

**INFORMATION FOR MEMBERS OF
THE INDIGENT FELONY ASSIGNMENT PANELS**

1. Judicial Aide

The Chief Judge of the Circuit Court has been given statutory responsibility for the appointment of counsel in felony cases within Macomb County. This responsibility is implemented through the Judicial Aide Office. The Macomb County system operates under a plan outlined in Local Administrative Order 2003-7. The staff are:

Paula Verticchio, Chief Judicial Aide..... 469-5156

Judicial Aides (collection of reimbursement from defendants):

Katie Brower..... 469-6204

R. Stan Taylor..... 469-5264

Appointment of Attorneys:

Mary Hunt (A and B lists)..... 469-7181

Wendy Nicolai (C list)..... 469-5117

Attorney Fee Statements and Appeals:

..... 469-5789

Bond Orders:

Paula Barron..... 469-4410

2. Assignment Process

The assignment process is begun when a defendant fills out a petition for appointment of counsel. This is normally at district court arraignment, but may be at any time. The district court faxes the completed application to Judicial Aide. The petition is reviewed and Judicial Aide contacts the attorney next on the rotation list for the level needed. If an attorney turns down an appointment, the attorney is moved to the bottom of the rotation list. If an attorney cannot take an appointment due to a schedule conflict, the attorney is skipped, but remains in position on the list.

3. Levels of Assignments

1. " A " Capital cases, i.e. those with a possible sentence of life in prison.
2. " B " Cases with a possible sentence of more than 5 years in prison.
3. " C " Cases with a possible sentence of 5 years or less in prison.

You can only take assignments within your level or a lower level. If for some reason a mistake is made and you are asked to handle a case which is a higher level, contact Judicial Aide for correction of the error.

4. Maintenance of Eligibility

You must attend one criminal law Continuing Legal Education seminar or three mini-seminars annually and submit documentation of attendance to Judicial Aide. The Court accepts seminars given by the Macomb County Bar Association, Oakland County Bar Association, ICLE and other

organizations offering recognized continuing legal education programs (contact the Chief Judicial Aide for guidance, if you have a concern whether a seminar qualifies).

You must also maintain your official State Bar address within the County of Macomb in order to be eligible for the indigent panel list. The Court does not accept post office boxes, mail drops, home addresses or other alternatives as qualifying.

5. Substitution of Retained Counsel

If the defendant retains his or her own counsel after you were appointed, make sure that a substitution is ordered by the judge assigned to the case. You are responsible for the case until an order of substitution is entered by the Court. It is the responsibility of assigned counsel to ensure that an order is entered. New retained counsel has historically been known to fail to follow through, resulting in duplicate notices and representation. A copy of the substitution is to be provided to the Judicial Aide office so that Judicial Aide can make the necessary clerical changes. Promptly forward your billing to Judicial Aide after the substitution. Submit the substitution form with your request for payment. Judicial Aide will then bill the defendant for defense costs to date.

If a retained attorney calls the court appointed counsel in advance, prior to the court date and no appearance has been made, the case will be replaced upon receipt of the signed substitution form in the Judicial Aide Office. Substitution forms signed by a Judge or with the Court date stamp may be faxed to Judicial Aide at (586) 469-5430.

6. Payment for Services Rendered

A request for payment is to be prepared and submitted to Judicial Aide two weeks prior to sentencing. This provides your client with notice and an opportunity to be heard on the question of reimbursement of defense costs.

If the case is dismissed or your client acquitted, submit the billing within six months from the conclusion of the case

Use the Request for Payment of Court Appointed Attorney Fees form (copy attached) for your billing. Other formats will not be accepted. An excellent way to utilize this form is to fill out the basic information in the beginning of the case and keep it in your file. Fill in each service rendered during the case right as you perform it. At the conclusion of the case, the form will be completed and you can immediately turn it in. Note: The form tracks the Indigent Fee Schedule (copy attached).

Interim Statements can only be submitted and paid in the following circumstances:

1. When the defendant absconds and the case is rendered inactive for an extended period of time.
2. When an appeal delays the proceeding.

Fees above and beyond the normal schedule are paid only for "extraordinary" services. This contemplates efforts clearly above and beyond the ordinary and that they were reasonably necessary in defense of the individual. If an attorney seeks compensation for extraordinary services (i.e. investigator, foreign language document translation services, etc.), the attorney must submit an explanation of the request. If Judicial Aide is unable to approve of the extraordinary services based on the explanation, the attorney must seek the extra compensation by motion before the judge assigned to the case. The Court Administrator has appeared in opposition to motions for extraordinary fees which he deems are not reasonable in light of the Indigent Fee Schedule.

