

252ND DISTRICT COURT
CRIMINAL DISTRICT COURT
JEFFERSON COUNTY, TEXAS

REVISION OF RULES AND PROCEDURES

In order to more effectively administer the dockets of the Criminal District Courts of Jefferson County, and to increase the amount of time available to the Judiciary for trials, the following rules and procedures will become effective immediately in the Criminal District Court and the 252nd District Court:

- 1.10 All counsel are required to comply with the time standards for processing cases as set out in these rules.
- 1.11 No jury trials will be scheduled during Thanksgiving week, Christmas week and the week following Christmas. All other weeks will normally have jury trials scheduled.
- 1.12 Dockets will be called on Mondays and Wednesdays in the 252nd District Court and on Mondays in the Criminal District Court.

In the 252nd District Court, docket call will proceed as follows:

Monday

9:30 A.M. Initial settings (Defendants without counsel)

9:30 A.M. Pleas and Sentencing

1:30 P.M. Trial Docket for Monday

Trials called each Monday and Wednesday

Wednesday

8:30 A.M. Trial Docket for Wednesday

In the Criminal District Court, docket call will proceed as follows:

Monday

9:30 A.M. Initial settings (Defendants without counsel)

9:30 A.M. Pleas and Sentencings (Bond cases and jail cases)

10:30 A.M. Pleas and Sentencings (jail cases)

1:30 P.M. Jury Selection

- 1.15 Cases are transferred between Criminal District Courts in order to consolidate indictments against a defendant(s), so that an immediate disposition may be had, or due to disqualification of the Judge presiding. One Judge may call a docket in the absence of another Judge. Another criminal Judge, either county or district, may preside over any other criminal Judge's case with his permission, excluding a jury trial, under the Jefferson County Masters Act.

6.10 Grand Juries are ordinarily impaneled quarterly by one of the Criminal District Judges on alternate selection basis. Judge Carver impanels the January and July Grand Jury. Judge Walker impanels the April and October Grand Jury. This in no way prohibits either Judge from impaneling additional grand juries as required.

6.11 All case filings, both by indictment and by information, are initially submitted to the District Clerk for processing. The indictment order is randomly selected prior to court assignments. Assignment to a particular Criminal District Court is determined by whether a case ends in an odd or even number. Cases ending in an odd number are assigned to the Criminal District Court. Cases ending in an even number are assigned to 252nd District Court. All defendant's cases are assigned to the court with the lowest pending indictment, probation, or appeal.

6.12 The initial setting will be scheduled for the Monday 10 days following the indictment date for all cases where defendant does not have counsel.

6.12 APPOINTMENT OF COUNSEL AND INDIGENCY DETERMINATION:

6.13

1. QUALIFICATIONS FOR EMPLOYMENT: Appointment of counsel is made from a listing of those attorneys who have volunteered to represent indigent defendants charged with felony offenses.

2. INDIGENT FEE SCHEDULE:
Plea of guilty - \$600

INVESTIGATORS – no reimbursement until after disposition. Reimbursement will be allowed only in exceptional circumstances and then only with substantial written justification is shown.

APPEALS - \$850

CAPITAL CASES – negotiable

EXCEPTIONAL CASES – additional fee request will be considered if a detailed hourly claim is filed.

3. IMPLEMENTATION OF FEE SCHEDULE – This fee schedule became effective February 3, 2003.

4. INDIGENCY DETERMINATION – OUT ON BOND: Upon initial appearance, persons seeking to have counsel appointed will be required to contact 3 attorneys of their choice. Each attorney contacted must sign an interview verification form. Upon reappearance with the completed verification, the defendant will be required to contact the Pre-Trial Release office which will prepare a full indigency report. The defendant must then

appear for an indigency hearing. Counsel will be appointed if indigency is then shown, and the defendant will be ordered to reappear with appointed counsel at a later date.

5. INDIGENCY DETERMINATION – IN JAIL;

PERSONS IN JAIL AT TIME OF INDICTMENT WILL BE APPOINTED COUNSEL IF AN AFFIDAVIT OF INDIGENCY IS EXECUTED. Should counsel be appointed for a defendant in jail who thereafter makes bond, the appointment immediately terminates. The defendant must thereafter follow the procedure outlined above. If previous appointed counsel devoted a considerable amount of time to the case before bond was made, a claim for fees will be entertained.

