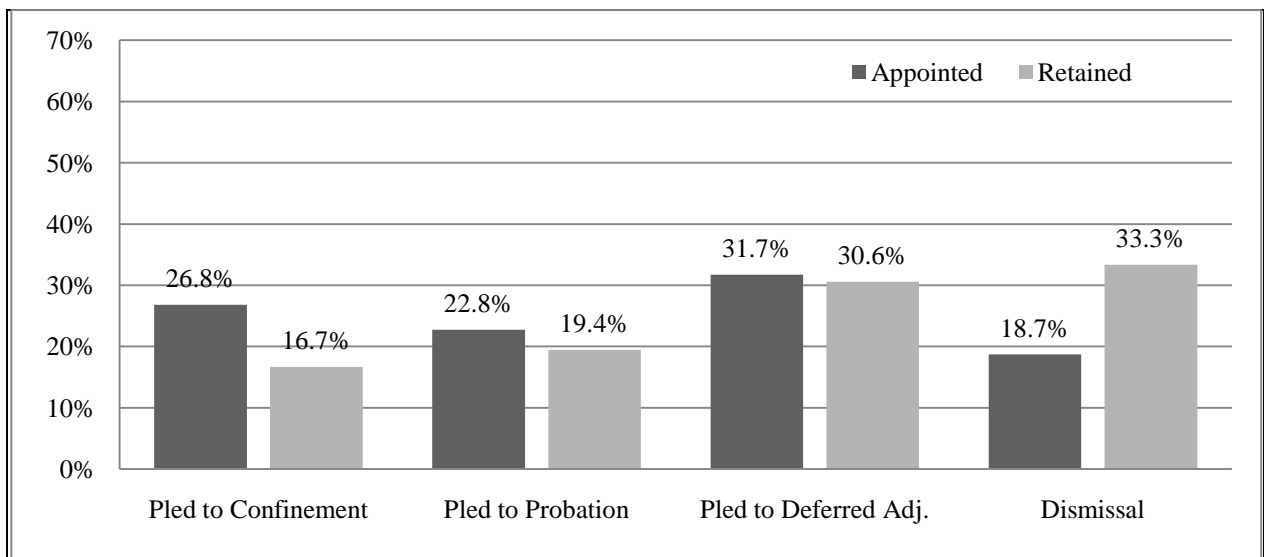


Defendants who did not bond had lower rates of all types of case outcomes except pleas to confinement. Pleas to confinement occurred at a rate 92.9 percent higher for those who did not bond than those who did.

**Class B Misdemeanors**

The monitor examined 282 class B misdemeanors from fiscal year 2009: 246 with appointed counsel and 36 with retained. Figure 8 details the outcomes.

**Figure 8: Comparison of Dispositions of Appointed and Retained Counsel in Class B Misdemeanor Offenses**

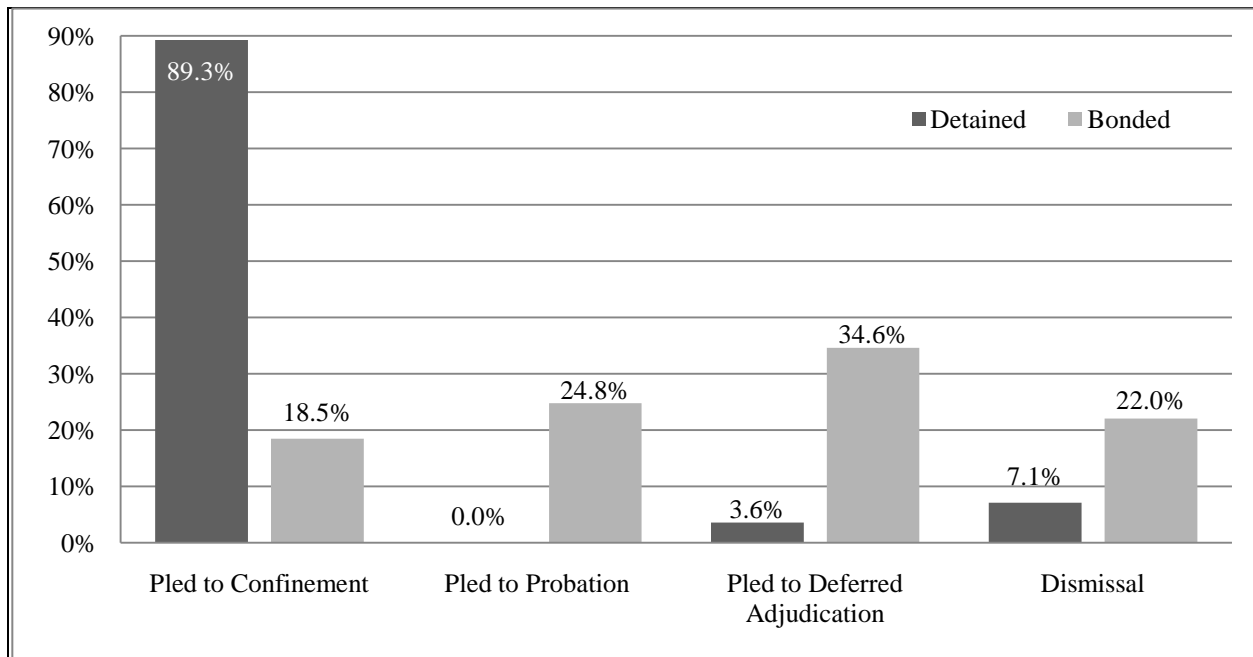


Defendants with appointed counsel had higher percentages of sample cases disposed with a plea to confinement, plea to probation, or a plea to deferred adjudication than defendants with retained counsel. The difference in pleas to confinement is most significant with appointed

counsel cases receiving a plea to confinement 1.6 times more often than cases with retained counsel. Dismissals occurred 1.8 times more often for defendants with retained counsel.

The monitor also compared dispositions of bonded and non-bonded defendants with class B misdemeanors. In class B misdemeanor cases, nearly all defendants make bond, so out of 282 cases, only 28 lacked a bonding record, from which 26 received appointed counsel. Figure 9 compares the two scenarios.

**Figure 9: Comparison of Dispositions of Detained and Bonded Defendants in Class B Misdemeanor Offenses**



Bonded clients had higher rates of pleas to deferred adjudication and dismissal of cases. Detained clients had no pleas to probation and pled to confinement 4.8 times as often as bonded clients. The difference between bonded and detained clients is significant in every category.

Our data encourages further study on the potential disparity in case outcomes for different groups of defendants. The disparity in case outcomes is an indication that a study should be undertaken to examine issues related to attorney performance. Defendants from our sample who retained counsel received better outcomes. However, other factors, such as bonding, may have a great influence on outcomes. One possible reason that retained counsel obtained better outcomes than appointed counsel was that retained counsel appeared to be spending more time on their cases. The criminal defense attorney survey (see Appendix H, Table 3) indicated that counsel averaged 11.8 billable hours per retained misdemeanor case versus 8.4 billable hours per appointed case.

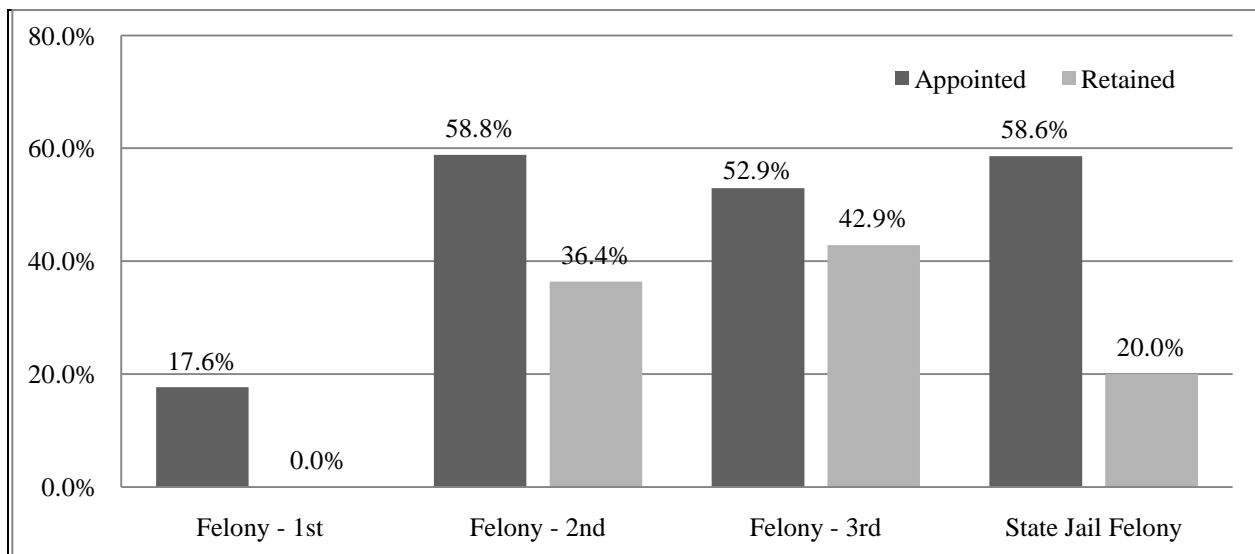
While our analysis of case outcomes does not attribute differences in case outcomes to attorney performance, Bexar County may wish to reexamine its fee schedule. Attorneys in misdemeanor cases may claim a flat fee of \$100 for guilty pleas or may bill at a rate of \$25 per

hour. The survey of the criminal defense bar listed several complaints about the pay, with many attorneys expressing an opinion that it encourages pleas. The monitor’s sample of class A misdemeanor cases had 23 percent of appointed counsel cases plead to a term of confinement greater than 90 days (see Appendix E). Comparatively, 6 percent of sample class A misdemeanor cases with retained counsel pled to a term of confinement greater than 90 days. Dismissals occurred nearly twice as often in retained class A and class B misdemeanor cases than in appointed cases. The difference in outcomes between retained and appointed counsel could be costing Bexar County a significant amount of money in jail expenses. At a rate of \$50 per day in the jail, if a defendant’s jail term would have been 90 days with retained counsel but 180 days with appointed counsel, the county would have spent \$4500 more in jail costs for the appointed counsel case. If the attorney fee schedule is not encouraging defense counsel to seek the best outcomes for their clients, the result may be that Bexar County incurs additional jail costs.

Felonies

The monitor examined 188 felony dispositions filed between January 2009 and September 2009. The majority of these cases had not been disposed by the end of March 2010, and so a full analysis is inappropriate. One aberration already apparent is the disposition rate. This is illustrated in Figure 10 with a more detailed examination provided in Appendix E.

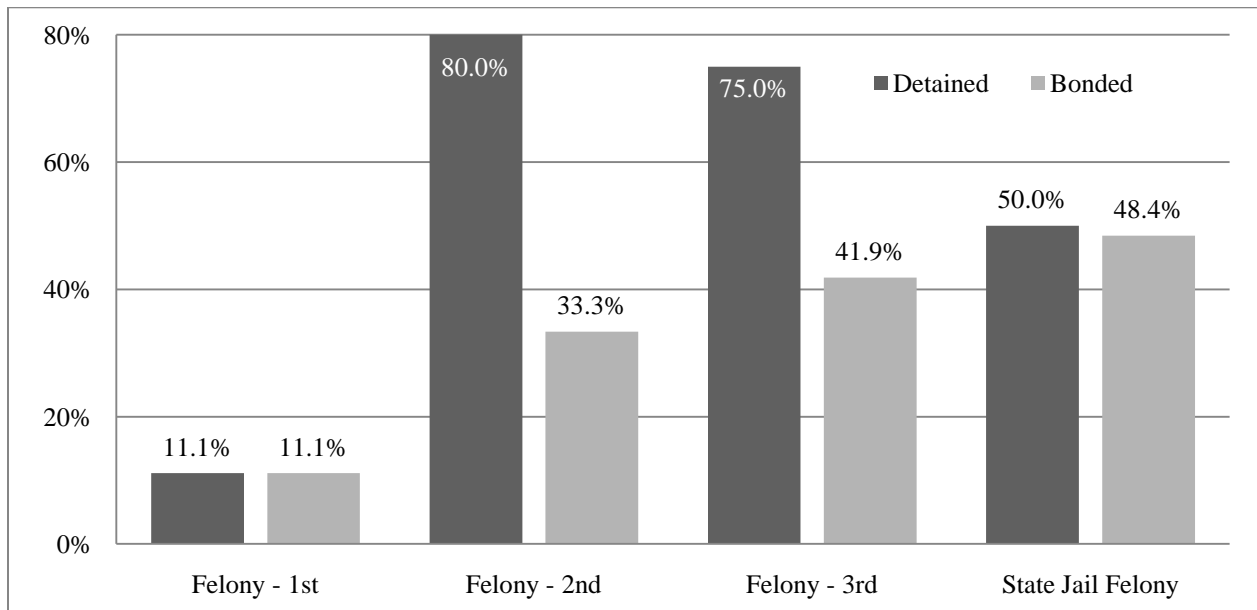
**Figure 10: Percentage of Cases Disposed at Time of File Examination: Appointed v. Retained**



Regardless of felony offense level, a greater percentage of the appointed sample was disposed by March 2010 than the retained sample. One reason that appointed cases may be disposed faster than retained cases is that persons unable to make bond often receive appointed counsel. Detained persons have a clear incentive for their cases to reach a quick disposition. Forty-five arrestees charged with a felony did not make bond, of which 37 received appointed counsel. Figure 11 shows the percentage of active cases for each level of felony. Unsurprisingly, detained persons tended to have a greater percentage of their cases disposed at the time of review than bonded persons. Results from the criminal defense attorney survey (see Appendix H, Table

3) showed counsel averaged 33.5 billable hours per retained felony case versus 16.8 on appointed cases. Hours billed on retained cases are almost double those for appointed.

**Figure 11: Percentage of Cases Disposed at Time of File Examination: Detained v. Bonded**



## VII. Opportunity for Further Study

The Task Force, in collaboration with OCA, conducted a program assessment of the Bexar County Indigent Defense System. The purpose of this assessment was to determine the effectiveness of Bexar County’s indigent defense processes and to determine whether local processes were in compliance with the Fair Defense Act. Staff obtained and analyzed both quantitative and qualitative data, including official records, interviews and a criminal defense bar survey, in order to make recommendations for improvement. The success of this assessment is directly attributable to the support and cooperation of Bexar County officials and staff.

Certain areas of the evaluation encourage and call for further study. For example, more than five percent of the misdemeanor cases examined included arrestees who did not make bond and were subsequently appointed counsel at a time much later than the requests (median time of 21 days after the request). Assuming a per day incarceration rate of \$50, this sub-group of misdemeanor arrestees cost Bexar County a median amount of \$1,050 in jail costs before appointment of counsel. The county may want to pursue additional pre-trial diversion strategies and/or revisit the standard of indigence to reduce jail costs.

News media in Bexar County have recently highlighted mental health issues relating to Article 16.22 of the Texas Code of Criminal Procedure. Although mental health issues are closely associated with indigent defense, this report did not cover mental health topics. Bexar County may wish to involve relevant stakeholder groups and examine how its mental health

processes comport with statute. The practice of seeking stakeholder input may allow for implementing low-cost methods that improve the treatment of mentally ill individuals.

The attorney fee schedule warrants further study. The criminal defense survey contained multiple complaints about the low pay and how the schedule fosters pleas and inhibits the attorney from providing effective assistance of counsel. The data to a large extent supports the perception that appointed cases are routinely pled. There is a \$100 flat fee on guilty pleas. Interestingly, of the 28,325 misdemeanor cases disposed in Bexar County during FY2009 the average attorney fee was \$110. Moreover, a sample of Class A misdemeanor cases had 23 percent of appointed counsel cases plead to a term of confinement greater than 90 days (See Appendix E). Comparatively, only 6 percent of sample Class A misdemeanor cases with retained counsel pled to a term of confinement greater than 90 days. The difference in outcomes between retained and appointed counsel costs Bexar County in jail expenses. At a rate of \$50 per day in the jail, if a defendant's jail term would have been 90 days with retained counsel but 180 days with appointed counsel, the county would have spent \$4500 more in jail costs for the appointed counsel case. With the volume of cases filed annually in Bexar County that have court appointments, the potential jail savings could be significant if appointed counsel were able to get similar outcomes to retained counsel.

We thank Bexar County officials and staff for their cooperation with this review. We look forward to Bexar County's response to this report and appreciated the opportunity to conduct this assessment. As mandated by statute, we will monitor the county's efforts to address the recommendations in this report.

# Appendix A-1: Senator Wentworth's Letter of Inquiry

SENATOR JEFF WENTWORTH  
SENATE DISTRICT 25

AUSTIN

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## The Senate of The State of Texas

December 9, 2009

CHAIRMAN  
SOUTHERN LEGISLATIVE CONFERENCE  
2008 - 2009

PRESIDENT PRO TEM  
OF THE TEXAS SENATE  
2004 - 2005

COMMITTEES

Jurisprudence, Chairman  
Administration  
Intergovernmental Relations  
Transportation and Homeland Security

COUNTIES IN  
SENATE DISTRICT 25

Bexar (north)	Hays
Comal	Kendall
Guadalupe	Travis (south)

Mr. James D. Bethke  
Task Force on Indigent Defense  
Tom C. Clark Building  
205 W. 14<sup>th</sup> Street  
Austin, Texas 78701

Dear Mr. Bethke:

In recent months I have been working with Dr. Tony Fabelo of the Council of State Governments, Justice Center, on his examination of the probation system of Bexar County. He recently issued a preliminary report that raised many important issues about the effectiveness of how the Bexar County courts are organized in relation to the operations of the probation department. I am a member of the Task Force on Indigent Defense, and his report has now raised my interest in examining how the Bexar County judiciary have implemented and met the requirements of the Fair Defense Act of 2001.

I request that you conduct a thorough program assessment, not unlike an internal audit, of Bexar County's indigent defense system and report your findings to my office, the Commissioners Court, and the local Board of Judges. It is my understanding that this is within your statutory established duties. I am particularly interested in examining how the Bexar County judiciary has implemented prompt appointment requirements, established appropriate attorney qualifications and set a standard method of payment.

More importantly, I am interested in determining if the local judiciary is appropriately selecting counsel based on the requirements for fair, neutral and non-discriminatory appointments. Your final report should include a set of recommendations to improve the overall operations and effectiveness of the Bexar County indigent defense system. Your examination should also allow the Task Force to determine if there are areas where better enforcement by the Task Force is necessary.

Please feel free to call my office if you need assistance or further direction in conducting this assessment. I appreciate the work of your office and look forward to examining your findings.

Sincerely,

A handwritten signature in black ink that reads "Jeff Wentworth".

Jeff Wentworth

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## **Appendix A-2: Review Agenda**

### Hearings observed:

- Magistrate's warnings
- Felony dockets (with probation revocations)
- Misdemeanor dockets (with probation revocations)
- Juvenile detention hearing docket
- Juvenile docket

### Persons interviewed:

- Auditor's office
- District courts manager; county courts manager; juvenile courts manager
- District court judges, juvenile court judges, statutory county court judges
- Defense attorneys for criminal / juvenile matters
- Magistrates
- Pre-trial Services office
- District clerk's office / county clerk's office

### Data collected:

- Felony / misdemeanor case files – arrest date, date of magistrate's warning and whether counsel was requested (most of the magistrate's warning forms were actually part of the District Attorney's record and not the case file), date of attorney appointment, bonding information, notice of retained counsel, case disposition
- Juvenile case files - juvenile detention hearing form showing whether an attorney was appointed/present at the detention hearing. If a petition was filed, whether an attorney was appointed within five working days of the petition being served on the juvenile.
- Jury trial data – whether trials were represented by appointed or retained counsel
- Attorney CLE hours
- Attorney fee vouchers
- Details of information reported in the indigent defense expense report to the Task Force including case and payment information for each appointed attorney
- Details of information reported in monthly clerk reports to OCA
- Local indigent defense plans submitted to the Task Force (The plans we reviewed were active in FY2009. County plans have since been updated.)
- Procedures for in-court appointments of counsel
- Criminal defense attorney survey

**Appendix B: County Data Sheet**



### Bexar County

Year	2001	2006	2007	2008	2009	Texas 2009
2000 population	1,392,931	1,392,931	1,392,931	1,392,931	1,392,931	20,851,464
Population Estimate	1,415,441	1,522,142	1,569,794	1,593,859	1,593,859	24,105,062
Felony Cases Added		13,220	16,343	15,726	17,110	283,619
Felony Cases Paid		7,281	9,717	9,902	11,712	191,936
Felony Appointment Rate		55.08%	59.46%	62.97%	68.45%	67.67%
Felony Attorney Fees		\$3,902,513	\$4,942,002	\$5,098,657	\$6,475,729	\$95,432,450
Total Felony Expenditures		\$4,649,652	\$5,680,205	\$5,861,081	\$7,198,612	\$108,305,552
<b>Felony Atty Fees Per Case</b>		<b>\$535.99</b>	<b>\$508.59</b>	<b>\$514.91</b>	<b>\$552.91</b>	<b>\$562.08</b>
Misdemeanor Cases Added		50,905	53,846	45,010	46,975	598,777
Misdemeanor Cases Paid		21,388	32,563	29,289	28,325	210,725
Misdemeanor Appointment Rate		42.02%	60.47%	65.07%	60.30%	35.19%
Misdemeanor Attorney Fees		\$1,969,760	\$3,164,905	\$3,245,767	\$3,118,151	\$32,021,577
Total Misdemeanor Expenditures		\$2,037,016	\$3,252,471	\$3,326,416	\$3,229,567	\$32,694,487
<b>Misdemeanor Atty Fees per Case</b>		<b>\$92.10</b>	<b>\$97.19</b>	<b>\$110.82</b>	<b>\$110.08</b>	<b>\$176.18</b>
Juvenile Cases Added		4,375	4,857	4,556	4,529	44,300
Juvenile Cases Paid		2,802	4,367	3,782	3,832	56,090
Juvenile Appointment Rate		64.05%	89.91%	83.01%	84.61%	126.61%
Juvenile Attorney Fees		\$642,033	\$1,077,302	\$1,036,595	\$977,481	\$11,681,900
Total Juvenile Expenditures		\$704,881	\$1,179,634	\$1,152,771	\$1,075,966	\$12,376,584
<b>Juvenile Atty Fees Per Case</b>		<b>\$229.13</b>	<b>\$246.69</b>	<b>\$274.09</b>	<b>\$255.08</b>	<b>\$281.13</b>
Total Attorney Fees	\$4,850,994	\$6,656,206	\$9,234,038	\$9,438,246	\$10,660,214	\$145,597,795
Total ID Expenditures	\$4,908,882	\$7,978,129	\$10,627,799	\$10,894,923	\$12,087,111	\$186,306,799
Increase In Total Expenditures over Baseline		62.52%	116.50%	121.94%	146.23%	109.97%
<b>Total ID Expenditures per Population</b>	<b>\$3.47</b>	<b>\$5.24</b>	<b>\$6.77</b>	<b>\$6.84</b>	<b>\$7.58</b>	<b>\$7.73</b>
Reimbursements from Defendants		\$540,170	\$581,866	\$541,229	\$456,236	\$9,904,970
Task Force Formula Grant Disbursement		\$780,874	\$714,070	\$713,661	\$711,711	\$11,624,982
Task Force Equalization Grant Award				\$385,802	\$732,820	\$12,000,000

## Appendix C: Investigative Costs

### All Court Levels

Bexar County spent \$200,893 on investigative services in felony, misdemeanor and juvenile cases during Fiscal Year 2009. Using the NSC standard<sup>1</sup>, the total predicted cost would have been \$2,800,875, see Table 1.

**Table 1: Predicted vs. Actual Cost**

	Misdemeanor Investigators Needed per National Standards	Felony Investigators Needed per National Standards	Juvenile Investigators Need per National Standards	National Standards Predicted Investigative Costs	Total Investigative Costs	Percentage of Predicted Amount Paid
Harris County	31.5	89.5	17.6	\$6,931,028	\$1,318,641	19%
Dallas County <sup>2</sup>	5.2	27.8	4.2	\$1,865,000	\$429,979	23%
Tarrant County	12.0	27.3	3.7	\$2,145,083	\$360,094	17%
Bexar County	23.6	26.0	6.4	\$2,800,875	\$200,893	7%
Travis County <sup>3</sup>	10.9	19.2	0.2	\$1,514,528	\$109,508	7%
Collin County	1.6	3.6	1.5	\$331,764	\$146,398	44%
El Paso County <sup>4</sup>	3.5	6.1	0.2	\$489,833	\$145,608	30%
Hidalgo County <sup>5</sup>	7.0	12.1	2.0	\$1,050,250	\$33,736	3%
Denton County	3.6	4.6	1.5	\$479,583	\$39,567	8%

Bexar County paid 7 percent of expected expenditures in investigative cases. These numbers are explained in detail in the following three sections, which are divided by case type.

<sup>1</sup> National Study Commission on Defense Services, *Guidelines for Legal Defense Systems in the United States*, Guideline 4.1 (1976).

<sup>2</sup> Dallas County operates a public defender office whose expenses are reported to the Task Force as administrative costs. To obtain accurate misdemeanor, felony, and juvenile expenses, we only examined private assigned counsel expenses and cases. In later charts this county is marked with an asterisk when public defender cases are removed.

<sup>3</sup> Travis County operates a public defender office whose expenses are reported to the Task Force as administrative costs. To obtain accurate misdemeanor, felony, and juvenile expenses, we only examined private assigned counsel expenses and cases. In later charts this county is marked with an asterisk when public defender cases are removed.

<sup>4</sup> El Paso County operates a public defender office whose expenses are reported to the Task Force as administrative costs. To obtain accurate misdemeanor, felony, and juvenile expenses, we only examined private assigned counsel expenses and cases. In later charts this county is marked with an asterisk when public defender cases are removed.

<sup>5</sup> Hidalgo County operates a public defender office whose expenses are reported to the Task Force as administrative costs. To obtain accurate misdemeanor, felony, and juvenile expenses, we only examined private assigned counsel expenses and cases. In later charts this county is marked with an asterisk when public defender cases are removed.

**Felony**

Bexar County paid \$7,198,612 for 11,712 felony cases during Fiscal Year 2009. Investigative charges amounted to \$184,848 and expert witness charges to \$276,537 as seen in Table 2.

**Table 2: Fiscal Year 2009 County Expenditures on Felony Cases**

	Investigative	Expert Witness	Number of Cases Paid	Total Expenditures	Total Expenditure per Case	Population
Harris County	\$1,278,051	\$479,663	40,285	\$19,177,632	\$476.05	4,070,989
Dallas County*	\$424,761	\$394,680	12,528	\$9,811,611	\$783.17	2,451,730
Tarrant County	\$353,623	\$287,172	12,273	\$9,161,519	\$746.48	1,789,900
Bexar County	\$184,848	\$276,537	11,712	\$7,198,612	\$614.64	1,651,448
Travis County	\$106,312	\$123,396	8,632	\$4,503,515	\$521.72	1,026,158
Collin County	\$145,332	\$121,557	1,598	\$2,251,061	\$1,408.67	791,631
El Paso County*	\$120,670	\$169,589	2,730	\$1,986,166	\$727.53	751,296
Hidalgo County	\$33,736	\$53,388	5,427	\$3,235,081	\$596.11	741,152
Denton County	\$37,847	\$45,958	2,052	\$1,749,789	\$852.72	658,616

The percent of cost spent on investigative expenses, or investigative spending divided by total expenditures, in Bexar County is 2.57 percent. For every \$100 spent on a case, \$2.57 went to cover investigative costs. This is about \$15.78 on each felony case for the county, as seen in Table 3. Expert Witnesses cost \$23.61 in each case and were about 3.84 percent of total expenditures.

**Table 3: Fiscal Year 2009 County Expenditures on Felony Cases**

	Percent of Cost spent on Investigative Expenses	Investigator cost per case	Percent of Cost spent on Expert Witness Expenses	Expert Witness cost per case
Harris County	6.66%	\$31.73	2.50%	\$11.91
Dallas County*	4.33%	\$33.90	4.02%	\$31.50
Tarrant County	3.86%	\$28.81	3.13%	\$23.40
Bexar County	2.57%	\$15.78	3.84%	\$23.61
Travis County	2.36%	\$12.32	2.74%	\$14.30
Collin County	6.46%	\$90.95	5.40%	\$76.07
El Paso County*	6.08%	\$44.20	8.54%	\$62.12
Hidalgo County	1.04%	\$6.22	1.65%	\$9.84
Denton County	2.16%	\$18.44	2.63%	\$22.40

The NSC standard calls for one full-time investigator for every 450 felony cases.<sup>6</sup> As Bexar County had 11,712 paid cases in Fiscal Year 2009, the county could expect to employ 26.03 full-time investigators.

<sup>6</sup> *Id.*

Assuming the full cost for one investigator is \$50,000<sup>7</sup>, in order to be in line with the NSC standard, Bexar County would have paid at least \$1,301,333 in felony investigative costs, as seen in Table 4. The table shows that Bexar County paid 14.2 percent of predicted investigatory costs during Fiscal Year 2009.

**Table 4: Fiscal Year 2009 Comparison to National Standards for Felonies**

	Number of Cases Paid	Number of Investigators needed at 1:450	True cost if following NSC standard	Investigative Costs	Percent of National Standard Paid
Harris County	40,285	89.5	\$4,476,111	\$1,278,051	28.55%
Dallas County*	12,528	27.8	\$1,392,000	\$424,761	30.51%
Tarrant County	12,273	27.3	\$1,363,667	\$353,623	25.93%
Bexar County	11,712	26.0	\$1,301,333	\$184,848	14.20%
Travis County	8,632	19.2	\$959,111	\$106,312	11.08%
Collin County	1,598	3.6	\$177,556	\$145,332	81.85%
El Paso County*	2,730	6.1	\$303,334	\$120,670	39.78%
Hidalgo County	5,427	12.1	\$603,000	\$33,736	5.59%
Denton County	2,052	4.6	\$228,000	\$37,847	16.60%

**Misdemeanor**

In FY09, Bexar County spent \$6,238 on investigative expenses and \$72,232 on expert witness expenses over 28,325 misdemeanor cases.

**Table 5: Fiscal Year 2009 County Expenditures on Misdemeanor Cases**

	Investigative	Expert Witness	Number of Cases Paid	Total Expenditures	Total Expenditure per Case	Population
Harris County	\$12,280	\$4,030	37,848	\$3,059,878	\$80.85	4,070,989
Dallas County*	\$1,331	\$50,196	6,276	\$953,525	\$151.93	2,451,730
Tarrant County	\$4,910	\$39,372	14,366	\$2,372,335	\$165.14	1,789,900
Bexar County	\$6,238	\$72,232	28,325	\$3,229,567	\$114.02	1,651,448
Travis County	\$3,196	\$671,000	13,074	\$1,993,339	\$152.47	1,026,158
Collin County	\$1,066	\$0	1,939	\$784,849	\$404.77	791,631
El Paso County*	\$19,644	\$23,992	4,236	\$984,854	\$232.50	751,296
Hidalgo County*	\$0.00	\$0	8,358	\$2,085,987	\$249.58	741,152
Denton County	\$1,070	\$11,519	4,286	\$1,082,356	\$252.53	658,616

<sup>7</sup> The State of Texas determines benefits and taxes at 28.57 percent of a full time worker's salary; therefore, a \$50,000 investigator would not only make a salary of \$38,889.32, but also cost an additional \$11,110.68 per year.

Bexar County spent 0.19 percent of total expenditures on investigative expenses. This is a total of \$0.22 per case, or 22 cents every \$100 dollars. Expert witness cost per case was \$2.55, which made up 2.24 percent of total expenditures, as illustrated in Table 6.

**Table 6: Fiscal Year 2009 County Expenditures on Misdemeanor Cases**

	Percent of Cost spent on Investigative Expenses	Investigator cost per case	Percent of Cost spent on Expert Witness Expenses	Expert Witness cost per case
Harris County	0.40%	\$0.32	0.13%	\$0.11
Dallas County*	0.14%	\$0.21	5.26%	\$8.00
Tarrant County	0.21%	\$0.34	1.66%	\$2.74
Bexar County	0.19%	\$0.22	2.24%	\$2.55
Travis County	0.16%	\$0.24	33.66%	\$51.32
Collin County	0.14%	\$0.55	0.00%	\$0.00
El Paso County*	1.99%	\$4.64	2.44%	\$5.66
Hidalgo County*	0.00%	\$0.00	0.00%	\$0.00
Denton County	0.10%	\$0.25	1.06%	\$2.69

The NSC standard<sup>8</sup> for misdemeanor cases calls for one full-time investigator for every 1200 misdemeanor cases. Using this standard, Bexar County would need 23.6 full-time investigators to handle the 28,325 cases that occurred in FY2009. Assuming the each investigator cost the county \$50,000, as in felonies, then Bexar County would have paid \$1,180,208 in investigative costs. During the period, they actually paid \$184,848, or 15.66 percent of predicted costs.

**Table 7: Fiscal Year 2009 Comparison to National Standards for Misdemeanors**

	Number of Cases Paid	Number of Investigators Needed at 1:1200 cases paid	True cost if following NSC standard	Investigative Costs	Percent of NSC Standard Paid
Harris County	37,848	31.54	\$1,577,000	\$12,280	0.78%
Dallas County*	6,276	5.23	\$261,500	\$1,331	0.51%
Tarrant County	14,366	11.97	\$598,583	\$4,910	0.82%
Bexar County	28,325	23.60	\$1,180,208	\$6,238	0.53%
Travis County	13,074	10.90	\$544,750	\$3,196	0.59%
Collin County	1,939	1.62	\$80,792	\$1,066	1.32%
El Paso County*	4,236	3.53	\$176,500	\$19,644	11.13%
Hidalgo County*	8,358	6.97	\$348,250	\$0.00	0.00%
Denton County	4,286	3.57	\$178,583	\$1,070	0.60%

<sup>8</sup> *Supra* note 50.

