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# **RULES OF COURT**

## **Harris County Criminal Courts at Law**

Ammended January, 2002

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**TABLE OF CONTENTS**

**RULE 1. GENERAL PROVISIONS .....2**

**RULE 2. PROCEDURE FOR THE FILING OF CASES.....2**

**RULE 3. TRANSFER OF CASES .....5**

**RULE 4. INITIAL SETTINGS.....6**

**RULE 5. ADDING CASES TO THE DAILY DOCKET..... 11**

**RULE 6. DOCKETING OF MISDEMEANOR INDICTMENTS ..... 11**

**RULE 7. DOCKETING OF NON-RECORD MUNICIPAL COURT AND JUSTICE COURT APPEALS..... 11**

**RULE 8. DOCKETING OF CASES: JUDGE RECUSAL OR DISQUALIFICATION..... 13**

**RULE 9. SCHEDULE OF BOND AMOUNTS..... 14**

**RULE 10. REFUND OF CASH BONDS ..... 15**

**RULE 11. BOND FORFEITURE REINSTATEMENTS, DISMISSALS, AND JUDGMENTS ..... 15**

**RULE 12. APPROVAL OF PERSONAL BONDS DURING NON-BUSINESS HOURS ..... 16**

**RULE 13. SIGNING OF PLEADINGS ..... 16**

**RULE 14. PREPARATION OF JUDGMENTS ..... 16**

**RULE 15. RESTRICTED DRIVER LICENSES ..... 17**

**RULE 16. ATTORNEY OF RECORD ..... 17**

**RULE 17. JUVENILE DEFENDANTS..... 18**

**RULE 18. COUNTY CRIMINAL COURT MANAGEMENT PROGRAM ..... 19**

**RULE 19. CODE OF JUDICIAL CONDUCT ..... 22**

**RULE 20. COURTS ..... 22**

**RULE 21. SATISFACTION OF JUDGMENT: ORDER PERMITTING PARTIAL PAYMENT ON FINES AND COSTS ..... 22**

**RULE 22. SCHEDULE OF FEES FOR COUNSEL APPOINTED TO REPRESENT DEFENDANTS IN THE HARRIS COUNTY CRIMINAL COURTS AT LAW ..... 22**

**RULE 23 VIEWING AND COPYING DWI VIDEO TAPES ..... 23**

**RULE 24 RELEASE OF CLERK'S RECORD TO COUNSEL ..... 24**

**RULE 25 CERTIFICATION AND COMPENSATION OF APPOINTED ATTORNEYS ..... 25**

## **RULE 1. GENERAL PROVISIONS**

On December 3, 1998, the duly elected and appointed judges of the county criminal courts at law of Harris County, Texas, met and adopted the following rules to facilitate the efficient management of the courts' dockets. These rules take effect on December 3, 1998.

These rules, in conjunction with the Code of Criminal Procedure, and the Government Code, govern proceedings in the Harris County Criminal Courts at Law. These rules shall not be construed as extending the jurisdiction of these courts, nor shall they be construed to overrule or conflict with the Texas Government Code, Texas Code of Criminal Procedure, Texas Penal Code, Texas Rules of Evidence, or Texas Rules of Appellate Procedure. These rules are intended to govern local proceedings where such rules are not in conflict with existing law and where such rules are consistent with state statutory law and rules promulgated by the Texas Court of Criminal Appeals and the Texas Supreme Court.

The district clerk shall not make any changes with regard to random filing, numbering of cases, docketing of cases, transfer of cases, assignment of settings, or any other matters that affect the distribution of work or the conduct of the business of the Harris County Criminal Courts at Law unless so directed by the judges of the county criminal courts at law.

## **RULE 2. PROCEDURE FOR THE FILING OF CASES**

### **A. Numerical Sequence**

Each case filed and docketed into the county criminal courts at law shall be assigned a sequential number based on the following case number structure:

Beginning January 1, 2000 case numbers shall consist of seven numerical digits, the first case number filed on January 1, 2000 shall be "0978400." Case numbers shall continue sequentially thereafter, which scheme shall allow cases to be numbered through 9,999,999.

The following rules shall govern the assignment of misdemeanor cases and other matters within the jurisdiction of the County Criminal Courts at Law of Harris County, Texas:

### **B. Random Filing**

All misdemeanor proceedings filed with the district clerk shall be randomly assigned by the district clerk to the various county criminal courts at law. This shall be accomplished by means of a blind filing process that provides for the equal distribution of new cases in such a manner that it cannot be determined to which court a case will be assigned until after the assignment occurs.

The primary means of assignment of cases shall be through the use of a computer program that provides for the random assignment and equal distribution of cases. The computer program shall be capable of maintaining a journal of filings and distribution of cases that will permit periodic or random audit to determine whether the program is assigning cases as intended.

If the primary means of assignment, the computer program, is not available, the district clerk's office shall use the manual random selection device for the filing of cases into the county criminal courts at law. Prior to each case assignment, the random selection device shall be rotated on its axis, and one ball therein shall be withdrawn. The court number indicated on the ball randomly chosen shall become the assigned court for the case. The district clerk shall add the ball back into the random selection device immediately, so as to not disturb the random filing and docketing of all other cases into the county criminal courts at law.

The clerk shall receive, assign and account for all cases in ascending numerical sequence.

### **1. How Cases Are Attracted To The Courts**

Before using the computer program or the manual random selection device to determine court assignment for a given case, the district clerk shall determine by research whether the defendant named in the misdemeanor information has a prior connection to an existing case in any of the county criminal courts at law. A prior connection is established when:

- ( ) a defendant has been accorded misdemeanor probation in one of the county criminal courts at law and the probation has not been revoked or been terminated;
- ( ) a defendant has prior pending misdemeanor charges in one of the county criminal courts at law, to include pending appeals of class C offenses from courts that are not courts of record;
- ( ) a defendant is charged and the charge arose from the same criminal transaction that was the basis of a misdemeanor information previously filed in one of the county criminal courts at law;
- ( ) a defendant has been accorded deferred adjudication in one of the county criminal courts at law and the deferred adjudication has not been terminated or adjudicated;
- ( ) a defendant has been granted a restricted driver's license in one of the county criminal courts at law and is charged with a subsequent DWI (Driving While Intoxicated) or DWLI (Driving While License Invalid);
- ( ) a defendant has not discharged his or her sentence;
- ( ) a defendant was accorded probation or deferred adjudication and he or she has appealed the decision; or
- ( ) a defendant with a case on appeal is charged with a new offense.

