

ADDENDUM TO THE HARRIS COUNTY FAIR DEFENSE ACT
PLAN APPROVED FEBRUARY 1, 2023 AND EFFECTIVE
FEBRUARY 27, 2023

Additional Duties and Requirements of Appointed Attorney: The Harris County District Court Judges of the Criminal Division set forth the following additional duties and requirements for all appointed attorneys:

General Ethical Duties and Considerations:

- Counsel must provide zealous, diligent, competent and client-centered representation.
- Counsel must consistently demonstrate commitment to providing effective assistance of counsel and quality representation to their court-appointed clients.
- Counsel must perform the attorney's duty owed to the client in accordance with these procedures, the requirements of the Code of Criminal Procedure, and applicable rules of ethics.
- Counsel must manage his/her workload to allow for the provision of quality representation and the execution of the responsibilities listed in these rules in every case.
- Counsel must exhibit professionalism toward their clients, judges, other attorneys, witnesses, and the court staff.
- Counsel must be of sound mind, as well as good moral and ethical character.
- Counsel must accept responsibility for all actions taken on each appointed case, and meet any additional requirement(s) that may be later imposed by the district judges as an addendum to the Fair Defense Act Plan.

Court Communication Duties and Requirements:

- Counsel must have an active e-mail account to receive court appointments and notices regarding procedural changes.
- Counsel should provide the Courts with a cell phone number that provides for texting capabilities.
- Counsel must promptly respond to all communications from the Court, whether that communication is through email, phone call, text, or any other form of communication.
- Counsel must have a reliable mode of voice contact and communication, be that a secretary, receptionist, answering service, or a cell phone with voicemail capability and capacity.
- Counsel must respond promptly to communications from the client.
- Counsel shall make requests for appointments as follows:
 - Attorney Requests for Individual Case Assignments. Attorneys, including the HCPD, requesting individual case assignments shall submit their requests to the Central Appointment Coordinator.
 - Attorney Requests for Limited Term Assignments: Attorneys, including the HCPD, requesting limited term assignments shall submit their applications to the Central Appointment Coordinator no later than 3:00 p.m. Thursday for assignment consideration.

Client Communications and Contact Requirements:

- Counsel must register a phone number consistent with the requirement above with the Harris County Sheriff to prevent any attorney client phone calls with incarcerated clients from being recorded.
- Counsel should have a location in Harris County where they can meet privately with appointed clients.

- Counsel must make every reasonable effort to contact the client no later than the *end of the first working day after the appointment* and shall interview the client as soon as practicable.
- Counsel shall keep the client informed of the progress of the case and should timely provide the client with written notification of any court setting. It is the preference of the District Court Judges that to the extent practicable and available, the contact with the client is by in-person visits.
- **Counsel must meet with the client between any court settings that exceed 30 days.**
- Counsel must 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.

Second-Chair and Continuing First-Chair Duties:

- Appointed Counsel may request the Court for the appointment of a second-chair. Upon the Court's approval the second-chair will be appointed. The second-chair will be paid at his or her current level of certification.
- The Court may, on its own motion, appoint a second-chair.
- Courts shall appoint second-chair if and as required by Tex. Code of Crim. Procedure 26.052.
- First-Chair maintains full responsibility for the representation of the client and will be responsible for the work of the second-chair.

Knowledge and Practice Requirements:

- Counsel must be or become proficient in the use of Harris County's e-Discovery portal and counsel must be able to e-File documents with the Harris County District Clerk.

- Counsel must be familiar with the Texas Penal Code, Texas Code of Criminal Procedure, Texas Rules of Evidence, Texas Rules of Appellate Procedure, Texas Disciplinary Rules of Professional Conduct, Texas case law, and the local rules of practice for the Harris County Criminal District Courts.
- Counsel should be familiar with the most important and most recent appellate cases affecting practice in the Harris County Criminal District Courts, including cases from the United States Supreme Court, the Texas Court of Criminal Appeals, and the First and Fourteenth Courts of Appeals for the State of Texas.
- Counsel should timely request discovery from the state pursuant to Article 39.14, Texas Code of Criminal Procedure.
- Counsel must make every reasonable effort to timely review each and every disclosure made by the state pursuant to Article 39.14, Texas Code of Criminal Procedure, or otherwise regarding any matter to which counsel is appointed.
- Counsel must 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 client;
- Counsel must brief the law of the case, file appropriate motions, and be prepared to present any legal defense(s) that may be reasonably and arguably available to the client.
- Counsel must be prepared to negotiate with the prosecutor for the most favorable resolution of the case as can be achieved through a plea agreement.
- Counsel must be prepared to try the case to conclusion either with or without a jury.

- Counsel must 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.
- **Counsel must appear timely for ALL court settings on appointed cases.** If there is a scheduling conflict with a court setting, counsel must contact the Court prior to the setting Counsel must make every reasonable effort to contact the client no later than the end of the first working day after the date on which the attorney is appointed and to interview the client as soon as practicable after the attorney is appointed.
- Counsel must represent the defendant until:
 - charges are dismissed;
 - the defendant is acquitted;
 - appeals are exhausted; or
 - the attorney is permitted or ordered by the court to withdraw as counsel for the defendant after a finding of good cause is entered on the record.
- With respect to a defendant not represented by other counsel, before withdrawing as counsel for the defendant after a trial or the entry of a plea of guilty:
 - advise the defendant of the defendant's right to file a motion for new trial and a notice of appeal;
 - if the defendant wishes to pursue a new trial or an appeal, assist the defendant in requesting the prompt appointment of replacement counsel; and
 - if replacement counsel is not appointed promptly and the defendant wishes to pursue an appeal, file a timely notice of appeal.

Notification of Matters Affecting Representation, and Possible Removal

Grounds:

- Counsel should report to the Court without delay if he or she encounters an issue which may negatively impact his or her ability to provide zealous and diligent representation to the client, and which Counsel believes requires the appointment of new counsel. Counsel must discuss this issue with the client first unless safety and the Disciplinary Rules dictate a different procedure.
- Counsel shall promptly and timely report any matter which affects Counsel's eligibility to practice law or Counsel's ability to maintain the qualifications necessary to continue receiving appointments.
- Counsel shall promptly notify a Court through the court coordinator if the level of offense changes when a case is indicted and appointed counsel is not qualified for that level of offense. At the discretion of the Judge, Counsel may remain as counsel with payment at counsel's certification level.
- If Counsel is sanctioned by any court (Federal, State or County) for failure to appear or for unprofessional behavior, Counsel shall apprise the Central Appointment Coordinator in writing by email.
- Failure to appear three times without timely notice can result removal from the appointment list.
- Counsel may be suspended or removed from the appointment list if they are found to be ineffective by a court or for other good cause shown. The Courts may temporarily suspend counsel from receiving appointments until a final determination on the suspension can be made that includes an opportunity for counsel to respond.