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# Study Report

## Recommendations for Improving the Criminal Case Processing of Inmates in the Douglas County Jail

Submitted to the  
Douglas County, Kansas Board of Commissioners

January 25, 2018

**JCI**  
*Justice Concepts Inc.*

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Justice Concepts, Inc. is an independent criminal justice consulting firm with expertise in performing criminal justice system studies. The recommendations in this document are the expert opinion of JCI and do not necessarily reflect the opinions of Douglas County officials.

# *Recommendations for Improving the Criminal Case Processing of Inmates in the Douglas County Jail*

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## **Recommendations for Improving the Criminal Case Processing of Inmates in the Douglas County Jail**

### **SECTION 1. INTRODUCTION**

This study focuses on criminal case processing issues that affects the length of stay of inmates. It does not address the broader scope of case processing practices and court resource needs that affect pretrial and sentenced persons residing in the community.

1.1. The primary method of study included the following:

- Interviews
- Review of local court rules
- Examination of statutes on courts
- Review of data
- Review of paper files in the jail
- Research to find examples to support recommendations
- Phone interviews of attorneys in Johnson County, Iowa (Iowa City, home of University of Iowa). This site was recommended to the consult because of reputation for expeditious resolution of cases of incarcerated defendants.
- Refinement of recommendations involving the jail through meetings with jail staff.
- Checking of recommendations made by participants against best practices in the literature.

1.2. Persons Interviewed

- (1) All current district judges who are assigned criminal cases
- (2) Past District Judges: Robert Fairchild and Michael Malone
- (3) Pro Tem District Judge James George
- (4) Municipal Court Judge Scott Miller
- (5) District Attorney Charles Branson (interviewed prior to official commencement of study)
- (6) Assistant District Attorneys (ADAs)
  - David Melton
  - Eve Kemple
  - Mark Simpson
  - Debby Moody
  - Katy Britton
- (7) Members of the Defense Bar
  - Shaye Downing
  - Blake Glover
  - Dakota Loomis
  - Brandon Smith
  - Hatem Chahine
- (8) Court Administrator, Linda Koester-Vogelsang
- (9) Jail Staff
  - Gary Bunting, Undersheriff
  - Mike Brouwer, Reentry Director

- Wesley Houk, Administration Captain
- Eric Spurling, Operations Captain
- Lisa Brown, Booking Lieutenant

### 1.3. Basic Structure of Interviews of Judges and Court-Related Staff

The approach used open-ended and topic-specific questions that were structured to draw on individual experience and insights. Examples of a few of the open-ended questions include the following:

- (1) What conditions in the criminal justice system that affect the processing of cases would you like to see modified or changed?
- (2) What conditions have changed in the last five years that negatively affect processing of cases?
- (3) What issues in case processing affect the jail population?

In many instances, the participants mentioned topics and observations that were further explored by the interviewer.

## SECTION 2. RECOMMENDATIONS

### **Recommendation 2.1. The jail should establish a better method of tracking the length of stay of detained defendants.**

Not all criminal cases take the same length of time from arrest to disposition. For example, the more complex the case, the longer expected time to disposition. This difference in complexity of cases, however, is not captured in current jail reports on the status of inmates. As a result, reports to the courts are unable to differentiate lengths of stay of defendants in a meaningful manner. In the practice of evaluation there is the maxim:

**If you can't quantify a problem, you can't ascertain its magnitude nor can you accurately assess the effectiveness of efforts to reduce the problem.**

Differentiation in case processing is an aspect of differentiated case management (DCM), which has been demonstrated for years. In this report, the consultant is not implying that the courts should apply DCM to all criminal cases, although that would be to their advantage. The recommendation pertains only to the jail. Such information would enable judges to identify cases that are lagging. For example, case tracking information could be broken out by overall length of stay (LOS) for each level of case complexity, thus creating a focused approach for devising management strategies for more time-efficient processing of court cases.

Cases of defendants who are not released into the pretrial release program or released by posting money bail could be reviewed at an agreed upon time period, such as after one week. Their length of stay could be reported periodically, such as biweekly, to the courts according to the three tracks.

Options for Implementing the Three Track System - Any of these methods could work:

Option 1. Under the leadership of the Judiciary a general format for distinguishing the complexity of cases of detained defendants could be established. A succinct example of a three-track Differentiated Felony Case Management system (DFCM) is provided in Appendix A (Tarrant County Differentiated Felony Case Management.)<sup>1</sup> The three tracks identified in the example are those which are typically found in DFCM:

- a. Expedited Track
- b. Basic Track
- c. Complex Track

Option 2. The Judiciary, DA, and representatives of the Defense Bar could establish a special set of criteria for rating the complexity of cases of detained defendants.

Option 3. Cases of defendants who are not granted pretrial release could be classified by an assistant district attorney according to the three tracks.

Option 4. A less well-defined method could be accomplished by the jail using the general classification scheme in the Tarrant County example.

**Recommendation 2.2. A process for expediting cases of detained defendants should be considered.**

The new pretrial release program will reduce a portion of pretrial defendants who, previously, would have been detained. Within the group of detained defendants will likely be found individuals whose cases fall into Expedited and Basic DCM tracks. Given that those cases could be resolved faster than Complex cases, a benefit would be gained by establishing a process that gives those cases different attention. Many criminal justice systems can be found in which cases of detained defendants are given higher priority in processing.

There are two commonly used methods to expedite cases of detained defendants:

(1) Weekly Reviews of Detained Defendants:

Johnson County, Iowa has been able to significantly reduce its jail population by weekly reviews conducted by an assistant prosecutor, public defender, and judge. Cases that could be resolved during the weekly meeting are acted upon immediately. The assistant prosecutor and public defender are authorized and capable of moving pleas to the point of agreement and the judge is able to review and approve the plea agreements.