If one or more of the above prior connections exists, the new misdemeanor case shall be attracted to the court in which the defendant has the prior connection.

In the event that a case is attracted to a court in error, then the coordinator of the court receiving the case in error shall complete a transfer order to be signed by the presiding or co-presiding judge that orders the case back into rotation. The order is

then returned to the district clerk for compliance therewith. (Submitted for approval April 2001 – wb)

## **2. Filing of Cases Charging Public Lewdness, Prostitution, Violations of the Alcoholic Beverage Code, or County or Municipal Ordinances Relating to Sexually Oriented Businesses**

There is no attraction by either codefendant or transaction in cases charging public lewdness, prostitution, violations of the Alcoholic Beverage Code, or county or municipal ordinances relating to sexually oriented businesses. The clerk shall apply all other rules of attraction.

## **3. Appeals From Lower Courts**

- ( ) City of Houston municipal appeals are filed into the county courts on a rotation basis and are not attracted to an already pending misdemeanor, nor do such cases attract other misdemeanors.
- ( ) All other lower court appeals are trial de novo cases. They are attracted to other misdemeanors already pending against the same person and, likewise, attract other misdemeanors when pending. These cases are simply new county court cases.
- ( ) Each category attracts additional lower court appeals in its own category. For example, an appellee/defendant who, having a pending City of Houston municipal appeal, appeals another City of Houston case will have the newer appeal filed into the court where the extant appeal is pending. Similarly, an appellee/defendant who, having a pending appeal from a lower court other than a municipal court of the City of Houston, appeals another non-City of Houston case will have the newer appeal filed into the court where the extant appeal is pending.
- ( ) Finally, City of Houston municipal appeals do not attract other lower court appeals, and other lower court appeals do not attract City of Houston municipal appeals.

## **4. Refiles, Writs of Habeas Corpus, Mandamus, Prohibition, Restricted Driver Licenses, Fugitives**

If a case is refiled, it shall be assigned to the same court as the case it supersedes. The district clerk is then authorized to attract and set the refiled case in the court where the initial misdemeanor information is or was pending. The setting date assigned to the refiled case will be the same date as that of the initial pending case. If the initial case is no longer pending, the refiled case shall be set in accordance with the rules governing the filing of new cases.

Motions for leave to apply for writs of habeas corpus, mandamus, or prohibition shall be filed pursuant to an order by the court agreeing to hear those matters. Petitions for restricted driver licenses shall be filed in the court in which the conviction was entered and the driver license suspended. Petitions for restricted driver licenses filed by a Harris County resident that result from a suspension for an offense committed in another county (other than for driving while intoxicated or an

offense or administrative violation that results in a suspension) shall be filed in any court agreeing to hear those matters, or as provided for in section A of Rule 2. Fugitive cases shall be filed in County Criminal Court at Law No. 10.

Unless the above categories of cases are later transferred by agreement of the judges or are transferred by authority of a separate order, all such assigned cases shall remain on the docket of the court of assignment until final disposition.

### **RULE 3. TRANSFER OF CASES**

#### **A. Research by Clerk**

Upon filing and docketing of misdemeanor indictment or information into the county criminal courts at law, the district clerk will determine by research whether the named defendant has a prior connection in any of the county criminal courts at law. This research shall be done in accordance with the criteria established in Rule 2.

#### **B. Refiling of Cases**

All re-files of cases pending or dismissed shall be filed and docketed in accordance with statutory rotation. The district clerk is authorized to transfer and set the refiled case in the court where the initial misdemeanor indictment or information is or was pending. If the initial case is pending, the setting date assigned to the refiled case will be the same as that for the initial case. If the initial case is not pending, the refiled case shall be given an appropriate setting in accordance with these rules.

All writs of habeas corpus, contempt, and ex parte matters shall be filed and docketed in accordance with these rules. The district clerk is authorized to transfer and set the proceedings in the court where a prior case connection exists or, if no prior connection exists, to transfer the proceeding to the court wherein the hearing on such proceedings is to be conducted.

#### **C. Docket Notation**

When it has been determined that a case is to be transferred from one court to another, the judge of the sending court shall enter a docket notation that the case is to be transferred and shall specify the court to which the case is to be transferred.

#### **D. Transfer Order**

After the docket notation is completed, the clerk of the sending court will prepare a transfer order, obtain the judge's signature, and cause the signed order and court case file to be timely delivered to the clerk of the receiving court. The clerk of the receiving court will obtain the receiving judge's signature on the transfer order. At that time the receiving coordinator will set the case in the receiving court and complete the setting information on the bottom of the transfer order.

### **E. Entry of Transfer Order**

The clerk of the receiving court will deliver the completed transfer order and the court file to the district clerk's office. The transfer order will be entered and verified in the records maintained by the Justice Information Management System. The entries in the court case file will be completed prior to data entry/data verification of the transfer order. A copy of the completed transfer order bearing the transaction number will be filed in the court's case file. Duplicate copies of the transfer order shall also be provided to the clerk of the receiving court for delivery to the assistant district attorney assigned to that court and to the defense attorney of record.

### **F. Justice Information Management System Update**

The district clerk shall update the Justice Information Management System records with the case setting date of the receiving court, and shall enter the reason for the transfer. At that time, the setting record remaining in the transferring court will be closed.

## **RULE 4. INITIAL SETTINGS**

### **A. First Settings**

The first setting date of the case shall be known as the arraignment setting and it shall be provided by the district clerk on all cases except those filed as non-arrests, where instead a capias is issued for the defendant. The clerk shall set first settings in the following manner:

Cases filed on Monday through Thursday shall be set for arraignment on the same day of the following week. Cases filed on Friday, Saturday, or Sunday shall be set for arraignment on the following Friday.

