



Indigent Defense Policies & Procedures

as established by the Tripartite Governing Committee

**Governing the Indigent Defense Panel
Attorneys & Indigent Defense Office**

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POLICIES AND PROCEDURES
Forsyth County Indigent Defense Program

PREAMBLE

The Bell-Forsyth Judicial Circuit, desiring to establish a just, efficient, and vigorous indigent defender program which meets the requirements of the Georgia Indigent Defense Act of 2003 and the standards for indigent defense promulgated by the Georgia Public Defender Standards Council, has entered an Order, dated August 30, 2005, that replaces the old Tripartite Committee with a newly-constituted Tripartite Committee to govern the indigent defense program for the Bell-Forsyth Judicial Circuit. The newly-constituted Tripartite Committee is authorized and directed to implement all changes reasonably necessary to comply with the requirements of the Georgia Indigent Defense Act of 2003 and the standards for indigent defense promulgated by the Georgia Public Defender Standards Council.

Accordingly, the Forsyth County Tripartite Committee hereby adopts these Policies and Procedures to govern the operation of the Forsyth County indigent defense program.

ARTICLE I
Definitions

As used in these Policies and Procedures, the term:

1. "Administrator" means the Indigent Defense Administrator.
2. "Attorney Panel" means a list of attorneys eligible to be appointed to represent clients charged with a particular category of crime.
3. "Committee" means the Forsyth County Tripartite Committee;
4. "Department of Indigent Defense" is the Forsyth County organization that runs the day-to-day operation of the indigent defense program;
5. "Duty Attorney" means a Panel Attorney who is scheduled to visit the jail daily during a specified week and give each newly-arrested defendant the opportunity to consult with an attorney;
6. "GPDSC" means the Georgia Public Defender Standards Council;
7. "Georgia Public Defender Standards Council" is the State agency charged with promulgating and enforcing public defender standards pursuant to the Georgia Indigent Defense Act of 2003, O.C.G.A. § 17-12-1 *et seq.*;
8. "Indigent Defendant" means a criminal defendant whose financial resources meet the standards for indigence promulgated by GPDSC;
9. "Indigent Defense Administrator" is the person who manages the Department of Indigent Defense and administers the day-to-day operation of the indigent defense program;

10. “Juvenile Duty Attorney” means a Juvenile Panel Attorney who is scheduled to visit newly-detained juveniles before each detention hearing and give each juvenile the opportunity to consult with an attorney;
11. “Tripartite Committee” is the committee that sets policy for and oversees operation of the Forsyth County indigent defense program;
12. “Initial Visitation” means the first conference between a Panel Attorney and an indigent defendant;
13. “Office” means the Department of Indigent Defense;
14. “Panel Attorney” means an attorney who serves on one of the panels of attorneys that are appointed to represent indigent clients;
15. “Voucher” means the form that is submitted to the Department of Indigent Defense to request payment for attorney’s fees, investigator’s fees, or expert’s fees.

ARTICLE II

Objectives

These Policies and Procedures are adopted with the following objectives:

- A. To establish a just, efficient, and vigorous indigent defense program;
- B. To ensure the independence of indigent defense attorneys from the judiciary and County funding sources; and
- C. To comply with the requirements of the Georgia Indigent Defense Act of 2003, the standards for indigent defense promulgated by the Georgia Public Defender Standards Council, and other requirements of State and Federal law.

ARTICLE III

Structure and Governance

Sec. 1. Structure

- A. The Forsyth County Tripartite Committee shall govern, set policy, and oversee the operation of the indigent defense program.
- B. The Indigent Defense Administrator shall implement the policies of the Committee, manage the Department of Indigent Defense, and administer the day-to-day operation of the program.

Sec. 2. Tripartite Committee

- A. Composition
 - (1) The Tripartite Committee is composed of the following members:

- (a) The President of the Forsyth County Criminal Defense Bar, or appointee;
 - (b) The President-Elect of the Forsyth County Criminal Defense Bar, or appointee; and
 - (c) An attorney from the County Attorney's office or appointee.
- (2) All members of the Committee must be members in good standing of the State Bar of Georgia.

