

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 rd	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: 396th, CDC2, 372nd and 432nd

Tuesday: CDC3 and 297th

Wednesday: 371st

Thursday: CDC4

Friday: CDC1 and 213th

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.

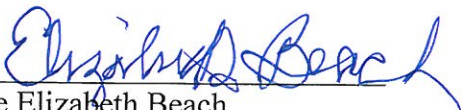
A motion for continuance must be in writing, under oath, and presented in open court with all parties present, as required by the Texas Code of Criminal Procedure. A continuance may only be granted for the prosecution or the defense for sufficient cause shown, as defined by statute.

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 6th day of February 2015.



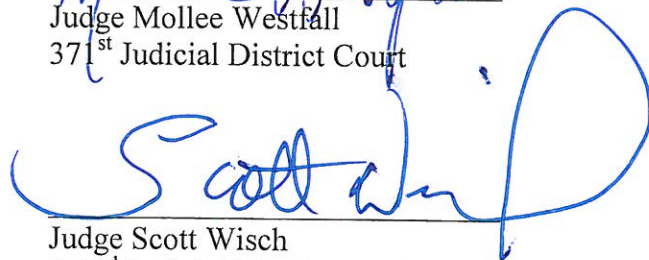
Judge Elizabeth Beach
Criminal District Court No. One



Judge Mollie Westfall
371st Judicial District Court



Judge Wayne Salvant
Criminal District Court No. Two



Judge Scott Wisch
372nd Judicial District Court



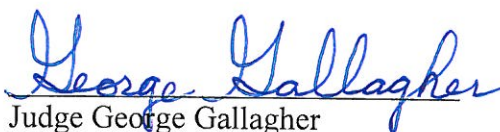
Judge Robb Catalano
Criminal District Court No. Three



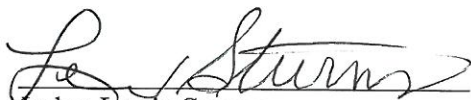
Judge David Hagerman
297th Judicial District Court



Judge Mike Thomas
Criminal District Court No. Four



Judge George Gallagher
396th Judicial District Court



Judge Louis Sturns
213th Judicial District Court



Judge Ruben Gonzalez
432nd Judicial District Court