Non-arrest cases shall be set for arraignment in accordance with the above rules upon the filing of an executed capias.

The first setting shall be entered by the district clerk at the time the complaint and information are filed. The setting information shall be reflected on the complaint document above the misdemeanor charge literal in a manner that will provide this setting information on all copies of the indictment, information, and complaint. Further, when a bond is filed with the district clerk, the district clerk shall provide written notice of the case's first setting date to the person filing the bond.

### **B. Probable Cause Hearings for Further Detention**

#### **1. Appearance Before A Criminal Law Hearing Officer**

When the district clerk files an indictment, information, or complaint alleging the commission of a misdemeanor offense within the jurisdictional limits of a county criminal court at law and the defendant is in the custody of law enforcement officials in Harris County, the district clerk shall update the electronic records in the automated system to reflect that charges have been filed. Further, by general order

of the judges of the county criminal courts at law, all law enforcement officials in Harris County shall cause the pretrial detainees in their respective custody to be delivered to the criminal law hearing officer not later than twelve hours after charges are filed and entered by the district clerk into the automated system and not more than 48 hours after arrest for the purpose of conducting a hearing to determine probable cause for further detention. Personnel and electronic files, along with original and hard copy files, where appropriate, from the district attorney, district clerk, and office of court services (pretrial services agency) necessary to conduct the hearings shall be present and made available to the criminal law hearing officer. All detainees will be deemed to have been "taken before a judge or judicial officer" if they are physically present at the hearing, or if their participation is achieved by the use of high-speed, two-way audio/video transmission technology. In circumstances where audio/video technology is utilized, the entire hearing must be recorded on videotape and maintained by the court for a period of one hundred twenty (120) days after the hearing. A written record, of the proceedings shall be made.

## **2. Hearing Actions**

The criminal law hearing officer shall perform the following for every person for whom a hearing is conducted:

- (a) inform the accused in clear, understandable language, or through the use of an interpreter consistent with TEX. CODE CRIM. P. ARTICLES 38.30 and 38.31, as appropriate, of the charges against him and of any complaint or information that may have been filed against him;

inform the accused of the accused's right to retain counsel, of the accused's right to remain silent; of the accused's right to have an attorney present during any interview with peace officers or prosecutors; of the accused's right to terminate police interrogation at any time; of the accused's right to request the appointment of counsel if the accused is indigent, and inform the accused of the process for requesting an appointed attorney; and ask the accused if the accused requests appointed counsel; and that any statement the accused makes can and probably will be used against the accused at trial;

- (i) if the accused affirmatively requests appointed counsel, the judicial officer shall, if assistance is requested, instruct Court Services personnel to assist the accused in completing the form. Court Services personnel shall assist the accused in completing the form. If the accused has not yet been interviewed, Court Services personnel shall conduct an interview.
- (ii) if the accused does not request appointed counsel, the judicial officer shall record that fact.

determine whether probable cause exists for the further detention of the accused on the charges filed, through the use of live witness testimony, affidavits, the arresting officer's testimony, an analysis of the written offense report, field notes, or other reports prepared by the arresting officer;

in cases involving the offense of stalking or family violence, determine whether a magistrate's order for emergency protection should be entered;



enter the basis and results of the findings on the record and have the same included in the papers of the case file maintained by the district clerk;

upon a finding that no probable cause for further detention exists, the criminal law hearing officer shall issue a signed order to the sheriff to immediately release the accused from custody in that case; and

upon a finding that probable cause for further detention exists, the criminal law hearing officer shall, after determining whether the accused is currently on bail for a separate criminal offense, set the amount of bail required of the accused for release and shall determine the eligibility of the accused for release on personal bond, cash bond, surety bond, or other alternative to scheduled bail amounts, and shall issue a signed order remanding the defendant to the custody of the sheriff. A copy of such finding and return by the sheriff shall be retained by the district clerk in the case file.

### **3. Initial Bail Schedule**

The bail schedule maintained by the county criminal court at law judges for all misdemeanor offenses occurring within the courts' jurisdiction shall be referred to by the criminal law hearing officer. The initial setting may be changed on motion of the court, the hearing officer, or any party subject to the following criteria:

- ( ) the bail shall be sufficiently high to give reasonable assurance that the defendant will comply with the undertaking;
- ( ) the nature of the offense for which probable cause has been found and the circumstances under which the offense was allegedly committed are to be considered, including both aggravating and mitigating factors for which there is reasonable ground to believe shown, if any;
- ( ) the ability to make bail is to be regarded, and proof may be taken upon this point;
- ( ) the future safety of the victim and the community may be considered, and if this is a factor, release to a third person should also be considered; and
- ( ) the criminal law hearing officer shall also consider the employment history, residency, family affiliations, prior criminal record, previous court appearance performance, and any outstanding bonds of the accused.

### **4. Monitoring of Incarcerated Defendants**

It shall be the responsibility of the courts' coordinators to monitor daily the status of each detainee still in custody to determine whether the detainee has appeared before the criminal law hearing officer for a detention hearing. If a detention hearing has not been held, the court will hold a hearing as set forth above. The court will also consider the issue of appointment of counsel where raised by the defendant.

### **C. Incarcerated Defendants' Twenty-four Hour Setting**

A twenty-four hour setting will be provided for all cases by the court in which the case is pending, wherein the defendant remains incarcerated in the Harris County jail. These

hearings will be conducted at regular docket calls on Monday through Friday. The defendant shall be docketed in accordance with the following schedule, and in such cases the initial seven-day setting shall be canceled.

<b>Court Appearance Schedule</b>			
<b>Date Booked</b>		<b>24-Hour Appearance</b>	
Sunday	0001-2400	Monday	0900
Monday	0001-2400	Tuesday	0900
Tuesday	0001-2400	Wednesday	0900
Wednesday	0001-2400	Thursday	0900
Thursday	0001-2400	Friday	0900
Friday	0001-2400	Monday	0900
Saturday	0001-2400	Monday	0900

At all other times (weekends, holidays, and nights), defendants booked into the county jail on any and all process pending in or issued out of the county criminal courts at law, shall be brought immediately before a criminal law hearing officer who shall determine if probable cause exists for the continued detention of the defendant.