6. MARGINAL INDIGENTS:

If counsel approved for indigent representation, accepts private representation of a defendant who thereafter become indigent, the court should be notified at once. An indigency hearing will be held and if the defendant is found indigent, the following procedures will be followed:

- a. If counsel privately received at least ½ of the fee schedule amount, that counsel will be appointed, and the court will award an additional fee for the difference between the scheduled amount and the amount paid privately.
- b. If counsel received less than ½ of the fee schedule amount, the court will either order counsel to remain on the case as retained counsel, or relieve counsel and appoint some other attorney, based on the circumstances.

7. RETENTION OF AUTHORITY

The courts reserve authority to alter the terms of this order when required in individual cases in the interest of justice.

- 6.14 Only defendants who have not employed counsel are required to appear at the initial setting.
- 6.15 Withdrawal or substitution of counsel will be automatically granted prior to the indictment. After indictment withdrawal of counsel will be granted only if good cause is shown. Substitution of counsel will be granted where it does not impede the orderly disposition of the case(s) in question.
- 6.16 Bonds are approved or set by a District Judge after indictment. Non-appearance of the defendant unless waived by the court will result in a bond forfeiture. Any bond forfeiture will result in a capias issued and a cash bond being required. All defendants who are on bond with a licensed bail bondsman or on Pre-Trial Release

bond MUST have an attorney retained or be prepared to demonstrate indigency at the initial setting.

6.17 Discovery: The court will entertain a written motion for Discovery only if the District Attorney will not furnish legally required information voluntarily.

6.18 DOCKET CALLS;

1.

- a. At the initial setting, defendants having no attorney will be required to appear. One week will be given to hire counsel or indigency determination procedures will be implemented as required. (see 6.13)
- b. Defendants with hired counsel who have notified the court of their employment prior to indictment are not required to appear until the trial setting.
- c. Attorneys appointed to indigent defendants prior to indictment will be notified of the trial setting upon indictment.

2.

- a. Trial settings will be given to all defendants upon indictment, or employment of counsel, whichever occurs later.
- b. Agreed pleas may be entered at the first trial setting or at the request of counsel at any time prior to trial.
- c. After 120 days have lapsed from being hired or appointed as Counsel, no agreed pleas will be binding on the court.

3. Other than the trial setting, pleas of guilty may be scheduled by counsel at 9:30 A.M. each Monday or at 8:30 A.M. on Wednesday's.

6.19 CONTINUANCE / RESETTING / POSTPONEMENT. All resetting requests will be handled by each court's coordinator. Motions for continuance for cases scheduled on a trial docket must be in writing and submitted by counsel to the trial Judge for a ruling.

6.20 Plea bargains between state and defense counsel will be honored by the court up to And including the 120th day from being hired or appointed as counsel. If the court does not desire to follow the plea bargain, the plea may be withdrawn and the case will proceed as if a plea had not been entered. If a plea is entered in a case after 120 days as hired or appointed counsel has lapsed, then the plea will be treated as an unagreed plea.

6.21 If a plea is to be entered the following procedures will apply:

- a. On the trial date, the plea will be accepted and a Pre-Sentence Report will be ordered. (for early PSI – see 6.31)
- b. The case will be reset for assessment of punishment.
- c. If the defendant or state makes their request for witnesses on the issue of punishment know in open court at the punishment setting, a hearing to take this testimony will be scheduled at a later time.

