

HARRIS COUNTY, TEXAS

DIFFERENTIATED FELONY CASE MANAGEMENT

PREAMBLE

The following Differentiated Felony Case Management (DFCM) system is the result of a collaborative effort by the following entities: the Harris County District Courts, the Harris County Criminal Lawyers Association, the Harris County District Attorney's Office, the Harris County Public Defender's Office, the Harris County Sheriff's Department, the Harris County Community Supervision and Corrections Department. Meetings have been held over the course of several months to develop the DFCM system.

The DFCM system is a result of the need to increase the use of information technology in the processing of criminal cases, to increase the efficient use of court time and resources, and to standardize the practice among the criminal district courts. The goal of this process is to create an efficient and fair system for the disposition of felony cases taking into consideration such diverse factors as local jail population, the Fair Defense Act, judicial discretion, and the individual interests of the various participants in the criminal justice system.

Central to the theme of the DFCM system is the concept that each court event should involve timely action and meaningful progress toward the case disposition. The system recognizes the need to administer different categories of cases based on their individual issues and complexity.

The system seeks to enhance public confidence in the Harris County criminal justice system, and foster a sense of pride among the professionals who administer it.

THE CASE TRACKING SYSTEM

For purposes of court administration, felony cases filed in the criminal district courts will be divided into three case tracks by offense category. The three case tracks are:

1. The Expedited Case Track
2. The Basic Case Track
3. The Complex Case Track

While there are necessary differences in the administration of the three case tracks, there are also numerous similarities.

CASE FILING DATES

The date that the case is filed by the Harris County District Attorney's Office is the triggering date for the Initial Appearance Setting within the DFCM system. Each filed case will be randomly computer-assigned to one of the 22 felony district courts. At the initial appearance each individual case will be assigned to a case track based upon the offense along with additional information presented at the initial appearance.

The date for setting probation revocation hearings is date the defendant is arrested on the motion. Probation revocations will only be included on the track through the Consultation Setting (CS), then will be set for a hearing or other disposition.

Based upon individual case factors, the case track for a given case may be changed at any time by the trial judge after consultation with the parties.

THE INITIAL APPEARANCE SETTING

The first setting for each felony case is the Initial Appearance Setting (IA). The purpose of the IA is to ensure that each defendant has an attorney on all pending cases. If the defendant is not represented counsel at the IA the Court will either appoint counsel or reset the case for 30 days to allow the defendant an opportunity to hire counsel.

If the Court finds the defendant is indigent the defendant will be appointed an attorney from the felony court appointment wheel. The Court may enter an order requiring any defendant with appointed counsel to make payment toward appointed attorney fees through

the District Clerk's office weekly or bimonthly where it is determined that the defendant is financially able to make such payments.

THE CONSULTATION SETTING

The next setting for each case is the Consultation Setting (CS). The CS will be conducted in the assigned district court 30 days after the IA and will include all of the defendant's then pending cases. Later cases filed against a defendant will be scheduled with the earlier filed cases.

All attorneys accepting appointments from the felony court appointment wheel shall comply with all required settings pursuant to the requirements of the Felony Public Appointment Guidelines of the Harris County Criminal District Courts.

Prior to the CS, the assigned prosecutor will be expected to thoroughly review the case and arrive at a considered and educated plea agreement offer, at least on cases within the Expedited and Basic case tracks. The Harris County District Attorney's Office had an open file policy on all cases. The defense attorney is expected to have thoroughly reviewed the state's file, to have consulted with the defendant, and to have begun any necessary investigation. At the CS, the defense attorney will be expected to convey the plea agreement offer to the defendant and to present any motions necessary to complete investigation of the case.

If a plea agreement is reached at the CS setting the parties will be expected to complete all plea papers. After this is completed the parties can proceed through the plea proceeding and sentencing, proceed through the plea proceedings and defer sentencing, or defer the plea proceedings and sentencing.

If no plea agreement is reached on a case by the conclusion of the CS, the case will be scheduled for an Evidence Exchange Setting.

THE EVIDENCE EXCHANGE SETTING

The Evidence Exchange Setting (EES) will be conducted in the assigned district court.

By the EES the State will be expected to have completed all the necessary laboratory investigation, to have consulted with any necessary persons, and to have the relevant reports available in court.