**Juvenile**

Bexar County spent \$1,075,966 on 3,832 juvenile cases during FY2009. Investigative expenses cost \$9,807 and expert witnesses cost the county \$66,351.

**Table 8: Fiscal Year 2009 County Expenditures on Juvenile Cases**

	Investigative	Expert Witness	Number of Cases Paid	Total Expenditures	Total Expenditures per Case	Population
Harris County	\$28,310	\$7,030	10,535	\$2,435,666	\$231.20	4,070,989
Dallas County*	\$3,887	\$5,338	2,538	\$1,425,761	\$561.77	2,451,730
Tarrant County	\$1,561	\$178,735	2,194	\$724,859	\$330.38	1,789,900
Bexar County	\$9,807	\$66,351	3,832	\$1,075,966	\$280.78	1,651,448
Travis County*	\$0.00	\$0.00	128	\$116,736	\$912.00	1,026,158
Collin County	\$0.00	\$0.00	881	\$297,245	\$337.40	791,631
El Paso County*	\$5,294	\$30,279	120	\$210,258	\$1,752.15	751,296
Hidalgo County	\$0.00	\$5,463	1,188	\$560,729	\$471.99	741,152
Denton County	\$650	\$20,212	876	\$245,033	\$279.72	658,616

Table 9 shows, Bexar County spent \$2.56 on investigation and \$17.31 on expert witness expenses in each juvenile case.

**Table 9: Fiscal Year 2009 County Expenditures on Juvenile Cases**

	Percent of Cost spent on Investigative Expenses	Investigator cost per case	Percent of Cost spent on Expert Witness Expenses	Expert Witness cost per case
Harris County	1.16%	\$2.69	0.29%	\$0.67
Dallas County*	0.27%	\$1.53	0.37%	\$2.10
Tarrant County	0.22%	\$0.71	24.66%	\$81.47
Bexar County	0.91%	\$2.56	6.17%	\$17.31
Travis County*	0.00%	\$0.00	0.00%	\$0.00
Collin County	0.00%	\$0.00	0.00%	\$0.00
El Paso County*	2.52%	\$44.12	14.40%	\$252.33
Hidalgo County	0.00%	\$0.00	0.97%	\$4.60
Denton County	0.30%	\$0.74	8.25%	\$23.07

The county spends 0.91 percent of juvenile delinquency case expenditures on investigative expenses and 6.17 percent on expert witness expenses. The NSC standard<sup>9</sup> is one investigator for every 600 juvenile cases. If Bexar County employed the 6.4 full-time investigators necessary to examine the 3,832 cases, they would have spent \$319,333 during FY09. Instead, they spent 3.07 percent of that, or \$9,897 on investigative costs.

**Table 10: Fiscal Year 2009 Comparison to National Standards for Juvenile Delinquency**

	Number of Cases Paid	Number of Investigators Needed at 1:600 cases paid	True cost if following NSC standard	Investigative Costs	Percent of NCS Standard Paid
Harris County	10,535	17.56	\$877,917	\$28,310	3.22%
Dallas County*	2,538	4.23	\$211,500	\$3,887	1.84%
Tarrant County	2,194	3.67	\$182,833	\$1,561	0.85%
Bexar County	3,832	6.39	\$319,333	\$9,897	3.07%
Travis County*	128	0.21	\$10,667	\$0.00	0.00%
Collin County	881	1.47	\$73,417	\$0.00	0.00%
El Paso County*	120	0.20	\$10,000	\$5,294	52.94%
Hidalgo County	1,188	1.98	\$99,000	\$0.00	0.00%
Denton County	876	1.46	\$73,000	\$650	0.89%

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<sup>9</sup> *Ibid.*

## Appendix D: Counsel Request Rates at Magistration Grouped by Various Offenses

Misdemeanor arrestees requested counsel at a slightly higher rate than felony arrestees. The monitor examined 408 instances where persons made a decision as to whether to request counsel for a misdemeanor offense. Three hundred seventeen (317) of the arrestees requested counsel from the magistrate (77.7%). This high request rate is an indication that arrestees are understanding the right to court appointed counsel. The request rates from the sample varied by the type of offense. See the following table for request rates for various misdemeanor offenses.<sup>1</sup>

**Table 1: Requests for Counsel for Various Misdemeanor Offenses**

<b>Offense</b>	<b>Total Persons Requesting</b>	<b>Total Persons From Sample</b>	<b>Percent Requesting</b>
Assault; Assault Causing Bodily Injury; Assault Causing Bodily Injury to Family Member	29	37	78.4%
Burglary of Vehicle	6	8	75.0%
Criminal Trespass	15	15	100.0%
DWI; DWI 2nd; DWI - open container	28	42	66.7%
Evading Arrest; Evading Detention; Failure to ID; Failure to Stop and Give Information	23	33	69.7%
Possession of Controlled Substance 3 - 28g; Possession of Dangerous Drug	16	20	80.0%
Possession of Marijuana < 2 oz; Possession of Marijuana 2 - 4 oz	75	94	79.8%
Prostitution	7	8	87.5%
Resisting Arrest	12	16	75.0%
Theft \$50 - \$500; Theft \$500 - \$1500; Theft of Service \$20 - \$500	66	78	84.6%
<b>All Offenses in Sample</b>	<b>317</b>	<b>408</b>	<b>77.7%</b>

<sup>1</sup> Sub-totals do not add up to the sample total because some of the less common offenses were not included in the table.



The monitor examined 117 instances where persons made a decision as to whether to request counsel for a felony offense. Eighty-one (81) of the arrestees requested counsel from the magistrate (69.2%). While felony arrestees in the monitor’s sample requested at counsel at a lower rate than misdemeanor arrestees, the fact that 69% of felony arrestees requested counsel is an indication that the arrestees typically understand the right to appointed counsel at the time of the magistrate warnings. See the following table for request rates for various felony offenses.<sup>2</sup>

**Table 2: Requests for Counsel for Various Felony Offenses**

<b>Offense</b>	<b>Total Persons Requesting</b>	<b>Total Persons From Sample</b>	<b>Percent Requesting</b>
Aggravated Assault w/ Deadly Weapon; Aggravated Assault of Child; Aggravated Robbery; Sexual Assault – child; Injury to Child; Assault Family Violence – 2 <sup>nd</sup> ; Injury to Elderly; Retaliation; Deadly Conduct - Firearm	17	28	60.7%
DWI – 3 <sup>rd</sup> or more; DWI with child	8	9	88.9%
Possession of Controlled Substance PG1 <1g; Possession of Controlled Substance PG1 1 – 4g; Obtain Drugs by Fraud	23	33	69.7%
Possession of Controlled Substance PG1 4 – 200g; Possession of Controlled Substance PG1 200 – 400g; Possession of Controlled Substance PG2 4g – 400g; Possession of Marijuana 4oz – 5lbs; Possession of Marijuana 5lbs – 50 lbs	10	17	58.8%
Theft \$1500 - \$20k; Theft \$20k - \$100k	9	10	90.0%
<b>All Offenses in Sample</b>	<b>81</b>	<b>117</b>	<b>69.2%</b>

<sup>2</sup> Sub-totals do not add up to the sample total because some of the less common offenses were not included in the table.

## **Appendix E: Summary of Case Disposition Sample**

**Appendix E: Summary of Case Disposition Sample**

**Appointed Counsel Cases Compared to Retained Counsel Cases for Class A Misdemeanor Offenses**

Class A Misdemeanor		Total Cases	Percent of Appointed Sample		Total Cases	Percent of Retained Sample
Appointed Counsel		132		Retained Counsel	36	
Pled to Confinement		53	40.2%	Pled to Confinement	7	19.4%
1 - 15 days	2		1 - 15 days	2		
16 - 30 days	5		16 - 30 days	0		
31 - 90 days	15		31 - 90 days	3		
91 days - 180 days	7		91 days - 180 days	1		
181 days - 365 days	24		181 days - 365 days	1		
Pled to Probation		19	14.4%	Pled to Probation	1	2.8%
On probation up to 6 months	2		On probation up to 6 months	0		
On probation for 6 months 1 day to 1 year	9		On probation for 6 months 1 day to 1 year	0		
On probation for over 1 year	8		On probation for over 1 year	1		
Pled to Deferred Adjudication		16	12.1%	Pled to Deferred Adjudication	4	11.1%
On deferred up to 6 months	4		On deferred up to 6 months	2		
On deferred for 6 months to 12 months	12		On deferred for 6 months to 12 months	2		
Dismissal		43	32.6%	Dismissal	22	61.1%
Dismissal for plea in another case	31		Dismissal for plea in another case	11		
Other dismissal	12		Other dismissal	11		
Acquittal		0	0.0%	Acquittal	1	2.8%
Other – pled to class C misdemeanor		1	0.8%	Other – pled to class C misdemeanor	1	2.8%

**Detained Cases Compared to Bonded Cases for Class A Misdemeanor Offenses**

<b>Class A Misdemeanor</b>		Total Cases	Percent of detained Sample		Total Cases	Percent of bonded Sample
Detained		52		Bonded	116	
Pled to Confinement		28	53.8%	Pled to Confinement	32	27.6%
1 - 15 days	0			1 - 15 days	4	
16 - 30 days	0			16 - 30 days	6	
31 - 90 days	7			31 - 90 days	10	
91 days - 180 days	3			91 days - 180 days	5	
181 days - 365 days	18			181 days - 365 days	7	
Pled to Probation		5	9.6%	Pled to Probation	15	12.9%
On probation up to 6 months	0			On probation up to 6 months	2	
On probation for 6 months 1 day to 1 year	0			On probation for 6 months 1 day to 1 year	8	
On probation for over 1 year	5			On probation for over 1 year	5	
Pled to Deferred Adjudication		3	5.8%	Pled to Deferred Adjudication	17	14.7%
On deferred up to 6 months	1			On deferred up to 6 months	5	
On deferred for 6 months to 12 months	2			On deferred for 6 months to 12 months	12	
Dismissal		16	30.8%	Dismissal	49	42.2%
Dismissal for plea in another case	15			Dismissal for plea in another case	27	
Other dismissal	1			Other dismissal	22	
Acquittal		0	0.0%	Acquittal	1	0.9%
Other		0	0.0%	Other	2	1.7%

**Appointed Counsel Cases Compared to Retained Counsel Cases for Class B Misdemeanor Offenses**

<b>Class B Misdemeanor</b>		Total Cases	Percent of Appointed Sample		Total Cases	Percent of Retained Sample
Appointed Counsel		246		Retained Counsel	36	
Pled to Confinement		66	26.8%	Pled to Confinement	6	16.7%
1 - 15 days	8			1 - 15 days	1	
16 - 30 days	19			16 - 30 days	3	
31 - 90 days	28			31 - 90 days	1	
91 days - 180 days	11			91 days - 180 days	1	
Pled to Probation		56	22.8%	Pled to Probation	7	19.4%
On probation up to 6 months	25			On probation up to 6 months	1	
On probation for 6 months 1 day to 1 year	29			On probation for 6 months 1 day to 1 year	6	
On probation for over 1 year	2			On probation for over 1 year	0	
Pled to Deferred Adjudication		78	31.7%	Pled to Deferred Adjudication	11	30.6%
On deferred up to 6 months	65			On deferred up to 6 months	10	
On deferred for 6 months to 12 months	13			On deferred for 6 months to 12 months	1	
Dismissal		46	18.7%	Dismissal	12	33.3%
Dismissal for plea in another case	36			Dismissal for plea in another case	9	
Other dismissal	10			Other dismissal	3	
Acquittal		0	0.0%	Acquittal	0	0.0%
Other		0	0.0%	Other	0	0.0%

**Detained Cases Compared to Bonded Cases for Class B Misdemeanor Offenses**

<b>Class B Misdemeanor</b>		Total Cases	Percent of Detained Sample		Total Cases	Percent of Bonded Sample
Detained		28		Bonded	254	
Pled to Confinement		25	89.3%	Pled to Confinement	47	18.5%
1 - 15 days	3		1 - 15 days	6		
16 - 30 days	6		16 - 30 days	16		
31 - 90 days	9		31 - 90 days	20		
91 days - 180 days	7		91 days - 180 days	5		
Pled to Probation		0	0.0%	Pled to Probation	63	24.8%
On probation up to 6 months			On probation up to 6 months	26		
On probation for 6 months 1 day to 1 year			On probation for 6 months 1 day to 1 year	35		
On probation for over 1 year			On probation for over 1 year	3		
Pled to Deferred Adjudication		1	3.6%	Pled to Deferred Adjudication	88	34.6%
On deferred up to 6 months	0		On deferred up to 6 months	75		
On deferred for 6 months to 12 months	1		On deferred for 6 months to 12 months	13		
Dismissal		2	7.1%	Dismissal	56	22.0%
Dismissal for plea in another case	2		Dismissal for plea in another case	43		
Other dismissal	0		Other dismissal	13		
Acquittal		0	0.0%	Acquittal	0	0.0%
Other		0	0.0%	Other	0	0.0%

**Appointed Counsel Cases Compared to Retained Counsel Cases for First Degree Felony Offenses**

<b>Felony - 1st Degree</b>		Total Cases	Percent of Appointed Sample		Total Cases	Percent of Retained Sample
Appointed Counsel		17		Retained Counsel	10	
Case Still Active		14	82.4%	Case Still Active	10	100.0%
Pled to Confinement		1	5.9%	Pled to Confinement	0	0.0%
	Under 1 year	0				
	1 - 5 years	0				
	5 years 1 day to 10 years	0				
	Over 10 years	1				
Pled to Probation		1	5.9%	Pled to Probation	0	0.0%
	On probation up to 2 years	0				
	On probation for 2 years 1 day to 5 years	1				
	On probation for over 5 years	0				
Pled to Deferred Adjudication		1	5.9%	Pled to Deferred Adjudication	0	0.0%
	On deferred up to 2 years	0				
	On deferred for 2 years 1 day to 5 years	1				
	On deferred for over 5 years	0				
Dismissal		0	0.0%	Dismissal	0	0.0%

**Detained Cases Compared to Bonded Cases for First Degree Felony Offenses**

<b>Felony - 1st Degree</b>		Total Cases	Percent of Detained Sample		Total Cases	Percent of Bonded Sample
Detained		9		Bonded	18	
Case Still Active		8	88.9%	Case Still Active	16	88.9%
Pled to Confinement		1	11.1%	Pled to Confinement	0	0.0%
	Under 1 year	0			Under 1 year	
	1 - 5 years	0			1 - 5 years	
	5 years 1 day to 10 years	0			5 years 1 day to 10 years	
	Over 10 years	1			Over 10 years	
Pled to Probation		0	0.0%	Pled to Probation	1	5.6%
	On probation up to 2 years				On probation up to 2 years	0
	On probation for 2 years 1 day to 5 years				On probation for 2 years 1 day to 5 years	1
	On probation for over 5 years				On probation for over 5 years	0
Pled to Deferred Adjudication		0	0.0%	Pled to Deferred Adjudication	1	5.6%
	On deferred up to 2 years				On deferred up to 2 years	0
	On deferred for 2 years 1 day to 5 years				On deferred for 2 years 1 day to 5 years	1
	On deferred for over 5 years				On deferred for over 5 years	0
Dismissal		0	0.0%	Dismissal	0	0.0%



**Appointed Counsel Cases Compared to Retained Counsel Cases for Second Degree Felony Offenses**

<b>Felony - 2nd Degree</b>		Total Cases	Percent of Appointed Sample			Total Cases	Percent of Retained Sample
Appointed Counsel		17		Retained Counsel		11	
Case Still Active		7	41.2%	Case Still Active		7	63.6%
Pled to Confinement		2	11.8%	Pled to Confinement		1	9.1%
Under 1 year	0			Under 1 year	0		
1 - 5 years	2			1 - 5 years	1		
5 years 1 day to 10 years	0			5 years 1 day to 10 years	0		
Over 10 years	0			Over 10 years	0		
Pled to Probation		4	23.5%	Pled to Probation		1	9.1%
On probation up to 2 years	1			On probation up to 2 years	0		
On probation for 2 years 1 day to 5 years	1			On probation for 2 years 1 day to 5 years	1		
On probation for over 5 years	2			On probation for over 5 years	0		
Pled to Deferred Adjudication		4	23.5%	Pled to Deferred Adjudication		2	18.2%
On deferred up to 2 years	1			On deferred up to 2 years	0		
On deferred for 2 years 1 day to 5 years	2			On deferred for 2 years 1 day to 5 years	2		
On deferred for over 5 years	1			On deferred for over 5 years	0		
Dismissal		0	0.0%	Dismissal		0	0.0%

**Detained Cases Compared to Bonded Cases for Second Degree Felony Offenses**

<b>Felony - 2nd Degree</b>		Total Cases	Percent of Detained Sample			Total Cases	Percent of Bonded Sample
Detained		10		Bonded		18	
Case Still Active		2	20.0%	Case Still Active		12	66.7%
Pled to Confinement		3	30.0%	Pled to Confinement		0	0.0%
Under 1 year	0			Under 1 year			
1 - 5 years	3			1 - 5 years			
5 years 1 day to 10 years	0			5 years 1 day to 10 years			
Over 10 years	0			Over 10 years			
Pled to Probation		3	30.0%	Pled to Probation		2	11.1%
On probation up to 2 years	1			On probation up to 2 years	0		
On probation for 2 years 1 day to 5 years	1			On probation for 2 years 1 day to 5 years	1		
On probation for over 5 years	1			On probation for over 5 years	1		
Pled to Deferred Adjudication		2	20.0%	Pled to Deferred Adjudication		4	22.2%
On deferred up to 2 years	1			On deferred up to 2 years	0		
On deferred for 2 years 1 day to 5 years	1			On deferred for 2 years 1 day to 5 years	3		
On deferred for over 5 years				On deferred for over 5 years	1		
Dismissal		0	0.0%	Dismissal		0	0.0%

**Appointed Counsel Cases Compared to Retained Counsel Cases for Third Degree Felony Offenses**

<b>Felony - 3rd Degree</b>		Total Cases	Percent of Appointed Sample		Total Cases	Percent of Retained Sample
Appointed Counsel		34		Retained Counsel	21	
Case Still Active		16	47.1%	Case Still Active	12	57.1%
Pled to Confinement		3	8.8%	Pled to Confinement	1	4.8%
Under 1 year	1		Under 1 year	0		
1 - 5 years	2		1 - 5 years	1		
5 years 1 day to 10 years	0		5 years 1 day to 10 years	0		
Pled to Probation		4	11.8%	Pled to Probation	3	14.3%
On probation up to 2 years	0		On probation up to 2 years	1		
On probation for 2 years 1 day to 5 years	3		On probation for 2 years 1 day to 5 years	1		
On probation for over 5 years	1		On probation for over 5 years	1		
Pled to Deferred Adjudication		11	32.4%	Pled to Deferred Adjudication	4	19.0%
On deferred up to 2 years	6		On deferred up to 2 years	0		
On deferred for 2 years 1 day to 5 years	5		On deferred for 2 years 1 day to 5 years	3		
On deferred for over 5 years	0		On deferred for over 5 years	1		
Dismissal		0	0.0%	Dismissal	1	4.8%
Dismissal for plea in another case			Dismissal for plea in another case	1		
Other dismissal			Other dismissal	0		

**Detained Cases Compared to Bonded Cases for Third Degree Felony Offenses**

<b>Felony - 3rd Degree</b>		Total Cases	Percent of Detained Sample		Total Cases	Percent of Bonded Sample
Detained		12		Bonded	43	
Case Still Active		3	25.0%	Case Still Active	25	58.1%
Pled to Confinement		1	8.3%	Pled to Confinement	3	7.0%
Under 1 year	1			Under 1 year	0	
1 - 5 years	0			1 - 5 years	3	
5 years 1 day to 10 years	0			5 years 1 day to 10 years	0	
Pled to Probation		4	33.3%	Pled to Probation	3	7.0%
On probation up to 2 years	1			On probation up to 2 years	0	
On probation for 2 years 1 day to 5 years	2			On probation for 2 years 1 day to 5 years	2	
On probation for over 5 years	1			On probation for over 5 years	1	
Pled to Deferred Adjudication		4	33.3%	Pled to Deferred Adjudication	11	25.6%
On deferred up to 2 years	1			On deferred up to 2 years	5	
On deferred for 2 years 1 day to 5 years	3			On deferred for 2 years 1 day to 5 years	5	
On deferred for over 5 years	0			On deferred for over 5 years	1	
Dismissal		0	0.0%	Dismissal	1	2.3%
Dismissal for plea in another case				Dismissal for plea in another case	1	
Other dismissal				Other dismissal	0	

**Appointed Counsel Cases Compared to Retained Counsel Cases for State Jail Felony Offenses**

Felony - State Jail		Total Cases	Percent of Appointed Sample		Total Cases	Percent of Retained Sample
Appointed Counsel		58		Retained Counsel	20	
Case Still Active		24	41.4%	Case Still Active	16	80.0%
Pled to Confinement		4	6.9%	Pled to Confinement	1	5.0%
Under 1 year	4			Under 1 year	0	
1 - 2 years	0			1 - 2 years	1	
Pled to Probation		6	10.3%	Pled to Probation	0	0.0%
On probation up to 2 years	4			On probation up to 2 years		
On probation for 2 years 1 day to 5 years	2			On probation for 2 years 1 day to 5 years		
On probation for over 5 years	0			On probation for over 5 years		
Pled to Deferred Adjudication		24	41.4%	Pled to Deferred Adjudication	3	15.0%
On deferred up to 2 years	17			On deferred up to 2 years	3	
On deferred for 2 years 1 day to 5 years	7			On deferred for 2 years 1 day to 5 years	0	
On deferred for over 5 years	0			On deferred for over 5 years	0	
Dismissal		0	0.0%	Dismissal	0	0.0%

**Detained Cases Compared to Bonded Cases for State Jail Felony Offenses**

<b>Felony - State Jail</b>		Total Cases	Percent of Detained Sample		Total Cases	Percent of Bonded Sample
Detained		14		Bonded	64	
Case Still Active		7	50.0%	Case Still Active	33	51.6%
Pled to Confinement		2	14.3%	Pled to Confinement	3	4.7%
Under 1 year	2			Under 1 year	2	
1 - 2 years	0			1 - 2 years	1	
Pled to Probation		2	14.3%	Pled to Probation	4	6.3%
On probation up to 2 years	1			On probation up to 2 years	3	
On probation for 2 years 1 day to 5 years	1			On probation for 2 years 1 day to 5 years	1	
On probation for over 5 years	0			On probation for over 5 years	0	
Pled to Deferred Adjudication		3	21.4%	Pled to Deferred Adjudication	24	37.5%
On deferred up to 2 years	2			On deferred up to 2 years	18	
On deferred for 2 years 1 day to 5 years	1			On deferred for 2 years 1 day to 5 years	6	
On deferred for over 5 years	0			On deferred for over 5 years	0	
Dismissal		0	0.0%	Dismissal	0	0.0%

**Appendix F: FY2009 Summary Appointed Counsel Case and Payment Data**

<b>Attorney</b>	<b>Felony Cases</b>	<b>Juvenile Cases</b>	<b>Misdemeanor Cases</b>	<b>Appeal Cases</b>	<b>Number of Attorneys Required per NAC Standards</b>	<b>Total Payments</b>
CRAIG, PAMELA	189	0	396	0	2.3	\$93,133
JOYNER, JONATHAN KUIPERS	72	23	568	0	2.0	\$86,703
OLTERS DORF, JAMES	167	0	292	0	1.8	\$90,060
GARZA, BRIGITTE	67	0	494	0	1.7	\$79,487
JOYNER, JASON	43	12	533	0	1.7	\$78,273
LOCK, JEB D	107	0	360	0	1.6	\$83,620
TORRES, MINERVA	61	0	468	0	1.6	\$86,065
TOCCI, JAMES V	170	24	128	0	1.6	\$124,572
WARNER, JAMES	171	16	93	0	1.5	\$101,644
ACEVEDO, ROCHELLE	94	8	311	0	1.4	\$71,924
RUBIOLA JR., CHARLES	109	100	85	0	1.4	\$74,995
RAMOS, MICHAEL ANTHONY	117	0	255	0	1.4	\$68,400
PREECE, ANDREW GEORGE	155	25	97	0	1.4	\$92,340
DELEON, RAYMOND	78	93	114	0	1.3	\$106,433
ADAMS, EDWARD H	95	1	212	0	1.2	\$89,977
WOOD III, BERTRAM O.	72	57	140	0	1.1	\$72,191
COX, CORNELIUS N.	73	91	40	0	1.0	\$107,186
CORBY, KAREN L	63	86	76	0	1.0	\$63,637
LUTHI, ANGELA	63	44	153	0	1.0	\$79,736
HILLE, THOMAS	44	43	203	0	1.0	\$50,775
SEBASTIAN, LELAND A.	19	172	0	0	1.0	\$33,614
WOODARD, DAVID ANDRE	94	31	80	0	1.0	\$52,631
HAJEK III, ANTON PAUL	94	0	120	1	1.0	\$85,066
POWERS, BRIAN	54	0	240	0	1.0	\$41,102
BENAVIDES, MARK H	20	0	320	0	0.9	\$37,130
VALADEZ, HILDA Q	118	0	49	0	0.9	\$148,425
PREVITI, DAPHNE	70	35	101	0	0.9	\$53,260
THORN, SHARON C	95	17	69	0	0.9	\$45,845
WIEDERMANN, LIBBY LYNN	87	32	52	0	0.9	\$72,521
DIACHIN, DEAN A	53	19	168	0	0.9	\$40,310
CALLAHAN, VINCENT D	113	0	0	2	0.8	\$68,470
XIMENEZ, ALFRED	67	0	154	0	0.8	\$60,137
IZAGUIRRE, ABEL	40	0	223	0	0.8	\$36,800
LOPEZ, BRANDEN	17	7	269	0	0.8	\$32,133
CORONADO, GIL TODD	31	30	184	0	0.8	\$37,996
DAVIDSON, WILLIAM F	62	33	94	0	0.8	\$54,135
MAURER, VIRGINIA E	85	0	98	0	0.8	\$40,843
SHAUGHNESSY, ED F.	93	0	75	0	0.8	\$75,583
CONNOR, MEGAN	8	15	271	0	0.8	\$29,269
HARDY, BRENT R	65	0	132	1	0.8	\$38,103
RICHARDSON, JOEL G	34	44	138	0	0.8	\$32,423
BUNK, J CHARLES	109	0	19	0	0.8	\$78,640
GOLD, CHARLES	42	0	195	0	0.8	\$45,300
TREVINO, MARIO A	33	25	114	3	0.8	\$50,030
WHITE, MICHAEL	33	0	211	0	0.7	\$34,912
DEWALT, ERIC A.	42	0	183	0	0.7	\$45,766
HERRERA, FRANCES M.	21	0	238	0	0.7	\$29,921
CHURCH, RYAN	55	0	147	0	0.7	\$47,937
ANDRADE, ROLANDO C.	95	0	39	0	0.7	\$54,115
CAVAZOS, SYLVIA A	78	7	67	0	0.7	\$36,686
MEYRAT, JAMES	45	26	117	0	0.7	\$29,967



<b>Attorney</b>	<b>Felony Cases</b>	<b>Juvenile Cases</b>	<b>Misdemeanor Cases</b>	<b>Appeal Cases</b>	<b>Number of Attorneys Required per NAC Standards</b>	<b>Total Payments</b>
CASTILLO, INA	35	0	195	0	0.7	\$32,036
SMITH, ANN MARIE	39	23	138	0	0.7	\$29,014
TARVER, WALLACE P.	21	91	45	0	0.7	\$42,400
CONNOLLY, THERESA M.	33	56	81	0	0.7	\$28,625
WHITE, JEROME	51	18	108	0	0.7	\$41,465
MESSINGER, ALLEN	12	0	244	0	0.7	\$45,851
GARCIA JR, RICHARD L	41	0	156	0	0.7	\$30,184
BENAVIDES, ALMA	64	0	92	0	0.7	\$38,617
GARCIA, DAVID A	29	74	33	0	0.6	\$74,784
ROBLES, BEATRICE G	35	41	81	0	0.6	\$34,264
PEACE, TERRI C.	64	0	80	0	0.6	\$30,889
RAMIREZ, CELESTE	67	0	71	0	0.6	\$50,280
JARRETT, LISA	53	2	101	0	0.6	\$88,938
FRANCO, ROY	67	0	64	0	0.6	\$62,358
VALICEK, MICHAEL D.	23	75	30	0	0.6	\$27,554
MONTOYA JR., ISIDRO	21	49	87	0	0.6	\$26,543
GARCIA, JOHN JOSEPH	18	90	13	0	0.6	\$37,558
HARDY, MILAGROS L	50	0	107	0	0.6	\$30,414
YOUNG, WAYNE	60	28	22	0	0.6	\$42,711
SCHMEHL, JERAMY	33	0	150	0	0.6	\$31,423
JARMON, JAMISSA LYNNE	65	0	64	0	0.6	\$36,466
LONGAKER, KENTON DEEM	61	19	36	0	0.6	\$33,629
CAVAZOS, CHRISTOPHER D	12	23	157	0	0.6	\$21,837
NOBLE, SUE	42	20	81	0	0.6	\$26,315
RODRIGUEZ, FRED	45	38	36	0	0.6	\$51,952
BLOMSTER, JEANNE L.	34	28	84	0	0.6	\$28,271
COOK, JUSTIN	22	0	172	0	0.6	\$33,671
MULLINER, JEFF	51	0	94	0	0.6	\$51,562
RAIGN, MICHAEL S.	56	0	79	0	0.6	\$41,215
BOYD, FRANKIE GENEVA	22	44	79	0	0.6	\$20,069
MONTGOMERY, PATRICK BARRY	25	30	83	1	0.6	\$26,094
WILLERSON, JIM	41	4	107	0	0.6	\$21,729
ZAMORA, LAUREN	29	20	105	0	0.6	\$22,243
THOMAS, DAVID N	38	0	120	0	0.6	\$34,957
VILLAREAL, RAYMOND ANTHONY	21	0	163	0	0.5	\$39,999
RAMOS, FERNANDO	56	0	69	0	0.5	\$49,475
PORTER, ROBERT	28	35	73	0	0.5	\$27,088
KRAMER, SUZANNE	34	0	46	5	0.5	\$25,846
GAONA, ROBERT	31	0	133	0	0.5	\$28,634
SETTLE, ELIZABETH A.	19	18	129	0	0.5	\$21,178
VALDES, VICTOR M.	35	33	56	0	0.5	\$38,779
LOCKE, SHANNON WILLIS	56	0	62	0	0.5	\$57,154
SHAFFER, GEORGE E	30	29	73	0	0.5	\$32,019
CHAIRES, ALBERTO	33	0	123	0	0.5	\$33,410
AGUILERA, JOSEPH MICK	39	0	101	0	0.5	\$25,131
DICKSON JR, FRANK L	38	23	57	0	0.5	\$29,121
SKINNER, SUSAN	55	0	57	0	0.5	\$32,513
HUDSON, CINDY S	29	0	126	0	0.5	\$31,174
HOOD, MELAINA L.	25	17	101	0	0.5	\$32,391
BEAL, PHYLLIS J	40	0	94	0	0.5	\$23,345

<b>Attorney</b>	<b>Felony Cases</b>	<b>Juvenile Cases</b>	<b>Misdemeanor Cases</b>	<b>Appeal Cases</b>	<b>Number of Attorneys Required per NAC Standards</b>	<b>Total Payments</b>
NISBET, JENNIFER	33	0	109	0	0.5	\$47,038
MILLER, EMILY	22	0	137	0	0.5	\$17,550
SHAFFER, ROBERT	21	25	89	0	0.5	\$25,050
WOLF, WARREN ALAN	25	58	12	0	0.5	\$42,875
DOMBART, GEORGE	47	0	69	0	0.5	\$35,347
BRADNEY, SCOTT	39	0	88	0	0.5	\$27,695
MOHR, BLAKELY	12	0	158	0	0.5	\$23,912
POLUNSKY, ANDREA C	44	0	71	0	0.5	\$28,563
BALDERAS, MARISA	33	0	100	0	0.5	\$22,151
VALDEZ JR., JERRY	23	26	74	0	0.5	\$20,675
SILVA, JENNIFER WARREN	30	0	107	0	0.5	\$24,685
ROBERTSON, JOHN H	26	25	67	0	0.5	\$24,884
YOUNG, JOHN P.	29	19	71	0	0.5	\$31,029
LEVIS, EARL	32	20	60	0	0.5	\$35,860
MITCHELL, RUSSELL	23	0	124	0	0.5	\$15,600
MCKAY, MARK JOHN	47	0	59	0	0.5	\$31,748
KELL, ORLANDO	20	18	94	0	0.5	\$22,136
HILL, G SCOTT	19	17	97	0	0.5	\$29,480
COLLINS, MICHAEL J.	24	26	63	0	0.4	\$19,330
GRANADOS, MICHAEL DAVID	63	0	11	0	0.4	\$70,099
GARZA, ABELARDO	8	74	9	0	0.4	\$21,975
JIMENEZ, ROBERT	2	0	172	0	0.4	\$18,413
BAUMAN, BROOKE ALLISON	37	0	78	0	0.4	\$28,729
SMITH, STEPHEN	24	30	52	0	0.4	\$25,658
WINTER, JOHN M	37	0	77	0	0.4	\$22,360
WHITT, IRENE	16	0	133	0	0.4	\$17,939
GEBBIA, ROBERT F	13	2	137	0	0.4	\$17,235
DELANO JR., WILLIAM G.	20	41	40	0	0.4	\$14,294
PAXTON, DALILA	34	0	84	0	0.4	\$31,520
LOZANO, LORA	0	0	174	0	0.4	\$17,345
BROWN, CELESTE	14	0	134	0	0.4	\$21,905
GAY, ARLENE	29	0	92	0	0.4	\$25,541
HERNANDEZ, JUAN CARLOS	44	0	50	0	0.4	\$18,934
MOTON, GERALD C	22	52	4	0	0.4	\$30,079
FINCH, MATTHEW L	25	21	58	0	0.4	\$26,404
ACEVEDO, PAUL R.	1	0	162	0	0.4	\$13,880
SOUZA, LAWRENCE J	27	23	46	0	0.4	\$33,817
RAMOS, ROLANDO	0	0	164	0	0.4	\$14,904
BUTLER III, MILTON C.	32	0	78	0	0.4	\$18,483
HICKS, BOB M	21	17	73	0	0.4	\$30,468
EAKLE, JOANNE	16	28	64	0	0.4	\$18,983
BAIN JR, CECIL W	40	0	53	0	0.4	\$42,736
HURD, ANDREW	25	0	92	0	0.4	\$21,719
SMITH, ANTHONY M	43	21	1	0	0.4	\$38,101
LOXSOM, ANDREW J	28	20	42	0	0.4	\$18,415
HUNT, JAMES KENDALL	20	31	41	0	0.4	\$21,788
BOYD, STEPHANIE R	51	0	20	0	0.4	\$25,441
ESPARZA, STEPHANIE	40	0	49	0	0.4	\$17,011
HITCHINGS, BARRY	23	23	48	0	0.4	\$19,456
CUELLAR, DAVID A	32	22	25	0	0.4	\$60,508
VOLK, DAVID	19	0	102	0	0.4	\$24,188