**D. Subsequent Settings**

All subsequent settings of misdemeanor cases shall be the specific responsibility of the judge or coordinator of each of the county criminal courts at law, who will file a notice of setting in writing with the district clerk or provide notice by entry on the court's docket sheets. That notice is to be used by the clerk for recording data in the automated system.

**1. Bond Reinstatement**

When a case is again active because of the reinstatement of a bond, either with or without cost, the district clerk shall enter a seven-day setting, except when a setting already exists in the system. When a setting already exists, the date in the system shall prevail as the next setting date.

**2. Bench Warrants and Attachments**

Such documents shall have a setting date in the body of the document and the district clerk shall set accordingly.

**3. Summons in Lieu of Capias**

- (a) When a misdemeanor information is filed against a corporation in, for example, a pollution case, the process issued shall be a summons rather than a capias. The summons shall require that the corporation make an appearance at 10:00 A.M.

on the first Monday next following the expiration of twenty days from the date of service.

- (b) When a summons is used against a defendant in lieu of a *capias* in a misdemeanor information that is a refile of an earlier-filed misdemeanor information, the appearance date on the newly filed case shall be set for the same date as the earlier filed case, except when the earlier filed case has no setting. In that event, both cases shall be set for seven days, and the setting in the refiled case shall be for arraignment.
- (c) Neither a summons nor a *capias* may issue without a judicial finding of probable cause.

#### **4. Notice of Appeal**

The district clerk shall notify the court coordinator or judge of the court when a notice of appeal is filed in a case in which the court either has entered judgment or suspended the imposition of judgment. The court coordinator shall place the case on the court's docket as directed by the judge, or on the next regular business day. The court coordinator shall notify the defendant and the defendant's attorney-of-record of the setting (*see form at Policies and Procedures, Appendix, Page A-6*).

#### **5. Notice to Court When Appeal Bond Not Filed**

When a defendant has given notice of appeal and an appeal bond has not been filed in the papers of the cause within forty-eight hours, a report shall be sent to the court apprising the court that an appeal bond has not been filed. Upon receiving such a report, the court shall notify the appellant/defendant's attorney. If the appellant/defendant has no attorney, the appellant/defendant shall appear before the court. If the appellant/defendant does not post an appeal bond, the court shall issue a *capias* for the appellant/defendant.

#### **6. Mandate of Abatement**

The district clerk and court coordinator shall notify the staff attorney for the county criminal courts at law upon receipt of a mandate or order of abatement. The court coordinator shall set a date from fourteen (14) to twenty one (21) days from the date of receipt of order or mandate. The coordinator shall notify the surety, the principal, and the attorney-of-record by certified mail.

#### **7. Mandates of Affirmance and Reversal and Remand**

The district clerk, upon receipt of an order or mandate, shall determine whether the defendant is in the Harris County jail. If the defendant is in jail, the case shall be set the next day court is convened. If the defendant is on bond, the district clerk shall immediately issue a *capias* for the defendant, provide a seven-day setting, and forward the information to the court coordinator. Immediately upon receipt of the information from the clerk, the court coordinator shall notify the attorney-of-record on appeal, the surety on the appeal bond, if one exists, and the appellant by regular

mail. The court coordinator shall also attempt to notify the above parties by telephone.

## **8. Violation of Post Judgment Orders**

The Sheriff shall bring any person arrested for violating a post judgment order issued by a Judge of a County Criminal Court at Law before a Criminal Law Hearing Officer. The Hearing Officer shall determine the identity of the person, and conduct a hearing on the reasons for the person's arrest and enter such orders as provided by law.

## **RULE 5. ADDING CASES TO THE DAILY DOCKET**

Only the judge or the coordinator of the court may approve the addition of a case to the docket.

To request the addition of a case to the court's docket, the requesting party (district attorney, defense attorney, court clerk, sheriff, et cetera), shall submit to the court coordinator the case number, defendant's name and status (jail or bond), and the reason for the request.

Those cases approved for addition to the court's docket will be submitted via the county criminal courts at law add-on form to the clerk of the court by 3:00 p.m. of the day before the case(s) is/are to be added to the docket. Jail cases may be exempt from this time requirement.

## **RULE 6. DOCKETING OF MISDEMEANOR INDICTMENTS**

Upon receipt of a misdemeanor indictment returned by a Harris County grand jury and certification that the cause is to be transferred to the docket of the county criminal courts at law, the cause shall be randomly filed and docketed into the county criminal courts at law in the manner prescribed by law and in accordance with these rules. The district clerk shall endorse the amount of bail upon the papers of the case in accordance with the bail schedule provided by these rules. The district clerk shall then issue a capias to the sheriff of Harris County, who shall immediately attempt to apprehend the defendant.

## **RULE 7. DOCKETING OF NON-RECORD MUNICIPAL COURT AND JUSTICE COURT APPEALS**

### **A. Original Cause Numbers**

All cases transmitted to the district clerk of Harris County, Texas, by municipal and justice courts for the purpose of appeal of misdemeanor convictions shall contain all original papers filed, an appeal bond, and a certified transcript of all proceedings had in the transmitting court.

#### **1. Notice To Appellant**

Where the transcript is complete, the de novo appeal shall be set for arraignment and a pretrial hearing (as provided by Article 28.01, CCP) thirty (30) days from the date that notice of the hearing is sent via regular mail by the district clerk to the defendant

at the address shown on his bond. If the bond shows no such address, the notice may be addressed to one of the sureties on the bond. The provisions of Article 28.01, CCP, shall control the filing and hearing of all matters and the conduct of the proceedings.