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<sup>1</sup> The Tarrant County example also identifies the participants in developing the three-track system. In addition to the Tarrant County example, a number of “how to do it” publications on developing and implementing DCM are also available from online sources.

Implementation Considerations

Given that Douglas County does not have a public defender's office, the review could be conducted (a) by only an ADA, or (b) by an ADA and a representative of the Defense Bar. One of the products of such review could be recommendation to the court for status hearings.

In order to refine the process for conducting weekly reviews, the District Attorney and representative of the defense bar would need to meet and explore the procedural mechanics.

(2) Expedited Court Docket

An expedited court docket is a hybrid that draws on both (a) weekly reviews and (b) aspects of DFCM. One judge would schedule a weekly docket of cases of detained defendants. The focus would be on cases in the Expedited and Basic Tracks. Since the number of detained defendants in these tracks would not be large, the burden on a single judge for managing this docket would not be great.

Implementation Considerations

The courts would have to develop a process for creating this new docket and how cases of detained defendants would be assigned. Bexar County, Texas, a county generally recognized for its innovation in jail population control, uses such a method which it calls a "Rocket Docket." This is not a new process as the concept has been around since the 1990s.

**Recommendation 2.3. Implement a faster journal entry process**

When a case is adjudicated and a sentence to state prison is ordered, a journal entry initiates the transfer of the sentenced offender from jail to prison. Under the current process, the process can be delayed for days while awaiting the return of the defense attorney to sign the journal entry. To resolve this problem, the DA has offered to assign a staff member to immediately prepare journal entry documents in the court room, print them, and provide them to the attorneys. This offer was reaffirmed in conversation by the DA with the consultant, Dr. Beck. This concept was explored in previous years. However, the noise of the printers, at that time, was considered too disruptive. Since improvements in computer technology make printers nearly silent, this problem no longer exists.

Implementation Considerations

- (1) The Court Administrator, Linda Koester-Vogelsang, indicated to the consultant that all that is needed to set up the mechanics of preparing the journal entry is for the DA to identify where in the various court rooms to locate a clerical staff member and laptop computer with printer. The layouts of the court rooms will accommodate convenient placement of the staff and equipment. This
- (2) The forms that compose the journal entry are somewhat complex, but not to the extent that attorneys are unfamiliar with their formats. Although the attorneys may know of the content of the sentencing (of their client to prison), they must have time to review and sign-off on the forms. Ideally, this would happen immediately after sentencing. In order to establish a quick

turn-around in signing, the judiciary with input of the attorneys, should establish a procedure that avoids unnecessary delay. Such a process should be designed to be faster than the current practice.

#### **Recommendation 2.4. Improve processing of court orders sent to the jail**

During judicial interviews an issue was raised about the need to improve communication in the transmittal of judicial orders to the jail. It is important to note that not all transmittal of orders are problematic.

Copies of orders resulting from court appearances (Court Appearance Disposition) are transmitted via FAX to the jail by Court Security Officers. Subsequently, the originals are hand carried to the jail by Court Security. The format of the order, which has been used for at least 18 years, is a half-page sheet that contains the following spaces to handwrite information:

Case No.  
Arrest No.  
Defendant  
Disposition of Case (12 blank lines on which to write information)  
Next Court Appearance  
If Committed, Release Date  
Bond/Conditions of Bond  
Date  
Judge's Signature

This format seems to be susceptible to several types of errors:

1. Missing or partial defendant's name
2. Missing or wrong case number
3. Incomplete or missing orders
4. Unclear orders related to sentencing
5. Modifying bond without disposition or bond amount
6. Order contains two cases with one bond amount
7. Order conflicts with or dictates jail policy

A general estimate of the frequency of errors suggests that they occur in an intermittent pattern, e.g., two or three times a week followed by a period of no errors. Recently, for example, there was a week without any errors followed by a week, which on one day, there were three errors from the same judge.

Sometimes errors can result in a variety of problems:

- Release of an inmate is delayed.
- An inmate is released without being informed of all conditions set by the court.
- An inmate may miss a timely opportunity for an inpatient treatment bed and have to wait longer in jail.
- A furlough may not be granted in a timely manner.



Jail staff who process court orders have after-hours phone numbers for the Judges and have used these numbers. However, on occasion, a judge may not have relevant files in their possession and not remember necessary details of the case, thus are unable to correct part or all of the error.

Errors in court orders to the jail could be reduced, in a large part, by revising the Court Appearance Disposition form. A suggestion for that revision is shown in Appendix D of this report. Included in the form are (a) information most frequently documented by judges and (b) information that is most often omitted by judges. The form was created by jail staff who have experience in processing orders from the court.<sup>2</sup> Of course, the form is a suggestion that can be improved through refinement by the judges.

In fewer instances, information on court orders mistakenly delves into jail policy, e.g., an inmate should not be "allowed to hold infants during a visit" or "Do not farm this inmate out" or "inmate given an inmate worker program." These are conditions controlled by jail policy. In such situations, feedback to the judges would be helpful.

In addition, to revising the Court Appearance Disposition form, the Judiciary may elect to work with the Undersheriff to establish a process in which jail staff respond to the originating judge about receipt of the order, actions taken, and to provide feedback on issues that conflict with jail policies.

#### **Recommendation 2.5. Explore how to better coordinate sending inmates to out-of-county jails**

The problem of sending inmates out-of-county was recently described in a CJCC meeting. There seems to be few options.