<b>Attorney</b>	<b>Felony Cases</b>	<b>Juvenile Cases</b>	<b>Misdemeanor Cases</b>	<b>Appeal Cases</b>	<b>Number of Attorneys Required per NAC Standards</b>	<b>Total Payments</b>
POLLOCK, JULIE B.	15	22	67	0	0.4	\$14,321
PAYNE, GLENN	25	0	83	0	0.4	\$16,824
PEREZ, ADRIAN A	20	0	95	0	0.4	\$14,548
CORTEZ, GENARO	22	0	87	0	0.4	\$15,114
WHEAT, JAMES	33	26	3	0	0.4	\$79,878
ARGABRIGHT, K NOELLE	30	0	61	0	0.4	\$15,996
REECE JR., WILLIAM T.	36	14	17	0	0.4	\$19,306
GOMEZ, VICTOR R	20	30	25	0	0.3	\$19,945
VASQUEZ, PAUL	15	12	74	0	0.3	\$15,967
BOHAC, JOSEPH K	20	30	24	0	0.3	\$15,513
WITTIG, JACOB	5	0	123	0	0.3	\$21,857
MOORE, JEFFERSON	40	0	27	0	0.3	\$52,173
MARTINEZ, JOSE A	22	0	75	0	0.3	\$13,350
MARTINEZ, REBECA C	11	0	104	0	0.3	\$20,822
REED, REBECCA L	18	11	63	0	0.3	\$13,287
FERNANDEZ, JOSE J.	43	0	17	0	0.3	\$20,850
CHRISTIAN, DAVID D	20	0	78	0	0.3	\$12,725
WOOD, WAYNE TED	48	0	3	0	0.3	\$32,328
BUSTAMANTE, REBECCA	25	0	64	0	0.3	\$17,737
FOSTER, STEPHEN	35	0	36	0	0.3	\$32,635
KALE, ANEETA	5	0	116	0	0.3	\$14,943
DUMPH, SUSAN	15	24	41	0	0.3	\$14,139
BRADLEY, MARILYN	19	18	42	0	0.3	\$16,169
FLORES, RUBEN G	27	0	56	0	0.3	\$13,365
PATTERSON, JULIE BRAY	9	30	43	0	0.3	\$13,171
DAVIS, SHEY	5	8	97	0	0.3	\$13,981
CANTRELL, ANTHONY B	24	18	26	0	0.3	\$53,253
HOYLE, LEONARD MICHAEL	46	0	3	0	0.3	\$25,870
VILLARREAL, GARY A	40	0	19	0	0.3	\$13,771
DEYESO, FREDERICK J.	22	0	66	0	0.3	\$17,346
DEL PRADO, CHRISTINE MARTINO	46	0	2	0	0.3	\$12,060
PEPLINSKI, JAMES	21	30	8	0	0.3	\$15,227
ENGELKE, STEVEN KEITH	18	0	76	0	0.3	\$13,174
BRITO, MARIA T.	15	0	83	0	0.3	\$12,606
DUNCAN, YVONNE	12	0	91	0	0.3	\$11,904
HAMPTON, WAYNE	13	43	2	0	0.3	\$14,904
MARTINEZ, RAYMOND	44	0	4	0	0.3	\$36,923
CASIAS, SANDRA	24	17	23	0	0.3	\$19,048
AMBROSINO JR, ROBERTO	15	0	81	0	0.3	\$11,850
SEGURA, ROGER	19	0	69	0	0.3	\$14,116
RUPP, JACQUELINE KRIEBEL	12	18	51	0	0.3	\$24,596
AGUILERA, JUAN P.	43	1	2	0	0.3	\$58,778
HILL, DALE L.	14	29	23	0	0.3	\$13,600
ADAMS, RAY HARRIS	27	23	0	0	0.3	\$35,537
HUGHES, BARBARA L.	22	0	59	0	0.3	\$20,616
BALDERRAMA, BRADLEY	30	0	36	0	0.3	\$28,205
EDWARDS, SUSAN ANN	22	14	29	0	0.3	\$16,480
CALDAROLA, GAYLE	28	0	41	0	0.3	\$12,525
D'ANDREA, MICHAEL	11	10	66	0	0.3	\$11,721
HERNANDEZ III, MIGUEL A.	11	23	39	0	0.3	\$24,491

<b>Attorney</b>	<b>Felony Cases</b>	<b>Juvenile Cases</b>	<b>Misdemeanor Cases</b>	<b>Appeal Cases</b>	<b>Number of Attorneys Required per NAC Standards</b>	<b>Total Payments</b>
BAUGH, GEORGE W.	14	14	49	0	0.3	\$13,870
CALLAHAN, MICHAEL S.	28	0	39	0	0.3	\$13,253
ALVARADO, ROSEMARIE	19	0	61	0	0.3	\$14,121
BRIONES, RICARDO	9	0	87	0	0.3	\$14,958
KOBS, ADAM LAKE	26	16	9	0	0.3	\$13,340
KUNTZ IV, JOHN J	39	0	6	0	0.3	\$57,629
KENDALL, LOWELL S	21	19	16	0	0.3	\$11,792
LESSERT, TODD	10	0	83	0	0.3	\$10,687
ZEHNER, TARA D	11	0	78	0	0.3	\$10,562
SMITH, BRIAN DAVID	11	4	70	0	0.3	\$13,499
CORLEY, LINDA	2	0	102	0	0.3	\$11,130
LUNA, LETICIA ANN	12	0	74	0	0.3	\$10,616
HERNANDEZ, FLAVIO	37	0	7	0	0.3	\$14,815
VASQUEZ, RUDY	37	0	6	0	0.3	\$16,465
SHEFFIELD, SHAWN D	10	16	46	0	0.3	\$12,646
LIPO JR, ROBERT	21	22	3	0	0.3	\$24,328
DIAZ, DOROTHY FLAGG	19	2	48	0	0.3	\$15,567
GARCIA, M THERESA	13	0	67	0	0.3	\$15,023
DARLING, MARK	16	22	15	0	0.3	\$12,938
EARLY, GLORIA YATES	16	18	23	0	0.3	\$12,975
FIDLER JR, DONALD H	28	10	6	0	0.3	\$14,620
RICHMOND, JEANNETTE L	7	0	82	0	0.3	\$12,586
KEY, CARLO	30	0	20	0	0.3	\$16,382
SULLIVAN, JEANNETTE BURNEY	15	0	60	0	0.3	\$11,938
TAVITAS, REBECCA S	9	0	75	0	0.2	\$9,073
GARCIA, ROLAND J	1	8	80	0	0.2	\$11,807
RODRIGUEZ, ALBERT	14	23	15	0	0.2	\$17,315
SEPULVEDA JR., JESSE A.	12	28	10	0	0.2	\$13,413
SANCHEZ, JESSE M.	16	0	55	0	0.2	\$10,832
ZAPATA, RAYMON	20	0	44	0	0.2	\$14,364
FUCHS, RAYMOND E.	33	0	9	0	0.2	\$30,534
ZIMMERMAN, MARVIN	19	18	10	0	0.2	\$22,340
GARCIA, EDUARDO J.	34	0	6	0	0.2	\$34,805
VALENZUELA, LORI IRENE	34	0	6	0	0.2	\$13,063
DIAZ, MARIA DINORAH	23	0	35	0	0.2	\$10,588
BELL, KENNETH	12	0	64	0	0.2	\$8,225
COSGROVE, RONALD B.	30	6	3	0	0.2	\$15,811
HUFF, C WAYNE	25	14	0	0	0.2	\$20,624
EMMONS, DEREK W	23	0	33	0	0.2	\$13,794
ROSS, RON D.	17	19	11	0	0.2	\$13,344
BECK, THOMAS B.	19	19	5	0	0.2	\$9,150
SPARR, JENNIFER H.	8	0	71	0	0.2	\$11,983
CLANTON, WILLIAM	15	0	52	0	0.2	\$10,252
ECONOMIDY, JOHN M.	27	0	4	1	0.2	\$34,480
SIMPSON, KYLE	19	0	40	0	0.2	\$14,451
BROOKS, WILLIAM ATWOOD	4	0	80	0	0.2	\$7,617
ESPINOSA, CLAUDINE VILLEGAS	0	0	90	0	0.2	\$12,384
LEVENSTEIN, BRENDA LOUISE	22	0	30	0	0.2	\$8,794
GARZA JR, HECTOR R	16	0	46	0	0.2	\$17,541
ALEMAN, RAYMUNDO	15	0	48	0	0.2	\$14,023

<b>Attorney</b>	<b>Felony Cases</b>	<b>Juvenile Cases</b>	<b>Misdemeanor Cases</b>	<b>Appeal Cases</b>	<b>Number of Attorneys Required per NAC Standards</b>	<b>Total Payments</b>
WILKE, STEPHANIE H	18	18	4	0	0.2	\$9,995
DEVEAU, PATRICIA B.	25	9	3	0	0.2	\$13,002
SEAL, KAREN DALGLISH	14	25	0	0	0.2	\$13,598
MARTINEZ, CARLOS	0	0	87	0	0.2	\$7,240
BASILE, KARL ANTHONY	17	20	1	0	0.2	\$14,125
MILLAN, JAMES	17	17	7	0	0.2	\$14,002
DE LA PAZ, BRENT	19	0	35	0	0.2	\$13,556
PIKER JR, EDWARD P	14	0	48	0	0.2	\$16,138
PEREZ, JOEL	30	0	5	0	0.2	\$64,225
VELA, DANIEL	22	7	12	0	0.2	\$14,189
SANDVIG, ERIC	6	0	67	0	0.2	\$10,968
WHITE, MICHAEL W.	19	0	32	0	0.2	\$13,429
PARKER, DEBRA L	14	19	7	0	0.2	\$21,429
SIELOFF, JAMES P	16	0	39	0	0.2	\$8,675
ALDAPE, JAIME	10	0	55	0	0.2	\$8,790
SOYERS, JODI S	26	0	12	0	0.2	\$14,208
CASTANON, ORLANDO	18	0	33	0	0.2	\$9,554
GREENWOOD, LAWRENCE EUGENE	20	0	27	0	0.2	\$16,457
Jay, Brandon	0	0	0	5	0.2	\$40,849
ZARATE, PATTON L	27	0	8	0	0.2	\$12,113
HELD, PETER R	3	35	1	0	0.2	\$9,269
MARTINEZ, LOUIS D	28	0	4	0	0.2	\$62,483
GIER, ROBERT F	4	0	68	0	0.2	\$7,482
WHORTON, ANNA L	20	0	25	0	0.2	\$14,040
WARD, ROBBIE L	17	0	33	0	0.2	\$9,475
MAYFIELD, GEOFFERY	8	0	57	0	0.2	\$12,126
ZIMMERMAN, RONALD D	10	0	51	0	0.2	\$10,021
ROSS, ROBYN	9	0	53	0	0.2	\$9,129
DILLEY, DAVID E.	22	0	18	0	0.2	\$9,528
JENNINGS, JEAN	11	2	43	0	0.2	\$11,572
SANDOVAL, FRANK D	9	3	46	0	0.2	\$9,460
GUINN, GAMMON	3	0	68	0	0.2	\$7,614
MERRILL, MARSHA LYNN	10	20	9	0	0.2	\$8,400
MCCRAY, H TODD	8	13	28	0	0.2	\$12,329
RICHARDSON, LIONEL	15	0	35	0	0.2	\$10,425
MARSHALL, CLEOPHUS N W	26	0	5	0	0.2	\$10,564
GADDIS, HOWARD	3	0	66	0	0.2	\$6,379
RITENOUR JR, JOHN J	27	0	2	0	0.2	\$25,823
BRAUBACH, ROBERT	20	10	0	0	0.2	\$18,512
GUTIERREZ JR, ALBERT M	27	0	0	0	0.2	\$53,243
WEDIN, CHUCK	17	0	26	0	0.2	\$12,987
DULLNIG, DARRELL S	0	0	71	0	0.2	\$5,812
TREVINO, J FERNANDO	19	0	20	0	0.2	\$19,476
HOELSCHER, JOSEPH	2	0	65	0	0.2	\$12,555
CACERES, VIVIAN	22	0	11	0	0.2	\$9,642
SPECIA, ARDEN	13	0	35	0	0.2	\$9,227
MORITZ, JAY	24	0	5	0	0.2	\$7,800
HARKIEWICZ, STEVEN N	13	0	34	0	0.2	\$8,963
PARKER, RANDALL A	23	0	6	0	0.2	\$16,085
STAUFFER, PHIL	11	5	28	0	0.2	\$7,100

<b>Attorney</b>	<b>Felony Cases</b>	<b>Juvenile Cases</b>	<b>Misdemeanor Cases</b>	<b>Appeal Cases</b>	<b>Number of Attorneys Required per NAC Standards</b>	<b>Total Payments</b>
CHUMBLEY, W. DWIGHT	24	0	3	0	0.2	\$36,339
VIDAL, NORMA J	0	0	67	0	0.2	\$5,333
UZOMBA, GRACE	0	14	39	0	0.2	\$13,300
MCDONALD, TERENCE	25	0	0	0	0.2	\$39,095
WEISS, JASON	2	1	59	0	0.2	\$6,786
PINA, JOE A	9	0	42	0	0.2	\$6,950
FRAUSTO, JOHNNY	16	0	23	0	0.2	\$8,558
BANKS, JAMEENE	4	0	55	0	0.2	\$5,927
JOHNSON, CLARA	20	0	12	0	0.2	\$24,852
JANSSE, ADRIAAN T	23	0	4	0	0.2	\$13,236
MILLER, ANTHONY A.	21	0	9	0	0.2	\$10,050
SMITH, LISA	0	8	49	0	0.2	\$5,713
VARGAS, ROBERTO S.	20	0	11	0	0.2	\$8,925
BEHRENS, ROBERT	18	0	16	0	0.2	\$8,267
LATIMER, MIKE	24	0	0	0	0.2	\$13,748
ZEPEDA, RODOLFO	24	0	0	0	0.2	\$8,650
MILES, JANICE	0	0	64	0	0.2	\$5,687
QUEZADA JR, CARLOS	9	0	40	0	0.2	\$5,950
GARZA, JESUS DAVID	21	0	8	0	0.2	\$8,325
JENDRZEY, EDWARD A	18	0	15	0	0.2	\$11,966
BURKE, DEBORAH S.	10	0	36	0	0.2	\$10,124
BRAVENEC, EDWARD L	22	0	4	0	0.2	\$28,201
HERNANDEZ, ERIC J	1	0	60	0	0.2	\$6,183
STUART, DAVID	2	6	45	0	0.2	\$5,250
URESTI, PABLO	23	0	1	0	0.2	\$12,581
WEMMERT, JUDY	21	0	6	0	0.2	\$9,667
TALAMANTEZ JR, PAUL R	0	0	62	0	0.2	\$5,605
MOORE, SARAH	0	0	62	0	0.2	\$5,110
PEDRAZA JR, ANTONIO	22	0	3	0	0.2	\$6,325
LOPEZ, CARLOS	7	12	19	0	0.2	\$6,362
VIERA, PATRICIA	11	0	32	0	0.2	\$9,176
CABANAS, ALFONSO	11	0	32	0	0.2	\$5,982
ROUSE, STEVEN	0	0	61	0	0.2	\$6,011
CASIANO, CATHERINE	0	0	61	0	0.2	\$7,447
MICHELSON, STACEY	2	0	55	0	0.2	\$6,202
EFRON, LORAIN	17	6	3	0	0.2	\$17,183
RODRIGUEZ, ROSS A	6	0	44	0	0.2	\$6,192
YOUNG, LINDSEY K	9	0	36	0	0.2	\$6,483
VAN NESS, JESSE	4	21	7	0	0.1	\$7,325
AHNBERG, TERESA BELEM MORALES	2	0	54	0	0.1	\$5,863
SAWYER, MICHAEL J.	15	9	1	0	0.1	\$11,075
RODRIGUEZ, RICARDO B	0	0	59	0	0.1	\$9,071
ROJAS, AIDA R	18	0	11	0	0.1	\$12,215
MARTINEZ, SCOTT P	5	0	45	0	0.1	\$8,236
WRIGHT, GENIE	18	0	10	0	0.1	\$14,716
RIVERA, FLOYD S	0	0	58	0	0.1	\$5,020
MOORE, MICHAEL S	1	0	55	0	0.1	\$6,626
CERNA, VERONICA JANETTE	5	0	44	0	0.1	\$5,759
WILSON, DONALD	12	0	25	0	0.1	\$9,151
CAVAZOS, JAIME	21	0	1	0	0.1	\$11,042

<b>Attorney</b>	<b>Felony Cases</b>	<b>Juvenile Cases</b>	<b>Misdemeanor Cases</b>	<b>Appeal Cases</b>	<b>Number of Attorneys Required per NAC Standards</b>	<b>Total Payments</b>
RENAUD, LEANDRO	15	0	17	0	0.1	\$7,400
KNIGHT, JAMES	12	0	25	0	0.1	\$6,095
GARZA, CECILIA	0	0	57	0	0.1	\$6,706
TUDON, H MIGUEL	19	0	6	0	0.1	\$11,365
JONES, DAYNA	5	0	43	0	0.1	\$7,618
LOPEZ, SYLVIA MARIE	10	0	29	0	0.1	\$6,512
VOIGT, LISA	11	9	8	0	0.1	\$7,425
SIMPKINS, CHRISTOPHER	3	0	47	0	0.1	\$5,129
HERNANDEZ, LEE	13	0	20	0	0.1	\$17,569
VALE JR, RAYMOND J.	12	11	0	0	0.1	\$6,263
BRUNER, JAMES L.	18	0	6	0	0.1	\$10,481
DEL FIERRO, GLADYS	13	7	5	0	0.1	\$7,158
TREVINO, RAUL	7	0	35	0	0.1	\$7,300
CASTILLO, DAVID	11	0	24	0	0.1	\$11,363
KARL, ERIC	18	0	5	0	0.1	\$7,275
LAYE JR, JOHN C	6	17	3	0	0.1	\$8,588
MIRANDA, MARY A	0	0	53	0	0.1	\$4,705
CLARK, CAROL T	6	0	37	0	0.1	\$4,485
DEL PRADO, MARIO	19	0	2	0	0.1	\$10,673
KEANE-DAWES, SEAN	13	0	18	0	0.1	\$9,823
CARRILLO, NINFA GALLEGOS	3	14	16	0	0.1	\$6,669
CRUZ, JASON	0	21	10	0	0.1	\$5,718
ARTEAGA, ANTONIA	8	0	30	0	0.1	\$10,339
KREIDER III, EVERETTE F	0	0	51	0	0.1	\$4,625
WEIR, WARREN	12	0	19	0	0.1	\$6,793
RODRIGUEZ JR, JUAN CARLOS	2	0	45	0	0.1	\$5,370
GARZA, VERONICA	2	0	45	0	0.1	\$4,100
ZAMORA, ANTHONY R.	6	0	34	0	0.1	\$4,317
MCCAULEY JR., DAN W.	18	0	2	0	0.1	\$18,825
STEPHENSON, BEN A	17	0	4	0	0.1	\$9,353
CANALES, JORGE	18	0	1	0	0.1	\$11,403
KAGAN, JERRY H	3	0	41	0	0.1	\$4,553
RODRIGUEZ, JOHN E	0	0	49	0	0.1	\$4,793
UNGER, BEATRIZ	7	0	30	0	0.1	\$6,105
STENBERG, JOE	2	14	15	0	0.1	\$6,800
SIMON, JEROME M.	14	0	11	0	0.1	\$9,503
SHAEFFER, TYLDEN	17	0	3	0	0.1	\$7,834
WINTERS, CARTER	10	0	21	0	0.1	\$5,999
HALEY, JAMES MICHAEL	14	0	10	0	0.1	\$7,047
BRADSHAW, AUDRA R	0	0	47	0	0.1	\$4,317
SALAZAR, MARIA	0	0	47	0	0.1	\$5,276
HUNTZINGER, THERESE	16	0	4	0	0.1	\$21,738
WENTLAND, CAROLYN	13	0	12	0	0.1	\$18,963
FLANARY, DON	16	0	4	0	0.1	\$12,275
CAMARA JR, EDWARD	17	0	1	0	0.1	\$46,420
SANCHEZ JR, HERMAN DAVE	12	0	14	0	0.1	\$5,446
FLORES, ALBERT	17	0	0	0	0.1	\$6,200
GREENE, REED	16	0	2	0	0.1	\$6,537
ORTIZ JR, ALFREDO	14	0	7	0	0.1	\$6,013
PLACIER, THOMAS	0	0	44	0	0.1	\$3,892

<b>Attorney</b>	<b>Felony Cases</b>	<b>Juvenile Cases</b>	<b>Misdemeanor Cases</b>	<b>Appeal Cases</b>	<b>Number of Attorneys Required per NAC Standards</b>	<b>Total Payments</b>
PHIPPS, JESSICA S	1	0	41	0	0.1	\$4,056
CHAVEZ, EUGENE M	14	0	6	0	0.1	\$4,850
RALEIGH, KAREN O	8	8	6	0	0.1	\$5,546
SPOOR, TRACY L	14	0	6	0	0.1	\$5,375
GARDNER, KIMBERLY	15	0	3	0	0.1	\$5,925
JAY, PATRICIA	0	0	43	0	0.1	\$3,832
NERI III, JUAN	7	0	23	0	0.1	\$4,250
DROUILLARD, DENNIS J	6	0	25	0	0.1	\$5,233
MCCRUM, SCOTT	15	0	1	0	0.1	\$9,650
DELGADO, BLAS H	12	0	9	0	0.1	\$6,750
LOCKETT-FOX, DANA	0	0	41	0	0.1	\$12,079
SIFUENTES JR, BEN M	15	0	0	0	0.1	\$3,340
CUPIT, JEANIE	0	0	40	0	0.1	\$8,331
ROSS, TRACY E	0	0	40	0	0.1	\$4,025
RODRIGUEZ, MANUEL	11	0	10	0	0.1	\$5,600
MORALES, MARVIN	4	0	28	0	0.1	\$3,600
WEIXEL, CHRISTOPHER B.	13	0	4	0	0.1	\$20,513
LOYA, RICHARD R	2	0	33	0	0.1	\$5,734
VARGAS, SANTOS	14	0	1	0	0.1	\$5,350
MCGINNIS II, JACK L	9	0	14	0	0.1	\$3,400
HORTICK, CHRISTINE	0	0	38	0	0.1	\$4,157
MCELROY, FRANK	0	0	38	0	0.1	\$3,275
ABERNATHY, TERRI MICHENER	4	0	27	0	0.1	\$3,300
STEELE, SCOTT	10	0	11	0	0.1	\$3,346
NICHOLAS, STEPHEN A	14	0	0	0	0.1	\$8,828
HERNANDEZ, ANDERA	0	0	37	0	0.1	\$3,158
FUTRELL, F ALAN	13	0	2	0	0.1	\$5,325
GRANSEE, KURT	13	0	2	0	0.1	\$6,573
HABY, MARK P	2	0	31	0	0.1	\$3,350
HUFF, YOLANDA T	11	0	7	0	0.1	\$6,750
REDDY, KRISHNA	0	0	36	0	0.1	\$3,000
WILLIAMSON, RALPH E	11	0	6	0	0.1	\$8,873
ORTIZ, ARNULFO	13	0	0	0	0.1	\$5,600
APPELT, JOSEPH P.	12	0	2	0	0.1	\$2,825
BARTOLOMEI, EDWARD A	12	0	2	0	0.1	\$4,600
DE LEON-VARGAS, ANALIZ	0	0	34	0	0.1	\$2,865
VANDEWALLE, ANN	6	0	18	0	0.1	\$4,516
SHEEHAN, CATHY	1	0	30	0	0.1	\$2,917
SALMON, SHANNON	4	0	22	0	0.1	\$4,092
RANGEL, RONALD	2	0	27	0	0.1	\$4,032
DESMARAIS, GREGG	11	0	3	0	0.1	\$4,900
GORDON, STEPHEN H	11	0	3	0	0.1	\$6,256
LANTY, ALLISON HELEN	12	0	0	0	0.1	\$3,304
LANGLOIS, RICHARD E	12	0	0	0	0.1	\$9,513
MCKAY, PATRICK L.	12	0	0	0	0.1	\$4,025
MEZA, VELIA J	12	0	0	0	0.1	\$7,250
WINGET-HERNANDEZ, LAURA	0	16	0	0	0.1	\$3,575
OUBRE, NATHAN	0	0	32	0	0.1	\$2,850
ROMERO, ANGELA	0	0	32	0	0.1	\$2,741
BROWN, DAMISELA C	0	0	31	0	0.1	\$2,330



<b>Attorney</b>	<b>Felony Cases</b>	<b>Juvenile Cases</b>	<b>Misdemeanor Cases</b>	<b>Appeal Cases</b>	<b>Number of Attorneys Required per NAC Standards</b>	<b>Total Payments</b>
SHELTON JR, WALDEN E	10	0	4	0	0.1	\$4,858
ORBELO, WILLIAM M	9	0	6	0	0.1	\$3,875
SLIMANE, NATHAN W	0	0	30	0	0.1	\$4,060
REYES, ROSARIO	0	0	30	0	0.1	\$2,773
TAYLOR, GEORGE A.	11	0	0	0	0.1	\$11,748
MACOM, JOSEPH D	11	0	0	0	0.1	\$4,300
BRASWELL, MARK E.	11	0	0	0	0.1	\$2,817
AUGUSTINE, ARTHUR	0	0	29	0	0.1	\$2,575
GARCIA, ADOLFO	0	0	29	0	0.1	\$2,500
BATTIATO, JOHN MICHAEL	0	0	28	0	0.1	\$2,367
LEOPOLD, THOMAS C	0	0	28	0	0.1	\$2,781
OEI-BALLARD, F. M.	10	0	1	0	0.1	\$7,750
CARDENAS JR, ADAM	10	0	1	0	0.1	\$7,484
COLLINS, KEVIN LLOYD	10	0	1	0	0.1	\$5,870
JIMENEZ III, TONY	10	0	1	0	0.1	\$6,631
GREINER, RANDALL L.	0	0	27	0	0.1	\$2,387
LAUGHLIN, JUDITH A.	0	0	27	0	0.1	\$3,514
WALKER, TIMOTHY D	9	0	3	0	0.1	\$3,450
MAURER II, ROBERT M	10	0	0	0	0.1	\$8,569
KESSLER, WILLIAM	1	0	24	0	0.1	\$2,385
BYINGTON, RICARDO A	1	0	24	0	0.1	\$2,572
SANTOS-KIEL, LAURA C	0	0	26	0	0.1	\$2,274
GREENE, MARCELLE	5	0	12	0	0.1	\$2,492
MCLANE, DAVID	9	0	1	0	0.1	\$11,919
MARQUEZ, STEVEN G	0	0	25	0	0.1	\$2,175
BUSH, KIMBERLY	0	0	25	0	0.1	\$2,411
HERNANDEZ, JOSEPH ANTHONY	0	12	0	0	0.1	\$2,725
MORENO, DENNIS L	9	0	0	0	0.1	\$3,780
BROWN, JEAN S.	9	0	0	0	0.1	\$2,050
CHURAK, GARY	9	0	0	0	0.1	\$3,663
GUERRA, MARTIN M	6	0	8	0	0.1	\$3,650
MCNEEL, NICOLE M	0	0	24	0	0.1	\$3,088
BEZA, KIMBERLY	0	0	24	0	0.1	\$2,840
HUDSON, BRANDON	9	0	0	0	0.1	\$9,965
GIDEON, JUNELLA	0	0	23	0	0.1	\$1,973
COLLIN, OMAR	0	0	23	0	0.1	\$2,100
HOUSE, JOHN M	4	0	12	0	0.1	\$2,325
DE LEON, GILBERT ERIC	0	11	0	0	0.1	\$1,400
STRICKLAND, AMANDA	6	0	6	0	0.1	\$2,163
SAXON, AARON	0	0	22	0	0.1	\$2,061
ESPARZA, JOSEPH A	8	0	0	0	0.1	\$29,824
WILLIAMS, BRUCE C	0	0	21	0	0.1	\$1,725
O'CONNOR, A.L. BETH	0	0	20	0	0.1	\$1,724
ARRIAGA, DENNIS	0	0	20	0	0.1	\$1,883
MAYNARD III, WILLIAM J	3	0	11	0	0.0	\$1,708
BALDERAS JR, ANTONIO	6	0	3	0	0.0	\$3,225
REESE, LAYNE	0	0	19	0	0.0	\$1,709
WHITE, MARSHALL D	0	0	19	0	0.0	\$1,583
PACHECO, DANIEL	1	0	16	0	0.0	\$2,331
SRALLA, KEVIN	4	4	0	0	0.0	\$2,125

<b>Attorney</b>	<b>Felony Cases</b>	<b>Juvenile Cases</b>	<b>Misdemeanor Cases</b>	<b>Appeal Cases</b>	<b>Number of Attorneys Required per NAC Standards</b>	<b>Total Payments</b>
HOSTETLER, JAMES MICHAEL	1	0	16	0	0.0	\$1,700
GROSS, MICHAEL C.	1	0	0	1	0.0	\$45,485
MORENO, JOSEPH	2	0	13	0	0.0	\$2,225
RUIZ, ADOLFO	3	0	10	0	0.0	\$2,258
SULLIVAN, SCOTT	3	0	10	0	0.0	\$2,000
ALVILLAR, FRANCISCO	0	0	18	0	0.0	\$1,675
HERNANDEZ, ANGELITA	4	0	7	0	0.0	\$1,700
GONZALEZ III, HECTOR	0	0	17	0	0.0	\$1,475
MACH, DONALD J	6	0	1	0	0.0	\$3,600
EICHMAN, ROLAND	2	0	11	0	0.0	\$1,625
CISNEROS, JOHNNY E.	0	0	16	0	0.0	\$1,240
PAIZ, DEBRA LYNETTE	0	0	16	0	0.0	\$1,500
SAMPLES, BENJAMIN	1	5	3	0	0.0	\$1,250
UGARTE, MICHAEL	5	0	2	0	0.0	\$12,870
BARRERA, ARTURO LOPEZ	0	0	15	0	0.0	\$1,450
MORALES, MARISSA	0	0	15	0	0.0	\$1,275
ACEVEDO, SAUL R.	0	0	14	0	0.0	\$1,366
GOMEZ, YVONNE M	0	1	12	0	0.0	\$4,375
BASKETTE, WILLIAM L.	4	0	3	0	0.0	\$2,621
JAKOB, JASON	1	0	11	0	0.0	\$1,233
HANCOCK, PATRICK	5	0	0	0	0.0	\$6,200
MCGINTY, ANGUS KELLY	5	0	0	0	0.0	\$2,400
SOULSBY, KATE	0	0	13	0	0.0	\$1,847
KNUTSON, SAM HOUSTON	1	0	10	0	0.0	\$2,675
HAMNER, BRIAN A	0	0	12	0	0.0	\$1,125
RODRIGUEZ, JOHNNY	0	0	12	0	0.0	\$2,018
GARZA, JESUS	0	0	12	0	0.0	\$982
MEYER, PHILIP A	3	0	3	0	0.0	\$2,372
QUINTANILLA, GABE	0	0	11	0	0.0	\$950
HACKEBEIL, ANTON	4	0	0	0	0.0	\$1,800
HERNANDEZ, JESSE	4	0	0	0	0.0	\$2,006
PANTANO, MARK	2	0	5	0	0.0	\$1,875
SOILEAU, CHRISTOPHER	2	0	5	0	0.0	\$1,325
ARELLANO, ROBERT C.	0	0	10	0	0.0	\$700
CHELKOWSKI, KERRISA	3	0	2	0	0.0	\$2,278
YBARRA, JOSEPH D	0	0	10	0	0.0	\$2,355
KOCH, ANDREA	0	0	10	0	0.0	\$572
SUTTON, BOWEN W.	0	0	9	0	0.0	\$700
PERALES, RAUL	0	0	9	0	0.0	\$900
BONDURANT, SARAH P	0	0	9	0	0.0	\$1,042
SIMS, SONJA D	0	0	9	0	0.0	\$1,373
SHERROD, NATASHA	0	0	9	0	0.0	\$663
VALICEK, MYRA MICHELLE	1	2	2	0	0.0	\$900
TATUM, JEFFERSON	1	0	6	0	0.0	\$800
FRIEDMAN, IVAN M	3	0	0	0	0.0	\$750
CONLEY, CARLTON	3	0	0	0	0.0	\$800
HUFFMAN, BROCK	3	0	0	0	0.0	\$400
MEINKE, KARYN H	0	0	8	0	0.0	\$750
ZELHART, TACIE	3	0	0	0	0.0	\$1,400
GALVAN, JASON	0	0	8	0	0.0	\$800
BENNETT, CHRISTINA	2	0	2	0	0.0	\$1,300