B. Duties and Responsibilities

The Committee shall have the following duties and responsibilities:

- (1) Meet in formal session not less than once a month;
- (2) Promulgate policies, standards, and procedures to govern the program;
- (3) Oversee operation of the program and ensure that the program complies with the policies, standards, and procedures of the Committee, the requirements of the Georgia Indigent Defense Act of 2003, the standards for indigent defense promulgated by the Georgia Public Defender Standards Council, and other requirements of State and Federal law;
- (4) Establish hourly rates for appointed attorneys and investigators;
- (5) Admit attorneys to, and remove attorneys from, the Attorney Panels;
- (6) Admit investigators to, and remove investigators from, the Investigators Panel;
- (7) Establish guidelines for the employment of experts;
- (8) Review all complaints filed by clients against appointed attorneys, and conduct appropriate investigations;
- (9) Monitor attorney compliance with policies, standards, and procedures;
- (10) Conduct disciplinary proceedings, and take disciplinary actions against attorneys and employees of the Office if warranted;
- (11) Represent the Forsyth County indigent defense program before the GPDSC and other State governing authorities.

Sec. 3. Department of Indigent Defense

The Department of Indigent Defense shall have the following personnel and duties:

A. Indigent Defense Administrator

The Indigent Defense Administrator shall have the following duties and responsibilities:

- (1) Implement the policies of the Tripartite Committee;

- (2) Administer the indigent defense program, and ensure that the program complies with the standards for indigent defense promulgated by GPDSC;
- (3) Manage the Department of Indigent Defense, and supervise all employees of the Office;
- (4) Ensure that a Duty Attorney visits the jail daily to confer with newly-arrested defendants;
- (5) Ensure that the Office visits the jail daily to interview newly-arrested defendants and take applications for appointed counsel;
- (6) Review applications for appointed counsel, verify the financial data provided, and determine the indigent status of applicants according to the standards promulgated by GPDSC;
- (7) Appoint attorneys to represent in-custody indigent defendants within 72 hours after their arrest;
- (8) Review attorney requests for expert funds, and authorize funds according to the policies of the Committee;
- (9) Maintain confidentiality of personal, medical, and financial information supplied by Applicants;
- (10) Monitor the status of appointed cases;
- (11) Monitor the caseloads of Panel Attorneys, and ensure that caseloads do not exceed GPDSC standards;
- (12) Report to the court, upon request, regarding the history and status of individual cases;
- (13) Monitor the Office budget and expenditures;
- (14) Review vouchers and bills submitted to the Office for attorney's fees, investigator's fees, expert's fees, and court reporter's fees, and process the vouchers and bills according to the policies of the Committee;
- (15) Consult with the County Manager and other county administrative officials on problems and issues affecting the Office;
- (16) Attend meetings of the Forsyth County Board of Commissioners when issues arise regarding the indigent defense program or Office; and
- (17) Perform other duties assigned by the Committee.

B. Indigent Defense Assistants

Indigent Defense Assistants shall assist the Administrator in the performance of her duties as directed by the Administrator.

C. Administrative Specialists

Administrative Specialists shall perform general clerical, office, and receptionist duties, and shall perform other duties as directed by the Administrator.

ARTICLE IV
Persons Represented

Sec. 1. General

The Office shall appoint counsel to represent the following persons:

- A. In State and Superior Courts:
 - (a) Indigent defendants charged with:
 - (1) a misdemeanor;
 - (2) a felony; or
 - (3) violation of probation.
 - (b) Other defendants as ordered by the Court.
- B. In Magistrate Court:
 - (a) Indigent defendants prosecuted in the Magistrate Court for:
 - (1) a misdemeanor;
 - (2) an ordinance violation for which a sentence of incarceration may be imposed; or
 - (3) violation of probation.
 - (b) Other defendants as ordered by the Court.
- C. In Juvenile Court:
 - (a) Indigent juveniles charged with:
 - (1) delinquency;
 - (2) a status offense (unruly, runaway, truancy); or
 - (3) violation of probation.
 - (b) Indigent parties to:
 - (1) a deprivation case; or
 - (2) a termination of parental rights case.
 - (c) Other juveniles or parties as ordered by the Court.

Sec. 2. Determining Indigence

A. Criminal Defendants and Juveniles

The Office shall determine indigence for criminal defendants and juveniles according to the Standards for Determining Indigence promulgated by the Georgia Public Defender Standards Council.