In several interviews conducted as part of this study, defense attorneys mentioned that their assigned, detained defendants were unavailable for interview. This, however, should not be a problem as the jail will bring back inmates if given 48 hour notice.

The issue seems to be that some attorneys are waiting until the last minute of a coming court appearance to try to interview their clients. Closer attention to performing the interviews earlier would not only avoid this issue but could facilitate more timely plea negotiations.

#### SOLUTION

- Judges could ask defense attorneys at time of docket when they plan to interview a detained client.
- This issue should be discussed in the bar meetings.

This issue will be automatically resolved when more bedspace is added to the jail.

#### **Recommendation 2.6. Improve the timeliness of requests to the Heartland Regional Alcohol and Drug Assessment Center (RADAC) by defense attorneys**

RADAC assesses clients to determine if a substance use disorder exists. The assessment is performed

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<sup>2</sup> Lt. Brown worked with Heather Smithart to create the form and Smithart drafted the form.

in a private interview. Standardized criteria developed by the American Society of Addiction Medicine (ASAM) are used to objectively assess if there is a problem with alcohol and/or drugs. Also, the assessor may use additional screening tools to determine what level of treatment will best fit the needs of the client. The assessment is particularly important in determining if inpatient treatment is needed.

RADAC assessments are completed in about four days when the jail makes the request. Requests for assessment of inmates are sometimes made, also, by attorneys. However, two problems often delay the assessments requested by attorneys: (1) Some defense attorneys do not request assessments in a timely manner. Hatem Chahine is an example of an attorney who usually requests assessments in a timely manner. He is known to make a call requesting an assessment almost immediately after walking out of the court room, (2) Some defense attorneys fail to provide necessary information, such as social security numbers, that are needed for the assessors to complete paperwork required for documentation and payment. As a result, submission of completed reports will be delayed.

The process of scheduling an assessment involves calling the RADAC number and talking to a scheduler to set up an assessment. The attorney should (1) ask for the next available date and time and (2) call the jail to ensure that both a room is available for face to face contact with an outlet and the inmate will be available at the designated time. (Sometimes these inmates are farmed out of the Douglas County Jail without advance notification.) If the room or inmate is not available, the attorney should ask about the best available times. With that information the attorney should call back to the RADAC scheduler to reset the interview day and time. After meeting with the inmate, the assessor, usually, has a report available to the referent within 48 hours.

In the initial call to RADAC, the Scheduler will ask questions to fill out an information form, as well as checking available dates for an assessment. The informational form is shown in Appendix B. Note on the form that Information in parentheses needs to be provided by the attorney during the call.

As soon as possible after the call and before the assessment, the attorney should provide information requested on the Eligibility & Scheduling form in Appendix C. This information can be faxed to RADAC. If the information is not provided, the report will not be released.

**Recommendation 2.7. Improve the scheduling and, therefore, utilization of available treatment beds**

In order for a treatment facility to fill treatment slots, clients must be scheduled. This is similar to scheduling hotel rooms. Unless the provider can plan for the number of clients and their length of stay (usually 28 days), the identification of when an available slot will be open is difficult to predict. This procedure is complicated when attorneys call at the last minute to inform RADAC that the client will not be using the bed because of being sentenced to prison or not being released from jail as anticipated. Failure to provide timely notice results in general scheduling problems for providers and for the client who will be put on a later waiting list position.

Because of this failure, some inpatient treatment providers are not accepting clients from some counties because of the track record of attorneys who fail to notify RADAC in a timely manner. Douglas County is one of those counties. As a result, some providers will not schedule Douglas County inmates.

In order to improve scheduling, guidelines for requesting inpatient treatment should be developed for attorneys.

**Recommendation 2.8. The purpose for RADAC assessments should be questioned by judges.**

In order to better understand the requests for RADAC assessments, data from Douglas and Johnson Counties were compared. In 2017 Douglas County had thirty percent (30%) of the number (average daily population, ADP) of Johnson County jail inmates but twice the number of RADAC assessments.

	<u>2017 ADP</u>	<u># ASSESSMENTS</u>
Douglas County	232	93
Johnson County	766	46

This simple analysis raises several additional questions: (1) Are people arrested in Douglas County that much different than those in Johnson County? (2) Are defense attorneys in Johnson County less likely than attorneys in Douglas County to pursue inpatient treatment for their clients, which would be identified by RADAC assessments? and (3) Are plea bargaining outcomes (and the quality of justice) less favorable for defendants in Johnson County because of fewer RADAC assessments?

Another difference in the two counties is that Douglas County inmates are more often held in jail awaiting assessments than are Johnson County inmates. This further inflates the jail population size.

The proximity of having an inpatient substance abuse treatment facility in the county, such as for males and females in Johnson County and for females in Douglas County, has not been known to affect the number of in-jail assessments requested by judges or attorneys. Moreover, the Kansas Client Placement Criteria (KCPC) is required for all admissions to inpatient and outpatient substance abuse treatment that are paid by insurance or state block grant funds (a factor in most assessments of Douglas County inmates). The only exception is for privately paid assessments.

One of the solutions is for judges to urge attorneys to avoid unnecessary requests that are part of plea bargaining ploys. It is suspected, but not numerically verified, that some, if not many, of the assessments would not make a difference in plea bargaining outcomes.

**Recommendation 2.9 The Quick Dip process for technical probation violations should be reviewed**

Intent of the Quick Dip (Source: *Kansas Sentencing HB 217 Handbook*)

The intent of the Quick Dip was to provide a very short sanction for a technical probation violation(s). Research has shown that one of the most effective ways to change offender behavior is to use swift and certain (predetermined) responses that are quickly applied by supervision officers. Additionally, short jail stays are more cost-effective and cause less disruption to a probationer's positive efforts to change and to his or her pro-social network than a lengthy jail or prison sentence.