<b>Attorney</b>	<b>Felony Cases</b>	<b>Juvenile Cases</b>	<b>Misdemeanor Cases</b>	<b>Appeal Cases</b>	<b>Number of Attorneys Required per NAC Standards</b>	<b>Total Payments</b>
DUGANNE, BRENDAN	2	0	2	0	0.0	\$975
GAMEZ, JESUS MARIO	0	0	7	0	0.0	\$450
TUTTLE, MICHAEL	0	0	7	0	0.0	\$920
CASTILLO, EDUARDO	0	0	7	0	0.0	\$722
PALMITIER, DANIEL A	0	0	7	0	0.0	\$402
CLARKE, PATRICK EMMETT	1	0	4	0	0.0	\$500
ARISTOTELIDIS, GEORGE WILLIAM	2	0	1	0	0.0	\$1,569
LEAL, RAFAEL	2	0	1	0	0.0	\$1,200
SALAZAR JR, LUIS B	0	0	6	0	0.0	\$725
PEDERSON, MARC	0	0	6	0	0.0	\$717
CARTER, KENAVON T	0	0	6	0	0.0	\$725
PERRY, DEBORAH	0	3	0	0	0.0	\$850
ESCALONA, KRISTINA	0	0	6	0	0.0	\$550
RAIFORD, SUZANNE	1	0	3	0	0.0	\$1,329
BARRERA, STEPHEN A.	2	0	0	0	0.0	\$600
SCOTT, JEFFREY JAMES	2	0	0	0	0.0	\$53,493
TAKAS JR., STEPEN P.	2	0	0	0	0.0	\$625
WILSON, ERIC D	2	0	0	0	0.0	\$350
BROWN, SHAWN	2	0	0	0	0.0	\$400
BINEHAM, WILLIAM DOUGLAS	0	0	5	0	0.0	\$350
WINDHAM, CORBY EVERETTE	0	0	5	0	0.0	\$400
FALLWELL, DAYNAH	0	0	5	0	0.0	\$1,033
SANCHEZ, ANDREA ELIZABETH	0	0	5	0	0.0	\$450
ROBINSON, NICHOLAS D	0	0	5	0	0.0	\$500
STEVENS, MARK	1	0	2	0	0.0	\$1,048
SALDANA III, HUMBERTO	1	0	2	0	0.0	\$725
RIVERA, JESSE G	0	0	4	0	0.0	\$350
UNGER, MARK	0	0	4	0	0.0	\$175
SAENZ JR., ALFREDO N.	0	0	4	0	0.0	\$400
HERRICK, JOHN D	0	0	4	0	0.0	\$375
CURA JR, OMAR	0	0	4	0	0.0	\$275
MERRITT, SHELLY L	0	0	4	0	0.0	\$374
HICKS, ALISON	0	0	4	0	0.0	\$2,552
NABHOLZ III, W. JAMES	0	0	4	0	0.0	\$300
BARRERA, STEPHEN	0	2	0	0	0.0	\$200
LOVORN, SHAWN	0	0	4	0	0.0	\$648
LOPEZ, ROBERT	0	0	4	0	0.0	\$1,045
VEGA, JUAN A	0	0	3	0	0.0	\$225
ACEVEDO, JOSEPH	0	0	3	0	0.0	\$150
STOLHANDSKE, MATT C.	0	0	3	0	0.0	\$225
REYES, MICHAEL A	0	0	3	0	0.0	\$300
GONZALEZ, ANDRES R	0	0	3	0	0.0	\$225
CHAUDHRY, SHANN	0	0	3	0	0.0	\$241
BAKER, GRAHAM	0	0	3	0	0.0	\$258
MUNOZ, MONICA	0	0	3	0	0.0	\$300
ARELLANO, KRISTY	0	0	3	0	0.0	\$300
LA HOOD, MARC	0	0	3	0	0.0	\$300
GROSS, LOUIS	0	0	3	0	0.0	\$300
TIDWELL, ANDREA C	0	0	3	0	0.0	\$250
GITTINGER, KAROLYN K	1	0	0	0	0.0	\$6,909

<b>Attorney</b>	<b>Felony Cases</b>	<b>Juvenile Cases</b>	<b>Misdemeanor Cases</b>	<b>Appeal Cases</b>	<b>Number of Attorneys Required per NAC Standards</b>	<b>Total Payments</b>
DVORAK, SUSAN E	1	0	0	0	0.0	\$75
DISRUD, JON R	1	0	0	0	0.0	\$3,000
ESTRADA JR, RAMIRO	1	0	0	0	0.0	\$850
PEREZ, ROGER A	1	0	0	0	0.0	\$200
SCHARFF, ALEX J.	1	0	0	0	0.0	\$400
SOLIZ, LELSIE WERNER	1	0	0	0	0.0	\$6,500
LA HOOD, NICHOLAS	1	0	0	0	0.0	\$750
WALKER, BRIAN K	1	0	0	0	0.0	\$500
AREVALOS, MONA R	0	1	0	0	0.0	\$455
RICHTER, CLAYTON	0	0	2	0	0.0	\$200
HESSBROOK, ANA LAURA	0	0	2	0	0.0	\$125
GARCIA, ANGELA MARIE	0	0	2	0	0.0	\$200
CAMPOS, JESSE B.	0	0	2	0	0.0	\$150
DELAVAN, MARY KAY	0	1	0	0	0.0	\$2,400
DEVON SR., RICHARD	0	0	2	0	0.0	\$200
GONZALES, NORMA	0	0	2	0	0.0	\$904
PERALES, JOSE L	0	0	2	0	0.0	\$200
DAVIS, DEMETRIUS	0	1	0	0	0.0	\$50
WORRICH, TODD	0	0	2	0	0.0	\$200
MOE, RYAN	0	0	2	0	0.0	\$2,564
MACKELL, RONALD	0	0	2	0	0.0	\$0
PEREZ, ANDRES	0	0	2	0	0.0	\$230
SKIPPER, SHAUN	0	0	2	0	0.0	\$763
DE LOS SANTOS, LUIS	0	0	2	0	0.0	\$300
LUCE, ZACHARY O	0	0	2	0	0.0	\$470
STRAUCH, ALDOUS	0	0	1	0	0.0	\$75
RABAGO, ANTHONY	0	0	1	0	0.0	\$280
MARTINEZ, SOPHIA	0	0	1	0	0.0	\$100
SHERMAN, KIRK	0	0	1	0	0.0	\$100
SHUTE, THOMAS	0	0	1	0	0.0	\$100
ROJO, CARMEN	0	0	1	0	0.0	\$100
CORTES, HECTOR	0	0	1	0	0.0	\$100
BENAVIDES, RENE C	0	0	1	0	0.0	\$100
DUKE, LISA	0	0	1	0	0.0	\$100
BURTON, LAURA	0	0	1	0	0.0	\$271
GONZALEZ, ROSA MARIA	0	0	1	0	0.0	\$2,200
RODRIGUEZ, JOEL	0	0	1	0	0.0	\$308
DE LA GARZA, F SCOTT	0	0	1	0	0.0	\$1,384
MARQUARDT, TODD	0	0	1	0	0.0	\$417
MAZAHERI, RASHIN	0	0	1	0	0.0	\$100
FUNDERBURG, CHRIS	0	0	1	0	0.0	\$130
SMITH, EDGAR E	0	0	1	0	0.0	\$100

## **Appendix G: Local Indigent Defense Plans**

## **Bexar County Courts Plan**

### **Prompt Magistration**

As of November 1, 2007, Bexar County Magistrates appointed by the Criminal District Court Judges will be performing all magistration duties.

#### **A. Arresting Officer Responsibilities**

i. The arresting officer, or the person having custody of the arrestee, shall ensure that every arrestee shall be brought before a magistrate without unnecessary delay, but not later than 48 hours after the person is arrested.

ii. Unless arrested pursuant to an arrest warrant, bench warrant, capias, or other order of a magistrate or judge, necessary forms establishing probable cause must be completed and filed at the time an arrestee is booked into jail for any felony or misdemeanor punishable by incarceration.

iii. Release of defendants arrested without warrant

1. A person arrested for a misdemeanor without a warrant and who is detained in jail must be released not later than the 24th hour after arrest, on a bond in an amount not to exceed \$5,000, if a magistrate has not determined that probable cause exists to believe that the person committed the offense.
2. A person arrested for a felony without a warrant and who is detained in jail must be released not later than the 48th hour after arrest, on a bond in an amount not to exceed \$10,000, if a magistrate has not determined that probable cause exists to believe that the person committed the offense.
3. If requested by the state, a magistrate may postpone the release of the defendant for not more than 72 hours after the defendant's arrest if a

probable cause determination has not been made, in compliance with the procedure set forth in Article 17.033, Texas Code of Criminal Procedure.

B. Magistrate Duties

- i. At the Magistrate's hearing, the magistrate should determine if accused can speak and understand English, or if the defendant is deaf.
- ii. After making such determination, the magistrate shall, in an appropriate manner consistent with Texas Code of Criminal Procedure Articles 38.30 and 38.31, and Article 15.17, do the following:
  1. Advise the accused of the accusation against him/her and any affidavit filed therewith;
  2. Admonish the accused of:
    - a. The right to retain counsel;
    - b. The right to remain silent;
    - c. The right to have an attorney present during any interview with peace officers or attorneys representing the state;
    - d. The right to terminate an interview at any time;
    - e. The right not to make a statement and that any statement made by the accused may be used against him/her; and
    - f. The right to an examining trial.
  3. Inform the accused of the right to appointed counsel if the person cannot afford counsel and the procedures for requesting appointment of counsel.
  4. Inquire as to whether accused is requesting that counsel be appointed.

5. Provide accused persons requesting appointed counsel with necessary forms for requesting appointment of counsel and ensure that reasonable assistance in completing required forms is provided to the accused at the time of the magistrate's hearing.
6. If the magistrate has reason to believe the accused is not mentally competent, the magistrate shall enter a request for counsel on behalf of the accused. Such a request will alert the appointing authority that counsel competent to represent mentally ill persons should be appointed.

iii. In cases where the individual was arrested without an arrest warrant, bench warrant, capias, or other order of magistrate or judge, the magistrate shall determine if there is probable cause to believe the person committed the offense.

1. If probable cause has not been determined by a magistrate:
  - a. A person arrested for a misdemeanor must be released on bond, in an amount not to exceed \$5,000, not later than 24 hours after the person's arrest.
  - b. A person arrested for a felony must be released on bond, in an amount not to exceed \$10,000, not later than 48 hours after the person's arrest.
  - c. If requested by the state, the magistrate may postpone the release of the defendant for not more than 72 hours after the defendant's arrest, in compliance with the procedure set forth in Article 17.033, Texas Code of Criminal Procedure.



iv. The magistrate shall set the amount of bail and any conditions of bond for the accused, if bail is allowed by law and has not been set by the court or magistrate issuing a warrant.

v. The magistrate shall record the following (See **Forms: Magistrate Warnings**--Attachment One for English version and Attachment Two for Spanish version):

1. The date and time the accused was arrested and the date and time when he/she was brought before the magistrate.
2. Whether the magistrate informed the accused of the right to request appointment of counsel and asked the accused whether he/she wants to request counsel.
3. Whether the accused requested appointment of counsel

vi. If the magistrate is not authorized to appoint counsel and if the accused requests appointment of counsel, the magistrate shall transmit or cause to be transmitted the magistrate form and any other forms requesting appointment of counsel to Pretrial Services for an interview to determine the defendant's financial status. The defendant will be required to swear to the accuracy of the the interview form and sign it (See **Forms: Financial and Indigent Affidavit**--Attachment Four for English version and Attachment Five for Spanish version). If the defendant declines an interview he /she will be asked to sign an affidavit to such effect (See **Forms: Bexar County Detention Center Accused Declined to Be Interviewed**--Attachment Three). If it is determined that the defendant falls below the guideline established by the Criminal Court judges, Pretrial services will

query the computer for the selection of an appointed attorney (see Section III, A. describing "Attorney Rotation Wheel").

vii. If the magistrate is authorized to appoint counsel, the magistrate shall make a determination of indigence and appoint counsel if the defendant is indigent within three working days unless the County has a U.S. Census population over 250,000, in which case counsel shall be appointed within one working day.

viii. If the magistrate is not authorized to appoint counsel, the magistrate shall without unnecessary delay, but not later than 24 hours after the person arrested requests appointment of counsel, transmit or cause to be transmitted to the court or to the court's designee authorized under Article 26.04, Code of Criminal Procedure, to appoint counsel in the County, the form requesting appointment of counsel.

ix. if a request for counsel was made at magistration, the appointing authority shall forward the magistrate form and any other forms requesting appointment of counsel to the appropriate clerk to be put into the case file.

x. If a request for counsel was not made at magistration, the magistrate will forward the magistrate form to the clerk to be put into the case file.

xi. Defendants who did not request an attorney at magistration but request one at arraignment may be sent to the Pretrial Services Satellite Office for interview and attorney appointment. As an alternative, the Judge may make the attorney appointment in court under "interest of justice" criteria. If the

appointment is made by the Judge in the interest of Justice, the rationale for the appointment must be placed on the record.

### **Indigence Determination Standards**

#### A. Definitions, as used in this rule:

i. “Indigent” means a person who is not financially able to employ counsel.

ii. “The defendant’s “net income” will be used to determine if the individual is indigent based on the income for one person under the Federal Poverty Guidelines. If the defendant’s “net income” is \$903 or more a month, they will not qualify for a court appointed attorney. If the defendant’s “net income” is less than \$903 a month, they will qualify for a court appointed attorney. This amount will be adjusted annually pursuant to the Federal Poverty Guidelines.

iii. The defendant’s necessary expenses will be subtracted from the defendant’s gross income, including spousal income if applicable. The resulting number will be referred to as the defendant’s “net income”. "Necessary expenses" should include: rent or mortgage; food/groceries; car payment; car insurance; utilities (water, electricity, phone).

#### B. Eligibility for Appointment

i. An accused is presumed indigent if any of the following conditions or factors are present:

1. At the time of requesting appointed counsel, the accused or accused’s dependents are eligible to receive food stamps, Medicaid, Temporary

Assistance for Needy Families, Supplemental Security Income, or public housing;

2. The accused's net household income does not exceed 125% of the Poverty Guidelines as revised annually by the United States Department of Health and Human Services and published in the Federal Register; or
3. The accused is currently serving a sentence in a correctional institution, is currently residing in a public mental health facility, or is subject to a proceeding in which admission or commitment to such a mental health facility is sought.

ii. An accused who does not meet any of the standards above shall nevertheless be considered indigent if the accused is unable to retain private counsel without substantial hardship to the accused or the accused's dependents. In considering if obtaining private counsel will create a substantial hardship, the appointing authority shall take into account:

1. the nature of the criminal charge(s),
2. anticipated complexity of the defense,
3. the estimated cost of obtaining competent private legal representation for the matter(s) charged;
4. the amount needed for the support of the accused and the accused's dependents;
5. accused's income,
6. source of income,
7. assets and property owned,

8. outstanding obligations,
  9. necessary expenses,
  10. the number and ages of dependents, and
  11. spousal income that is available to the accused.
- iii. Factors NOT to be considered in determining indigence:
1. The accused's posting of bail or ability to post bail may not be considered in determining whether the accused is indigent.
  2. The resources available to friends or relatives of the accused may not be considered in determining whether the accused is indigent.
- iv. Only the accused's financial circumstances as measured by the financial standards stated in this rule shall be used as the basis for determining indigence.

C. Indigence Proceedings:

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

the timelines specified in Parts I and IV of these rules and contained in Code of Criminal Procedure article 1.051.

iv. An accused determined to be indigent is presumed to remain indigent for the remainder of the case unless a material change in the accused's financial circumstances occurs.

1. An accused's status as indigent or not indigent may be reviewed in a formal hearing at any stage of court proceedings, on a motion for reconsideration by the accused, the accused's attorney, or the attorney representing the state. The accused's indigent status will be presumed not to have changed. The presumption can be rebutted in the review proceedings based on the following:

- a. Evidence of a material change in the accused's financial circumstances, as a result of which the accused does not meet any of the standards for indigence contained in these rules; or
- b. Additional information regarding the accused's financial circumstances that shows that the accused does not meet any of the standards for indigence contained in these rules.

2. If an accused previously determined to be indigent is subsequently determined not to be indigent, the attorney shall be compensated by the county according to the fee schedule for hours reasonably expended on the case.

v. If the court determines that a defendant has financial resources that enable him to offset in part or in whole the costs of the legal services provided,

including any expenses and costs, the court shall order the defendant to pay during the pendency of the charges or, if convicted, as court costs the amount that it finds the defendant is able to pay.

### **Minimum Attorney Qualifications**

- A. The Bexar County Criminal Courts at Law plan for the implementation of the appointment portion of the Texas Fair Defense Act involves the use of an attorney data bank on the Criminal Justice Information System (CJIS) mainframe computer, also known as the "Attorney Rotation Wheel." The data bank is comprised of attorneys who apply to take court appointments and are determined to meet certain qualification standards. The computer, using a rotational process, will select the appropriate attorney from the database. In making the selection, the computer will use several different preset filters. Those filters will include, but not be limited to: date of attorney's last appointment, attorney availability, offense level, language requirements, pending cases with previously appointed counsel, etc. Attorneys can apply to take either felony or misdemeanor court appointments or both. Once the application process is complete the Administrative Offices for both the District and County Criminal Courts will enter the attorney information into the computer. An attorney will not be entered into the system for either misdemeanor or felony appointments unless he/she meets the prescribed qualifications and is approved by the Judges.
- B. To be eligible for the misdemeanor appointment list or "Attorney Rotation Wheel", an attorney must meet the following minimum requirements:

- i. Misdemeanor Qualification Requirements:

1. All attorneys on the appointment list or wheel must ensure all information on their application is correct;
2. An attorney must be a licensed practicing attorney and a member in good standing of the State Bar of Texas;
3. An attorney initially receiving misdemeanor court appointments and being placed on the attorney rotation wheel shall be required to take a minimum of six (6) hours of CLE in criminal law. Said attorney shall take any State Bar accredited course dedicated to criminal law, including, but not limited to, the San Antonio Criminal Defense Lawyer's Association (SACDLA) Annual Nuts & Bolts course. The hours for such courses shall be credited towards the annual requirement of six (6) hours of CLE in criminal law.
4. In addition to the requirements to receive court appointments set out above, attorneys applying for misdemeanor appointments must attain a minimum of six hours of CLE in criminal law annually. As an alternative to meeting the CLE requirements, an attorney may be currently certified in criminal law by the Texas Board of Legal Specialization. Continuing legal education activity completed within a one-year period immediately preceding the initial reporting period may be used to meet the educational requirement for the initial year.

The following provisions are also included in the rules to add flexibility so the attorneys may meet the requirements without causing undue burden:



a) All of the required criminal law hours in this six hour requirement may be earned through any method authorized by the State Bar, including self-study;

b) Attendance at a State Bar accredited CLE training is not required.; Carryover provisions allow an attorney to earn 12 hours at one conference and carry forward 6 hours to the next year's reporting period; and

c) Emergency appointment allowed when no attorney meeting the CLE requirements is available by the time an attorney must be appointed in a case.

5. An attorney must maintain an office capable of receiving email, fax, and telephone calls, with fax and email available or working 24 hours per day;
6. An attorney shall notify the court administration office promptly, in writing, of any matter that would disqualify the attorney by law, regulation, rule or under these guidelines from receiving appointments to represent indigent defendants.

#### B. Approval for Appointment Lists or Attorney Rotation Wheel

- i. Misdemeanor List or wheel– An attorney must be approved by a majority of the Statutory County Court Judges hearing criminal cases.

#### C. Notification and Formalization for Attorney Rotation Wheel

If an attorney is appointed through the computer (Attorney Rotation Wheel), the attorney will receive instantaneous notification by both email and fax. That notification will include the name, address/location, phone number of the defendant as well as the SID, Case Number, charge, court and arraignment date if

available. Attorney information will automatically be transferred to the "C" page of the appropriate case file on the Criminal Justice Information System. The defendant will receive a print out with the name, address and phone number of the appointed attorney. The County Courts at Law Administration Office will print out a list of defendants and appointed attorneys, each working day. Additionally, the County Courts at Law Administration Office will print out one copy of the Appointment Order for each case. These Orders will be stamped with the signature of the Local Administrative Judge and delivered to the Criminal Central filing for inclusion in the individual case file(s).

D. Removal from Appointment List or Attorney Rotation Wheel- The judges will monitor attorney performance on a continuing basis to assure the competency of attorneys on the list. An attorney may be removed or suspended, as appropriate, from one or more appointment lists by a majority vote of the judges. (as set forth in E. below)

E. Grounds for removal: An attorney may be removed from the appointment list or attorney rotation wheel if the attorney:

1. has twice or more failed to contact or interview clients in a timely manner as required by Article 26.04(j)(1), Code of Criminal Procedure;
2. has submitted a claim for legal services not performed as specified in Article 26.05(e), Code of Criminal Procedure;
3. fails to maintain compliance with each of the appointment list guidelines;
4. has been found by a court to have provided ineffective assistance of counsel;
5. has violated a rule of professional responsibility;

6. has been convicted of or received a deferred adjudication for any an offense, other than an offense punishable by fine only;

7. is under indictment or being formally charged with an offense, other than an offense punishable by a fine only; or

8. has intentionally misrepresented statements on the application for the appointment list.

9. An attorney may also be removed from the appointment list for another stated good cause.

If a judge believes that an attorney has violated any of the provisions listed above, the judge may refer an attorney to the County Court judges hearing criminal matters for removal from the appointment list. The referral must be in writing and shall clearly state the grounds that form the basis of the referral. No disciplinary action with respect to the attorney being retained or removed from the appointment list may be made without such a referral. Upon receiving an attorney referral, the County Court judges hearing criminal matters or designee shall notify the attorney in writing of the referral and inform the attorney of the grounds that form the basis of the referral. The notice shall also inform the attorney of the time and place the judges will meet to discuss the referral and give the attorney an opportunity to respond to the referral in writing or in person or both.

After the County Court judges hearing criminal matters meet and give the attorney an opportunity to be heard, the majority of the judges hearing criminal

cases shall determine whether the attorney should:

1. remain on the appointment list; or
2. be removed from the appointment list altogether

The attorney may be removed from the appointment list by a majority vote of the judges hearing criminal matters present. In addition, the majority of the judges may also vote to require the attorney to take other rehabilitative measures. Removals from any list may be probated. For removal or probated removals, the judges ordering the removal may require the completing of rehabilitative measure as a condition of probation or reapplication. An order of removal should state in the order the earliest date at which the attorney may apply for reinstatement. An attorney who was removed from an appointment list under "Grounds for Removal" number 6 or 7 shall be immediately reinstated upon providing proof that the charges were dismissed or that the attorney was acquitted, unless other grounds for removal exist against the attorney that would prohibit reinstatement. The decision of the majority of judges hearing criminal matters is final and may not be appealed.

F. Reinstatement to Appointment List or Attorney Rotation Wheel

i. An attorney who was removed from the appointment list or wheel for non-completion of the required CLE hours may be immediately reinstated upon providing proof that the attorney has completed the required hours so long as the attorney otherwise meets the other qualifications under this Plan.

ii. An attorney who has been removed from the appointment list or wheel for any other reason and who wishes to be reinstated must apply through the original application process.

G. Duties of Appointed Counsel - Appointed Counsel shall:

- i. Notify the court within 72 hours of the receipt of appointment;
- ii. Make every reasonable effort to:
  1. Contact the defendant by the end of the first working day after the date on which the attorney is appointed; and
  2. Interview the defendant as soon as practicable after the attorney is appointed;
- iii. Represent the defendant until:
  1. Charges are dismissed;
  2. The defendant is acquitted;
  3. Appeals are exhausted; or
  4. The attorney is relieved of his duties by the court or replaced by other counsel after a finding of good cause entered on the record.

iv. Investigate, either by self or through an investigator, the facts of the case and be prepared to present any factual defense(s) that may be reasonably and arguably available to the defendant;

v. Brief the law of the case and be prepared to present any legal defense(s) that may be reasonably and arguably available to the defendant;

vi. Be prepared to negotiate with the prosecutor for the most favorable resolution of the case as can be achieved through a plea agreement;

vii. Be prepared to try the case to conclusion either with or without a jury;

viii. Be prepared to file post-trial motions, give notice of appeal and appeal the case pursuant to the standards and requirements of the Texas Rules of Appellate Procedure;

ix. Maintain reasonable communication and contact with the client at all times and keep the client informed of the status of the case; and

x. Advise the client on all matters involving the case and such collateral matters as may reasonably be required to aid the client is making appropriate decisions about the case; and

xi. Perform the attorney's duty owed to the defendant in accordance with these procedures, the requirements of the Code of Criminal Procedure, and applicable rules of ethics.

xii. Manage attorney's workload to allow for the provision of quality representation and the execution of the responsibilities listed in these rules in every case.

## Prompt Appointment of Counsel

### A. Prompt Appointment of Counsel

i. Counsel shall be appointed as soon as possible to indigent defendants, but no later than the end of the first working day after the date on which the appointing authority receives the defendant's request for court appointed counsel. Working day means Monday through Friday, excluding official state holidays. Counsel must be appointed whether or not a case has been filed in the trial court.

ii. If the defendant is released from custody prior to the appointment of counsel, appointment of counsel is not required until the defendant's first court appearance or when adversarial judicial proceedings are initiated, whichever comes first.

#### iii. Appointment Authority

1. If no case has been filed in the trial court, the appointing authority for misdemeanors is: Court or Court's designee authorized under Article 26.04, Code of Criminal Procedure, to appoint indigent defendants in the County.

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

i. The court may not direct or encourage the defendant to communicate with the attorney representing the state until the court advises the defendant of the right to counsel and the procedure for requesting appointed counsel and the defendant has been given a reasonable opportunity to request appointed counsel.

ii. If the defendant has requested appointed counsel, the court may not direct or encourage the defendant to communicate with the attorney representing the state unless the appointing authority has denied the request and, subsequent to the denial, the defendant:

1. Has been given a reasonable opportunity to retain and has failed to retain appointed counsel; or
2. Waived or has waived the opportunity to retain private counsel.

iii. The attorney representing the state may not:

1. Initiate or encourage an attempt to obtain from the defendant a waiver of the right to counsel; or
2. Communicate with a defendant who has requested the appointment of counsel, unless the appointing authority has denied the request and subsequent to the denial, the defendant:
  - a. Has been given a reasonable opportunity to retain counsel; or
  - b. Waives or has waived the opportunity to retain private counsel.

#### C. Waiver of the Right to Counsel

- i. A defendant may voluntarily and intelligently waive the right to counsel.
- ii. A waiver obtained in violation of section IV.B above is presumed invalid.
- iii. If a defendant wishes to waive the right to counsel for purposes of entering a guilty plea or proceeding to trial, the court shall advise the defendant of the nature of the charges against the defendant and, if the defendant is proceeding

to trial, the dangers and disadvantages of self-representation. If the court determines that the waiver is voluntarily and intelligently waived, the court shall provide the defendant with a statement substantially in the following form, which, if signed by the defendant, shall be filed with and become part of the record of the proceedings.

“I have been advised this \_\_\_ day of \_\_\_\_, 2\_\_\_, by the (name of court) Court of my right to representation by counsel in the case pending against me. I have been further advised that if I am unable to afford counsel, one will be appointed for me free of charge. Understanding my right to have counsel appointed for me free of charge if I am not financially able to employ counsel, I wish to waive that right and request the court to proceed with my case without an attorney being appointed for me. I hereby waive my right to counsel. (signature of defendant)”

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

### **Attorney Selection Process**

- A. The appointing authority will use the "attorney rotation wheel" discussed in Section III (attorney qualifications), 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 or "attorney rotation wheel"

B. Public Defender's Office - Any defendant charged with a misdemeanor offense who 1) has been deemed to have mental health issues, 2) who is found to be indigent, and 3) who requests a court appointed attorney, shall be assigned to the Bexar County Public Defender's Office. The booking officer will enter an "M" code on all cases that request a court appointed attorney, and who have been identified as having mental health issues, so that the Public Defender's Office is appointed to represent all mental health cases for each misdemeanor category of offense. All other cases will be passed on to the "attorney rotation wheel" as set forth in Section III. The County Judges may, from time to time, adjust the percentage of cases received by the County Public Defender's Office. The County Public Defender's Office may be removed from a specific list by the judges, if it is determined that the office will no longer handle that category of cases. In such cases, the public defender's appointment rates may be increased for the other categories of offenses to maintain an adequate workload. 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; or
- iv. 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.

### **Fee and Expense Payment Process**

- A. Court appointed counsel shall be compensated for all reasonable and appropriate services rendered in representing the accused. Compensation shall be reasonable for time and effort expended and will be in accordance with a fee schedule adopted and approved by a majority of the County Court judges hearing criminal cases in the county.
- B. Payment Process: No payment of attorney's fees will be made other than in accordance with the rules set forth below.

i. An appointed attorney shall fill out and submit a fee voucher to the court for services rendered, which must be submitted at the time the case is concluded. Complete itemization is required for the time spent in representing the indigent defendant. All itemizations must be in black or blue ink and either printed or typewritten. If the form provided by the County is not used, the format of the itemization must be similar to that used on the County form.

ii. The trial judge presiding over the proceedings or a designee shall review the request for compensation and either approve or disapprove of the amount requested.

1. If a judge disapproves a request for compensation, the judge shall make written findings, stating the amount of payment that the judge approves and each reason for approving an amount different from the requested amount.

2. An attorney whose request for payment is disapproved may appeal the disapproval by filing a motion with the presiding judge of this administrative judicial region. 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 under this section, the commissioner's court 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 fee schedule for the County. This decision is final.

C. Payment of Expenses:

- i. Court appointed counsel will be reimbursed for reasonable and necessary expenses incurred, including expenses for investigation and for mental health and other experts. Expenses incurred with and without prior approval shall be paid according to the procedures set forth below. Whenever possible prior court approval should be obtained before expenses are incurred.

- ii. Procedure With Prior Court Approval:

1. Appointed Counsel may file with the trial court a pretrial ex parte confidential request for advance payment of investigative and expert expenses. The request for expenses must state the below, as applicable:
  - a. The type of investigation to be conducted or the type of expert to be retained;

- b. Specific facts that suggest the investigation will result in admissible evidence or that the services of an expert are reasonably necessary to assist in the preparation of a potential defense; and
    - c. An itemized list of anticipated expenses for each investigation and/or each expert.
- 2. The court shall grant the request for advance payment of expenses in whole or in part if the request is reasonable. If the court denies in whole or in part the request for expenses, the court shall:
  - a. State the reasons for the denial in writing;
  - b. Attach the denial to the confidential request; and
  - c. Submit the request and denial as a sealed exhibit to the record.
- iii. Procedure Without Prior Court Approval: Appointed counsel may incur investigative or expert expenses without prior approval of the court. On presentation of a claim for reimbursement, the court shall order reimbursement of counsel for the expenses, if the expenses are reasonably necessary and reasonably incurred. Unreasonable or unnecessary expenses will not be approved.

STATE OF TEXAS )  
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COUNTY OF BEXAR )

IN THE COUNTY COURTS  
GIVING PREFERENCE TO  
CRIMINAL MATTERS

NOV 23 P 3: 06

1,2,4,5,6,7,8,9,11, 12, 13, 14, and 15

**JOINT ORDER AMENDING FEE SCHEDULE**

This fee schedule applies to MISDEMEANOR APPOINTMENTS MADE ON AND AFTER DECEMBER 1, 2009.

I.

Appointed Counsel shall be a paid a reasonable attorney's fee for performing the following services, based on the time and labor required, the complexity of the case, and the experience and ability of appointed counsel:

- 1) time spent in court making an appearance on behalf of the defendant as evidenced by a docket entry, time spent in trial and time spent in a proceeding in which sworn oral testimony is elicited;
- 2) reasonable and necessary time spent out of court on the case, supported by any documentation that the court requires;
- 3) time spent during jail visitation;
- 4) preparation of an appellate brief and preparation and presentation of oral argument to a Court of Appeals or the Court of Criminal Appeals; and
- 5) preparation of a motion for re-hearing.

II.

In the event an appointed counsel fails to timely appear at the scheduled Jury or Motion setting and additionally fails to inform the Court Coordinator at least 24 hours prior to the setting of a conflict or on Friday prior to noon if the setting is for a Monday (including the specifics as to where counsel's presence is required); or there is a finding of lack of diligence in representation, the Court may reduce or forfeit the fee amount requested.

### III.

In those situations in which a case remains pending on the docket after an appointed counsel is permitted to withdraw (for example, when other counsel becomes retained, when the defendant becomes a bond forfeiture, or a conflict of interest develops), counsel will be paid on an hourly basis for the time spent to the date of withdrawal. In appropriate cases, the Court may require reimbursement to the County of the amount paid to court appointed counsel as a condition of allowing the substitution of retained counsel.

### IV.

All claims for misdemeanor payment must be submitted at the time the case is concluded, with limited exceptions and only with approval by the Judge presiding over the case. Complete itemization is required for time spent in representing the indigent defendant. All itemization must be in black or blue ink and either printed or typewritten. If the form provided by the County is not used, the format of the itemization must be similar to that used on the County form. No claims for payment will be accepted after one (1) year, unless approved by the Judge presiding over the case.