- d. Failure to enter a plea on the trial date, subjects the defendant to an immediate trial.
- 6.22 Speedy trial requests will be given priority whether requested by the state or the defendant.
- 6.23 MOTIONS/PRE-TRIAL HEARINGS/PRE-TRIAL MATTERS. 28.01 hearings will be conducted in the 252nd District Court and the Criminal District Court, if good cause has been shown. Opposing counsel are requested to settle discovery matters and the pre-trial issues without the courts involvement, wherever possible.
- 6.24 All settings/scheduling requests will be handled by each courts coordinator. No case may be continued or re-scheduled from a trial setting without the consent of the District Judge.
- 6.25 ORDER OF TRIALS / PREFERENTIAL SETTINGS/ CONFLICTING ENGAGEMENTS. In general, the court having the oldest setting will have preference where conflicting engagements of counsel exists. Preferential settings will be honored when the court has been apprised that such setting existed prior to the court's setting. Order of trials will be set by the trial Judge at the conclusion of the trial docket call. Unless a compelling reason exists to the contrary, Federal Court settings will take precedence.
- 6.26 WITNESS / EVIDENCE. While a witness coordinator exists to assist both state and defense in locating witnesses for trial, the timely issuance of subpoenas is encouraged. The responsibility lies with counsel for the timely appearance of witnesses at trial. Evidence, once admitted, becomes the custody of the District Clerk.
- 6.27 Non-jury trials are handled like jury trials except jury trials are usually given precedence. The most frequent non-jury matter that the court handles is the Motion to Revoke Probation, which are scheduled in the same manner as indictments. After counsel is determined, MTRP will be placed on the trial docket 30 days later. Hearings will be held beginning at 8:30 A.M. each Friday in the 252nd District Court. The Criminal District Court will schedule MTRP hearings in the same manner that it schedules other non-jury trials.
- 6.28 Once indicted, all cases with the court will be scheduled for trial, and the following procedure will apply:
 - a. On the trial date, the cases scheduled for trial will be called; pleas taken, and then the trial Judge will establish the trial order.
 - b. Criminal District Court will schedule approximately 20 trials each week. Ten of those trials will be assigned to Monday and ten to Wednesday, but all 20 trials will be called on Monday, and a trial order will be established for both days at that time. All defendants and their attorneys must be present at the Monday trial docket.

c. 252nd District Court will schedule approximately ten trials for each Monday and Wednesday and establish a trial order on those particular days.

6.29 JURY SELECTION / VOIR DIRE. Jury selection is limited to 30 minutes per side in an ordinary felony. Juror information cards are available prior to Voir Dire.

6.30 No application required for regular or deferred adjudication of probation, except when requested of the jury for which statutory provisions apply.

6.31 Pre-sentence reports in advance of plea. Counsel may elect if they so choose, to have the pre-sentence report prepared in advance of the actual plea. Using this procedure will result in ONE LESS APPEARANCE FOR COUNSEL AND THE DEFENDANT.

To use this procedure, counsel must obtain a Pre-sentence Request from the court. Once the request form has been completed and signed by the Judge and Prosecutor, an appointment can be made with the PSI office. The interview must take place at least 45 days prior to the plea in order for the report to be prepared in time.

When this procedure is used, the report will be sealed. The report will be reviewed by the court prior to the plea, and will be made available to both counsel after the plea is entered.

6.34 PROBATION REVOCATIONS / MOTIONS TO ADJUDICATE / HABEAS CORPUS. See 6.27 for probation revocations. Habeas Corpus matters on pending felonies are handled by the Judge presiding over the case(s). If a Habeas Corpus is filed on a pre-indicted case, then they will be handled on a rotation basis among the judiciary.

10.10 A vacation letter must be submitted by an attorney no later than 60 days prior to the requested vacation period. A vacation period of no more than 30 days will be approved. No split vacations will be honored. A split vacation generally is one taken a week at a time over several months. Where not already entered as attorney of record, all vacation requests must be submitted with an attachment stating the case number(s), defendant(s) name(s), and setting date for all cases scheduled during the vacation period. Exceptions to these vacation policies shall be approved by the Judge(s) before the attorney is or may be scheduled to appear.

19.10 The court retains the discretion to alter the above rules and procedures as they relate to a particular defendant or case.

19.11 The rules of procedure of the Second Administrative Judicial District shall be in full force and effect.

Appropriate dress is required of all defendants at every court appearance. The defendants' dress is the responsibility of his counsel or bondsman.

It is ORDERED that the clerk file a copy of these rules and minutes of the Criminal District and the 252nd District Court and mail a copy to each member of the Jefferson County Bar.

APPROVED AND ADOPTED ON THIS THE 23rd DAY OF June,
2003.



CHARLES CARVER, JUDGE
Criminal District Court



LAYNE WALKER, JUDGE
252nd District Court