Background (Source: *Kansas Sentencing Guidelines Desk Reference Manual*, 2015. Page 91)

*An offender who commits a probation violation may be subject to a "quick dip" sanction of 2 or 3 days in the county jail. 2 or 3-day "quick dip" sanctions may be used by the court or a supervising officer for offenders on probation for misdemeanor, nongrid felony and felony convictions. This sanction may also be imposed for multiple subsequent violations, not to exceed 18 total days during the offender's term of supervision, including all quick dip sanctions imposed by both the court and*

*all supervising officers. K.S.A. 2015 Supp. 21-3716(b)(3)(B)(ii) and (c)(1)(B).*

**Supervising Officer Quick Dip Authority**

*K.S.A. 2015 Supp. 22-3716(b)(4)(A) gives court services officers, and (b)(4)(B) gives community corrections officers, the authority to impose a 'quick dip' sanction if the offender waives the right to a revocation hearing on an alleged probation violation. If the offender does not waive the right to a revocation hearing, the supervising officer may not impose a quick dip, but at the revocation hearing the court may impose any of the sanctions provided by statute in K.S.A. 2015 Supp. 22-3716(b)(3)(B) for nongrid felonies and misdemeanors, and K.S.A. 2015 Supp. 22-3716(c)(1) for felonies.*

The sentencing court may choose to withhold this authority from the court services or community corrections officer at sentencing. The Journal Entry of Sentencing in 2013 and all subsequent years include a check box where this authority may be specifically withheld.

Current Situation That Contributes to Lengthy Jail Stays for Some Technical Probation Violators - Not Involving New Offenses

The local process of executing a Quick Dip:

- 1) The probation officer files an affidavit with the court that (a) states the violation(s) and (b) requests a either an arrest warrant or notice to appear (NTA).
  - The judge reviews the affidavit and sets a bond amount.
  - If a warrant for arrest is decided, the judge's assistant completes the warrant.
  - If an NTA is decided, a day for appearance is scheduled and the notice is issued.
- 2) When the probationer appears in court for the first time on the violation, an attorney is assigned. Nearly all the time (about 95% of the time) the sentencing attorney is also assigned for the probation violation process. Also, another hearing is scheduled.
- 3) This process normally takes at least two months or more. In some instances, probation violations have taken up to four months. If the probationer is in jail pending a technical violation, the time goes towards the underlying sentence but not the Quick Dip.
- 4) Once the Defendant is found to be in violation, the judge may order a three-day Quick Dip or a 120 or 180 day detention.
- 5) Many judges allow the defendant to do the quick dips, at a later time, e.g., over a Friday and weekend, not immediately after disposition of the probation violation.

Concern

- 1) Probation officers report that there is a general lack of knowledge among attorneys about HB 2170, which establishes the Quick Dip procedure. The attorneys tend to depend on probation officers for legal knowledge. In the instance that a judge rules a certain way, defense attorneys do not have sufficient knowledge to object.

- 2) Estimates of frequency of discrepancies in following HB 2170 indicate the incidence rate may involve about 80% of the Quick Dip eligible cases.

Considerations for Improving the Process

- 1) A brief and clearly written description of the Quick Dip process and legal underpinnings should be provided to attorneys and the courts.
- 2) This topic should be scheduled for discussion at attorney training sessions and bench meetings.

**Recommendation 2.10. Outcomes of PTR recommendations and judicial decisions should be tracked and reported on a monthly basis to the courts**

At a minimum four types of data should be collected:

- 1) Public Safety and Appearance Rates
- 2) Concurrence Rate and Reasons for Non-agreement
  - The number and percentage of PTR recommendations with which the judges agreed.
- 3) Average Lengths of Stay
  - In jail awaiting pretrial release for persons
  - In jail awaiting release on cash or surety bonds (not prescribed by PTR program)
  - In the PTR program
- 4) Program Processing Data
  - e.g., How many defendants were assessed for pretrial release.

Item 2 above, Concurrence, is particularly important. Low rates of concurrence mean that either (a) the criteria for making pretrial release recommendations are flawed, or (b) the judges have not modified their thinking to accept that unsecured bonds are as effective as secured bonds in ensuring public safety and court appearance, or (c) a combination of the two. Every variation from the recommended release plan should be identified as to why the judge did not agree. During the first year, the PTR program should provide concurrence analysis reports on a monthly or bi-monthly schedule.

The quick identification of problems in the design of the program is extremely important. The PTR development group (staff, attorneys, and judge) should be brought back together to refine the process. Attention must be given to optimizing the program so as to obtain the maximum reduction of the jail population.

**SECTION 3. CONCLUSION**

The ten recommendations span aspects of criminal case processing across multiple agencies of the criminal justice system. For that reason this report is not just about the courts, but how the agencies (including the individual defense attorneys) refine their practices and interact together.

## **APPENDICES**

- A. Tarrant County Differentiated Felony Case Management
- B. Heartland RADAC Information Form Filled Out During Attorney's Call to Scheduler
- C. Heartland RADAC Eligibility & Scheduling
- D. Suggested Form: Court Appearance Disposition

# **Tarrant County**

## **DIFFERENTIATED FELONY CASE MANAGEMENT**

### **PREAMBLE**

The following Differentiated Felony Case Management (DFCM) system is the result of a collaborative effort of a task force consisting of representatives from the following entities: the Tarrant County criminal district judges, the Tarrant County criminal district court coordinators, the Tarrant County District Attorney's Office, the Tarrant County Criminal Defense Lawyers' Association, the Tarrant County Sheriff's Office, the Tarrant County District Clerk's Office, the Tarrant County Community Supervision and Corrections Department, and the Tarrant County Information Technology Department. The task force has met weekly 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 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 Tarrant County criminal justice system, and to 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 DATE

The date that the case is filed by the Tarrant 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 ten felony district courts. At that time each individual case will also be assigned to a case track based upon the offense code at time of filing.