### V.

The hourly rate to be paid is \$25.00/hour. Counsel may elect a flat fee of \$100 for a plea and \$75.00 for a Motion to Revoke Probation (MTR). On a Plea, no more than four hours of out-of-court time may be itemized without the approval of the Judge. On an MTR, no more than three hours of out-of-court time may be itemized without the approval of the Judge. Appeals to the Fourth Court may not be itemized for over 20 hours without the approval of the Judge. A Petition for Discretionary Review may not be itemized for over 6 hours without the approval of the Judge. Any further argument, after appeal, may not be billed for over 6 hours without the approval of the Judge. Any Habeas Corpus proceeding may not be itemized for over 10 hours without approval of the Judge. And, any appeal of a plea or appeal in which the Judge has denied the right to appeal, cannot be itemized for more than 10 hours without the prior approval of the

Judge. Any request for itemization to exceed the times listed must be submitted in writing for the Judge's approval prior to the time being expended.

If a case is dismissed in consideration of a felony plea, no more than 4 hours of out-of-court time may be itemized without approval of the Judge. If a dismissal is obtained before arraignment, no more than 2 hours of out-of-court time may be itemized without approval of the Judge. A dismissal after arraignment itemized for more than 4 hours of out-of-court time must be approved by the Judge.

If a case is set for trial and a trial actually begins (jury selection begins), the attorney for defendant shall be paid \$150.00 per day in trial. A day will consist of anything over 4 hours.

Multiple cases on the same defendant, which are pending at the same time, shall each be paid at 25% of the rate paid on the first case.

## VI.

No payment shall be made until the form for itemizing the services performed is submitted to the Judge presiding over the proceedings and the Judge or Judge's Designee approves the payment. If the Judge or Judge's designee disapproves the requested amount of payment, the Judge or designee shall make written findings stating the amount of payment that the Judge or designee approves and each reason for approving an amount different from the stated amount. 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. 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 45<sup>th</sup> day after the date an application for payment of a fee is submitted under this section, the Commissioner's Court 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 fee schedule for the county. This decision is final.



## VII.

In Court time means time actually spent in the courtroom and will be paid as follows:

- A. Routine appearances, including docket calls, guilty pleas, sentencing, and uncontested hearings will equal 1/3 day (less than 3 hours);
- B. Time in Court in excess of 3 hours, but less than 4 hours on contested evidentiary hearings will be treated as ½ days. This does not include guilty pleas, docket appearances, sentencing, or hearings;
- C. Time in Court in excess of 4 hours spent on contested evidentiary matters will be treated as full days. This does not include guilty pleas, docket appearances, sentencing, or hearings.

Out-of-court time means reasonable and necessary time for conferences, jail visitation, negotiation, and trial preparation. Such time will be compensated as follows:

- A. Normally, only the hourly rate (\$25.00/hour) will be approved, except in extraordinary circumstances. In such case, the circumstances must be in writing, and approved by the Judge presiding over the case;
- B. All claims submitted must be itemized, documented, and verified.

## VIII.

Any payment made prior to the disposition of the case must be approved by the Judge Presiding over that case.

## IX.

A. Court appointed counsel will be reimbursed for reasonable and necessary expenses incurred, including expenses for investigation and for mental health and other experts. Expenses incurred with and without prior approval shall be paid according to the procedures set forth below. Whenever possible prior court approval should be obtained before expenses are incurred.

B. Procedure with Prior Court Approval:

- 1. Appointed Counsel may file with the trial court a pretrial ex parte confidential request for advance payment of investigative and expert expenses. The request for expenses must state the below, as applicable:

- a. The type of investigation to be conducted or the type of expert to be retained;
  - b. Specific facts that suggest the investigation will result in admissible evidence or that the services of an expert are reasonably necessary to assist in the preparation of a potential defense; and
  - c. An itemized list of anticipated expenses for each investigation and/or each expert.
2. The court shall grant the request for advance payment of expenses in whole or in part if the request is reasonable. If the court denies in whole or in part the request for expenses, the court shall:
    - a. State the reasons for the denial in writing;
    - b. Attach the denial to the confidential request; and
    - c. Submit the request and denial as a sealed exhibit to the record.

C. Procedure Without Prior Court Approval:

Appointed counsel may incur investigative or expert expenses without prior approval of the court. On presentation of a claim for reimbursement, the court shall order reimbursement of counsel for the expenses, if the expenses are reasonably necessary and reasonably incurred. Unreasonable or unnecessary expenses will not be approved.

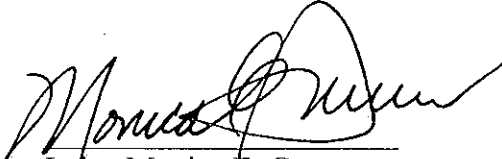
X.

There will be no extra reimbursement to counsel for expenses which are part of the usual and customary overhead of a law office. Secretarial expense, the expenses of photos or xerographic copying, supplies required for production of motions and briefs, and local telephone charges are examples of such non-recoverable overhead expense. Counsel will be reimbursed their actual expense of long distance telephone calls necessitated by their representation of the accused. The costs of such items as death certificates and autopsy reports will be reimbursed only if the Criminal District Attorney's office declines in writing to make such items available to counsel for copying. Any bill requested to be reimbursed must have a copy of the bill attached to the itemization.

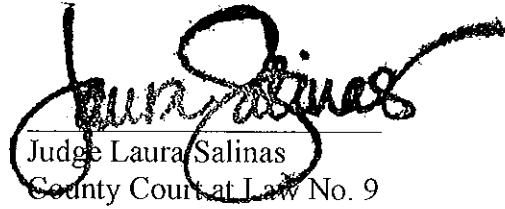
This schedule will apply to APPOINTMENTS MADE ON AND AFTER  
DECEMBER 1, 2009.

It is ORDERED that this Joint Order Amending Fee Schedule be filed for record in the offices of the County Clerk of Bexar County.

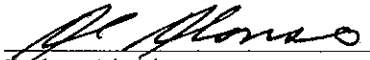
SIGNED, ORDERED, AND ENTERED ON THIS 18<sup>th</sup> day of November, 2009 by:



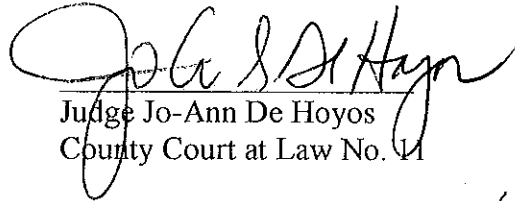
Judge Monica E. Guerrero  
Administrative Judge  
County Court at Law No. 7



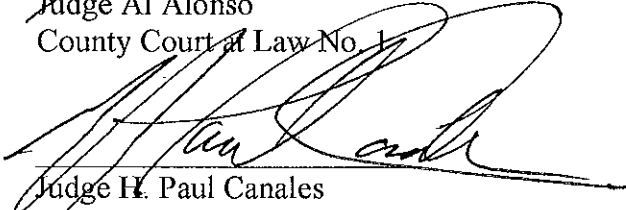
Judge Laura Salinas  
County Court at Law No. 9



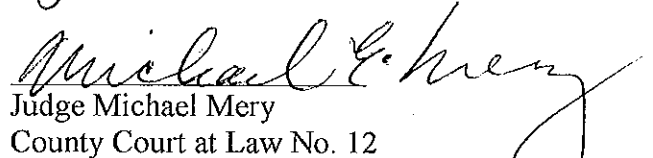
Judge Al Alonso  
County Court at Law No. 1



Judge Jo-Ann De Hoyos  
County Court at Law No. 11



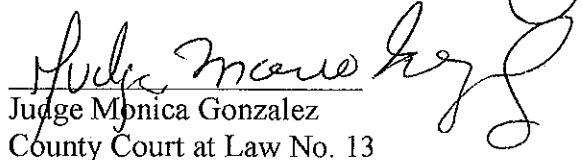
Judge H. Paul Canales  
County Court at Law No. 2



Judge Michael Mery  
County Court at Law No. 12



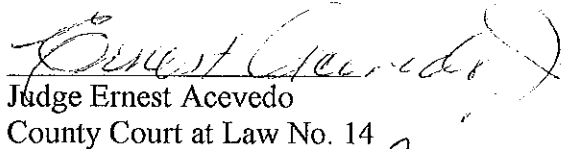
Judge Sarah Garrahan  
County Court at Law No. 4



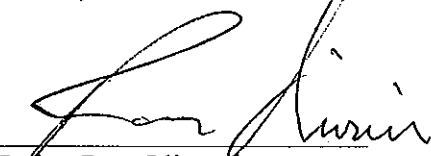
Judge Monica Gonzalez  
County Court at Law No. 13



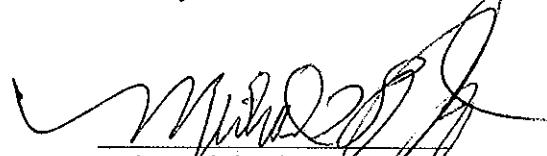
Judge Linda Penn  
County Court at Law No. 3



Judge Ernest Acevedo  
County Court at Law No. 14



Judge Ray Olivarri  
County Court at Law No. 6



Judge Michael T. La Hood  
County Court at Law No. 15



Judge Karen Crouch  
County Court at Law No. 8

# **Bexar District Courts Plan**

## **Preamble**

### **BEXAR COUNTY CRIMINAL DISTRICT COURTS PLAN**

#### **STANDARDS AND PROCEDURES RELATED TO APPOINTMENT OF COUNSEL FOR INDIGENT DEFENDANTS**

The following Local Rules replace the current local rules, Part 5, Section E., subsections 5.19 through 5.25. These subsections affect the Criminal District Courts only. These rules are adopted pursuant to Texas Government Code §74.093. These amended local rules are effective July 15, 2008.

#### **E. INDIGENT DEFENSE**

- 5.19 The rules in this section will govern criminal procedures in all criminal district courts in Bexar County, and will take precedence over any other local rule to the contrary.

#### **Prompt Magistration**

#### **5.20 Procedures for Timely Appointment of Counsel**

a. The rules in this subsection were originally promulgated with the cooperation of the City of San Antonio Magistrate's Office. As of November 1, 2007, Bexar County Magistrates appointed by the Criminal District Court Judges will be performing all magistration duties.

b. The person making the arrest or the person having custody of the arrested person shall take the arrested person before a magistrate within 48 hours after arrest, which is the current common practice in Bexar County.

c. Whenever an arrested person is first brought before a magistrate, the magistrate shall perform the duties described in Article 15.17 of the Code of Criminal Procedure, conducting what will hereinafter be referred to as an Article 15.17 hearing, which will include the following:

1. The magistrate shall specifically inform the person arrested of the person's right to request appointment of counsel if the person cannot afford counsel.
2. The magistrate shall specifically ask the person arrested whether the person wants to request appointment of counsel.
3. The magistrate shall inform the person arrested of the procedures for requesting appointment of counsel.

4. The magistrate shall ensure that reasonable assistance in completing the necessary forms for requesting appointment of counsel is provided to the person at the time of the Article 15.17 hearing.
  5. If the arrested person does not speak and understand the English language or is deaf, the magistrate shall inform the person in a manner consistent with Articles 38.30 and 38.31 of the Code of Criminal Procedure.
- d. In each case in which an arrested person is taken before a magistrate for an Article 15.17 hearing, the magistrate will make a written record on a form titled “Magistrate Warning” and available in both English and Spanish, of the following information:
1. That the magistrate informed the person of the person’s right to request appointment of counsel;
  2. That the magistrate asked the person whether the person wanted to request appointment of counsel; and
  3. Whether or not the person requested appointment of counsel. (See Attachment One for the English version and Attachment Two for the Spanish version).
- e. If the arrested person requests appointment of counsel, the magistrate shall transmit or cause to be transmitted to the Bexar County Pre-Trial Services Department the name of the arrested person requesting appointment of counsel, for their assistance in filling out the necessary forms and to interview them to determine if they qualify for a court appointed attorney. This transmittal will occur no later than 24 hours after the request is made to the magistrate.
- f. Counsel shall be appointed in the manner specified in Rule 5.21 below, as soon as possible, but not later than the end of the first working day after the date on which the Pre-Trial Services Department receives the defendant’s request for counsel. “Working day” means Monday through Friday, except for official county holidays.

### **Indigence Determination Standards**

#### **5.21 Procedures and Financial Standards for Determining Whether a Defendant is Indigent**

- a. After the Article 15.17 hearing, if the arrested person has informed the magistrate that he/she does not want to request court appointed counsel, this will be reflected on the Magistrate Warning form. If at any time after magistration the arrested person decides that he/she would like to be interviewed after telling the magistrate that they did not want to request court appointed counsel, he/she will be referred to the Pre-Trial Services Officer for an interview (see below). If at any time after magistration the arrested person decides that he/she does not want to be interviewed for court appointed counsel, after making the request with the magistrate, he/she will be referred to the Pre-Trial Services Office to sign a form reflecting the declination. (Attachment Three).

b. After the Article 15.17 hearing, if the arrested person has informed the magistrate that he/she wants to request court appointed counsel, the arrested person will be interviewed by the Pre-Trial Services Clerk whether or not they are able to make bond. If the defendant makes bond, this interview will take place before release on bond.

c. As soon as possible following the Article 15.17 hearing, a Pre-Trial Services Clerk shall interview each arrested person who wants to request appointment of counsel, and the arrested person will provide under oath the necessary information concerning the person's financial resources. The Pre-Trial Services Clerk shall input this information into the computer for the arrested person.

d. The financial data requested from the arrested person during the interview with the Pre-Trial Services Clerk will include but is not limited to the defendant's income, source of income, assets, property owned, outstanding obligations, necessary expenses, the number and ages of dependents, and spousal income that is available to the defendant. Whether the defendant has posted or is capable of posting bail will not be considered in determining indigency, except to the extent that it reflects the defendant's financial circumstances as measured by the considerations listed above.

e. At the conclusion of the interview with the Pre-Trial Services Clerk, the arrested person will be asked to swear to and sign a "Financial Data Report Affidavit". (See Attachment Four for an example).

f. Based on the financial data given by the arrested person, the computer will calculate and determine whether the person meets the financial standard for indigence in Bexar County. Pursuant to the Code of Criminal Procedure Article 26.04(o), before a determination of indigence is made the arrested person signs an "Indigent Attorney Appointment Affidavit". (For an example, see Attachment Five). The standard for determining indigence is outlined as follows:

1. The defendant's necessary expenses will be subtracted from the defendant's gross income, including spousal income if applicable. The resulting number will be referred to as the defendant's "net income".
2. "Necessary expenses" should include but are not limited to: rent or mortgage, food/groceries, car payment, car insurance, utilities.
3. The defendant's "net income" will be used to determine if the individual is indigent based on the income for one person under the Federal Poverty Guidelines. If the defendant's "net income" is \$903 or more a month, they will not qualify for a court appointed attorney. If the defendant's "net income" is less than \$903 a month, they will qualify for a court appointed attorney. This amount will be adjusted annually pursuant to the Federal Poverty Guidelines.

g. A defendant who is determined to be indigent is presumed to remain indigent for the remainder of the proceedings in the case unless a material change in the defendant's financial circumstances occurs. If there is a material change in financial circumstances after a determination of indigency or nonindigency is made, the defendant, the defendant's counsel, or the attorney representing the state may move for reconsideration of the determination.

h. A written or oral statement elicited from the defendant during this process or evidence derived from the financial data provided may not be used for any purpose, except to determine the defendant's indigency or to impeach the direct testimony of the defendant.

i. A defendant may request a court appointed attorney at any time, and the criminal district court judge who presides over the defendant's case has the discretion to appoint an attorney to that defendant, according to the method of assignment outlined in Rule 5.22 below.

### **Minimum Attorney Qualifications**

#### **5.22 Selection and Appointment of Counsel**

a. Attorneys shall be appointed to represent indigent defendants from public appointment lists using a system of rotation as described later in this subsection.

b. The judges hereby establish the following public appointment lists from which counsel for indigent defendants shall be appointed:

1. A State Jail Felony list;
2. A Second and Third Degree Felony list;
3. A First Degree and 3(g) Felony list;
4. An Appellate list for State Jail and Third Degree Felonies;
5. An Appellate list for First, Second, and 3(g) Felonies.

c. Appointment of counsel to represent a defendant in a motion to revoke probation proceeding or a motion to adjudicate guilt proceeding shall be from the list appropriate for the underlying offense.

d. Twice a year, by a posted date in June and December, attorneys may apply to be included on one or more of the public appointment lists. (See Attachment Six). Attorneys do not need to re-apply for lists they are already on, but may apply for additional lists if they have met the qualifications. (See Attachment Seven).

e. To be eligible for placement on each public appointment list, attorneys must meet the following minimum qualifications:

1. To qualify for any felony appointment, including appeals, an attorney must have completed ten hours of CLE in criminal law or procedure in the past year, including carryover from the previous year only. Also, a State Bar approved Legislative Update Seminar must be attended in any year the Legislature meets.

2. To qualify for the State Jail Felony list, an attorney must have at least one year prior experience in criminal litigation, and prior experience as lead or co-counsel in at least three criminal jury trials.

3. To qualify for the Second and Third Degree Felony list, an attorney must have at least two years prior experience in criminal litigation, and prior experience as trial counsel in two or more felony jury trials, as lead or co-counsel.

4. To qualify for the First Degree and 3(g) Felony list, an attorney must either be board certified in criminal law, OR

- have at least four years prior experience in criminal litigation; and
- have prior experience as trial counsel in four felony jury trials in the last five years, having served as lead counsel in at least two of those trials; and
- have completed twelve hours of CLE in criminal law or procedure in the last calendar year. Suggested courses are: The Criminal Law Institute (offered annually by the SABA), Advanced Criminal Law Course (offered in San Antonio once every four years), The Short Course (offered annually by the TCDLA). Other courses authorized by the State Bar of Texas in criminal law or procedure are acceptable.

5. To qualify for the Appellate list for State Jail and Third Degree Felonies, an attorney must have at least two years prior experience in criminal litigation and/or appellate experience, and at least one brief filed in a criminal or juvenile case.

6. To qualify for the Appellate list for First, Second, and 3(g) Felonies, an attorney must have at least three years prior experience in criminal litigation and/or appellate experience, and at least two briefs filed in a criminal or juvenile case.

f. In addition to the above qualification requirements, in order to be placed on one or more of the felony and/or appellate appointments lists, a majority of the criminal district court judges must vote to approve the attorney's placement on each such list.

g. In lieu of the above qualification requirements, for both felony and appellate appointments, in extraordinary circumstances, an attorney may be deemed qualified by a majority of the criminal district court judges.



h. If an attorney does not meet the qualifications to accept cases of a certain degree, but would like the judges to consider qualifying him/her for that list under the provision above, he/she can fill out a form called “Application for Exception to Qualifications to Receive Court Appointments” and turn that in with his/her application. (See Attachment Eight).

i. At least twice a year, following the submission of attorney applications for the public appointment lists by the posted dates in June and December, the criminal district court judges shall evaluate the new applicants for each list and the attorneys already on the lists. The judges will vote on the new applications and any new exceptions to the qualifications received. Attorneys approved by a majority of the votes of the judges will be placed on the public appointment lists.

j. An attorney may be removed from one or more of the public appointment lists by vote of a majority of the criminal district court judges for any of the following reasons:

1. Whenever the judges determine that the attorney no longer meets the objective qualifications for that list or is not fully competent to adequately handle the category of cases associated with that list. The judges may in their discretion remove an attorney from one or more lists, while continuing to approve the attorney for other lists.

2. When an attorney intentionally or repeatedly violates the requirement that the attorney make every reasonable effort to contact the defendant not later than the end of the first working day after the date on which the attorney is appointed and to interview the defendant as soon as practicable after the attorney is appointed.

3. When, after a hearing, it is shown that the attorney submitted a claim for legal services not performed by the attorney.

4. When, after a hearing, it is shown that the attorney requested and/or received any money or anything else of value for representing the accused, other than what is paid or anticipated to be paid to them by the county, without approval from the court in writing.

k. In certain extraordinary circumstances, such as incarceration or institutionalization, an attorney may be temporarily removed from the felony court appointed attorney lists.

### **Prompt Appointment of Counsel**

4. Criminal District Courts Administration will receive a master list every working day containing the names of all defendants who were arrested the previous day or weekend and were assigned court appointed counsel by the Pre-Trial Services Clerk. This master list will include the court appointed attorney’s name and bar number, as well as the case numbers and offenses charged. This master list will be taken to the presiding criminal district court judge for a signature, making all appointments reflected therein official. (For an example, See Attachment Nine). A separate order appointing an attorney in each case will then be generated and placed in the court’s file for each case, reflecting that the

original master order was signed by the presiding judge. (For an example, See Attachment Ten).

5. Regarding Motions to Revoke Probation and Motions to Enter an Adjudication of Guilt, the criminal district court judge having jurisdiction over the case has the discretion to appoint a court appointed attorney to represent the defendant, as long as the court appointed attorney is qualified to accept appointments of the degree of the underlying offense.

6. At any time, a defendant may appear before the judge presiding over the defendant's case and request a court appointed attorney, and the judge has the discretion to appoint an attorney to represent that defendant. The attorney must be qualified to take that degree of offense, and may be chosen from the next five names on the wheel, as provided by the Criminal District Courts Administration Office. (See Attachment Eleven). The judge may make a finding of good cause on the record for appointing out of order, and may appoint any qualified, willing attorney regardless of whether the attorney's name is among the next five names on the appropriate list. (See Attachment Twelve).

m. Each attorney appointed under this subsection to represent the defendant shall represent the defendant (unless relieved by the court earlier, after a finding of good cause is entered on the record), until charges are dismissed, the defendant is acquitted, all post-trial motions are resolved, notice of appeal is perfected, or until relieved by the court or replaced by other counsel.

n. At the conclusion of all proceedings in the trial court, including post-trial motions, if an indigent defendant wishes to file an appeal, trial counsel must assist the defendant in the filing of the notice of appeal. Once these steps have been completed, the court appointed trial attorney's representation of the defendant is concluded. No motion to withdraw is necessary. The trial court may then appoint the Appellate Public Defender's Office (APD) on the appeal. If the APD refuses the appointment pursuant to the Code of Criminal Procedure Article 26.044(j), the trial court may appoint a lawyer from the next five names on the appropriate Appellate list, as provided by the Criminal District Courts Administration Office. The judge may make a finding of good cause on the record for appointing out of order, and may appoint any qualified, willing attorney regardless of whether the attorney's name is among the next five names on the appropriate list.

#### 5.24 Notice of Appointment, Determination, and Contact with the Defendant

a. If the computer determines that a person who requests appointment of counsel is not indigent under the standards and procedures described in Rule 5.21, that finding will be entered on the person's "Indigent Attorney Appointment Affidavit", which will be filed in the court's file. The Pre-Trial Services Clerk will also hand the defendant a copy of this affidavit, including notice that they are not qualified for a court appointed attorney.

- b. If the computer determines that a person who requests appointment of counsel is indigent under the standards and procedures described in Rule 5.21, the computer will print the name, address, and phone number of the selected court appointed attorney, as determined according to Rule 5.22, on the “Indigent Attorney Appointment Affidavit”, which will be filed in the court’s file. The Pre-Trial Services Clerk will also hand the defendant a copy of this affidavit, including the attorney’s information outlined above. (For an example, See Attachment Five).
- c. At the same time the computer selects the court appointed attorney’s name and it is provided to the defendant by the Pre-Trial Services Clerk, that attorney is receiving notice of the appointment by e-mail and/or fax. (For an example, See Attachment Thirteen).
- d. According to the Texas Code of Criminal Procedure Article 26.04(j)(1), the appointed attorney shall make every reasonable effort to contact the defendant not later than the end of the first working day after the date on which the attorney is appointed and to interview the defendant as soon as practicable after the attorney is appointed. The initial contact may be by certified letter to the defendant.
- e. The defendant will be given a postcard by the Pre-Trial Services Clerk to send by regular mail or interoffice mail from the jail to Criminal District Courts Administration, if the defendant has not been contacted by their court appointed attorney within a specified date. (See Attachment Fourteen). Criminal District Courts Administration will attempt to verify this information through jail visitation records and/or communication with the appointed attorney and request for verification that they have complied with the provision immediately above.

### **Attorney Selection Process**

1. The following method shall be used to assign attorneys from the appropriate public appointment list to represent indigent defendants:
1. After the defendant has been interviewed by the Pre-Trial Services Clerk and the computer has completed the calculation and determined that the defendant meets the standard of indigency in Bexar County, the Pre-Trial Services Clerk will ask the computer to determine the next attorney’s name on the appropriate list.
  2. The computer will select and provide an attorney’s name to the Pre-Trial Services Clerk, after analyzing the individual requirements of the request and utilizing the following filters:
    - Language
    - Degree of Offense
    - Availability of Attorney
    - Date of Last Appointment.
  3. The attorney’s name selected by the computer to be appointed to the case should be one that meets any language requirement (if possible), is qualified to take appointments for that degree of offense, is not unavailable, and has the oldest date of last appointment. This will result in a system of rotation.

4. Criminal District Courts Administration will receive a master list every working day containing the names of all defendants who were arrested the previous day or weekend and were assigned court appointed counsel by the Pre-Trial Services Clerk. This master list will include the court appointed attorney's name and bar number, as well as the case numbers and offenses charged. This master list will be taken to the presiding criminal district court judge for a signature, making all appointments reflected therein official. (For an example, See Attachment Nine). A separate order appointing an attorney in each case will then be generated and placed in the court's file for each case, reflecting that the original master order was signed by the presiding judge. (For an example, See Attachment Ten).

5. Regarding Motions to Revoke Probation and Motions to Enter an Adjudication of Guilt, the criminal district court judge having jurisdiction over the case has the discretion to appoint a court appointed attorney to represent the defendant, as long as the court appointed attorney is qualified to accept appointments of the degree of the underlying offense.

6. At any time, a defendant may appear before the judge presiding over the defendant's case and request a court appointed attorney, and the judge has the discretion to appoint an attorney to represent that defendant. The attorney must be qualified to take that degree of offense, and may be chosen from the next five names on the wheel, as provided by the Criminal District Courts Administration Office. (See Attachment Eleven). The judge may make a finding of good cause on the record for appointing out of order, and may appoint any qualified, willing attorney regardless of whether the attorney's name is among the next five names on the appropriate list. (See Attachment Twelve).

### **Fee and Expense Payment Process**

#### **5.25 Attorney Fee Schedule and Compensation of Appointed Attorneys**

a. Other than the Appellate Public Defender's Office, counsel appointed to represent a defendant in a criminal proceeding, including a habeas corpus hearing, shall be paid a reasonable attorney's fee for performing the following services, based on the time and labor required, the complexity of the case, and the experience and ability of the appointed counsel:

1. Time spent in court making an appearance on behalf of the defendant as evidenced by a docket entry, time spent in trial, and time spent in a proceeding in which sworn oral testimony is elicited;

2. Reasonable and necessary time spent out of court on the case, supported by any documentation that the court requires;

3. Preparation of an appellate brief and preparation and presentation of oral argument to a court of appeals or the Court of Criminal Appeals; and

4. Preparation of a motion for rehearing.

b. All payments shall be paid after judicial approval, in accordance with the attached fee schedule and guidelines which were adopted by formal action of the Criminal District Court Judges, with copies sent to the Commissioners Court of Bexar County. (See Attachment Fifteen).

c. This fee schedule takes into consideration reasonable and necessary overhead costs and the availability of qualified attorneys willing to accept the stated rates.

d. A new voucher form and in-court and out-of-court itemization forms will be provided for appointed counsel to itemize the types of services performed. (See Attachment Sixteen). The appointed counsel must submit this voucher to the judge presiding over the case for which the appointed attorney seeks compensation, for the judge to approve the payment.

e. 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 the General Administrative Counsel for the Criminal District Courts for referral to the Voucher Recommendation Committee. This committee was formed to assist in pay 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 the General Administrative Counsel for the Criminal District Courts by the judge, defense attorney, investigator, or expert, and the General Administrative Counsel for the Criminal District Courts will request review by the Voucher Recommendation Committee. The Voucher Recommendation Committee is composed of members of the local defense bar, one of whom is the current president of the San Antonio 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 Criminal District Court 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.

f. An attorney who receives an appointment through the system outlined in this plan or through any other means is not allowed to receive any money or anything else of value for representing the accused, other than what is paid to them by the county, as approved by the court in writing.

g. If the judge disapproves the requested amount of payment, the judge shall make written findings stating the amount of payment that the judge approves and each reason for approving an amount different from the requested amount.

h. 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 twenty-one (21) days from the date the attorney receives notice of the disapproval of payment.

i. 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 45<sup>th</sup> day after the date an application for payment of a fee is submitted, Bexar 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.

j. Bexar County will reimburse appointed attorneys for investigation and expert witness expenses incurred on behalf of an indigent defendant as provided under Articles 26.05(d) and 26.052(f) through (h) of the Code of Criminal Procedure, and that is in accordance with the adopted fee schedule.

### **Miscellaneous**

These Local Rules of Administration were approved by a majority of the Criminal District Court Judges in Bexar County at a meeting held on June 25, 2008.

Attest: \_\_\_\_\_  
Laura Parker,  
Local Administrative Judge for Bexar County

Approved: \_\_\_\_\_  
David Peeples,  
Presiding Judge of the Fourth Administrative Judicial Region

STATE OF TEXAS

§  
§  
§  
§  
§  
§

IN THE DISTRICT COURTS

AND

144<sup>th</sup>, 175<sup>th</sup>, 186<sup>th</sup>, 187<sup>th</sup>, 226<sup>th</sup>,  
227<sup>th</sup>, 290<sup>th</sup>, 379<sup>th</sup>, 399<sup>th</sup>, 437<sup>th</sup>

COUNTY OF BEXAR


HANDLING CRIMINAL CASES


JOINT ORDER ADOPTING FEE SCHEDULE


In accordance with Article 26.05, Sections (b), (c), and (d) of the Code of Criminal Procedure of the State of Texas, the undersigned, being the district court judges designated by the legislature to give priority to criminal cases in Bexar County, Texas, now adopt the attached Fee Schedule, effective for all vouchers submitted after July 9, 2010.


It is ORDERED that this Joint Order be spread upon the minutes of the respective courts, filed for a record in the offices of the District Clerk of Bexar County, and a copy sent to the Commissioners Court of Bexar County.

SIGNED, ORDERED and ENTERED the 6<sup>th</sup> day of July, 2010.

  
CATHERINE TORRES-STAHL  
JUDGE  
144<sup>th</sup> JUDICIAL DISTRICT COURT

  
MARY ROMAN  
JUDGE  
175<sup>TH</sup> JUDICIAL DISTRICT COURT

  
MARIA TERESA HERR  
JUDGE  
186<sup>th</sup> JUDICIAL DISTRICT COURT

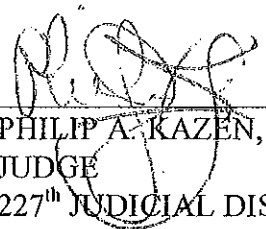
  
RAYMOND ANGELINI  
JUDGE  
187<sup>th</sup> JUDICIAL DISTRICT COURT

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2010 JUL 14 10 58 AM BEXAR COUNTY CLERK



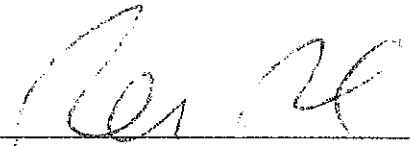
SID L. HARLE  
JUDGE  
226<sup>th</sup> JUDICIAL DISTRICT COURT



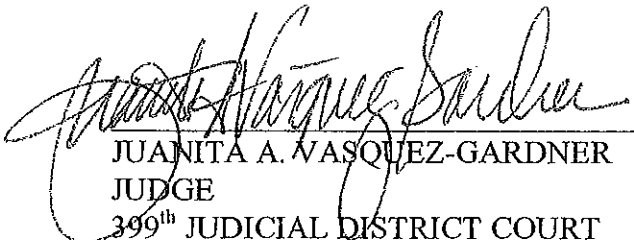
PHILIP A. KAZEN, JR.  
JUDGE  
227<sup>th</sup> JUDICIAL DISTRICT COURT



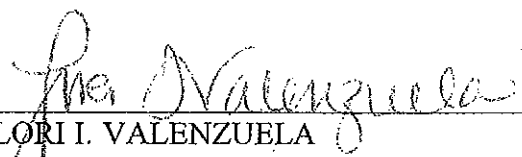
SHARON MACRAE  
JUDGE  
290<sup>th</sup> JUDICIAL DISTRICT COURT



RÓN RANGEL  
JUDGE  
379<sup>th</sup> JUDICIAL DISTRICT COURT



JUANITA A. VASQUEZ-GARDNER  
JUDGE  
399<sup>th</sup> JUDICIAL DISTRICT COURT



LORI I. VALENZUELA  
JUDGE  
437<sup>th</sup> JUDICIAL DISTRICT COURT

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## GUIDELINES FOR THE FEE SCHEDULE

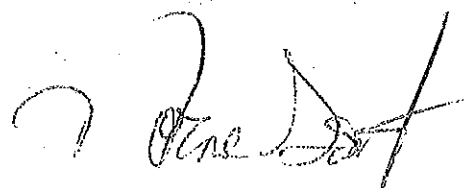
1. No claim will be paid unless properly submitted within one year of the final disposition.
2. Dismissals may be paid on an hourly basis or by flat fee. For multiple cases that include a dismissal, see Guideline #16.
3. When it becomes necessary for the Court to appoint an attorney to advise and counsel a witness whose own testimony might subject that witness to potential criminal liability, counsel will be entitled to compensation at the hourly rate which would be payable if counsel had been appointed to represent the defendant in the case on trial.
4. Attorneys handling waiver pleas will be paid as if the case had been indicted.
5. According to Article 26.05(c) of the Code of Criminal Procedure, this fee schedule takes into consideration reasonable and necessary overhead costs.
6. Requests for prior approval to exceed the maximum stated out-of-court hours and/or the maximum stated investigator fees must be filed in the appropriate court and set out the need to exceed the maximum and a justification of the cost. Extraordinary circumstances must be presented in order to obtain Court approval.
7. Only if an attorney chooses to be paid a flat fee for a plea, an additional \$100 may be paid for the initial jail visit, if in person.
8. An itemization sheet must be attached showing detailed hours worked if the attorney is being paid on an hourly basis.
9. If the County Auditor's Office detects simple mathematical errors in a pay voucher, it will compute the voucher and pay it out based on the auditor's office calculations.
10. A copy of your brief must be attached to your voucher for payment on an appeal.
11. After January 1, 2002, there will be no more automated payments. A voucher must be submitted for payment on any case.
12. Appointed counsel may incur investigative or expert expenses without prior approval of the court. On presentation of a claim for reimbursement, the court shall order reimbursement of counsel for the expenses, if the expenses are reasonably necessary and reasonably incurred. Unreasonable expenses will not be approved. When possible, prior court approval should be obtained before incurring expenses for investigation and for mental health and other experts.
13. On a capital murder case, if an attorney anticipates exceeding 100 hours of out-of-court time, he/she must notify the court when they have reached 100 hours and provide the

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court with an up-to-date itemization form for the time already spent. On presentation of a claim for payment, the court shall order payment of counsel for all out-of-court time, if the time spent was reasonably necessary and reasonably incurred. Unreasonable claims will not be approved.