No additional payment is allowed for habitual charges under the fee schedule except for proceedings subsequent to the underlying case.

7. Return of Bonds

Funds on deposit from a bond posted by the defendant or a third party in the name of the defendant will be applied towards the obligation. Judicial Aide maintains a supply of forms for return of bond monies and customarily must approve the return of funds before a judge will order the return. Direct initial inquiries to Judicial Aide. Occasionally, hearings are necessary to determine whether monies should be returned to third parties who post bonds in the name of the defendant.

8. Discovery

Both the defendant and the prosecutor are entitled to discovery under the court rules. Judicial Aide provides the Prosecutor's Office with a copy of new Orders of Appointment on a daily basis. The Prosecutor routinely provides indigent counsel copies of documents in their files without charge. If Defense Counsel has not received their discovery packet within a few days of the court appointment, they should contact the Prosecutor's Office to request copies. A copy of the order appointing counsel will be required to obtain them free of charge.

9. Experts

If defense counsel feels experts (psychologists, investigators, etc.) are a necessary element of a defense, counsel must seek appointment of the expert from the judge appointed to the case by motion. The order of appointment must state a specific monetary maximum amount that the expert will be paid. Generally, fees for experts are limited to \$750.00. In extraordinary circumstances, a higher amount may be allowed by the judge. Counsel must be prepared to document the reasons for the higher amount. The expert must forward his or her bill along with the order of appointment to Judicial Aide in order to receive payment.

10. Transcripts

If defense counsel wishes transcripts during trial level proceedings, counsel should contact Judicial Aide and make a written request. Judicial Aide will grant requests which show good cause. If Judicial Aide is unable to grant a request, counsel must request transcript by motion before the judge assigned to the case.

11. Interpreters

If a litigant is deaf or deafened, a sign-language interpreter will be obtained by Judicial Aide at County expense on request. If the deaf or deafened person cannot read sign language, an accommodation such as real time reporting can be explored. Counsel must notify Judicial Aide of the dates and times that interpreters are necessary and of any adjournment(s) of the proceedings.

If an indigent defendant needs language interpretation in order to ensure a fair trial, an interpreter will be provided as part of defense costs. Appointment of an interpreter may have to be decided by motion by the judge assigned to the case if there is a question as to whether an interpreter is appropriate.

Judicial Aide must have notice of the next scheduled date and time in order to schedule an interpreter. The interpreter is appointed for the duration of the case, usually beginning during preliminary proceedings at the district court. Since the interpreter must follow the case and doesn't

get his or her own notices, defense counsel must notify the interpreter of all adjournments and the new date(s) and time(s). This includes adjournments by the Prosecutor or judge – they don't have the information needed to contact the interpreter.

Interpreters for witnesses will be provided in rare instances. Generally, this is a cost of the Prosecutor if the witness is a prosecution witness.

12. Americans with Disabilities Act Accommodations

If a litigant, etc., has a disability within the definition of the American's with Disabilities Act, a reasonable accommodation can be requested of Judicial Aide. Although formality is not required in most instances, a written application for accommodation is available at the Judicial Aide Office.

13. Pre-Sentence Reports

Pre-Sentence reports are made available to defense counsel at least two days prior to sentencing at the office of the judge assigned to the case. Contact the judge's secretary for further information.

14. Visiting Judges

The Court often utilizes visiting judges to assist with its docket. As a result, specific cases may be referred to a visiting judge for trial. A visiting judge who takes a guilty plea sentences the defendant unless the visiting judge is unavailable or the parties agree to a sentence before another judge. If further proceedings are required after sentencing, it is within the discretion of the assigned judge whether to ask the Court Administrator to refer the matter to the same visiting judge. If a hearing is needed, the assigned judge should be consulted to see if the matter should be heard by the assigned judge or the visiting judge.

15. Line-Ups

If a line-up is sought by law enforcement following your appointment to a case, you need not attend due to a potential conflict since you might be called as a witness to the line-up. Contact Judicial Aide and request appointment of an attorney to attend the line-up that has been requested by the Macomb County Sheriff's Office. Each city's police department is responsible for their own line up.

16. Defense Attorney Subpoenas

It is the policy of the Prosecutor's Office to assist in attempting to serve subpoenas for court appointed attorneys on criminal cases, upon request. The subpoenas must be prepared by the court appointed attorneys and delivered to the Prosecutor's Office for service. Once received, they will attempt to have the subpoenas served by either the officer in charge or by their investigators.

The Prosecutor's Office does not accept witness lists from court appointed attorneys to generate, print and serve their subpoenas along with their own.

Retained attorneys are responsible for the generation and service of their own subpoenas.