The trigger date for setting probation revocations is the date the defendant is arrested on the petition. Probation revocations will only be included on the track through the CS, then will be set for hearing or other disposition during a non-jury week.

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 DFCM system will automatically send notice to the defendant, bail bondsman and defense attorney for each court setting based on the filing date and case track. The courts and state will receive notice of the settings by way of the setting dockets.

### THE INITIAL APPEARANCE SETTING

The first setting for each felony case is the Initial Appearance Setting (IAS). The purpose of the IAS is to ensure that each defendant has an attorney on all pending cases. A case will not progress to the next case setting until the defendant is represented on all cases.

All IAS will be conducted in the magistrate's court. In cases where the defendant is in custody, the IAS will be conducted within four days of the filing date.

Where the defendant is on bond, the IAS will be conducted within 15 days of the filing date.

If the assigned court or magistrate's court has received notification that a defendant is represented by retained counsel before the IAS, the defendant and counsel will be excused from the IAS. Notification may be delivered by fax, email or letter.

If an attorney is retained before a case is filed, the attorney is expected to notify the Office of Attorney Appointments so that the attorney's name can be coordinated with the case when filed.

If a defendant is not represented by counsel at the IAS, the magistrate will inquire into the reason for the lack of counsel and require the defendant to complete the "Election



of Counsel” form. If the defendant requests court appointed counsel, the magistrate will require the defendant to complete the “Affidavit of Indigency.” After the defendant has completed this form, the magistrate will conduct a thorough indigency hearing. If the defendant is on bond, the magistrate will not complete the hearing until the defendant has produced the documents required by condition of bond. The failure or refusal of the defendant to produce the required documents at the IAS may result in the re-arrest of the defendant.

If the magistrate finds that the defendant is indigent, the defendant will be appointed an attorney from the felony court appointment wheel. The magistrate will then enter an order requiring any defendant with appointed counsel to make payments toward appointed attorney fees through the District Clerk’s office where it is determined that the defendant is financially able to make such payments.

If the magistrate finds that the defendant is not indigent, the magistrate will urge the defendant to hire an attorney and may reset the case for another IAS.

The magistrate will also review all cases for appropriate bond conditions and modify the conditions accordingly. If a defendant is in custody, the magistrate will also review the bond amount and may, based on individual case factors, reduce the bond to an amount consistent with the current bond schedule set by the criminal district judges.

### THE CONSULTATION SETTING

The next setting for each case is the Consultation Setting (CS). The CS will be conducted in the assigned district court and will include all of a 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 Tarrant County Criminal District Courts.

In all cases where a defendant is represented by retained counsel, the CS will occur as soon as practical following the date of the return of an indictment, allowing for reasonable notice to all parties.

In all cases where a defendant is represented by appointed counsel, the CS will occur pre-indictment in order to allow the opportunity to meet and consult with appointed counsel with the State and its files available for discovery and meaningful consultation in order to allow, if possible, a prompt and just resolution of the case. Continued compliance with all bond conditions and the Felony Public Appointment Guidelines will also be monitored at this setting.

Prior to the CS the assigned prosecutor will be expected to thoroughly review the case(s) and arrive at a considered and educated plea agreement offer, at least on cases within the Expedited and Basic case tracks. The Tarrant County District Attorney’s Office has agreed that their file will be open to the attorney of record on all cases. The defense attorney will be 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, the parties will be expected to complete a “Written Plea Admonishment Document.” After this is done the parties can proceed

through the plea proceeding and sentencing, proceed through the plea proceeding and defer sentencing or defer the plea proceeding and sentencing. All unindicted cases in which an agreement is reached and where sentencing is not completed at the CS will require the execution of a “Waiver of Indictment and Acceptance of Plea Agreement Offer”. All deferred plea proceedings will be conducted during non-jury weeks.

If there is no indictment and no plea agreement is reached at the CS but the defendant waives indictment in writing, the Tarrant County District Attorney’s Office has agreed that the CS plea offer will remain available to the defendant for at least 45 days after the CS.

If a plea agreement is not reached on a probation revocation case at the CS, the court coordinator will schedule the case for a hearing during the next available non-jury week.

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 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 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 Consultation Setting.

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

### 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 will conduct a hearing on all motions as requested by the parties. Meaningful plea negotiations are encouraged at this setting. If a plea agreement is reached, the plea proceeding may be scheduled as contemplated at the Consultation Setting.

If no plea agreement is reached following the MS on Expedited Case Track cases, the court will set the case for trial. If no plea agreement is reached on Basic or Complex Case Track cases, the parties will receive a Status Conference date.

## THE STATUS CONFERENCE

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

## THE CASE TRACKS

### THE EXPEDITED TRACK

The following types of state jail and third degree felony offenses are included in the expedited track:

Burglary of a building	Prostitution-4th
Credit/debit card abuse	Theft
Criminal nonsupport	Aggravated perjury
Evading arrest with vehicle	Bail jumping
False alarm or report	Escape from felony offense
Forgery	Unauthorized use of a vehicle
Possession of prohibited weapon	Tampering with evidence
UCW on licensed premises	Probation revocations
Fraudulent use or possession of identifying information	Unauthorized absence from CCF or CC

If any of the above listed offenses is filed as a habitual offender, the defendant's cases will be moved to the Basic Case Track.