14. When an appointment is made on an appeal, it is expected that the attorney receiving the appointment and signing the voucher actually did the research and wrote the brief. If another person assisted the attorney of record, the voucher must reflect that person's name, the work performed by that person, and the amount, if any, that person was paid or promised for their services.
15. A voucher combining hourly itemizations and flat fees on multiple cases/multiple counts will not be approved. An attorney must submit a voucher based on flat fees alone, or hourly itemizations alone, and no combination of the two is acceptable.
16. For multiple cases, including indictments, MTRs, informations on waiver pleas, and/or any combination of these, you may either choose to submit an itemized voucher or be paid a flat fee for the highest degree case, whatever the disposition of that case.
17. For one indictment with multiple counts, you may either itemize or choose to be paid one flat fee.
18. Defense attorneys must submit pay vouchers to the court for experts and court appointed investigators. Investigators and experts may not approach a judge directly for payment.
19. Attorneys who volunteer to sit second chair on a felony case in order to gain experience will not be paid.

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A handwritten signature in black ink, appearing to read "Pine" followed by a stylized flourish.

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## **Bexar Juvenile Board Plan**

### **Prompt Detention Hearings**

A child taken into custody must either be brought to a juvenile processing office without unnecessary delay where they may not be detained for longer than six hours pursuant to §52.025, Family Code, or another disposition authorized by §52.02, Family Code, including referral to the office designated by the juvenile board as intake for the juvenile court.

Prior to the detention hearing the court shall inform the parties of the child's right to counsel and to appointed counsel if they are indigent, and of the child's right to remain silent as to the alleged conduct.

The detention hearing may be conducted without the presence of the child's parent(s) or other responsible adult(s), however, in these cases the court must immediately appoint counsel or a guardian ad litem to represent the child.

The court shall provide the attorney for the child access to all written matter to be considered by the Court in making the detention decision.

### **Indigence Determination Standards**

Upon notification that their child has been detained, the person responsible for the child's support will be notified of the child's right to counsel, and to be represented by court-appointed counsel if the person responsible for the child's support will be financially unable to employ an attorney to represent the child. If the person responsible for the child's support wishes to be interviewed to determine if they qualify for court-appointed counsel for their child, he/she/they will be referred to the Juvenile Courts' pre-trial services personnel for completion of the financial information questionnaire (see Form # 1- Pre Trial Services Financial Data). The person responsible for the child's support will be required to swear to the accuracy of the information provided and sign a statement so stating (see Form #2-Indigent Attorney Appointment Affidavit). Appointment of counsel shall not be made without the cooperation of the person responsible for the child's support in completing the required financial information questionnaire. If the person responsible for the child's support does not wish to provide the information required to determine eligibility for court-appointed counsel, they will be asked to sign an affidavit so stating, and will be informed that their refusal to provide this information is an indication to the Court that they do not wish to seek court-appointed counsel for their child, but will instead retain counsel to represent their child at all court proceedings(see Form #3- Statement of Responsible Party Declining to be Interviewed for Court-Appointed Counsel for their Child) . The determination of indigence will be made upon the submission of the financial information obtained in the financial interview into the computer system. The system will have guidelines, established county-wide for the determination of indigence, pre-programmed (see Form #4- Guidelines to Determine Indigence).

## Minimum Attorney Qualifications

### QUALIFICATIONS FOR ATTORNEYS TO RECEIVE COURT APPOINTMENTS IN BEXAR COUNTY JUVENILE DISTRICT COURTS

Attorneys who are interested in qualifying as court-appointed counsel for children under Title 3 of the Family Code must meet certain qualifications. The qualifications necessary to represent children under Title 3 of the Family Code are set out below. The Task Force on Indigent Defense may impose additional qualifications, which must be met by attorneys, in order to remain on the list.

In addition to the requirements for CLE set out below, attorneys must attain a minimum of six hours of CLE in juvenile law annually to be eligible for appointment in juvenile cases. As an alternative to meeting the CLE requirements, an attorney may be currently certified in juvenile law by the Texas Board of Legal Specialization. Continuing legal education activity completed within a one-year period immediately preceding the initial reporting period may be used to meet the educational requirement for the initial year.

The following provisions are also included in the rules to add flexibility so that attorneys may meet the requirements without causing an undue burden:

- All of the required juvenile law hours in this six hour requirement may be earned through any method authorized by the State Bar, including self-study. Attendance at a State Bar accredited CLE training is NOT required.
- Carryover provision allows an attorney to earn 12 hours at one conference and carry forward 6 hours to the next year's reporting period.
- Emergency appointment allowed when no attorney meeting the CLE requirements is available by the time an attorney must be appointed in a case.

If board Certified in Criminal Law or Juvenile Law, you are automatically qualified to receive court appointments in every category of juvenile offense described below.

#### **Determinate or Habitual felonies, Certification and Transfer cases, 3g offenses including Capital Murder, and First degree felonies:**

- (1) Have at least four years prior experience in criminal litigation; and
- (2) Prior experience as trial counsel in four felony (district court or juvenile district court) jury trials in the last five years; must have served as lead counsel in two of these trials; and
- (3) Have completed 12 hours in CLE in Criminal Law in the last calendar year. Suggested courses are; the Criminal Law Institute (offered annually by the SABA, Advanced Criminal Law Course (offered annually by the State Bar of Texas), The Short Course (offered annually by the TCDLA) or the Juvenile Law Course (offered annually by the State Bar of Texas). Other courses authorized by the State Bar in Texas Criminal law or procedure are acceptable.

***Note: To qualify for any of the following appointments, including appeals, you must have completed 10 hours of CLE in criminal law or procedure or juvenile law or procedure,***

*or any combination thereof, in the past year, including carry over. In addition, the Legislative Update Seminar must be attended in any year the Legislature meets.*

**Other Felonies:**

- (1) Have at least two years prior experience in criminal litigation; and
- (2) Prior experience as lead or co-counsel in at least two felony (district court or juvenile district court) jury trials.

**Misdemeanor & CINS (Child In Need of Supervision):**

Observed the following procedures in both the 289<sup>th</sup> and 386<sup>th</sup> District Courts:

- (a) Docket Call;
- (b) Detention hearings; and
- (c) At least one contested matter (jury, non-jury or motion to modify).

Attorneys who wish to be included on the appointment list for juvenile cases in Bexar County, must fill out a sworn application, and if required, an observation affidavit, and submit it to the Juvenile Courts General Administrative Counsel (see Form # 5-Application Affidavit and Form #6- Observation Affidavit). Each applicant must be approved by a majority of the judges on the Juvenile Board. After the initial list, any attorney who wishes to be included on the appointment list or who wishes to have their qualifications reviewed for appointments at a higher level, may submit an application, or supplemental application (see Form # 7 - Supplemental Application), which will be reviewed by the Trial Committee for preliminary inclusion on the list. Applications and supplemental applications may be submitted to the Juvenile Courts General Administrative Counsel at any time, however, they will only be submitted to the Trial Committee and the Juvenile Board for approval in June and December of each year. Supplemental applications submitted by attorneys who wish to have their qualifications reviewed for appointments at a higher level, must include the dates and cause numbers of any trials they have included on said supplemental application. Official placement on the list shall be made upon approval of a majority of the judges on the Juvenile Board.

**Procedures for Removal of Attorneys From List**

Misrepresentation of qualifications on the application or supplemental application, is cause for removal of an attorney from the list. In order to remain on the appointment list, attorneys must submit proof of completion of the required continuing legal education (CLE), to the Juvenile Courts General Administrative Counsel, on or before, December 31 of each calendar year. Failure to submit proof of the required CLE by the deadline will result in temporary suspension of the attorney from the appointment list. Said suspension will continue until proof of CLE is provided to the Juvenile Courts General Administrative Counsel.

Attorneys may voluntarily remove themselves from the appointment list by submitting a letter to the Juvenile Courts General Administrative Counsel stating their desire to be removed from the list, the reasons for said request, whether any current case will be affected, which cases will be affected, and the time period of the removal. Attorneys will not be permitted to withdraw from cases that they have been appointed to prior to submitting their request for removal from

the appointment list, without filing a motion to withdraw, which must be ruled on by the judge in whose court the case from which they are seeking to withdraw, has been set.

Attorneys will be removed from the list if it is determined that the attorney intentionally or repeatedly fails to make every reasonable effort to contact the child not later than the end of the first working day after the date on which the attorney is appointed and to interview the child as soon as practicable after the attorney is appointed. Also, attorneys who fail to attend detention hearings without providing notice to the Court of the reason for their inability to attend said hearing, may be removed from the list.

Attorneys who are shown, after a hearing, to have submitted a claim for legal services not performed by the attorney, may be removed from the list by vote of the majority of the judges on the Board.

Attorneys who fail to conduct themselves in a professional and ethical manner, may be subject to removal from the list.

If it is determined at anytime during the pendency of the case, that the child is subject to charges for an offense that is of a higher level than that for which the initially appointed attorney is qualified, it is incumbent upon the appointed attorney to bring this matter to the Court's attention as soon as possible. Attorneys who fail to do this may be subject to removal from the list. Additionally, pay vouchers will not be approved for work on any case for which the appointed attorney is not qualified to represent the child, unless the attorney has received prior approval from the judge in whose court the case has been set.

Attorneys who are repeatedly late for court or who otherwise fail to show respect to the court, may be subject to removal from the list.

Attorneys may not ask another attorney to appear for them on a case to which they have been appointed. If the attorney is unable to appear on a case, they must either file a written motion for continuance or withdrawal. Any attorney who has filed 3 motions to withdraw due to inability to appear, is subject to removal from the list.

Attorneys must update each court and the Juvenile Courts General Administrative Counsel of any changes to telephone number, fax number and/or e-mail address. If the court is unable to reach the attorney at the numbers supplied by the attorney, within 24 hours, the attorney may be suspended from the list until such time as the attorney provides new contact information to the courts and General Administrative Counsel.

Any judge on the Board may request removal of an attorney from the list. The attorney sought to be removed shall be temporarily suspended from the list. Upon the recommendation of the Trial Committee, the Juvenile Board may, by majority vote, determine whether or not to remove an attorney from the appointment list following the temporary suspension of the attorney from the list, by any judge.

### **Prompt Appointment of Counsel**

Every child who is detained after the initial intake investigation will be provided court-appointed counsel not later than the second working day after the child is taken into custody; provided, however, that when a child is detained on a Friday or Saturday, they will be provided court-appointed counsel on the first working day after the child is taken into custody, if: (1) the child is not represented by an attorney; (2) it is determined, after reviewing the income and assets of the child's parents or other person responsible for the child's support, that they will be financially unable to employ an attorney to represent the child; and (3) the child's right to

representation by an attorney: (A) has not been waived under Section 51.09 of the Family Code; or (B) may not be waived under Subsection (b) of Section 51.10 of the Family Code.

In cases in which the child is released from custody after the initial intake investigation, upon service of a petition, the person responsible for the child's support will be informed of the child's right to counsel, and to be represented by court-appointed counsel if the person responsible for the child's support will be financially unable to employ an attorney to represent the child. If the person responsible for the child's support wishes to be interviewed to determine if they qualify for court-appointed counsel for their child, he/she/they will then be referred to the Juvenile Courts' pre-trial services personnel to complete the financial information interview, so that counsel can be appointed on or before the 5<sup>th</sup> working day after the petition is served.

If a child is already on judicial probation and a motion to modify is filed that seeks either revocation with commitment to the TYC or modification to require confinement in a secure local facility, then the person responsible for the child's support will be informed of the child's right to counsel, and to be represented by court-appointed counsel if the person responsible for the child's support will be financially unable to employ an attorney to represent the child. If the person responsible for the child's support wishes to be interviewed to determine if they qualify for court-appointed counsel for their child, he/she/they will then be referred to the Juvenile Courts' pre-trial services personnel to complete the financial information interview, so that counsel can be appointed on or before the 5<sup>th</sup> working day after the motion to modify is filed.

The above described process for the appointment of counsel is applicable to those cases in which the child appears without a parent or whose parent or other person responsible for the child's support requests an attorney at the times enumerated above. If the child, parent, or other person responsible for the support of the child has not previously requested a court-appointed attorney, the party so requesting can be sent to pre-trial services for an interview. As an alternative, the Judge of the Juvenile Court can appoint an attorney to represent a child in a particular case in the interest of justice. If so appointed, the Judge must place the rationale for said appointment on the record. If at any time, the Court determines that the parent or person responsible for the support of the child is financially able to employ an attorney to represent the child or will not cooperate with the Juvenile Courts' pre-trial services personnel in submitting the required financial information to determine indigence, the Court shall order that person to employ an attorney to represent the child or to pay a reasonable attorney's fee as set by the Court.

### **Attorney Selection Process**

Bexar County will compile an attorney data bank, which will be comprised of attorneys who apply to take court appointed cases, who meet the above referenced qualifications and who are approved by the Juvenile Board of Bexar County to be included in said data bank. This data bank will operate as the "list" from which court-appointed counsel will be selected. The computer will use a rotational process to select an attorney for each case in which it is determined that the child is in need of the services of court-appointed counsel. In making the selection of an attorney, the computer will use several different programmed filters, including, qualifications, language requirements, date of last appointment, attorney availability, pending cases with appointed counsel, etc.

The system will use the guidelines, established county-wide for the determination of indigence, (see Form # 4) pre-programmed, which, when reached, will trigger the computer



system to select an attorney from the list of attorneys requesting court-appointed cases to represent the child in that particular proceeding.

Once the attorney has been selected, the attorney's name will be placed at the bottom of the list.

Upon selection by the computer, the attorney will receive instantaneous notification of the appointment by both e-mail and fax. The notification will include the name, address/location of the child, phone number of the child, as well as the SID number, Cause number, and court and/or detention hearing date if applicable. Attorney information will automatically be transferred onto the "C" page of the appropriate case file on the JJIS. The child will receive a print out with the name, address and phone number of the appointed attorney.

**The appointed attorney shall remain the attorney of record (unless relieved by the court earlier, after a finding of good cause is entered on the record) until charges are dismissed, the allegations against the child have been found to be not true, all post-trial motions are resolved, notice of appeal is perfected, or until relieved by the court or replaced by other counsel.** The judge of the Juvenile Court may remove an appointed attorney from a particular case, if it is determined at anytime during the pendency of the case, that the child is subject to charges for an offense that is of a higher level than that for which the initially appointed attorney is qualified.

**At the conclusion of all proceedings in the trial court, including post-trial motions, if an indigent child wishes to file an appeal, trial counsel must assist the child in the filing of the notice of appeal. Once these steps have been completed, the court-appointed trial attorney's representation of the child is concluded. No motion to withdraw is necessary. The trial court may appoint the Appellate Public Defender's Office (APD) on appeal. If the APD refuses the appointment pursuant to the Code of Criminal Procedure Article 26.044(j), the trial court may then appoint any attorney qualified to represent the child on appeal.**

## **Fee and Expense Payment Process**

### **COMPENSATION OF COURT APPOINTED COUNSEL**

The the Fee Schedule for the Juveniel District Courts is set out as Form #8. The fee schedule may be temporarily amended by agreement of the judges of the District Courts giving preference to Juvenile matters and sitting as Juvenile Courts. Any temporary changes to the fee schedule will be made permanent by ratification of the Juvenile Board at the next regular Board meeting. A copy of the pay voucher is included as Form # 9. Should the Judge of the Court in which a particular case has been placed wish to reduce the amount paid to the attorney for the case, from the amount submitted on the voucher, the rationale for the reduction must be made a part of the record. A copy of a standard form for that purpose is included as Form #10.

### **GUIDELINES FOR SUBMISSION AND PAYMENT OF VOUCHERS**

1. No claim will be paid unless properly submitted within one year of final disposition.
2. An itemization sheet must be attached showing detailed hours worked if the attorney is being paid on an hourly basis. Vouchers should be itemized on ¼ of an hour basis.

3. If an attorney chooses to be paid a flat fee for a stipulation, no additional compensation, other than fees for initial detention visit and detention hearings will be paid.
4. Fees for multiple cases, including petitions, MTMs, cases taken into consideration, and/or any combination of these, the attorney may choose to submit an itemized voucher **or** be paid a flat fee for the highest degree case charged by petition or motion.
5. For a petition with multiple counts, the attorney may choose to submit an itemized voucher **or** be paid a flat fee for the highest degree count within that petition.
6. A voucher combining hourly itemizations and flat fees on multiple cases/multiple counts will not be approved. An attorney must submit a voucher based either on a flat fee **or** hourly itemization of time spent handling the cases, and no combination of the two will be approved.
7. If the respondent has only one case on the docket, which is non-suited, the attorney will be paid for the dismissal on an hourly basis only. Case must have actually been filed to be paid as a dismissal. A maximum of 4 hours will be paid on any dismissal of a case, unless prior approval is received from the Court.
8. When an appointment is made on an appeal, it is expected that the attorney receiving the appointment and signing the voucher actually did the research and wrote the brief. If another person assisted the attorney of record, the voucher must reflect that person's name, the work performed by that person, and the amount, if any, that person was paid or promised for their services.
9. A copy of your brief must be submitted with your voucher for payment on appeal.
10. Appointed counsel may incur investigative or expert expenses without prior approval of the court. On presentation of a claim for reimbursement, the court shall order reimbursement of counsel for the expenses, if the expenses are reasonably necessary and reasonably incurred. **Unreasonable expenses will not be approved. When possible, prior court approval should be obtained before incurring expenses for investigation and for mental health and other experts.**
11. Requests for prior approval to exceed the maximum stated out-of-court hours and/or the maximum stated investigator fees must be filed in the appropriate court and set out the need to exceed the maximum and the justification of the cost. Extraordinary circumstances must be presented in order receive Court approval to exceed the stated maximums.
12. When it becomes necessary for the Court to appoint an attorney to advise and counsel a witness whose own testimony might subject that witness to potential criminal liability, counsel will be entitled to compensation at the hourly rate which would be payable if counsel had been appointed to represent the respondent in the case on trial.

13. If the County Auditor detects simple mathematical errors in a pay voucher, they will compute the voucher and pay it out based on their calculations.
14. The Court has discretion to reduce a voucher submitted for payment based on work product not reflecting the amount of time submitted or expended. If the Court to which a pay voucher is submitted for payment, disapproves the requested amount for payment, the Court shall make written findings stating the amount of payment that the Court approves and each reason for approving an amount different from the requested amount. An attorney who disputes the reduction of a pay voucher may choose to have the voucher presented to a peer review committee, or may appeal the disapproval by filing a motion with the presiding judge of the administrative judicial region in accordance with Article 26.05(c) of the Code of Criminal Procedure.
15. All work and visits submitted for payment must have actually been done by the attorney submitting the voucher.
16. In accordance with Article 26.05(c) of the Code of Criminal Procedure, this fee schedule takes into consideration reasonable and necessary overhead costs.

#### **Investigative and Expert Expenses.**

Counsel appointed in a non-capital case shall be reimbursed for reasonable and necessary expenses, including expenses for investigation and for mental health and other experts. Expenses incurred with and without prior court approval shall be reimbursed, according to the procedures set forth below. When possible, prior court approval should be obtained before incurring expenses for investigation and for mental health and other experts.

#### **Procedure With Prior Court Approval:**

Appointed counsel may file with the trial court a pretrial *ex parte* confidential request for advance payment of investigative or expert expenses. The request for expenses must state as applicable:

- (1) the type of investigation to be conducted or the type of expert to be retained;
- (2) specific facts that suggest the investigation will result in admissible evidence or that the services of an expert are reasonably necessary to assist in the preparation of a potential defense; and
- (3) an itemized list of anticipated expenses for each investigation or each expert.

The court shall grant the request for advance payment of expenses in whole or in part if the request is reasonable. If the court denies in whole or in part the request for expenses, the court shall:

- (1) state the reasons for the denial in writing;
- (2) attach the denial to the confidential request; and
- (3) submit the request and denial as a sealed exhibit to the record.

**Procedure Without Prior Court Approval:**

Appointed counsel may incur investigative or expert expenses without prior approval of the court. On presentation of a claim for reimbursement, the court shall order reimbursement of counsel for the expenses, if the expenses are reasonably necessary and reasonably incurred. Unreasonable expenses will not be approved.

Articles 26.05(d), 26.052(f), (g) & (h), Code of Criminal Procedure. §51.10 (i) Family Code

**\*\*\*Pay vouchers will not be approved for work on any case for which the appointed attorney is not qualified to represent the child, unless the attorney has received prior approval from the judge in whose court the case has been set.**

**1.) BEXAR COUNTY JUVENILE BOARD'S FEE SCHEDULE FOR THE COMPENSATION OF COUNSEL APPOINTED TO DEFEND-EFFECTIVE FOR ALL VOUCHERS SUBMITTED ON OR AFTER AUGUST 7, 2008**

The juvenile board hereby adopts the following schedule of fees for appointed counsel:

<b>SERVICE</b>	<b>MISD. &amp; CINS</b>	<b>SJF, 3°</b>	<b>2°</b>	<b>DETERMINATE OR HABITUAL FELONY, C&amp;T, CAPITAL MURDER &amp; 1°</b>
Initial detention visit (Must include date)	75	100	100	100
Detention Hearings (Must include dates)	50	50	50	50
Court Appearance (Hourly Rate)	25	75	75	75
Evid. Hearing, & MTM (Hourly Rate)	25	75	85	100
Trial (Hourly Rate)	25	75	100	125
Out-of Court Time (Hourly Rate)  Need prior approval to exceed 30 hours on all felonies and 15 hours on all misd. & CINS cases	25	50	60	75
Flat Fee for Stipulations	150	400	500	750 (Includes Release & Transfer Hearings & C&T Hearing)
Flat Fee for MTM Stipulations	100	200	250	350
Transfer of Probation Hearings	100	175	225	300

For rules regarding multiple cases and multiple counts, see the attached guidelines # 4, 5 and 6.



## **GUIDELINES FOR SUBMISSION AND PAYMENT OF VOUCHERS**

1. No claim will be paid unless properly submitted within one year of final disposition.
2. An itemization sheet must be attached showing detailed hours worked if the attorney is being paid on an hourly basis. Vouchers should be itemized on ¼ of an hour basis.
3. If an attorney chooses to be paid a flat fee for a stipulation, no additional compensation, other than fees for initial detention visit and detention hearings will be paid.
4. Fees for multiple cases, including petitions, MTMs, cases taken into consideration, and/or any combination of these, the attorney may choose to submit an itemized voucher **or** be paid a flat fee for the highest degree case charged by petition or motion.
5. For a petition with multiple counts, the attorney may choose to submit an itemized voucher **or** be paid a flat fee for the highest degree count within that petition.
6. A voucher combining hourly itemizations and flat fees on multiple cases/multiple counts will not be approved. An attorney must submit a voucher based either on a flat fee **or** hourly itemization of time spent handling the cases, and no combination of the two will be approved.
7. If the respondent has only one case on the docket, which is non-suited, the attorney will be paid for the dismissal on an hourly basis only. Case must have actually been filed to be paid as a dismissal. A maximum of 4 hours will be paid on any dismissal of a case, unless prior approval is received from the Court.
8. When an appointment is made on an appeal, it is expected that the attorney receiving the appointment and signing the voucher actually did the research and wrote the brief. If another person assisted the attorney of record, the voucher must reflect that person's name, the work performed by that person, and the amount, if any, that person was paid or promised for their services.
9. A copy of your brief must be submitted with your voucher for payment on appeal.
10. Appointed counsel may incur investigative or expert expenses without prior approval of the court. On presentation of a claim for reimbursement, the court shall order reimbursement of counsel for the expenses, if the expenses are reasonably necessary and reasonably incurred. **Unreasonable expenses will not be approved. When possible, prior court approval should be obtained before incurring expenses for investigation and for mental health and other experts.**
11. Requests for prior approval to exceed the maximum stated out-of-court hours and/or the maximum stated investigator fees must be filed in the appropriate court and set out the need to exceed the maximum and the justification of the cost. Extraordinary circumstances must be presented in order receive Court approval to exceed the stated maximums.

12. When it becomes necessary for the Court to appoint an attorney to advise and counsel a witness whose own testimony might subject that witness to potential criminal liability, counsel will be entitled to compensation at the hourly rate which would be payable if counsel had been appointed to represent the respondent in the case on trial.
13. If the County Auditor detects simple mathematical errors in a pay voucher, they will compute the voucher and pay it out based on their calculations.
14. The Court has discretion to reduce a voucher submitted for payment based on work product not reflecting the amount of time submitted or expended. If the Court to which a pay voucher is submitted for payment, disapproves the requested amount for payment, the Court shall make written findings stating the amount of payment that the Court approves and each reason for approving an amount different from the requested amount. An attorney who disputes the reduction of a pay voucher may choose to have the voucher presented to a peer review committee, or may appeal the disapproval by filing a motion with the presiding judge of the administrative judicial region in accordance with Article 26.05(c) of the Code of Criminal Procedure.
15. All work and visits submitted for payment must have actually been done by the attorney submitting the voucher.
16. In accordance with Article 26.05(c) of the Code of Criminal Procedure, this fee schedule takes into consideration reasonable and necessary overhead costs.

APPROVED, SIGNED, ORDERED and ENTERED this, the \_\_\_\_\_ day of \_\_\_\_\_, 2008

These amendments to the Plan were approved by a majority of the judges of the Juvenile Board at the Juvenile Board Meeting held on August 7, 2008.

Attest: \_\_\_\_\_  
 Judge Andy Mireles,  
 Chairman of the Juvenile Board



## **Appendix H: Criminal Defense Attorney Survey**

## Background

The Taskforce on Indigent Defense surveyed six defense groups in San Antonio between April 14, 2010 and April 26, 2010 to obtain information, opinions, and habits related to defense practice in Bexar County. The groups included: San Antonio Criminal Defense Lawyers Association; National Association of Criminal Defense Lawyers; Texas Criminal Defense Lawyers Association; the Criminal Justice Section of the American Bar Association; the CJA panel in San Antonio; the San Antonio Bar Association; and defense lawyers who are on the wheel in San Antonio. There were 93 respondents to the 27 question survey.

## Introduction

The Task Force on Indigent Defense conducted this survey as part of its program assessment of Bexar County's indigent defense system. The survey provided an efficient way of gathering information from the area's criminal defense attorneys. The program assessment will use this data to create recommendations and identify follow-up topics.

## Objectives

TFID sought to determine the type and amount of cases criminal defense attorneys were being assigned. Additionally, the survey collected information on trends related to the amount of hearings, billable hours, pre-trial motions, investigators and jail visits necessary to resolve cases for both assigned and retained cases.

The survey included open-ended questions for the criminal defense attorneys to indicate challenges they face in a number of arenas including: client visits at the jail; the "open file policy" in Bexar County; pay scale; reimbursements; and the appointment process. The open-ended questions were included to allow the practicing attorneys to identify both concerns and commendations for Bexar County's indigent defense process. Closed questions with pre-formulated answers were seen as too restrictive and would limit the amount of information provided.

## Data Collection

The Taskforce wrote a web-based survey using KwikSurvey in April 2010, distributed the survey April 14<sup>th</sup>, and closed it for responses on April 26<sup>th</sup>. The heads of the six groups listed above distributed the survey to their members along with a letter detailing the objectives and deadlines. This survey reached approximately 700 people and had 93 respondents, which is a response rate of 13.3 percent. The groups likely have overlapping membership, so the response rate can be assumed to be a bit higher.

## Findings

Out of 93 respondents, 76 try cases in state court and 48 exclusively take state court cases. Of the remaining 45 respondents, federal court cases make up 14.6 percent of their caseload. One respondent works exclusively on federal cases. For those reporting less than 100 percent on state court cases, 79.4 percent of time was attributed to state court cases.

There were 65 respondents (70%) who reported working on court appointed cases, though only 61(66%) provided a percent of practice estimation. This work ranged from taking up one percent to one hundred percent of the practice. The average amount was 61 percent with a median of 75, which indicates there are a few low outliers in the survey.

Of the 65 respondents who accept appointed cases, 43 (66%) take misdemeanor cases, 53 (82%) take felony cases, and 20 (31%) take juvenile cases.

Table 1: Case handling by type

**Table 1: Case handling by type**

	Appointed			Retained		
	Misdemeanor	Felony	Juvenile	Misdemeanor	Felony	Juvenile
N taking cases	43	53	20	60	59	14
Percent of total Respondents	46%	57%	22%	65%	63%	15%
Percent of Respondents who take appointed cases	66%	82%	31%			
Average Caseload	4.5	2.9	2.1	4.7	4.1	1.3

More respondents performed civil case work. In addition to criminal work, 68 respondents (75%) reported taking civil case work as well.

## State Court Cases

The respondents detailed a number of indicators on both retained and appointed state court cases. The responses for average number of cases per month, retained versus appointed, showed respondents reported that retained cases required more hearings for case disposal than appointed cases.

**Table 2: Number of hearings to dispose a case by type**

	Appointed			Retained		
	Misdemeanor	Felony	Juvenile	Misdemeanor	Felony	Juvenile
1	4		1			1
2	13		11	10		8
3	19	14	8	15	10	8
4	6	18	1	9	17	2
5+	7	14		20	24	2
Average number of hearings	3.0	4.0	2.4	3.7	4.3	2.8
N	49	46	21	54	51	21

Respondents reported that felonies required more hearings to dispose a case than either misdemeanor or juvenile cases. The largest difference between retained and appointed cases occurred with misdemeanor cases, where respondents reported averaging 3.7 hearings to dispose a retained misdemeanor case as compared to 3.0 hearings for appointed cases.

The survey also inquired on the number of hours the respondents take to dispose of cases by category, as seen in Table 3.

**Table 3: Billable Hours to dispose a case, by type**

	Appointed			Retained		
	Misdemeanor	Felony	Juvenile	Misdemeanor	Felony	Juvenile
Average Hours	8.4	16.8	9	11.8	33.5	11.7
Difference	-28%	-50%	-23%			
Minimum	2	4	2	0	3	1
Maximum	30	60	40	50	250	40
N	44	47	19	50	53	19

On average, respondents reported spending less time on appointed cases than on retained cases. Felony cases showed the largest difference: appointed cases take 50 percent less hours to dispose than retained cases. The minimum number of hours spent is higher for appointed cases and the maximum number of hours is lower, except for juvenile cases, which are the same.

The number of hours billed in retained felony cases includes two outliers, one at 200 and the other at 250, the other 51 cases are all at 100 or below. This explains the majority of the difference between the two. For respondents who answered for both appointed and retained cases, the answers are less stark, as seen below.

**Table 4: Billable hours to dispose a case, by type, for criminal defense attorneys taking appointed and retained cases**

	Appointed			Retained		
	Misdemeanor	Felony	Juvenile	Misdemeanor	Felony	Juvenile
Mean	7.9	16.3	9.7	10.6	26.7	11.4
Minimum	2	4	2	30	3	1
Maximum	3	60	40	50	200	40
N	38	42	16			
Difference	-25%	-39%	-15%			

One respondent noted spending 30 billable hours on appointed felony cases and 200 billable hours on retained felony cases. The average time for retained cases, after removing the case with the 200 hour outlier, gives an average 16 hours for appointed cases and 22.4 for retained, which is a -28.6 percent difference. Therefore, no matter how these numbers are presented, the criminal defense respondents on average reported spending a statistically significant amount of time more on retained cases.

The respondents also gave information regarding the percent of cases they file pre-trial motions in for both appointed and retained cases.

**Table 5: Percent of cases in which attorney files a pre-trial motion**

	Appointed			Retained		
	Misdemeanor	Felony	Juvenile	Misdemeanor	Felony	Juvenile
Percent of Cases	37.2%	60.5%	49.9%	57.3%	71.4%	65.6%
Difference	-35%	-15%	-24%			
Minimum	0%	2%	1%	1%	2%	10%
Maximum	100%	100%	100%	100%	100%	100%
N	46	50	18	51	54	18

Over half of all cases with a retained attorney reported filing least one pretrial motion filed; however, less than half of misdemeanor and juvenile cases with an appointed attorney reported filing a pre-trial motion. Comparing the average for attorneys who answered for both appointed and retained cases shows a smaller, by type, differences.