## **2. Contents of Notice**

The notice shall contain the cause number assigned to the appeal and the court into which the case was assigned; the time, date, and location of the court in which the defendant is to appear; and shall contain the following statement:

"The court has scheduled your arraignment and a pretrial hearing in this case on the above date. At this setting you will be asked to enter a plea of not guilty, nolo contendere, guilty, or make any other special plea provided by law. In addition, the Court will hear any matters you or your attorney wish to raise prior to trial at this time. These matters must be raised by written pretrial motion filed with the clerk of the court not later than seven (7) days before the hearing date, unless you receive permission from the judge of the court to file them on another date."

## **3. Defendant in Custody**

Where the defendant is in custody, the de novo appeal shall be set for arraignment on the next date the court is in session.

## **B. Filing and Attraction of Municipal and Justice Court Appeals.**

Two types of municipal appeals, referred to in the system as MAPs, are distinguished: *City of Houston municipal appeals*, and *all others*, including justice court and non-record municipal cases.

- ( ) City of Houston municipal appeals are filed into the county courts on a rotation basis and are not attracted to an already pending misdemeanor nor do such cases attract other misdemeanors.
- ( ) All others are trial de novo cases and are attracted to other misdemeanors already pending against the same person and, likewise, attract other misdemeanors when pending. These cases are simply new county court cases.
- ( ) Each category attracts additional MAPs in its own category. For example, an appellant/defendant who, having a City of Houston municipal appeal pending, appeals another City of Houston case will have the newer appeal filed into the court where the extant appeal is pending.
- ( ) An appellant/defendant who, having any other municipal or justice court appeal pending, appeals another non-City of Houston case will have the newer appeal filed into the court where the extant appeal is pending.
- ( ) City of Houston appeals do not attract other municipal appeals and other municipal appeals do not attract City of Houston appeals.

## **RULE 8. DOCKETING OF CASES: JUDGE RECUSAL OR DISQUALIFICATION**

The judge who determines that recusal or disqualification is required shall contact, or have the coordinator contact, the district clerk's office to request that the random selection device for the filing of cases into the county criminal courts at law be rotated on its axis and that one ball therein be withdrawn. The court number indicated on the ball randomly chosen shall become the receiving court for the case. Should that ball reflect the number of the recused/disqualified court, the ball will be returned to the random selection device and it shall be rotated again and another ball withdrawn. This process will be repeated as necessary until a ball is withdrawn that does not reflect the recused/disqualified court.

The district clerk shall certify in writing the receiving court selected for the cause and transmit that certification to the judge of the court who has ordered the recusal or disqualification. The district clerk shall add the ball(s) back into the random selection device immediately so as to not disturb the random filing and docketing of all other cases into the county criminal courts at law.

The recused or disqualified judge shall cause a transfer order to be initiated, with the transfer reason of "recuse" or "disqualified" indicated thereon, and shall transfer the cause to the court indicated by the clerk's certification of random selection. The certification of random selection shall be filed in the papers of the cause transferred.

If the judge of the receiving court determines that he or she must also recuse, he or she shall initiate the foregoing procedures to select a new receiving court.

A court receiving a recused case does not transfer a case to the recusing court.

## **RULE 9. SETTING AND MODIFYING BAIL**

### **SCHEDULE OF BAIL AMOUNTS**

Pursuant to the agreed final judgment and order of the federal court in *Roberson v. Richardson* (No. H-84-2974), Southern District of Texas [1987]), the Harris County Criminal Court at Law Judges promulgate this initial bail schedule. The district attorney shall affix an initial bail amount at the time a complaint is filed in a county criminal court at law. The initial bail amount shall be determined by either presenting relevant information in the possession of the district attorney to a county criminal court at law judge, or Harris County Hearing Officer, or by applying the initial bail schedule. The district clerk shall record the bail amount set by the judicial officer or applied by the district attorney from the initial bail schedule in the case file. This shall be the exclusive means of setting the initial amount of bail, unless otherwise directed by the Judges of the Harris County Criminal Courts at Law.

#### **Misdemeanor Bail Schedule**

Class: B, Standard Offense

1st Offense	\$500
2nd Offense	\$500, plus \$500 for each prior misdemeanor conviction plus \$1,000 for each prior felony conviction Not to exceed \$5,000

Class: A, Standard Offense

1st Offense	\$1,000
2nd Offense	\$1,000, plus \$500 for each prior misdemeanor conviction \$1,000 plus \$1,000 for each prior felony conviction not to exceed \$5,000

Class: Family Violence or Threat of Violence

1st Offense	\$1,500
2nd Offense	Plus \$2,000 for each prior conviction for a violent offense or threat of violence

Class: DWI

First Offense	\$500
Subsequent Offense	\$2,500 plus \$1,000 for each prior conviction not to exceed \$5,000

Class: Any offense committed while on bond, \$5,000  
community supervision, intervention, or  
parole.

Any motion to adjudicate or revoke \$5,000  
community supervision.

**An amount other than that prescribed above, if recommended by the District Attorney's Office and accompanied by a written statement of the reason or reasons therefore, or upon oral presentation made to a Judge of a County Criminal Court at Law of Harris County, Texas, or a Harris County Criminal Law Hearing Officer.**

## **RULE 10. REFUND OF CASH BONDS**

Unless a notice of appeal is given, cash bond deposits will be refunded to depositors *other than the defendant* upon final disposition of the criminal proceeding. If a notice of appeal is given, refunds will not be given until a replacement bond has been duly filed with the district clerk.

In the event the criminal proceeding is reversed and remanded to the trial court, no refund or assignment will be granted until a replacement bond has been duly filed with the district clerk.

## **RULE 11. BOND FORFEITURE REINSTATEMENTS, DISMISSALS, AND JUDGMENTS**

All bond reinstatement orders, bond forfeiture dismissal orders, and agreed judgments, wherein payments of costs of judgments are involved, shall be presented in person by the bonding agency only to the judge of the court wherein the forfeiture occurred.

The total amount of the costs on bond reinstatements with costs, dismissals with costs, and in the case of agreed judgments the total amount of judgment and costs, will be delivered to the court along with the order of judgment by the bonding company.

Money orders, cashier's checks, and firm checks, payable to the Harris County district clerk, are the only tender that will be accepted. Cash payments may be made in advance and a receipt obtained from the district clerk and presented with the order or judgment.