At the EES the State will be required, if not already disclosed, to disclose the existence of biological or other complex evidence the testing of which could require that the case be moved to the Complex Case Track.

Any agreed discovery must be completed before the parties are excused from the setting.

Meaningful plea negotiations are encouraged at this setting. If a plea agreement is reached, the plea proceeding may be scheduled as contemplated at the CS.

If no plea agreement is reached on the case by the conclusion of EES, the case will be scheduled for a Comprehensive Pretrial Conference.

THE COMPREHENSIVE PRETRIAL CONFERENCE/STATUS CONFERENCE

The last setting before the trial is the Comprehensive Pretrial Conference (CPC). Meaningful plea negotiations are encouraged at the CPC. At the CPC, the court may accept negotiated and non-negotiated pleas of guilty. After the CPC, the court may refuse to accept any negotiated guilty plea. If no plea of guilty is entered at the CPC, the parties will be required to complete a Status and Trial Management form (see attachment). The defendant will also be expected to execute necessary trial motions, an application for probation if applicable, and an election of punishment. After completion of the forms, the case will be scheduled for trial.

THE MOTION SETTING

The Motion Setting (MS) will be conducted in the assigned district court. The State and defendant must file all non-constitutional motions ten or more days before the MS as required by the Texas Code of Criminal Procedure. At the MS, the trial court may conduct a hearing on all the motions as requested by the parties.

THE CASE TRACKS

THE EXPEDITED TRACK

The following types of offenses are included in the expedited track:

Burglary of a Building	Fraudulent Poss. of ID
Burglary of a Habitation	Prostitution
Credit/Debit card abuse	Theft
Criminal nonsupport	Aggravated Perjury
Delivery or Possession of <1grm	Bail jumping
Evading Arrest	Escape
False Alarm or report	UUMV
Possession of Prohibited weapon	Tampering with evidence
Possession of Firearm by felon	Probation revocations
Delivery or Possession of Marijuana	UCW on licensed premises

If any of the above listed offense is filed as a habitual offender (25-life), the defendant's case will be moved to the Basic Case Track.

See attachment for Expedited Track settings.

THE BASIC TRACK

All felony offenses not included in the Expedited or Complex Case Tracks, including but not limited to the following, are to be included in the Basic Case Track:

Cruelty to animals	Obstruction/Retaliation
Engaging in organized crime	Stalking
Improper photography or visual recording	Unlawful restraint
Injury to a child, elderly, or disabled	Violation of a Protective order
Interference with child custody	Arson
Tampering with a witness	Bribery
Terroristic threat	Robbery
Unlawful restraint of a child	Aggravated robbery
Assault	Attempted capital murder
Deadly Conduct	Solicitation of capital murder
DWI	Aggravated Assault
Enticing a child	Evading Arrest with SBI
Kidnapping	

See attachment for Basic Track Settings

THE COMPLEX TRACK

The Complex Case Track includes the following offenses:

Murder

Indecency with a child

Manslaughter

Complex theft cases

Aggravated Sexual Assault

Improper relationship with a child

Intoxication Manslaughter

Any case that in the opinion of the court involves complex legal or evidentiary issues.

See attachment for Complex Case Track Settings.

MISCELLANEOUS PROVISIONS

The State has agreed to bring all of the defendant's pending case files to all settings to facilitate global resolution of cases.

The District Courts will schedule court settings (except for trial settings) as follows:

Monday	178 th and 185 th
Tuesday	177 th and 248 th
Wednesday	
Thursday	179 th and 351 st
Friday	230 th

Jury trials will not be set during non-jury weeks.

A motion for continuance must be in writing, under oath, and presented in open court with all parties present, as required by the Texas Code of Criminal Procedure. A continuance may only be granted for the prosecution and the defense for sufficient cause shown, as defined by statute.

Applications for Pre-Trial Intervention should be made at the earliest possible time.

ORDER

The undersigned judges approve and Order the implementation of the Differentiated Felony Case Management System as set out above on September 3, 2013.

Signed this _____ day of _____, 2013

Judge Ryan Patrick
177th District Court

Judge David Mendoza
178th District Court

Judge Kristin Guiney
179th District Court

Judge Susan Brown
185th District Court

Judge Brad Hart
230th District Court

Judge Katherine Cabaniss
248th District Court

Judge Mark Kent Ellis
351st District Court