**Table 6: Attorneys answering for both appointed and retained cases, percent of cases in which the attorney files a pre-trial motion**

	Appointed			Retained		
	Misdemeanor	Felony	Juvenile	Misdemeanor	Felony	Juvenile
Mean	38%	61.2%	59.6%	52.5%	69.9%	65%
Difference	-28%	-12%	-8%			
Minimum	1%	2%	15%	1%	2%	20%
Maximum	100%	100%	100%	100%	100%	100%
N	41	45	14			

Although the differences are smaller, most notably on juvenile delinquency cases, there is still a noteworthy discrepancy. Attorneys in appointed cases reported that they file far less pre-trial motions than the same attorneys in retained cases.

### Investigators

The survey asked about the percentage of appointed cases in which the attorney requested an investigator. The attorneys reported requesting investigators in less than a quarter of their cases, by type. Felony cases asked for investigators in 23.8 percent of cases, juvenile in 15.9 percent, and misdemeanors were the lowest, with 7.3 percent of cases, see below.

**Table 7: Percentage of cases when an investigator is requested**

	Misdemeanor	Felony	Juvenile
Requested	7.3%	23.8%	15.8%
N	8	36	9

The number of respondents is also quite low for the investigator question. There were 70 people who reported taking appointed cases, but only 36 unique respondents requesting investigators.

After the attorney makes the request, the judge must approve the use of an investigator or the attorney will not be reimbursed. Table 8 shows the reported percentage of cases in which investigators are approved.

**Table 8: Percentage of cases an investigator is approved**

	Misdemeanor	Felony	Juvenile
Approved	92.4%	83.7%	96.4%
N	14	36	11

The same 36 respondents answered both the request and approval questions. If the respondents' estimations are correct, only 6.7 percent of misdemeanor, 19.9 percent of felony, and 15.2 percent of juvenile cases have approved investigators. Table X shows the number of cases per attorney with investigators by month and by year based on the average number of appointments reported above.

**Table 9: Extrapolated number of investigators used per month and per year**

	Misdemeanor	Felony	Juvenile
	<b>Appointed</b>		
Cases Per Month	3	4	2.4
Investigator Approved	6.7%	19.9%	15.2%
Cases with Investigators per Month	.2	.8	.4
Cases with Investigators per Year	2.4	9.6	4.4
N taking case type	43	53	20

One third (14 out of 42) of the respondents indicated difficulty obtaining reimbursements if the case did not proceed to trial. Respondents also commented on this question. Out of twelve comments, one was positive, and stated:

- *I do my own investigation, but have not had trouble getting reimbursed<sup>1</sup>.*

The remaining comments did not support the system and ranged from

- *It's difficult to obtain payment for legal representation to begin with, to:*
- *We need to fix this system. Coming from out of state I am apauled (sic) at how poorly we handle defense of the poor, and*
- *Some misdemeanor judges cut expenses that relate to investigation of a matter if what is discovered does not wind up being introduced into evidence or highly material to a defensive theory.*

## Client Interaction

<sup>1</sup> Italicized comments were written by survey respondents. For readability, stray characters and extra spacing have been removed and some punctuation has been added. Spelling and misused words were not corrected.

After an attorney is appointed to a case, respondents stated that it takes about one and a half business days to contact the client. Almost all 51 respondents answered between one and three days. After appointment, it takes almost nine days for the attorney to meet with the client if the client is out of custody and a little over three and a half days if the client is in custody.

**Table 10: Time contacting clients takes, in days**

	In Custody	N	Out of Custody	N	Different
Contact Client	1.5	51	2.0	51	18
Meet with Client	3.7	47	8.7	39	40
<b>Location</b>					
Jail	51	53			
Court	2	53	15	52 <sup>2</sup>	13
Office			40	52	

Fifteen attorneys reported that they do not meet with their clients until first court date if that client is out of custody. In-custody clients reported meeting with their appointed attorneys while they are still in custody at the Bexar County Detention facility. Most respondents, 81 percent, do not have to show proof of a client visit.

The respondents reported on challenges they routinely face when meeting both jailed and bonded clients. The top barriers for visiting with a jailed client include problems with parking, the visitor’s booth, the wait for the client at the jail, and finding the time to drive to the jail.

**Table 11: Challenges Visiting Jailed clients**

	Percent of Respondents	
	Identifying Problem	N
Parking	40%	26
Waiting	23%	15
Visiting Booth	20%	13
Other	21%	11
Unique Responses	---	42

The visiting booth is thought to not preserve attorney client privilege because they must *talk through a glass wall*, there is a *lack of private meeting are* (sic) and *clients can be overheard*. There are too few visiting booths and attorneys must wait.

Parking is *unsafe* and it typically takes ... 20 minutes to get a space. The attorneys, who are paid by Bexar County, are *issued warning tickets* [on] cars parked in the county employee lot.

Other notable, but singular, answers included:

<sup>2</sup> Three respondents answered court or office.



- *Not being provided information about the client’s other cases and*
- *Exchange of paperwork.*

Fewer respondents had problems to report with bonded client meetings. Thirty-five percent (35%) of the attorneys noted a problem with clients keeping their appointments. This is heightened by the difficulty obtaining current and working contact information for the clients, which was cited by nine people.

**Table 12: Challenges meeting with bonded clients**

	Percent of Respondents	
	Identifying Problem	N
Client keeping appt	35%	13
Contact Information	24%	9
Scheduling	14%	5
None	14%	5
Other	14%	5
Unique Responses		42

The attorneys also run into difficulty scheduling appointments with bonded clients. Five respondents specifically highlighted their lack of problems with bonded appointed clients.

**Fee Structure**

Respondents answered two open ended questions regarding Bexar County’s fee structure. One question asked what they thought of the fee structure and the follow up inquired if the fee structure offered incentives to encourage quality representation.

Fifty-one people answered the follow up regarding quality representation. Most answers were negative. Many respondents cited an ethical obligation to provide quality defense regardless of positive or negative system views, which are denoted with the shorthand *ethical obligation* below. The answers broke down as shown in Table 13.

**Table 13: Relationship between fee structure**

	Respondents	Percent
<b>Positive</b>		
Yes	6	12%
<b>Neutral</b>		
Ethical Obligation	3	6%
<b>Negative</b>	42	82%
No, but ethical obligation	5	10%
No	29	57%
No, encourages pleas	8	16%
N	51	

Six of them indicated the fee structure encouraged quality representation by saying things such as:

- *Yes;*
- *Yes, mostly;*
- *Some; and,*
- *It is fair.*

Three others felt quality representation was independent of the fee structure and see it as their ethical imperative, noting:

- *I believe that regardless of the current fee structure most attorneys will provide quality representation;*
- *High quality representation is provided by the defense bar that is not dependant on incentives; and,*
- *I am determined to give my clients the same treatment regardless of what I am paid. The fee does not determine how I will treat my clients. I feel honor bound to do that.*

These answers are recorded as neutral responses.

Five others noted the same responsibility to provide quality representation, but provided follow-ups indicating the potential disincentives, for example:

- *Don't need any. But it does not reward it either (e.g getting dismissal either pre or post indictment and saving taxpayers expense of unneeded trials or being able to settle quickly);*
- *Doesn't offer incentives but if an attorney is going to take court appointed cases it is;*
- *I don't think the fees are high enough; however, a conscientious attorney will still provide quality representation; and,*

- *We should all do our best no matter the fee or payment. But the current system encourages some lawyers to get the case resolved as quickly as possible.*

The other 37 feel the system does not offer incentives. Their answers ranged from *no* to *probably not* to *absolutely not*. Some respondents elaborated:

- *Not at all. The way the courts routinely refuse to pay felonies that are successfully (sic) reduced to misdemeanors prior to indictment discourages an attorney to work for the pre-indictment (sic) reduction or dismissal because we don't get paid;*
- *No. At \$25/hr there is no incentive to work up a case when you can try to quickly get a client to accept a plea on the first setting to get your flat fee of \$100 for less than one hour of work;*
- *No just the opposite. You make more money if you resolve the case in one or two court settings. Lawyers that rely on court appointments as there (sic) only source of clients may not work the case as necessary to provide quality representation; and,*
- *No it forces attorneys to finish fast and carry a heavier caseload. Volume of cases becomes more important than quality.*

And there was a large subset who wrote the system encourages pleas:

- *No. If you obtain a dismissal on the case you typically get paid less. The fee structure encourages pleas;*
- *Not that I can see. I do the work and itemize. I try to take clients to trial when the State has a weak case. I have to fight the system to do it however. I would get more work if I plead them out at the first setting I am afraid;*
- *Not really...hourly rate is low enough to encourage one setting pleas;*
- *No! The only incentive is if you plea the person out early before you have a lot of time involved. That does not equate to quality representation;*
- *It surprises me that it is so low and unreasonable. It's punitive (sic) to the lawyer s and client because it encourages that the case be worked out on the first setting; and*
- *It generally encourage (sic) quick pleas because you know the flat rate fee will not be challenged but the hourly fee might be reduced by the Judge.*

## **Discovery**

Bexar County operates under an “open file policy” currently. Defense attorneys gave 20 percent positive and 69 percent negative answers. There were also 11 percent neutral answers.

Some of the negative respondents recommended: DVD players, a more timely turnover of information, and easier process for requesting information. In general, the negative responses are summed with the comment: *It is horrible. Takes too long and not all applicable documents are provided. Needs to be electronic access.*

The neutral answers noted the open file policy was *okay* and they *had access to files when they were there*.

The positive answers found the “open file policy” *reasonable or good* and said *it works*.

TFID asked about the possibility of electronic discovery and asked for comments. The respondents overwhelmingly supported electronic discovery. Out of 60 responses, all but four (or 93.3%) supported the District Attorney’s Office making discovery available to defense attorneys electronically. These respondents elaborated:

- *This would be the single greatest enhancement to offering clients a fair defense and would aid in minimizing costs for both sides;*
- *They scan everything anyway; and,*
- *If made available, we could confer quicker on the cases which may result in less cost to the County.*

Those opposed warned *If some employee were to intentionally or accidentally forward it to the public there good (sic) be some serious problems to (sic) attorney*.

### Attorney Selection

#### Satisfaction

For felony and misdemeanor cases, the respondents were on the positive side of neutral. The juvenile delinquency selection process had the worst rating, which was flat neutral. The majority of respondents were positive, either very satisfied or satisfied, with the selection process for attorneys in felony cases. No case type had the majority as negative, either dissatisfied or very dissatisfied.

**Table 14: Satisfaction with the attorney selection process in Bexar County**

	Very Satisfied = 1	Satisfied	Neutral = 3	Dissatisfied	Very Dissatisfied = 5	Mean	N
<b>Misdemeanor</b>	6	15	13	14	3	2.9	51
Percent	12%	29%	25%	27%	6%	Positive Neutral	
<b>Felony</b>	5	21	11	9	2	2.6	48
Percent	10%	44%	23%	19%	4%	Positive Neutral	
<b>Juvenile Delinquency</b>	2	9	15	4	5	3.0	35
Percent	6%	26%	43%	11%	14%	Neutral	

The respondents noted concerns, such as:

- *A few lawyers are receiving an inordinate number of appointments and cannot be doing an adequate job. Our District Judges are dedicated to quality representation. I hear that some of the county courts are considering a contract defense system. Such systems always fail and end up costing counties more than they were intended to save; and,*
- *In every court cases are given away at the discretion of the coordinator. If you review every court and the amounts that certain lawyers make in each court you can see the bias and favoritism. Really some attorneys make 40-50K in one court or in misdemeanor court. That amount is more than what some make in total. Make the CAA payments public. And make the courts court appointed payments lists public.*

### Quality

The respondents were neutral on the quality of representation in both misdemeanor and felony cases. They leaned negative on the representation in juvenile cases, as seen in Table 15.

**Table 15: Quality of Representation by attorneys on the appointment list**

	Very Satisfied = 1	Satisfied	Neutral = 3	Dissatisfied	Very Dissatisfied = 5	Mean	N
<b>Misdemeanor</b>	3	16	13	18	3	3.0	53
Percent	6%	30%	25%	34%	6%	Neutral	
<b>Felony</b>	3	18	12	14	4	3.0	51
Percent	6%	35%	24%	27%	8%	Neutral	
<b>Juvenile Delinquency</b>	1	9	15	9	2	3.1	36
Percent	3%	25%	42%	25%	6%	Negatively Neutral	

There was not a plurality, positive or negative, for any case type. Juvenile Delinquency had an almost perfect bell curve, but the difference of one “very dissatisfied” rating tipped it toward an overall negatively neutral rating.

### Fair and Effective

Respondents overwhelmingly thought being added to the appointment list was a fair and effective process with 80 percent giving an answer containing *yes* or a positive note. The other 20 percent mentioned patronage and difficulty getting experience as problems:

- *Cronyism is back ... Judges and Court Staff are back to appointing lawyers who they like or who will plead the case quickly;*
- *Not a true wheel. Who you know still plays too large a role; and,*
- *Generally just no room for less experienced attorneys to get trial experience.*

## Improvements

The respondents provided information on what Bexar County could do to improve the delivery of indigent defense services. Adjusting the fee schedule, streamlining the process, and creating a public defender’s office were the most oft repeated suggests, as seen below.

**Table 16: Possible improvements for delivery of indigent defense services**

	Responses	Percent
Adjust the fee schedule	20	38%
Streamline Process	12	23%
Public Defender's Office	8	15%
Other	12	23%
None	3	6%
NA	2	4%
Unique N	53	

Almost 40 percent mentioned the fee structure and reimbursement process as impediments. One noted, *Give us a cost of living raise so we are earning more per appointment than the fee that was originally set in 1987. Please do not give away my case if I have already done work on it; i.e. jail court settings that we have no input on the date they are set for.*

Streamlining the process includes making discovery easier (*The faster we can get full unconditional and unconstrained copied electronic discovery the faster we can potentially resolve cases which means potential cost savings to the County*) and fixing the parking and waiting issues at the jail.

Fifteen percent also pointed out a strong and well funded public defender’s office would help deliver services: *creation of a Public Defender’s Office with the same resources of the District Attorney’s Office.*

Those categorized as other include: second chair, removal process, and restrictions on favoritism by court coordinators and/or judges.

## Et Cetera

The respondents were given an opportunity to offer suggestions, air grievances, and inform TFID of issues the survey did not question. The full list is provided in Appendix X, but some topics include:

- *Vouchers: It takes the auditor several months to pay the vouchers and often a voucher is lost. It makes it very difficult to make a living accepting appointments when you never know when you will be paid. I don’t think any other county employees would sit still for this process;*

- *Bullying: I think most attorneys on appointment list do the best they can for the client even if it means they will do a lot of work for very little money. But I have seen attorneys bully clients into pleas and they (sic) only justification I could see was that the attorney wanted \$100 for the one setting. This happens more with misdemeanors than felony appointments;*
- *Calling for a Public Defender's Office: A public defender system is the only thing that has a chance of providing effective assistance of counsel in San Antonio. A public defender operated by the government and not a contract service;*
- *Dismissing a Public Defender's Office: A public defender s office in any form will not work in Bexar County. The more arrests that are made the more money the County will have to spend. The increased prosecutions are proportional to the increased spending on indigent services; and,*
- *Training: Nuts & Bolts training BEFORE being accepted to represent misdemeanors would be great-- especially brass tacks: what is the usual range of plea offers on a Theft 50-500? What does Deferred Adjudication mean? Nondisclosure? Expunction? Affirmative Finding of Family Violence? A list of 10 most common complaints about Ineffective Counsel. About the forms-- waiver of rights etc. Probation and how it works.*

## Survey Instrument

1. What percent of your criminal practice is:
  - In state court?
  - In federal court?
  - Court appointment work?
2. Do you handle civil cases as well? Y/N
3. Do you take court appointments? Y/N
4. For state court cases, how many cases are you typically appointed each month? Answer for each type of case you accept.
  - Misdemeanor
  - Felony
  - Juvenile
5. For state court cases, how many retained cases do you typically accept each month? Answer for each type of case you accept.
  - Misdemeanor
  - Felony
  - Juvenile
6. For state court cases, how many hearings does it typically take to dispose appointed cases? Answer for each type of case you accept.
  - Misdemeanor: 1-5+
  - Felony: 1-5+
  - Juvenile: 1-5+
7. For state court cases, how many hearings does it typically take to dispose retained cases? Answer for each type of case you accept.
  - Misdemeanor: 1-5+
  - Felony: 1-5+
  - Juvenile: 1-5+
8. For state court cases, how many billable hours does it typically take to dispose an appointed case? Answer for each type of case you accept.
  - Misdemeanor
  - Felony
  - Juvenile
9. For state court cases, how many billable hours does it typically take to dispose a retained case? Answer for each type of case you accept.
  - Misdemeanor
  - Felony
  - Juvenile
10. For state court cases, in what percent of appointed cases do you typically file pre-trial motions? Answer for each type of case you accept.
  - Misdemeanor
  - Felony
  - Juvenile



11. For state court cases, in what percent of retained cases do you typically file pre-trial motions? Answer for each type of case you accept.
  - Misdemeanor
  - Felony
  - Juvenile
12. Only considering appointed cases in state court, in what percentage of cases do you request an investigator? Answer for each type of case you accept.
  - Misdemeanor
  - Felony
  - Juvenile
13. Of the requests made, what percent are typically approved? Answer for each type of case you accept.
  - Misdemeanor
  - Felony
  - Juvenile
14. Is it difficult to obtain reimbursement for investigation services if the case does not proceed to trial? Y/N; Comments
15. How soon do you contact the client:
  - a. In custody?
  - b. Out of custody?
16. How soon after appointment do you meet with a client:
  - a. In custody?
  - b. Out of custody?
17. Typically, where is the first meeting with a client held?
  - a. In custody?
  - b. Out of custody?
18. Are you required to show proof of a client visit? Y/N
19. List any challenges you face:
  - a. Meeting with jailed clients.
  - b. Meeting with bonded clients.
20. Fee Structure:
  - a. What do you think of the fee structure?
  - b. Does the fee structure offer incentives that encourage quality representation?
21. Open file policy:
  - a. What is your opinion of the DA's "open file policy"?
  - b. What improvements to the policy do you suggest?
22. Would you like to see the District Attorney make discovery available to defense attorneys electronically?
23. What suggestions do you have for improving the delivery of indigent defense services in San Antonio?
24. Do you think the process for being added to an appointment list is fair and effective?
25. How satisfied are you with the attorney selection process in Bexar County?

Misdemeanor: 1-5

Felony: 1-5

Juvenile: 1-5

26. Based on your perception, please rate the quality of representation provided by attorneys on the appointment list.

Misdemeanor: 1-5

Felony: 1-5

Juvenile: 1-5

27. Is there anything else you would like us to know?

## Responses

1. What percentage of your work is:

	State Court	Federal Court	Assigned
%	89.96	16.63	61.92
N	76	35	62

2. Do you handle civil cases as well?

	Yes	No	NA
%	74	26	0
N	69	24	0

3. Do you take court appointments?

	Yes	No	NA
%	65	28	0
N	70	30	0

4. For state court cases, how many cases are you typically appointed each month?

	Misdemeanor	Felony	Juvenile
#	4.47	2.8	2.1
N	43	53	20

5. For state court cases, how many retained cases do you typically accept each month?

	Misdemeanor	Felony	Juvenile
#	4.82	4.02	1.25
N	60	59	14

6. For state court cases, how many hearings does it typically take to dispose appointed cases?

	1	2	3	4	5+	NA	Responses
Misdemeanor	5	18	26	8	10	33	73
Felony	0	0	22	28	22	29	65
Juvenile	2	19	14	2	0	64	59

7. For state court cases, how many hearings does it typically take to dispose retained cases?

	1	2	3	4	5+	NA	Responses
Misdemeanor	0	13	20	12	27	28	75
Felony	0	0	15	25	35	25	68
Juvenile	2	15	15	4	4	62	55

8. For state court cases, how many billable hours does it typically take to dispose an appointed case?

	Misdemeanor	Felony	Juvenile
#	8.39	16.83	9
N	44	47	19

9. For state court cases, how many billable hours does it typically take to dispose a retained case?

	Misdemeanor	Felony	Juvenile
#	11.8	33.5	11.7
N	50	53	19

10. For state court cases, in what percentage of appointed cases do you typically file pre-trial motions?

	Misdemeanor	Felony	Juvenile
%	37.2	60.5	49.9
N	46	50	18

11. For state court cases, in what percent of retained cases do you typically file pre-trial motions?

	Misdemeanor	Felony	Juvenile
%	57.3	71.4	65.6
N	51	54	18

12. Only considering appointed cases in state court, in what percentage of cases do you request an investigator?

	Misdemeanor	Felony	Juvenile
%	7.25	23.8	15.8
N	8	36	9

13. Of the requests made, what percent are typically approved?

	Misdemeanor	Felony	Juvenile
%	92.36	83.7	96.4
N	14	36	11

14. Is it difficult to obtain reimbursement for investigation services if the case does not proceed to trial?

	Yes	No	NA
%	15	30	55
N	14	28	51

Comments:

- Some misdemeanor judges cut expenses that relate to investigation of a matter if what is discovered does not wind up being introduced into evidence or highly material to a defensive theory
- Unless a pre-determined amount was already approved.
- N/A
- n/a

- It s difficult to obtain payment for legal representation to begin with.
- I work for legal aid and do not do criminal work.
- N/A
- The approved amount is so low that you essentially get nothing from the investigator. I have found it easier to get info myself...
- Unless the amount had been pre-determined by the Court.
- I have not requested an investigator but I have requested a couple of psychological experts. It is hard to get more than \$500 for a full psych eval complete with prior psych and medical records which may number hundreds of pages. I am told it is not worth it for a psych expert to do a misdemeanor because the money is so small when they could get better pay doing felonies.
- I do most of my own investigation but have not had trouble getting reimbursed.
- and it shouldn t be . there appt heps to resolve the case
- n/a
- not applicable
- n/a
- We need to fix this system. coming from out of state I am apauled at how poorly we handle defense of the poor.
- I don t know
- VERRY SLOW!!
- MOST OF THE JUDGES CAME OUT OF THE DA S OFFICE AND HAVE NO EARTHLY IDEA HOW EXPENSIVE IT CAN BE TO PROPERLY INVESTIGATE A CASE.

15:How soon after appointment do you contact the 'in custody' client?	15:How soon after appointment do you contact the 'out of custody' client?	16:How soon after do you meet the 'in custody' client?	16:How soon after do you meet the 'out of custody' client?	17:Typically where is the first meeting with the 'in custody' client held?	17:Typically where is the first meeting with the 'out of custody' client held?
THE SAME DAY	THE SAME DAY	within 2 days	WITHIN A WEEK	BEXAR COUNTY ADULT DETENTION CENTER	MY OFFICE
send a letter within 2 days and try to visit jail within 14 days	letter to client to make appt	within 14 days	as soon as the client responds to my letter by calling and scheduling an appointment	jail	in office
1 day	2 days	1 day	3 day	jail	in my office
within minus or plus the day after the appointment	as needed usually I interview the client in the office before I am hired	same as above	same as above	Jail	Office
2 days	2 days	2 days	7 days	jail	office

Within a day or two.	Within a day or two.	Within a couple of days.	Within 30 days.	Jail.	In Office.
next day	next day	next day	within one week	jail	office
na	na	na	na	na	na
Same day	Same week	Same day	same week	In jail visitation	In my office
immediately by mail	immediately by mail	within 3 weeks	within 3 weeks	Jail	Office
24 hours	24 hours	72 hours	72 hours	jail	my office
N/A	N/A	N/A	N/A	N/A	N/A
1 day	1 day (mailed)	5 days	at court or 1 week	Jail	Court
SB7 same day	same day	3-7 days	3-7 days	Jail	My office
Within a day or two.	Within a day or two.	Within a day or two.	Within 30 days.	Jail	Office.
same day	3 days	two weeks usually	at the first court date usually	jail	court
24 hours	24 hours	24 hours	court date	jail	court
5days	10days	10days	20days	jail	office
1 day	1 day	1	5	detention facility	my office
1 day	2 days	2 days	as soon as possible	in jail	in court at first hearing
48 HOURS	48 HOURS	1 week	asap	jail	my office
				In custody?	Out of custody?
				jail	office
7 days	2 days	7 days	30 days	jail	office
send a fax to the jail by the next business day	call by the next business day if not able to contact the client send letter by next business day	usually within 2 days after appointment	at the first court date	Bexar County Jail	At the courthouse
2 days	2 days	5 days	3 weeks	jail	office
less than a day	less than a day	at jail court date	at first appearance if client shows	At jail court	At the courthouse
3-4 d	10-15 d	3-4d	10-15d	duh jail	office
1 day	1 week	1 day	1 wwek	jail	office
					In my office
2days	3days	2days	3-5days	jail	office
within 36 hours or less	within 36 hours or less	within 36 hours or less	within a week	jail	at a meeting place near their house

					or work
immediately	immediately	immediately	immediately	Jail.	My office
within the week	within the week	within the week	within the week	Jail	Court
immediate	24 hours	within week	at hearing	jail	courtroom
2 days	2 days	2 days	2 days	jail	court house
3 days	3 days	2 weeks	4 weeks	court	court
5 days	5 days	5 days	5 days	jail/court	office/court
Same day or next day	same day or next day	next day	same week	Jail (GEO)	My office
1	1	7	7	Jail	Court
na	na	na	na	na	na
1 day	1 day	never	with 1 week	at the court house	in my office or at the court house
as soon as possible	as soon as possible	as soon as possible	as soon as possible	Jail	In my office.
12 to 24 hours	24 hours to one week	48 hours	one week	Bexar County Jail	Office
a couple of days at jail	a few days	within a few days	within a few days	jail	office
2 days	2 days	2 days	5 days	jail	office
72 hours	48 hours	1 week	2 weeks	jail	my office
24HR	24HR	24HR	24HR	Bexar Jail	Office
1 day	1 week	3 days	1 week	In jail.	At my office
2 days	4 days	2 days	6 days	in the attorney visiting area of the jail	in court on the first court date
1 day	1 day		30 days	jail	court
24	24	2-3 days	at their convenience	In Jail	at my office
that day or the next business day	that day or the next business day	within a week	couple weeks after appointment is made	Bexar County Detention Center	My Office
24 hr	24hr	1 week	1 week	jail	office
1 day	1 day	1 week	2 weeks	Jail	My office
2 DAYS	2 DAYS	2 days	1 day	jail	office

18. Are you required to show proof of a client visit?

	Yes	No	NA
%	11	46	43
N	10	43	40

19. List challenges you face: parking, visiting booths/privacy, waiting, glass barrier makes communication difficult

Bonded: finding the client and getting them to show up

Challenges meeting jailed clients	Challenges meeting bonded clients
PARKING AND IN SOME VISITING BOOTHS IT IS DIFFICULT TO HEAR THE CLIENT AND FOR THE CLIENT TO HEAR YOU. ALSO THE LONG WAIT TO GET YOUR CLIENT TO YOUR BY THE JAIL IS PROHIBITIVE	none
parking the time it takes for a jail official to notice me standing at the counter the time it takes for clients to be brought to visitation room(especially clients who need an escort and my female clients)	obtaining a correct address when the client has been released from jail getting the clients to call me to schedule an appointment getting the client to actually show up to an odffice apppointment.
no desiganted parking for appointed attys	none
Many times it is just not possible to go immediately to the jail but I go as reasonably possible	The major problem with the clients on all criminal clients is on getting them to help me
	finding client
Parking is absolutely ridiculous. Parking discourages attorney visits. It is unsafe to park where allowed!!!	
	I ve had only one client appointed. It was for enforcement of child support payment. The court will only pay for attending a hearing. Invoice was presented 8 weeks ago and still no payment.
lack of private meeting area. Clients can be overheard.	transportation for the client to my office
The jail shift change freeze and parking	Them cancelling appointments or not showing up at all
privacy	none
	Keeping appointments
Waiting at the jail for extended periods of time.	none. They come in like clockwork.
Parking is non-existent. The County discourages attorneys meeting with their clients. It is unsafe to park in the approved areas.	



<p>Many problems: the jail just resurfaced much parking space and finished the job by painting job titles on each parking space leaving defense attorneys to compete with visiting family members for what was already inadequate parking space. It typically takes me 20 minutes to get a space now. Some attorneys just skip the visits now. The county sheriff started issuing warning tickets to cars parked in the county employee lot. Appointed attorneys are paid by the county but that gets us nothing in this fight. If we can't park we can't visit. If we can't visit defendants are being denied their 6th amendment right to counsel. Additionally it takes up to 20 minutes for guards to deliver defendants to the meeting booths.</p>	<p>Inaccurate address and phone information prevents contact in about 25% of cases. If they come to the office which they don't usually do they bring their entire family including toddlers and expect my secretary to babysit while discussing their offenses in front of the children. They also expect to stay an hour to two hours on average since they don't have to pay for my time.</p>
<p>the long waiting time to transport inmates for visits. Lack of parking for attorneys. The inmate freeze during business hours in the afternoon.</p>	
<p>parking</p>	<p>keeping appts</p>
<p>None.</p>	
<p>parking parking parking</p>	<p>none</p>
<p>There is no place to park at the jail for attorneys. They said they would have parking but painted signs on all of the curbs excluding attorneys. I have had to leave and try another day several times.</p>	<p>Often I am not contacted by the client and the information is incomplete on the appointment order and I can only meet at the first hearing.</p>
	<p>Failure to make meetings</p>
<p>Extra time driving to and from the jail and waiting for the client to be brought to the visitor booth.</p>	<p>None.</p>
<p>parking.</p>	<p>missing appointments</p>
<p>The parking situation at the Bexar County Jail is horrible because the new probation building was built across the street from the jail but they did not build a parking garage or create new parking lots to handle all the people. It often takes a long time to find a parking space and then the space is often in a place where I am concerned that my car might get broken into.</p>	<p>Usually it is not a problem to discuss the case over the phone at length then meet with them at the courthouse on the first court date.</p>
<p>parking wait time at the jail</p>	<p>scheduling time to meet</p>
<p>jail very inefficient with time to get client practically impossible if escort worst conditions in bexar county for actual visit can't see hear and sitting on steel stool ridiculous/ineffective</p>	<p>none</p>
<p>Having to talk through a glass wall.</p>	<p>none</p>
<p>Rude and slow jail personnel; Few visiting booths; long waits for inmates</p>	<p>none</p>
<p>no parking available</p>	<p>getting in touch with them if they fail to return my phonecalls</p>

parking is horrible. I have often been unable to meet with jailed clients because no parking is available.	
I ride the bus so parking is not a problem	finding an agreed upon time
Parking time accommodations	client keeping appointment
none	clients keeping appointments
Non contact visits Exchange of paper work Preservation of attorney client privilege No weekend visits at GEO	
Jail parking makes it very difficult to see a prisoner timely	Bad contact information
Having met people at the jail. there is little or no room for privacy. there should be a separate entrance for attorney s rather than the general public entrance	
bad parking; rude jailers; depressing	no problem
Parking at jail Waiting for open room No pass through Notice faxed to office after 5 pm on Friday	No telephone number Telephone number wrong Not told they have bonded out before I get to the jail.
sometimes difficult to communicate due to glass or need to hunch over to hear through pass-through	often released between time of appointment and jail visit often little communication at jail regarding need to contact attorney or explanation about when and where their court date is and the importance of them attending
Very poor visitation facilities in Bexar County especially Jail Annex. Waiting at jail for visits.	No proplem
none	getting them to return calls and appear at appointments
Physical separation. Difficulty having an attorney-client privileged communication unsure if we are being recorded. Realistic expectations of what a free defense really means.	Realistic expectations of what a free defense really means. (hourly rates caps)
There are not sufficient meeting rooms at the jail. There are non-pass through rooms where you have to scream to be heard and this not conducive to an attorney client-relationship. Also the clothing exchange is very difficult to manage. If the Courts allowed the clothing exchange to happen at the courthouse many hours would be saved.	
Parking at the jail	getting them to keep a scheduled appointment at the office having a correct address and phone number to contact them
no parking long waits stinky jail.	reconciling schedules to set appointment
not being provided information about the client having other cases	not having a phone number or address to use to contact the client. Also being replaced by hired counsel and not being notified before going to court.
Parking at the Jail/Detention Center and sometimes the hours of the freezes/lockdowns at the jail.	Getting clients to come to the office so usually talk over the phone first.
bad parking at jail	time

Parking the freeze waiting for some of them to be escorted down. Computer not listing me as attorney (parole cases mainly)	Some of them have trouble getting transportation to the office
TIME TO GO VISIT AT THE JAIL AND THEN THE RESTRICTIONS IMPOSED BY THE SHERIFFS OFFICE.	USUALLY NONE. OCCASIONALLY TRANSPORTATION OF THE CLIENT.