All bonding agencies shall be required to obtain the future setting date from the court coordinator prior to presenting orders of reinstatement and costs. All future settings shall be seven days from the date of the reinstatement order.

Upon reinstatement, dismissal, or approval of agreed judgment by the judge of the court wherein the forfeiture occurred, the order, judgment, and the accompanying tender shall be delivered by the judge to the clerk of his court for delivery to the district clerk's office.



## **RULE 12. APPROVAL OF PERSONAL BONDS DURING NON-BUSINESS HOURS**

### **A. Personal Bonds During Non-Business Hours**

The following procedures will control the filing of personal bonds at the directive of a county criminal court at law judge by telephone, at night, on weekends, or on holidays. The only type of personal bond that will be accepted will be the court personal bond:

- . The district clerk will verify the request with the judge or a criminal law hearing officer by telephone at a designated number (his home phone) or at a number provided by said judge at the time the district clerk receives the request.
- . The district clerk will determine where the defendant is incarcerated and will prepare all personal bond documents for defendants.
- . The district clerk will prepare the personal bond form, secure the defendant's signature on the bond and issue the court's directive (C-87) to effect the release of the defendant. If a call is received for a defendant in the city jail or outlying holding agency, the district clerk will process the personal bond and release as soon as the defendant is received in the Harris County Jail. One seeking or having an interest in the release of the defendant may take the bond to the city jail or other holding agency, have it signed by the defendant in the presence of a notary or the clerk of the court in which the case is pending, and return it to the district clerk, who shall then issue the appropriate court directive (C-87) to the sheriff.
- . The sheriff will issue a release for the defendant. If the defendant is incarcerated in the city jail or an outlying agency, the release may be carried there by a person having an interest in the release of the defendant. Otherwise, the defendant will not be released until after such time the defendant is received in the Harris County Jail.
- . The bond will be presented to the Judge, or to a Criminal Law Hearing Officer, if the Judge so directs, on the next regular working day for his signature.

## **RULE 13. SIGNING OF PLEADINGS**

Every pleading, brief, or motion of a party represented by an attorney, shall bear the manuscript signature of at least one of the attorneys of record, in his individual name, along with his state bar card number, address, and telephone number. The pleading, brief, or motion shall further contain a certification that a copy of the document was mailed or hand-delivered to opposing counsel.

## **RULE 14. PREPARATION OF JUDGMENTS**

In single count indictments or informations, the district clerk of Harris County, Texas, shall prepare the judgment in the case at the time the judgment is rendered, and present it without delay to the trial judge for approval and signature. Judgments in multi-count indictments or informations shall be prepared by the prosecuting attorney at the time the judgment is

rendered and the prosecuting attorney shall present it without delay to the trial judge for approval and signature.

## **RULE 15. RESTRICTED DRIVER LICENSES**

### **A. Issuance Upon Automatic Suspension**

- . Operator, commercial operator, or chauffeur license, or any class designation of these licenses, shall be suspended as a result of conviction for an offense that makes suspension automatic.
- . A valid operator, commercial operator, or chauffeur license, or any class designation of these licenses must be surrendered to the court at the time of conviction, unless otherwise ordered by the court.
- . A verified petition for issuance of an occupational driver's license must be delivered to the district clerk along with a fee deposit to cover statutory required fees.
- . The clerk, upon receipt of the verified petition and accompanying fee, shall docket and number the petition ancillary to the cause and in the court where the conviction occurred.
- . The clerk shall deliver the filed, docketed, and verified petition to the judge of the court wherein the petition is filed.
- . The judge of the court shall sign and enter an order setting the matter for hearing at a time and on a date convenient to the court.
- . On hearing, the petitioner shall present evidence in support of each and every allegation contained in the petition, and the State may present evidence against granting of the petition.
- . The court may grant the petitioner use of a motor vehicle and may specify the reason for the use, the hours and days of use, the routes or areas to be used. A certified copy of the order granting petitioner an occupational license shall be sent to the Texas Department of Public Safety, which shall then issue the petitioner a restricted license for the duration of the suspension period.

### **B. Issuance Upon Administrative Suspension**

No court has jurisdiction to hear or issue a restricted license to a person whose license or privilege to operate a motor vehicle was administratively suspended, unless such suspension was an extension of an automatic suspension resulting from conviction of a criminal offense.

## **RULE 16. ATTORNEY OF RECORD**

- . On the first appearance of retained or appointed counsel in the county criminal courts at law of Harris County, Texas, written notification of such appearance by the attorney of record will be required to be filed with the court. The court coordinator will provide forms for that

purpose. The original attorney of record document will be filed with the clerk of the court in the case file. A copy of the document will be utilized by the district clerk as a source document for data entry into the Justice Information Management System. Written motion and order of the court will be required for withdrawal as attorney of record.

B. The original attorney of record is presumed, under these rules, to continue as attorney when a notice of appeal is filed. When the original attorney of record does not continue to represent the defendant on appeal, then the original attorney of record shall file a motion to withdraw as attorney of record in the county criminal court in which the case is pending. At the time the motion to withdraw is filed, the original attorney of record shall also request a hearing date from the court coordinator who shall set the motion on the court's docket within seven (7) calendar days of presentment. The purpose of this hearing is to allow the court to rule on the motion to withdraw.

C. When notice of appeal is filed and an attorney other than the attorney of record is retained or appointed to prosecute the appeal, then appellate counsel shall file a motion to substitute counsel in the county criminal court at law in which judgment was entered. The motion shall be filed at the time notice of appeal is filed, or not later than five (5) calendar days after the date counsel is retained or appointed. The appellate counsel shall also request a hearing date from the court coordinator who shall set the motion to substitute counsel on the court's docket within seven (7) calendar days of presentment. The purpose of this hearing is to allow the court to rule on the motion to substitute counsel.

D. The written notice of appearance of counsel on appeal will be filed with the clerk for the case file and will become a part of the clerk's transcript on appeal.