The following table shows the progression of settings under the Expedited Case Track in number of days:

File date=(F); Indictment date=(I)	<u>Jail</u>	<u>SB7 Bond</u>	<u>Bond</u>
Initial Appearance (IAS)	F+4	F+15	F+15
Consultation (CS)	F+10	F+30	I+15
Status Conference (SC)	I+15	I+15	I+60
Trial		within 4 weeks following MS	

## 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	Possession firearm by felon
Improper photography or visual recording	Possession weapon –prohibited place
Injury to a child, elderly, disabled causing bodily injury	Stalking
Interference with child custody	Unlawful restraint
Tampering with witness	Violation of protective order
Terrorist threat	Aggravated assault
Unlawful restraint of child	Aggravated kidnapping
Delivery CS, PG1 < 1 gr.	Arson
Possession CS, PG1 <1 gr.	Bribery
Delivery marihuana > ¼ oz.	Burglary of habitation – theft
Possession marihuana > 4 oz.	Burglary of habitation – assault
Delivery CS, PG1A, <20 units	Escape causing bodily injury
Possession CS, PG1A, <20 units	Improper relationship-student/teacher
Assault	Indecency with child – contact
Deadly conduct	Robbery
DWI-3 <sup>rd</sup>	Sexual assault
Enticing child	Trafficking of persons
Improper contact with victim	Aggravated robbery
Indecency with a child--exposure	Aggravated sexual assault
Intoxication assault	Burglary of habitation – other
Kidnapping	Escape with deadly weapon
Evading arrest with SBI	Attempted capital murder
Manslaughter	Solicitation of capital murder
Injury to a child, elderly, or disabled with serious bodily injury	Criminal negligent homicide
Aggravated assault-serious bodily injury	Evading arrest with death
	Intoxication manslaughter
	Escape with serious bodily injury

The following table shows the progression of settings for cases in the Basic Case Track in number of days:

	<u>Jail</u>	<u>SB7 Bond</u>	<u>Bond</u>
File date (F); Indictment date (I)			
Initial appearance (IAS)	F + 4	F + 15	F + 15
Consultation (CS)	F + 10	F + 30	I + 15
Evidence Exchange (EES)	I + 15	I + 30	I + 90
Motion Setting (MS)	I + 90	I + 90	I+ 150
Status Conference (SC)	I + 135	I + 135	I+ 200
Trial		within 4 weeks of SC	

## THE COMPLEX CASE TRACK

The Complex Case Track includes the following offenses:  
Murder; Capital Murder; and any case that in the opinion of the court involves complex legal or evidentiary issues

The following table shows the progression of settings for these cases:

File date (F); Indictment date (I)	<u>Jail</u>	<u>SB7 Bond</u>	<u>Bond</u>
Initial appearance (IAS)	F + 4	F + 15	F + 15
Consultation (CS)	I + 15	I + 15	I + 15
Evidence Exchange (EES)	I + 100	I + 100	I + 100
Motion Setting (MS)	I + 150	I + 150	I + 150
Status Conference (SC)	I + 200	I + 200	I + 200
Trial		within 6 weeks of SC	

In capital murder cases, the state will elect whether it will seek the death penalty at the Consultation Setting.

If no agreed plea is negotiated following the Consultation Setting it may be necessary for the judge to enter a "Scheduling Order". The parties will not be excused from this setting until this issue has been settled.

## MISCELLANEOUS PROVISIONS

The state has agreed to bring all of the defendant's pending case files including misdemeanor files to all settings in district court to facilitate global resolution of cases.

All district courts have agreed to use only uniform written plea admonishment forms for pending cases and probation revocations.

All defendants in custody should be present at all court settings.

The district courts will schedule court settings (except trial settings) as follows:

Monday: 396<sup>th</sup>, CDC2, 372<sup>nd</sup> and 432<sup>nd</sup>

Tuesday: CDC3 and 297<sup>th</sup>

Wednesday: 371<sup>st</sup>

Thursday: CDC4

Friday: CDC1 and 213<sup>th</sup>

Hearings on property seizures and expunctions will be heard in the assigned court during non-jury weeks.

The designated court coordinator and the Office of Attorney Appointments must receive a vacation letter at least 45 days prior to the beginning of the requested vacation or it is void.

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 or the defense for sufficient cause shown, as defined by statute.

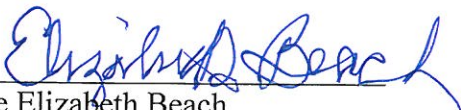
Applications for the DIRECT program or the District Attorney's Deferred Prosecution Program should be made at the earliest possible time.




**ORDER**

The undersigned judges approve and ORDER the implementation of the Differentiated Felony Case Management System as set out above on September 16, 2013.

Signed this 6<sup>th</sup> day of February 2015.



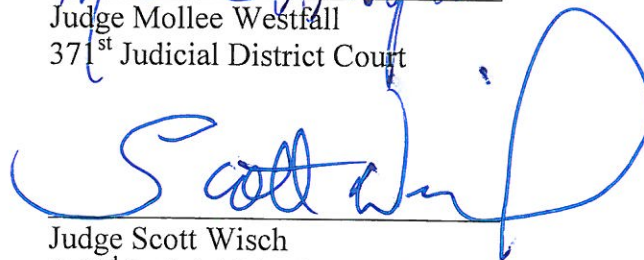
Judge Elizabeth Beach  
Criminal District Court No. One