20. What do you think of the fee structure, does it offer incentives that encourage quality representation?

- No.
- yes
- no
- I am determined to give my clients the same treatment regardless of what i am paid. The fee does not determine how I will treat my clients. I feel honor bound to do that.
- Absolutely not.
- Probably not.
- no.
- I don t think the fees are high enough; however a conscientious attorney will still provide quality representation.
- no
- In an ideal world no.
- depends as stated above. generally not. especially for misdemeanors. there is no quality representation in our custody cases requiring jail visits in sub par conditions.
- None.
- yes
- No.
- No
- i have seen more manipulation by some judges their coordinators and their favoritism to certain lawyers
- somewhat but not enough. Dismissals are paid at a lower rate even though I have to work much harder to get them. Also if a client has a felony & a misdemeanor together that pays better than if a client has 2 felonies together. Obviously the 2 felonies is more work and should pay better.
- No.
- NO
- not really...hourly rate is low enough to encourage one setting pleas
- doesn t offer incentives but if an attorney is going to take court appointed cases it is imperative on him/her to work as hard as if he/she was retained.
- no it forces attorneys to finish fast and carry a heavier caseload. Volume of cases becomes more important than quality.
- No. Dismissals were paid like a regular case and now are not. This is wrong assuming of course you had input in the case with a prosecutor.
- No
- No! The only incentive is if you plea the person out early before you have a lot of time involved. That does not equate to quality representation.
- We need to fund a public defenders office. We are not honoring our own code to have unqualified poorly or not trained attorney s handing defense.
- No the exact opposite. See answer above.
- No

- some
- high quality representation is provided by the defense bar that is not dependent on incentives
- No.
- yes mostly. always make sure a dismissal pays at least as much as a plea.
- No
- Don t need any. But it does not reward it either (e.g getting dismissal either pre or post indictment and saving taxpayers expense of unneeded trials or being able to settle quickly).
- Probably not. I make a concerted effort to give equal attention and time to my appointed cases as my hired cases. However with the misdemeanor hourly fee at \$25.00 per hour I am not as inclined to spend time talking on thephone with them as I should be.
- yes
- It generally encourage quick pleas because you know the flat rate fee will not be challenged but the hourly fee might be reduced by the Judge.
- NO.

Q21 - What is your opinion of the District Attorney's "open file policy"?	Q21 - What improvements to the policy do you suggest?
I have no real issues with it it would be better for the court to provide DVD players to review the DVD that we do not get copies of.	provide dvd players it should be automatic that a discovery package is provided in all felony cases this is done in practically all counties.
There are problems. It is difficult to find someone with time to show you file. DA should allow advocates or interns to show file to attorneys. The attorney has to see the file more than 1 time to ensure that nothing new has been added.	Since the D.A. scans all of their files they should provide an electronic copy to the attorney of record.
not a true open file because not allowed to get copies of everything--and sometimes important Brady information is held back in some fashion	A lot of time and expense could be saved if the prosecutors were more fully knowledgeable about the case facts early and made themselves more available in their offices to confer with a serious determination to weed out the bad cases early and make a more reasonable effort to plea bargain the remaining cases early.
Good but they should allow selective copying without a formal Discovery request.	Informal copying of a complete police report before indictment would be very helpful.
fair	None
A joke.	Unrestrained unconditional free of cost electronic copies of their entire file (minus their work product) on a flash drive within 3 days of its being filed with the DA s office by the law enforcement agency with supplementation throughout the case.
having to set up appointments to see a file becomes cumbersome and waiting until a setting is inefficient. the discovery packets take 15 days after request to be printed. this is simply too long.	electronic access
The file policy is a closed file policy	An open file policy with electronic centralized discovery. Also including work product on habeas cases.

It is excellent	I wish we could get the discovery packets pre-indictment
It is a policy that is not workable. The files are not readily available. You have to make an appointment to see the file. This is not efficient. Especially in the unindicted cases where the case needs to be investigated as soon as possible.	The offense reports need to be made available on-line or provided to counsel immediately upon request at the district attorney s office. The district attorney s office already scans them and has them in a computer file.
It is horrible. Takes too long and not all applicable documents are provided. Needs to be electronic access.	
N/A	N/A
It is insufficient because you need to make an appointment and find the porsecutor for that case to do so. Difficult to fit in time to do it and inconvient.	Copy of the DA s scanned file available at terminals available to print for free or reasonable amount or on electronic means. Requires proof of representation.
It s OK. I still like other counties better where they give us a copy of all but work product at the first appearance. The form that you sign here has 404(b) language that is a concern to me so i stilltake handwritten notes on everything.	It would be great if they would give us a copy of the police report the charging instrument and any witness statements from the outset of the case. I woul also suggest an electronic method based on a password so we could go in and view PDFs of everything.
A joke.	Unconditional unrestrained electronic data transfer to a flash drive within 3 days of the case being filed with the DA s office of the entire file(less work product). With manadatory supplementation as soon as it becomes available to the DA.
It makes it easier on us because we get immediate access to their files but they also are known to supplement it right before trial after we have requested Brady material 404(b) material etc. Now they just say look in the file if we ask for the witness list though there is no witness list to be found there. Hence we have to prepare as if ALL of the potential witnesses will testify-- which eats up time and we only get \$25/hour for misdemeanors. Many lawyers just don t prepare for trial if they even try to get to trial. Also the DA gets TCIC and NCIC printouts for priors of our defendants-- I can get Bexar County priors at the courthouse and some Texas offenses at the DS website (I have to pay for each printout myself).	Automatic provision of police and lab reports plus priors available to the DAs. Now we have to go to the 4th floor and request each and every discovery packet we get-- and they do not include priors. Once we request them we have to go back again and again until they make them available sometimes weeks and months later. Also they do not make discovery packets for unindicted felonies-- but without the packets we are hampered in our ability to anticipate plea offers and encourage quick resolutions of cases.
It is too arbitrary. They give you rules that were not disclosed like they will not provide copy of the file after x number of days weeks or months. Blood tests result are privileged and require motion for discovery.	If they have opened file policy of providing you copy of the file you should not be required to waive any of the client s rights and they should put defense attorney on notice as to any deadlines for requesting file or there really should not be any deadlines. Are they holding back the important documents or evidence that allows the District Attorney s to refuse to open their file?

It is a marked improvement however there are still some problems that need to be corrected. For example when a new attorney substitutes in past the 6 month request time.	E-version. If we could handle case negotiations over email with prosecutors and be able to review and receive documents that would be more efficient.
good	
N/A	
inconvenient	should provide copy on disk with all pages numbered
As long as I have access to the file I have no problems but if they chose to cut it off for some arbitrary reason It will make representation of clients more difficult.	I don t know why we can t have a copy of the file including the police report. Having to copy it by hand seems a little archaic in todays world.
It is helpful but prosecutors use it as an excuse sometimes.	Electronic discovery without waiving 404 objections.
I like it.	Make it easier to get copies of the reports to carefully analyze them.
its amazing when a case is actually set for trial new police reports appear. in addition discovery requests gets lost.	have copies of reports at time of pretrial hearings
I m glad it exists; however it is very tedious to sit with the file and hand write notes from what is in the file. And even with the discovery agreement that is in place we only get the bare bones reports and not the entire file.	Why can t everything be scanned in to the computer system and (except for work product) be emailed to the defense attorney?
poor	give us the same on line access that the DA has; level the playing field
You haev access to the files when they are there.	
unfair unbalanced discovery needs to be copied and available immediately or better yet secure online access or emailed. Doesn t get done with going to the ofc and hoping to find body to so show you. DVD client and witness statements need to copied for counsel adn there is gross disparity in what cases get copies.	see above. there should be no distinction between DA sections i.e. White Collar crime and Capitals do not get copies. inefficient to go make formal reequets and then there be a deadline. should be emailed or available online jsut as the CJIS system should be.
Reasonable	If we can write word for word what we read why can t we dictate that into a dictaphone? No new information is being obtained by the defense and no information is being withheld by the prosecution. The policy just means defense lawyers need to work harder to get the same information.
We should be permitted to copy information at anytime not just within a window of time. Especially counsel enters case after indictment window to receive info has past.	Electronic sharing of information through e-mail.

Okay	Often much of the discovery is on dvd or cd and difficult to review in court or obtain copies - much of the evidence on dvd or cd will not be given to us as copies but only allowed to view in court or in their office
Ok	None
not really open file their are too many roadblocks	computer access
mediocre	Allow photocopies!
They have always allowed me to see the file.	Allow defense attorneys a copy of file.
The wait is too long. Also the file is not open as to video our audio recordings.	Make the data available to attorneys over the internet. If the prosecution has electronic access to the data so should the defense.
other counties automatically make copy for defense. Better than it used to be but still too restrictive. Unfair to defendant if his attorney is too slow to request he doesn't get copy. Also should get copy of everything not just report.	make copy give to defense counsel on first setting and copy everything except for work product
works; should be able to get copies faster but it is a lot better than a few years ago.	Give us copies of the entire file at the first setting.
it sucks	online access to discovery so that we can print or view it anytime.
It's the usual although copies of everything would be nice from them in ct.	Begin electronic copy system. Computer to disc.
I do not/did not know the DA has one	Open file policy Electronic discovery Case management plan which is complied with and enforced by the DA
Flawed. It doesn't matter when you review the file they can always add additional information and not provide it to you. It forces you to review their file often.	Provide copies
	DA needs to have a better handle on elder crimes. They do not have enough staff to handle things in a timely fashion.
Fine	None
Better than it use to be.	Quit telling attorneys they cannot have a copy of the file because they did not ask for it soon enough or the first attorney appointed should have gotten a copy and other bad reasons for denying copies of the file.
good but sometimes lengthy delay in obtaining copies Lubbock County DA uses an email system that works pretty well	email
t restrictive	copies of all material should be available without restrictions
Having to spend hours at a time copying reports and statements by hand is ridiculous especially when the county has to pay for the time as out of court time. Recent availability of photocopied discovery packets is a step in the right direction.	Put discoverable materials on line and make available to the Defense Bar through the internet.

workable	would much rather see an ediscovery system like tarrant county
Not a true open file. Each assistant DA has their own take on it and can close file when they want.	Standard district court discovery order. Discovery provided electronically since it has already been scanned into DA s system.
it is a misnomer to call it open file. Materials are routinely withheld altogether. It is difficult to get copies. Electronic discovery is unknown.	Make all discovery electronic.
The District Attorney s Office uses their discovery process to gain an advantage at trial. They do not want Defense Attorneys to have the same access to information that they have. They know that this makes impeachment more difficult and gives the State an advantage. The District Attorney s Office does not know what work product is and believes that every exculpatory fact should be put in their work product folders. If you copy their file word for word or find some way to scan it yourself this is (for some reason) considered a violation the District Attorney s Open file policy. The real reason is that they do not want you to have accurate information.	Allow Defense attorneys to have copies of all the State s files. Additionally there is no reason why attorneys should not be given copies of the digital material (like witnesses statements and photographs).
It is better than it was but the packets are not required to be updated and seem to be purposely out of order.	Give us all the reports in order. If they find something new let us have a copy.
Hah! I have run into some many problems trying to obtain discovery that I am at the point of not even trying to get my copies any more. I have resorted to reviewing files in the courtroom.	Let me pay for the discovery and quit harassing me about it not being available for one lame reason or another.
it s good	provide copies of file
Generally it is ok but does need improvement. However the new policy of providing an actual copy of the file doesn t seem to be working very well. When I go to get it I am either too early (pre-indictment) or too late (45 days after).	We should get basic copies of at least witness statements and police reports in addition to lab reports pictures and scientific evidence. Especially need copies of documents concerning the rape kit in sexual assault cases. Electronic disclvery would help.
IT IS STILL RUN AT THE WHIM OF THE VARIOUS PROSECUTORS. WHILE MOST ARE OK SOME ACT AS IF YOU ARE ASKING THEM FOR THEIR GRANDMOTHERS ATM CARD AND PIN NUMBER.	MAKE EXTRA COPIES OF ALL DISCOVERY FOR DEFENSE ATTORNEYS. IN THE ALTERNATIVE ALLOW FOR A SYSTEM OF COPYING THE MATERIAL AT THE COURTHOUSE RATHER THAN HAVING TO WASTE THE TIME OF HAND COPYING OR MAKING AN APPOINTMENT AT THE DA S OFFICE.

22. Would you like to see the DA make discovery available to defense attorneys electronically?

	Yes	No	NA
%	60	4	33
N	56	4	33

Comments:



- However I do not want to waive any rights I may have by having a hearing on a motion for discovery by being able to receive discovery. (Like the waivers that exist in the current discovery agreement)
- Long overdue.
- This would also aid judicial economy when there is a change in representation as well as protect the DA from claims of non-disclosure.
- This would be the single greatest enhancement to offering clients a fair defense and would aid in minimizing costs for both sides.
- If made available we could confer quicker on the cases which may result in less cost to the County.
- Why not? Saves our time running back and forth to the 4th floor for one things. That is time we cannot bill. Saves paper clerical hours and money for the DA. Win-Win.
- If some employee were to intentionally or accidentally forward it to the public there good be some serious problems to attorney.
- hard copy only please
- pages should be numbered
- This would make representation much more complete.
- Scan and email would be simple enough.
- It would be great if I could just review a client s file from my office not in court while the client is there to review it with me.
- Da s computer in courtroom Thumb drive to usb port & copy. How hard is that!
- They scan everything anyway. We should not only have access to those documents but read-only access to all information in BCIS
- THERE IS NO REASON FOR THIS NOT TO HAPPEN INASMUCH AS THEY ALREADY SCAN ALL OF THE REPORTS ETC.

23. What suggestions do you have for improving the delivery of indigent defense services in San Antonio?

- Better scrutinize the quality of representation being afforded to defendants with attorneys who repeatedly fall short in their performance being removed from further appointments.
- Make it easier to see clients in the jail such as designated parking for appt attorneys and less wait time at the jail. Also perhaps create a pool of experienced investigators that could immediately provide services to the appointed defense bar without having to get order from the Court.
- A higher fee sale for no plea cases and a reasonable pay for an investigator for several day in F-2 F-1 cases
- none
- The faster we can get full unconditional and unconstrained copied electronic discovery the faster we can potentially resolve cases which means potential cost savings to the County.
- public defender office
- dont do criminal work
- Opening more staff positions.
- do not do criminal defense work so do not have opinion
- A hybrid public defender office supplemented with appointed counsel. Attorney s fees should be adequate to encourage quality counsel to take the appointed cases and should be on a par with what a prosecutor makes plus overhead. The prosecution and defense functions should receive the same funding.
- Increasing the pay might encourage better lawyers to practice criminal law. Why would anyone break their back for a client when they know that their pay will be peanuts in the end? A lot of good lawyers want to practice criminal law but the lure of better pay draws them elsewhere and we end up with a lot of young inexperienced lawyers handling very serious matters that are perhaps outside their capabilities.
- Cap the amount of appointments that an attorney receives from each court. Judges need to be more proactive in not appointing attorneys that are incompetent to handle a specific case.

- Higher fees paid to attorneys with better qualifications and experience required. Judges should not arbitrarily cut vouchers.
- N/A
- I think we should get a notice telling us to go to Frio for initial booking. Plead them out right there if possible or start on the case if it is not..We would handle blocks of clients at a time perhaps...
- Increased pay rate. Do not develop any form of a public defender's office or contract. Hire someone with a spine to stand up to the DA on the above issues.
- Some sort of review of attorney work-- I know two experienced attorneys who have proudly told me they never keep files or any kind of paper for their misdemeanor appointees. These 2 attorneys are still getting appointments and one is running for judge and he stands an excellent chance of winning! Some sort of point system awarding attorneys who perform pro bono services such as helping at the new big homeless shelter by advising indigent people about legal problems they have. This sort of work TRAINS new lawyers. Also require lawyers to at least observe events such as trials Motion to Suppress hearings and plea bargains-- the Juvenile Court does. Most of the new baby lawyers out of law school haven't a clue or a mentor to tell them anything.
- Courts should really apply the speedy trial statute when the court appointed attorney makes demand for clients in jail awaiting trial after indigent defendant requests a trial followed by release on PR bonds should the State have valid reason for delay or continuance. Also indigent defendants should not be left to linger in county jail to the point that regardless of guilt or innocence they are left with little choice but to plea nolo or guilty on a plea bargain for time served. This is a form of duress and the only crime of the defendant is actually the fact that he is indigent and just wants to be released regardless of the consequences of the conviction.
- Creation of a Public Defender's Office with the same resources of the District Attorney's Office.
- statements are on dvd we need way to show dvds in jail to the def
- None.
- have courts hear all motions filed before trial or plea
- I would like to be notified if the client hires another attorney since I often show up to find that I no longer represent the client and have had no notice.
- Many indigent are not. The county needs to refuse to provide attorneys to people who are able to make bond.
- Send the fee structure and the process for being added to the appointment list to all members of the San Antonio Bar Association.
- give us some experts.
- The actual delivery system? That seems to be working well. I receive an email and sometimes a fax as well when I get an appointment. However often the client's apartment # is left off the appointment email so I end up calling Pretrial services (if on PR bond) to get the complete information before I send a letter.
- improve the fee schedule
- this is as close to acceptable as it gets any system of contract law firms etc would be contributing to ineffective assistance. A huge bite could be taken out if the District Attorney had pre-trial diversions for appropriate cases could be done legislatively! should be a system for mentoring and appointing or requiring less experienced attorneys to sit as second chairs for trials with experienced trial attys.
- Every trial should involve a second chair sitting with the appointed attorney. The second chair gets valuable experience and the first chair gets the help needed to benefit the defendant. If you sign up for court appointments signing up to volunteer as a second chair at a reduced fee or even a waived fee should be an option to the applicant and a resource tool for someone sitting as a first chair. I never sit alone in trial (though I think I am competent to do so) and I hope my client is better served and the attorneys that sit with me get real experience. (You can even learn what not to do when you see a lawyer go down a road you would have handled differently.)

- Easier access to clients at the jail and also the ability of parking closer to the jail.
- Remove the commissioner's court from the process. Set up electronic filing of motions etc. Make it easier to visit inmates. Access to copies of discovery earlier. Lessen the delay between our invoices and payment. Too many judges just sit on our invoices until they have nothing else to do or the pile is too high to ignore
- Pay more
- do not have coordinators assign to their favorite lawyers
- The misdemeanor rate should be raised. Also the rate should be raised for clients with multiple cases.
- Pay defense attorneys more. Pay them a retainer upon appointment and the remainder upon completion. Incentives work.
- increase payment amount for preparation hours when case is set for motions or trial.
- I think that for the most part those of us that do court appointed cases are very diligent in our representation of our clients no matter if we are getting paid fairly or not.
- easier access to clients in court at the jail. we should be able to confer with clients in court or at the courthouse without the DA being 2 feet away from us and hearing everything that is being said. Provide attorney parking at the jail and allow us to schedule inmate visits
- Pay better. Period.
- Increased fees in fee schedule Case management plan that is established in county courts at law Case management plans that are enforced in both felony and misdemeanor courts Regular meetings of the San Antonio Bar Association Criminal Law and Procedure Committee which are attended by judges administrators prosecutors defense lawyers information services clerk law enforcement/jail administration
- Open a public defenders office. Stop giving out money to private attorneys except in conflict and extraordinary cases. What we do is not justice.
- Increase the fee for lawyers.
- ensure that jail does better job collecting information from defendants who are released on bond and communicating to them that they need to visit/contact their court appointed attorney
- the system is fine at present
- Appointment notices should include actual court dates for those who are in jail. This does not happen for misdemeanors. Misdemeanor jail court appearances should not be scheduled for inmates with both misdemeanors and felonies pending.
- be more selective of the attorneys that are approved for the appointment lists. give judges discretion to remove attorneys for poor representation.
- Improved pay structure. Assistant DA's knowing their file so they can make informed offers under new management plan. I am still finding DA's don't know their files and continue to make unreasonable offers so I reset till they finally take the time to look at the file. What a waste of county funds!
- Start making reasonable offers from the beginning instead of dragging it out for several settings before doing so.
- Give us a cost of living raise so we are earning more per appointment than the fee that was originally set in 1987. Please do not give away my case if I have already done work on it; i.e. jail court settings that we have no input on the date they are set for.
- raise fee for appointed counsel
- Raise the reimbursement rates. Pay a realistic amount for expert witnesses. (minimum \$2500.00 for most competent experts instead of \$500.00 the court will typically approve).
- MAKE BAIL MORE REASONABLY OBTAINABLE SO THAT DEFENDANTS CAN BE RELEASED. IMPROVE THE PAY SCALE. ALLOW RETAINED ATTORNEYS TO HAVE MORE TIME TO GET PAID SO THAT THEY DO NOT HAVE TO PULL OUT OF CASES THEREBY FORCING SOME WHO ARE ABLE TO PAY THEIR WAY - WITH TIME - TO SEEK COURT APPOINTED ATTYS.

24. Do you think the process for being added to the appointment list is fair and effective?

Answers containing “yes”: 51

Answers containing “no” or negatives: 13

- It was. As time has passed more often than not Judge are appointing from the bench court coordinators are doing the same and it is evolving back to cronyism methods.
- No. Need more times per year that attorneys can be added
- No. I am ineligible for 1st degree cases because most of my trials are more than 5 years old. I think there should not be a time limit. If a time limit is imposed it should be one to insure competency like if you haven t had a trial in the last 15 years you should take a CLE or something...
- Seems to be some amount of cronyism going on in most of the Courts especially in the 289th and County Court 8
- getting on the wheel is fair however the appointment system at docket call varies widely between courts. Court coordinators basically decide how it will work. This encourages favoritism and back door dealing. Sign up sheets seem to be the fairest method.
- No cronyism is back. It worked for awhile after SB7 but the Judges and Court Staff are back to appointing lawyers who they like or who will plead the case quickly.
- generally just no room for less experienced attorney s to get trial experience
- No. I take pro bono cases instead of being appointed. I would gladly be on the list if I did not get swamped by doing so. I got off of the list because my paying clients work was being compromised. I think that if an experienced attorney could get on the list and could accept a set number of felonies and a set number of misdemeanors more experienced or board certified attorneys would participate. On the civil side we are often asked to just take one. I am in the Pro Bono College of the State Bar and that approach works on the civil side.
- Yes. However too many judges ignore their own rules and appoint as they see fit.
- pretty much. Should also get credit for the number of pleas you handle. trying a case is not the only experience that is valuable
- No I know of an attorney who was under a guardianship and still on the list.
- Not a true wheel. Who you know still plays too large a role.
- Mostly but there are some people who show up on the day of court who somehow slipped through the system without getting appointed an attorney yet. The judge has complete discretion at that point to appoint attorneys in his or her favor.

25. How satisfied are you with the attorney selection process in Bexar County?

	Very Satisfied	Satisfied	Neutral	Dissatisfied	Very Dissatisfied	N	Total
Misdemeanor	12%	29%	25%	27%	6%	51	38
Felony	10%	44%	23%	19%	4%	48	36
Juvenile	6%	26%	43%	11%	14%	35	26

Comments:

- easier and more uniform process for making MTR appointments
- Need a public defenders office that is funded staffed and fair.
- In every court cases are given away at the discretion of the coordinator. If you review every court and the amounts that certain lawyers make in each court you can see the bias and favoritism. Really some

attorneys make 40-50K in one court or in misdemeanor court. That amount is more than what some make in total. Make the CAA payments public. And make the courts court appointed payments lists public.

- Felonies(including juvenile) more than any other cases are given to court or court coordinator friends - this practice does not encourage better representation
- I am able to receive other appointments from the courts to add to the ones coming from the wheel. If I was not able to do this I would not get enough appointment to be able to make this work
- I don t even know how to get on the juvenile appointment list
- a few lawyers are receiving an inordinate number of appointments and cannot be doing an adequate job. Our District Judges are dedicated to quality representation. I hear that some of the county courts are considering a contract defense system. Such systems always fail and end up costing counties more than they were intended to save. See page 30 of the misdemeanor report.

[http://www.nacdl.org/public.nsf/defenseupdates/misdemeanor/\\$FILE/Report.pdf](http://www.nacdl.org/public.nsf/defenseupdates/misdemeanor/$FILE/Report.pdf)

26. Based on your perception, please rate the quality of representation provided by attorneys on the appointment list.

	Very Satisfied	Satisfied	Neutral	Dissatisfied	Very Dissatisfied	N	Total
Misdemeanor	6%	30%	25%	34%	6%	53	38
Felony	6%	35%	24%	27%	8%	51	36
Juvenile	3%	25%	42%	25%	6%	36	26

27. Is there anything else we should know?

- Few if any attorneys enjoy representing clients in the 289th. District Court. We are treated very unprofessionally the court is aloof arrogant does not follow protocol and abuses it s authority by demeaning attorneys and clients.
- A public defender s office in any form will not work in Bexar County. The more arrests that are made the more money the County will have to spend. The increased prosecutions are proportional to the increased spending on indigent services.
- See comments on question 25. I request that Bexar County be provided a grant to create a central electronic criminal file in each case for the dissemination of discovery and to allow for electronic filing of pleadings and electronic presentation of motions for new trial. In addition the courts should be advised of the failure of contract defender systems across the country. We do not have a bar association like the one in San Mateo California that is willing to take on and supervise a contract defender. This county will become liable for the lack of supervision and the ineffective assistance of counsel occasioned by lowest bidder contract defender systems if such a system is implemented.
- On top of increasing the pay maybe there should be stricter controls on who gets felony appointments.
- I stopped taking appointed cases 2 years ago due to vouchers being cut without inquiry slow/late/no payment from county.
- I really think its important to pay us more. We really aren't paid correctly.
- Nuts & Bolts training BEFORE being accepted to represent misdemeanors would be great-- especially brass tacks: what is the usual range of plea offers on a Theft 50-500? What does Deferred Adjudication mean? Nondisclosure? Expunction? Affirmative Finding of Family Violence? A list of 10 most common complaints about Ineffective Counsel. About the forms-- waiver of rights etc. Probation and how it works.
- I do not know if you send all appeals to the public defenders but if you don t then those who apply for appeal appointments should be required to take a CLE course every year dealing with appeals.

- It takes the auditor several months to pay the vouchers and often a voucher is lost. It makes it very difficult to make a living accepting appointments when you never know when you will be paid. I don't think any other county employees would sit still for this process.
- People who are able to make bond can afford an attorney.
- Yes - but a cap on how much an attorney can make per year on court appointments - this is the only way to prevent judges and coordinators from making money for their friends - There is no shortage of qualified attorney accepting appointments
- Each court overrides appointment system and appoints their own favorites. The system is a joke!
- certain female misdemeanor judges should have their appointment fees made public and you would see the Hispanic favoritism
- Indigent defendants are faced with salaried prosecutors who have instant access to information. They are left with an attorney who must wait for data about their case and who must wait for payment well after the work is done and they are sentenced or found innocent.
- I think most attorneys on appointment list do the best they can for the client even if it means they will do a lot of work for very little money. But I have seen attorneys bully clients into pleas and they only justification I could see was that the attorney wanted \$100 for the one setting. This happens more with misdemeanors than felony appointments
- The system is set up to run and gun plea and move on. How can you really be concerned about justice when all you really want to do is pick up 5-10 appointments a day.
- create fund and staff a public defenders office
- some attorneys do a great job others do nothing but harm. I would allow the judges to propose attorneys to remove from the list. would make removal unanimous by at least a quorum.
- I consistently see that the State does not know their file till the week prior being forced to trial. That's usually 4 or more trial resets. How can I possibly obtain a reasonable offer when they want really look. Then I have to bill for each of the resets and use out of court hours to get ready for a trial that not really necessary.
- A public defender system is the only thing that has a chance of providing effective assistance of counsel in San Antonio. A public defender operated by the government and not a contract service.
- The reason it takes numerous settings on some of the misdemeanor cases is that the DA's office drags their feet on making plea offers such as cases where restitution is needed. I find myself having to reset cases two and three times before we actually receive a plea offer.
- I once had to hire an expert in a juvenile case. This psychologist spent about 20 hours with my client and preparing a report that was essential in getting charges dismissed. The Judge refused to pay any more than \$500.00 even though his bill was about \$2000.00. I had filed all appropriate paperwork in the beginning to get the initial \$500.00 authorized. I even warned her that \$500.00 would not be enough. When the final bill came in I went back to her and asked for more payment. She refused. There was not way to appeal this decision at the time. I stopped taking juvenile appointments from then on.

## Appendix I: Summary of the Bexar County Appellate Public Defender’s Performance

Defendants who cannot afford counsel are deemed indigent under the Code of Criminal Procedure<sup>1</sup> and are entitled to be represented by appointed counsel in adversarial proceedings.<sup>2</sup> This right is specifically enumerated to include an appeal to a court of appeals or to the Court of Criminal Appeals if the appeal is made directly from the trial court or if a petition for discretionary review has been granted.<sup>3</sup>

Jurisdictions may be challenged by the task of ensuring that indigent defendants are able to request appellate counsel and by the task of assigning appellate counsel to the case. Attorneys at the trial level are to represent the defendant until charges are dismissed, the defendant is acquitted, appeals are exhausted, or the attorney is relieved of his duties by the court or replaced by other counsel after a finding of good cause is entered on the record.<sup>4</sup> Attorneys typically consider their work on the case to be complete once a judgment has been entered. If a defendant wishes to appeal the case, the jurisdiction must have a process where an appeal can be entered on behalf of the defendant, or else the defendant may be left in limbo without the ability to timely file an appeal. In Bexar County, an Appellate Public Defender’s Office (“Office”) was created in 2005 to help facilitate timely appointment and provide quality representation in appeals cases. Currently, the Office employs five attorneys and handles all appeals where there is not a conflict of interest. Designating the Office as the default counsel in all indigent appeals cases creates the benefit of clarifying the roles of trial and appellate counsel with regard to the defendant’s desire to appeal a case.

The Spangenberg Group provided three evaluation reports of the Office, conducted between 2006 and 2009. The reports were commissioned by the Task Force and were meant to ensure that the Office provided high quality representation to clients. To provide this evaluation, the reports contrasted the appellate system prior to the Office with the appellate system after the Office’s inception and found that the Office provided timely, quality representation that, in the end, reduced indigent defense costs associated with appeals as well as jail costs that are not typically associated with appeals.

Prior to the Office, indigent appeals were typically handled by a small group of private attorneys. These attorneys were not under any sort of workload restrictions, and they often asked for multiple extensions on briefs. Several cases were even assigned to multiple attorneys because the first attorney assigned a case would not submit a timely brief. In the year prior to the Office, the Spangenberg Group found that indigent appeals averaged 1.8 attorneys per appeal.<sup>5</sup> This was

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<sup>1</sup> Tex. Code Crim. Proc. art. 1.051(a).

<sup>2</sup> Tex. Code Crim. Proc. art. 1.051(c).

<sup>3</sup> Tex. Code Crim. Proc. art. 1.051(d).

<sup>4</sup> Tex. Code Crim. Proc. art. 26.04(j)(2).

<sup>5</sup> *Initial Interim Report to the Texas Task Force on Indigent Defense: An Analysis of the Newly Established Bexar and Hidalgo Public Defender Offices* at 9 (The Spangenberg Group 2006), available at <http://www.courts.state.tx.us/tfid/pdf/FinalRevisedVersionInitialInterimReport.pdf> .

problematic for the county because re-assigning cases adds significant time to appeal dispositions while disrupting the fact gathering processes of defense counsel.

After the Office began operations, appellate court justices found that indigent appeals briefs tended to be of much higher quality than when only private attorneys submitted them,<sup>6</sup> and this largely due to the high standards set by the Chief Public Defender. The Chief runs the Office's day-to-day operations, with guidance from an oversight board, that foster an internal system that promotes quality personnel and performance. For example, the Chief hired top attorneys with several years of appellate experience to staff the Office.<sup>7</sup> The Chief also developed an office manual that documents procedures and performance standards. The Office implemented caseload and workload measures to balance the work of each attorney<sup>8</sup> and the Office made a rule that all clients had to be visited and trial counsel was to be consulted if possible. Briefs are required to be reviewed by other attorneys before filing.<sup>9</sup> These internal procedures attempt to guarantee that no appeal is filed without proper attention to each underlying detail.

One of the priorities of the Office is timely brief filings. Initially the Office was very successful at quickly filing briefs. However, as workloads have increased, timely filings have become more difficult to maintain. As of the last review by the Spangenberg Group in 2009, the Office was filing extensions in about half of their cases. The timeliness of filings is still superior to the previous system, however, and the Fourth Court of Appeals has not had to send reminder letters to appellate defender attorneys, as it previously had done in the private system<sup>10</sup>

The Office's efforts to provide high quality briefs in a timely fashion have financial implications for Bexar County. Inmates sentenced to less than ten years for a felony offense may be incarcerated at the local county jail until disposition of their appeal is complete,<sup>11</sup> and extensions or poor briefs mean that the inmate may remain incarcerated for lengthy periods of time. The average time that defendants spent in the Bexar County Jail waiting for an appellate disposition before the Office was 180 days. Since the Office has begun taking cases, this time has shrunk to an average of 55 days.<sup>12</sup> The Spangenberg Group estimated that this reduced jail time results in an annual savings over \$500,000.<sup>13</sup> This more than offsets the annual budget of the Office, which is less than \$500,000. In other words, high quality briefs filed in a timely

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<sup>6</sup> *Second Interim Report: An Evaluation of the Bexar and Hidalgo County Public Defender Offices After One Year of Operation* at 28 (The Spangenberg Group 2007), available at <http://www.courts.state.tx.us/tfid/pdf/FinalreportsecondBexarHidalgoPDeval.pdf> .

<sup>7</sup> *Id.* at 22.

<sup>8</sup> *Id.* at 22.

<sup>9</sup> *Id.* at 24.

<sup>10</sup> *An Evaluation of the Bexar and Hidalgo County Public Defender Offices: Final Report* at 15 (The Spangenberg Group 2009), available at <http://www.courts.state.tx.us/tfid/pdf/Bexar%20&%20Hidalgo%20Final%20Report%205-27-09.pdf> .

<sup>11</sup> Tex. Code Crim. Proc. art 42.09.

<sup>12</sup> *An Evaluation of the Bexar and Hidalgo County Public Defender Offices: Final Report* at 19.

<sup>13</sup> *Id.* at 20.



manner reduce the time to appellate disposition for all cases and improve the throughput of the appellate court.

Overall, the Spangenberg Group gave a favorable review of the Office. There were some concerns over workloads and a disparity of pay in comparison with similar positions in the District Attorney's Office,<sup>14</sup> but the Spangenberg Group noted that the number of appeals and the quality of appellate representation has dramatically improved because of the Office.<sup>15</sup> These improvements have translated into significant indirect cost savings and have provided poor persons with high quality representation.

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<sup>14</sup> *Id.* at 22.

<sup>15</sup> *Supra* note 6 at i.