## **RULE 17. JUVENILE DEFENDANTS**

- . Any defendant who is charged with a misdemeanor offense within the jurisdiction of the county criminal courts at law of Harris County will be presumed to be an adult until a proper judicial determination is made to the contrary.
- . In any case wherein proof is offered that a defendant may be a juvenile, the sheriff and/or the district attorney are requested to make the court in which the cause is pending aware of the style of the case in which the defendant is suspected to be a juvenile.
- . The court will set the cause as soon as possible for a hearing as provided by Article 4.18, Code of Criminal Procedure, to determine whether the defendant is a juvenile. Only after that determination will the defendant be released from custody, and the cause transferred to the juvenile court in accordance with Article 4.18, CCP, and Section 56.08, Family Code.
- . In all cases wherein a determination is made that a defendant is a juvenile, expeditious transfer of the cause will be made to remove the case from the criminal court's docket.

- . The defendant may be released from custody if evidence is provided to the sheriff or other holding agency that the defendant is a juvenile. The evidence effecting the defendant's release shall be presented to the court on the next court workday so that a judicial determination may be made and, if the court finds that the defendant is a juvenile, a transfer to the juvenile court will be immediately processed. Should the court find, however, that the defendant is not a juvenile, appropriate process will be issued for the defendant's arrest.

## **RULE 18. COUNTY CRIMINAL COURT MANAGEMENT PROGRAM**

The presiding judge is chief executive officer and is assisted by the co-presiding judge. The court manager assists the presiding and co-presiding judges and provides management, systems, and legal assistance to all courts, as well as training to the coordinators.

### **A. Court Manager and Coordinator System for Certain Harris County Courts**

- . The courts in Harris County that have the same criminal jurisdiction may establish and maintain a court manager and coordinator system.
- . The judges of the courts to which this section applies may appoint a court manager, one or more court coordinators, and other staff as appropriate to the needs of the local jurisdiction. The judges shall by rule designate the qualifications and duties of the court manager and the coordinators to improve criminal justice and expedite the processing of the criminal cases through the county courts. The court manager and the coordinators shall cooperate with state agencies having duties relating to the operation of the courts to promote uniform and efficient justice.
- . The court manager and the coordinators serve at the pleasure of the judges.
- . The court manager and coordinators are entitled to reasonable compensation as set by the judges of the courts served. The court manager's compensation may not exceed sixty (60) percent of the salary paid the judges, unless the commissioners' court by order sets the court manager's compensation at a greater amount. The amount paid the coordinators may not exceed fifty (50) percent of the salary paid the judges.
- . On the judges' orders, the commissioners' court shall fund the court manager and coordinator system from fines collected by the courts served by the court manager and coordinators. If the fines collected are insufficient to provide the total funding for the program, the county shall provide the additional funds needed.
- . This section does not diminish the statutory duties and powers of the sheriff, district attorney, clerk of the court, or any court officer.

### **B. Court Coordinators Training/Salary Plan**

The Harris County Court Coordinators' Career Ladder Salary Plan was created by a joint order of the judges of the district courts trying criminal cases and the county criminal courts at law of Harris County, Texas. The plan became effective September 1, 1994.

- . Effective September 1, 1994, all court coordinators employed by a district court or a county court at law shall be placed in Step 7.0 of the plan and shall be exempt from

- the bachelor's degree requirement for Step 8.0 through Step 12.0. Court coordinators employed on or after September 1, 1994 must meet the annual requirement to attend sixteen (16) hours of continuing education to be eligible for step increases for Step 8.0 through Step 12.0. All persons employed after September 1, 1994 as a court coordinator in a district or county court at law will be paid in accordance with eligibility requirements for plan steps and incentive pay.
- . The anniversary date of the plan will be September 1<sup>st</sup> of each year.
  - . The Administrative Office of the District Courts and the Office of Court Management for the county criminal courts at law will certify to the Harris County Budget Office on August 1<sup>st</sup> of each year the step level and incentive pay eligibility of each court coordinator.
  - . Continuing education is defined as enrollment in, and completion of, sixteen (16) hours of continuing education in courses offered by the Administrative Office of the District Courts and/or the Office of Court Management, or through attendance at programs offered by the Texas Center for the Judiciary, the Texas Association for Court Administration, the Justice Management Institute, the National Center for State Courts, the Institute for Court Management, the National Association for Court Management, the National Judicial College, the Criminal Justice Center at Sam Houston State University, or other approved programs. Continuing education hours are required in addition to any other educational requirement of this plan.
  - . In addition to the basic salary provided in Step 1.0 through 12.0, incentive pay will be awarded to those persons meeting the minimum eligibility requirements. Similar to other benefits, such as longevity pay, incentive pay follows the "person," not the "position," and incentive pay is not considered when cost of living increases are calculated.
  - . For completion of at least sixty (60) hours of college credit, or for attainment of an associate's degree, a person will be eligible for a step classification of 0.1 and incentive pay of \$75.00 per month. To be eligible for plan credit, at least half of the credit hours must be from the following subject areas: English, math, computer science, accounting, management or public administration, human resource or personnel management, psychology, sociology, criminal justice, law, government or political science, or a foreign language. All hours must be granted from an institution recognized by the Texas Higher Education Coordinating Board, or must be transferable to one of its recognized institutions. A person who has graduated from the Executive Development Program of the Institute for Court Management of the National Center for State Courts meets the minimum requirement for this incentive pay step.
  - . A person who is multilingual and has been certified, through written and oral examination, to interpret in the courts is eligible for incentive pay step 0.1.
  - . For attainment of a bachelor's degree, a person will be eligible for a step classification of 0.2 and incentive pay of \$150.00 per month. The major area of study or at least half of the earned credit hours must be from one of the following subject areas: English, math, computer science, accounting, management or public administration, human resource or personnel management, psychology, sociology, criminal justice,

law, government or political science, or a foreign language. All hours must be granted from an institution recognized by the Texas Higher Education Coordinating Board or be transferable to one of its recognized institutions.