Judge Mollie Westfall  
371<sup>st</sup> Judicial District Court



Judge Wayne Salvant  
Criminal District Court No. Two



Judge Scott Wisch  
372<sup>nd</sup> Judicial District Court



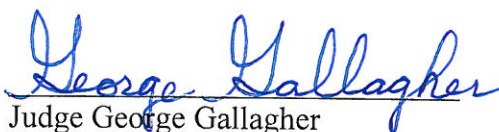
Judge Robb Catalano  
Criminal District Court No. Three



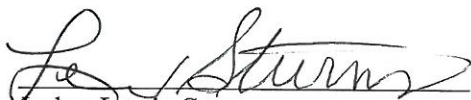
Judge David Hagerman  
297<sup>th</sup> Judicial District Court



Judge Mike Thomas  
Criminal District Court No. Four



Judge George Gallagher  
396<sup>th</sup> Judicial District Court



Judge Louis Sturns  
213<sup>th</sup> Judicial District Court



Judge Ruben Gonzalez  
432<sup>nd</sup> Judicial District Court



**APPENDIX B**

Heartland RADAC Information Form Filled Out During Attorney's Call to Scheduler

**APPENDIX B**

Heartland RADAC Information Form Filled Out During Attorney's Call to Scheduler

Client Name(s)	(Give this)	Maiden Name:	
Initial Contact Date			
Assessment Offered Date			
Scheduled Date			
Scheduled Time			
Location	Location Name (Jail)	Phone	
	Address		
Emergent/Urgent/Routine			
Priority Populations	(Pregnant? IV User?)		
Assessment Type	Assessment		
Number In Household	(Give this)	FPG%:	0.00 %
Annual Income	(Give this)	Last 3Mos	
Funding	(Private Insurance?)	MCD#:	
Fee (for assessment)	(Questions about annual income.)		
Insurance Company	(Name of insurance &/or Medicaid)		
DOB	(Give this)		
SSN	(Give this)		
Phone #	(of attorney)	Alternate	
Referral Source	(Attorney name)		
Additional Information			

**KEY:**

(Items shown in parentheses indicate information that the attorney will need to provide on the phone to the Scheduler.)

Blank items will be completed by the Scheduler during the phone call with the attorney.

## **APPENDIX C**

### Heartland RADAC Eligibility & Scheduling

**APPENDIX C**  
**HEARTLAND REGIONAL**  
**ALCOHOL & DRUG ASSESSMENT CENTER**

**ELIGIBILITY & SCHEDULING**

**Eligibility & Fee Schedule Guidelines**

It is the policy of Heartland RADAC to offer an assessment and/or treatment to any individual who requests our services. If the individual is willing to provide proof of personal and demographic information regarding residency, income and household size, we will be able to determine whether they fall within eligibility guidelines to enable a portion of the fee to be paid by Behavioral Health Services (BHS) /AAPS Funds, Medicaid funds or other third party payers on a sliding scale.

Behavioral Health Services (BHS) /AAPS Funded, Federal Block Grant funds are available for clients who are documented residents of Kansas **and** who have documented income at, or below, 200% of the Federal Poverty Guidelines (FPG). Clients must meet **both** residency requirements and income eligibility before they will be considered eligible for BHS/AAPS funds.

To determine eligibility for BHS /AAPS funding, clients are required to submit documentation to Heartland RADAC, which confirms that their income is within Federal Poverty Guidelines and affirms Kansas Residency. If the client is unable or unwilling to provide the documentation, they will be charged the fee for the assessment service, due at the time of the assessment or before.

**Residency Determination** (Persons in jail automatically meet the residency requirement.)

As evidence of Residency, each client will be asked to provide one of the following:

- Social Security Card
- Current Kansas Driver's License
- Certificate of U.S. Citizenship
- Certificate of Naturalization
- Birth Certificate
- INS Employment Authorization, or
- Any document under list A of the Federal I-9 form (passport, permanent resident card, alien registration card)

**AND**

- Kansas Driver's License
- KS Native American Tribal Document
- Kansas Medical Card
- Kansas Identification Card
- Apartment or house rental receipt in the client's name with a Kansas address
- Utility Bill in client's name and with a Kansas address.
- Signed statement of a family member upon which the client is dependent upon for shelter.
- Signed letter on agency letterhead from a criminal justice staff person or probation officer
- Signed letter on agency letterhead from a social services staff person or similar professional (homeless shelter, therapist, KDCFS case worker, social worker, etc) affirming the person is a resident of KS.
- Individuals incarcerated in Kansas need to provide documentation of scheduled release within the next 60 days.

## **Income Determination**

Compliance with Federal Poverty Guidelines (see most recent FPG at <http://aspe.hhs.gov/poverty/>) shall be documented through financial documents:

- Pay Stubs
- Income Tax Returns
- Letter of unemployment benefits
- Annual benefits letter
- Bank statements
- Signed statement of a family member upon which the client is dependent upon for food or shelter
- Signed letter on agency letterhead from a criminal justice staff person or probation officer
- Signed letter on agency letterhead from a social services staff person or similar professional (homeless shelter, therapist, KDCFS case worker, social worker, etc)

Income is described as earnings, unemployment compensation, workers' compensation, Social Security, Supplemental Security Income, public assistance, veterans' payments, survivor benefits, pension or retirement income, interest, dividends, rents, royalties, income from estates, trusts, educational assistance, alimony, child support, assistance from outside the household, etc.

Noncash benefits such as food stamps and housing subsidies do not count as income.

Income will be determined by the following guidelines at the time of assessment:

- a. Income will be calculated based on earnings over the 90 day period (three months) immediately preceding the date services are requested.
- b. A single person age 18 or older will be considered a household of one, regardless of living arrangements, and only his/her income will be counted.
- c. The income of a person who considers him or herself to be married (legally, common-law, or represents themselves as married) will be based on the combined income of the client and the spouse, and the household size will be two plus any dependent children living in the home.
- d. The income of a client who is a single parent will be based on the client's income, and the household size will be one plus any dependent children living in the home.
- e. A client under 18 years of age living with both legal parents will have his/her income determined based on his/her parents' combined income, and the household size will be three (both legal parents + client) plus any additional dependent children living in the home in accordance with "c" above.
- f. A client under 18 years of age living with a single (legal) parent will have his/her income based on his/her single parent's income and the household size will be two (client + parent) plus any additional dependent children living in the home in accordance with "d" above.
  - *This standard can apply to an adolescent client whose bio-parent is married, but the step-parent has not legally adopted the client. Step-parents would not be counted in income or number in household, unless the child has been legally adopted.*
- g. JJA Clients in State custody, and living at home, will have his/her income determined based on his/her parent(s) income and the household size will be determined based on household size, including parents and any additional dependent children in the home as in "e" or "f" above.

***Definition of dependent child:*** 17 and younger, unmarried, received more than half of his or her support from the parent with whom they reside, must reside with the parent for more than 6 months of the year and meet the residency requirements.

## Service Fee Schedule 2017 / 2018

	Medicaid	Below 100% FPG with KS Residency Documents	Between 100% & 200% FPG with KS Residency Documents	Below 100% FPG without KS Residency Documents	Between 100% & 200% FPG without KS Residency Documents	Above 200% FPG	1 <sup>st</sup> / 2 <sup>nd</sup> DUI Pre-Sentence Evaluation	3 <sup>rd</sup> & Subsequent DUI w/ Journal Entry
<b>Funding</b>	Medicaid	AAPS/BHS	AAPS/BHS + Sliding Fee	Self-Pay Non-AAPS	Self-Pay Non-AAPS	Self-Pay Non-AAPS	Self-Pay Non-AAPS	3 <sup>rd</sup> /4 <sup>th</sup> DUI
<b>Assessment</b>	\$0.00	\$0.00	\$100.00	\$100.00	\$200.00	\$200.00	\$200.00	\$0.00
<b>Individual Therapy</b>	\$0.00	\$0.00	\$0.00	\$100.00	\$100.00	\$100.00	See Previous	N/A
<b>Group Therapy</b>	\$0.00	\$0.00	\$0.00	\$40.00	\$40.00	\$40.00	See Previous	N/A

\*\*\*In the event that a fee has been collected in error, the money will be refunded. The refund will be made to the person or organization (payer) who paid the fee. The fee will be returned to the payer by Cashier's Check within 14 days of receiving request.

### 100% of Federal Poverty Guidelines 2017 / 2018

Number In Family	1	2	3	4	5	6	7	8	Each Additional Person
Annual Income	\$11,880	\$16,020	\$20,160	\$24,300	\$28,440	\$32,580	\$36,730	\$40,890	\$4,180
Monthly Income	\$990	\$1,335	\$1,680	\$2,025	\$2,370	\$2,715	\$3,061	\$3,408	\$348
Hourly Income	\$6	\$8	\$10	\$12	\$14	\$16	\$18	\$20	\$2

### 200% of Federal Poverty Guidelines 2017 / 2018

Number In Family	1	2	3	4	5	6	7	8	Each Additional Person
Annual Income	\$23,760	\$32,040	\$40,320	\$48,600	\$56,880	\$65,160	\$73,460	\$81,780	\$8,360
Monthly Income	\$1,980	\$2,670	\$3,360	\$4,050	\$4,740	\$5,430	\$6,122	\$6,815	\$697
Hourly Income	\$11	\$16	\$20	\$24	\$28	\$32	\$36	\$40	\$4

\*Gross Income

**APPENDIX D**

Suggested Form: Court Appearance Disposition

# Douglas County District Court

Lawrence, Kansas

## Appearance Disposition

Remand:

Jail  KDOC

Name: \_\_\_\_\_

Date: \_\_\_\_/\_\_\_\_/\_\_\_\_ Time: \_\_\_\_\_ Div: 1 2 3 4 5 6 P TR

Case: \_\_\_\_\_  
T/A: \_\_\_\_/\_\_\_\_/\_\_\_\_@\_\_\_\_ \_\_\_\_/\_\_\_\_/\_\_\_\_@\_\_\_\_ \_\_\_\_/\_\_\_\_/\_\_\_\_@\_\_\_\_ \_\_\_\_/\_\_\_\_/\_\_\_\_@\_\_\_\_  
Reason: \_\_\_\_\_  
Bond: \$\_\_\_\_\_ \$\_\_\_\_\_ \$\_\_\_\_\_ \$\_\_\_\_\_  
Bond Type: C/S Cash O/R Same C/S Cash O/R Same C/S Cash O/R Same C/S Cash O/R Same  
Rel Date: \_\_\_\_\_  
Rel Type: TS Dis HA PT Pro TS Dis HA PT Pro TS Dis HA PPT Pro TS Dis HA PT Pro

Conditions of Bond: \_\_\_\_\_

Pretrial Orders:  Signed  To be signed

Additional Paperwork:  Y  N

Others: \_\_\_\_\_

Probation Papers:  Signed  To be signed

### Special Conditions:

- The defendant shall not have any contact with non-Law Enforcement victim(s)/witnesses.
- The defendant shall not return to victims'/witness address.
- The defendant may return to victims' address one time, accompanied by LEO to gather personal belongings needed on a short term basis.
- The defendant may not consume or possess any illegal drugs or alcohol.
- Do not possess any firearms
- Follow Pretrial Release Orders
- Other conditions: \_\_\_\_\_

Comments: \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Additional Information: \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_  
Judge's Signature