- . For attainment of a master's degree, a person will be eligible for a step classification of 0.3 and incentive pay of \$225.00 per month. The major area of study or at least half of the earned credit hours must be from one of the following subject areas: English, math, computer science, accounting, management or public administration, human resource or personnel management, psychology, sociology, criminal justice, law, government or political science, or a foreign language. All hours must be granted from an institution recognized by the Texas Higher Education Coordinating Board or be transferable to one of its recognized institutions.

## **C. Staff**

### **1. Court Manager**

The County Criminal Court Manager is chosen by a majority of the county criminal court at law judges and hired by the presiding judge. Although the court manager serves at the pleasure of the courts, the court manager's primary responsibility is to the presiding judge of the county criminal courts at law.

### **2. Assistant Court Manager (Project Analyst)**

The assistant court manager is interviewed and hired by the court manager with the approval of the presiding judge. This person also serves as the project analyst for the county criminal courts at law.

### **. Staff Attorney**

The staff attorney for the county criminal courts at law is appointed by the presiding judge and hired by the court manager.

## **RULE 19. CODE OF JUDICIAL CONDUCT**

All persons employed by the county criminal courts at law in any capacity shall, within the first thirty days of employment, be apprised of the contents of the Code of Judicial Conduct by the court manager, or by the staff attorney at the direction of the court manager, as the Code applies to the affected employee. The employee shall have an opportunity to ask appropriate questions related to the intent and meaning of the Code. When the meaning and intent of the Code of Judicial Conduct is understood by the employee, the acknowledgment on the following page shall be executed and signed with at least one witness present. The completed acknowledgment shall be filed in the employee's personnel file folder, and a copy shall be retained by the employee (*see form at Policies and Procedures, Appendix, Page A-8*).

## **RULE 20. COURTS**

### **A. Policy relating to court reporter absence and substitute court reporters.**

A court reporter in a county criminal court at law will be allowed only that vacation and sick leave time as approved by the commissioners' court for Harris County employees. In the event of a court reporter's absence that is not covered by approved vacation or sick leave time, that court reporter will be responsible for paying the costs to provide the court a substitute reporter.

During the approved absence of a court reporter, the Office of Court Management shall be contacted to determine whether a reporter from another county criminal court at law is available before a substitute is hired, unless the court's reporter has made prior arrangements for coverage with another court reporter.

## **RULE 21. SATISFACTION OF JUDGMENT: ORDER PERMITTING PARTIAL PAYMENT ON FINES AND COSTS**

The Sheriff of Harris County, Texas is directed to accept either the full amount or a partial amount of any fine, court costs or fees lawfully adjudged against a defendant. The sheriff or his designated deputy shall notify the judge of the court with jurisdiction over the defendant within 72 hours that partial funds were remitted, and shall include the (1) cause number; (2) name of the defendant; (3) amount remitted; (4) date remitted; and (5) amount outstanding, as reflected in the records of the sheriff.

## **RULE 22. SCHEDULE OF FEES FOR COUNSEL APPOINTED TO REPRESENT DEFENDANTS IN THE HARRIS COUNTY CRIMINAL COURTS AT LAW**

In accordance with Article 26.05, CCP, the judges of the criminal courts at law promulgate this schedule of fees to be paid attorneys appointed to represent defendants in cases filed in these courts.

<b>Event</b>	<b>Hourly</b>	<b>Minimum</b>	<b>Maximum</b>
Out of court hourly rate with prior court approval, including documented independent legal research, but not including routine jail visits, interviews, or telephone calls	\$25		10 hours
Non-trial appearance		\$50	\$200
Trial appearance		\$75	\$250
Investigation/expert testimony with prior court approval			\$500
Appeals and writs	\$25	\$0	\$1,000

## **RULE 23. VIEWING AND COPYING DWI VIDEO TAPES**

A *pro se* defendant or the attorney whose name appears on the court's Attorney of Record form required under Rule 16 shall be permitted to view and obtain a copy of a videotape made pursuant to Acts, 1983, CH. 303, §24, without an order. Either the *pro se* defendant or attorney of record may designate a third party to obtain a copy of a video tape by designating that person or company on the attorney of record form or separate motion to the court.

The Harris County District Attorney shall permit the *pro se* defendant, or the attorney of record or a third party to view and obtain a copy of a video tape at a time and place mutually agreeable to the parties.

To obtain a copy of a video tape the *pro se* defendant, the defendant's attorney or a designated third party shall provide the Harris County District Attorney with a blank video tape cassette or other recording medium agreeable to the parties and the court.

The district clerk shall enter the name of the designated person or company into the Justice Information Management System by utilizing an appropriate connection code that can be viewed on the computer transaction that shows parties connected to a case number.

Rule 23 is effective upon completion of changes in the Justice Information Management System that will facilitate compliance with these rules, but not later than the first day of August 1999.

## **RULE 24. RELEASE OF CLERK'S RECORD TO COUNSEL**

. The attorney representing a defendant appealing a judgment of a county criminal court at law shall be permitted the use of a copy of the Clerk's Record. Before releasing a copy of the Clerk's Record, the District Clerk of Harris County or a deputy clerk shall determine from the records in his possession the identity of the attorney of record on appeal. The District Clerk or a deputy clerk shall only release a copy of the Clerk's Record to the attorney representing the defendant on appeal. If the identity of the attorney of record on appeal can not be ascertained or is in dispute, the clerk shall refer the attorney to the judge of the court in which judgment was entered and shall not release a copy of the Clerk's Record with a written order from a judge of a county criminal court at law.



B. The District Clerk shall develop procedures to ensure that copies of the Clerk's Record are released and returned in a timely manner and their location always known.

## **RULE 25. CERTIFICATION AND COMPENSATION OF APPOINTED ATTORNEYS**

- A. An attorney must be certified under the most recent Guidelines for Certification of Appointed Counsel to be eligible for appointment to represent an indigent defendant. Only an attorney whose name appears on the list of certified attorneys on the date or dates professional services are rendered is eligible for payment under the most recent fee schedule applicable to these Courts.
- B. The Harris County Auditor shall only pay claims submitted by attorneys whose names appear on the list of certified attorneys. Any claim submitted by an attorney who is not on the list of certified attorneys should be returned to the County Criminal Courts at Law Office of Court Management.