B. Parties to a Deprivation or Termination of Parental Rights case

The Office shall determine indigence for parties to a deprivation or termination of parental rights case according to the standards for felony defendants set out in the Standards for Determining Indigence promulgated by the Georgia Public Defender Standards Council.

ARTICLE V
Application for Appointed Counsel

Note: The provisions of this Article should not be confused with the provisions of Article VIII, Duty Attorneys. Article VIII requires that newly-arrested in-custody defendants be given the opportunity to consult with a duty attorney within 72 hours after their arrest.

There are two versions of the application for appointed counsel: “in-custody” and “not-in-custody”. The “in-custody” application is an abbreviated version of the “not-in-custody” application, and does not require the applicant to supply supporting documents.

Sec. 1. Adult Procedure

A. In-Custody Procedure

- (1) The Office shall visit the jail daily, Monday through Friday, to interview newly-arrested defendants. The Office shall explain the requirements to obtain appointed counsel, and give each defendant the opportunity to apply for appointed counsel. On weekends and holidays, the Administrator shall monitor the jail inmate roster and ensure that newly-arrested defendants are interviewed within 72 hours after their arrest.
- (2) If the defendant declines to apply for appointed counsel, the Office shall ask the defendant sign a Waiver of Appointed Counsel form, and shall file the waiver with the court. Thereafter, the Office shall then contact the defendant each week to determine if the defendant has retained counsel.
- (3) If the defendant applies for appointed counsel (using the in-custody application), the Office shall promptly review the application. If the defendant qualifies as indigent, the Office shall appoint counsel as soon as possible, but within 72 hours after the defendant’s arrest.
- (4) If the applicant does not qualify for appointed counsel, the Office shall so inform the applicant and explain the applicant’s right to appeal the denial to the appropriate Court.
- (5) When an in-custody defendant is appointed counsel, and the defendant later bonds out of jail, the Office shall promptly notify the defendant that because his financial condition has changed (he is now able to work) appointed counsel is being temporarily withdrawn until he completes a full “not-in-custody” application and supplies supporting documents.
- (6) If the defendant fails to complete the “not-in-custody” application, fails to supply supporting documents, or the new financial data indicates that the

defendant does not qualify as indigent, the Office shall notify the defendant that appointed counsel is withdrawn and also explain the defendant's right to appeal the denial to the appropriate Court.

B. Not-in-Custody Procedure

- (1) If a defendant bonds out of jail before the Office can interview them, the Office shall interview the defendant in court at the bond-returnable date. At that time, the Office shall explain the requirements for appointed counsel and provide the defendant with a "not-in-custody" application for appointed counsel.
- (2) If the defendant declines to apply for appointed counsel, the Office shall ask the defendant to sign a Waiver of Appointed Counsel form, and shall file the waiver with the court. Thereafter, the Office shall then contact the defendant each week to determine if the defendant has retained counsel.
- (3) If the defendant applies for appointed counsel, the Office shall review the application and supporting documents, and verify the applicant's income and financial resources. If the Office determines that the applicant qualifies as indigent, the Office shall promptly appoint counsel for the defendant.
- (4) If an applicant does not qualify for appointed counsel, the Office shall so inform defendant and explain the defendant's right to appeal the denial to the appropriate Court.

Sec. 2. Juvenile Procedure

A. In-Custody Procedure

- (1) The Office shall visit the Juvenile Court before each detention hearing and interview each newly-detained juvenile. Unless there is a conflict of interest between the juvenile and the parents of the juvenile, the Office shall give parents the opportunity to apply for appointed counsel for the juvenile.
- (2) If the parents apply for appointed counsel for the juvenile, the Office shall determine indigence based on the parents' financial resources.
- (3) If there is a conflict of interest between the juvenile and the parents, or if the parents refuse to retain counsel or apply for appointed counsel for the juvenile, the juvenile himself or herself shall be permitted to apply for appointed counsel. In this event, the Office shall determine indigence based on the juvenile's financial resources.
- (4) If the juvenile or his or her parents applies for appointed counsel, the Office shall promptly review the application to determine indigency. If the Office determines that the juvenile qualifies for appointed counsel, the Office shall appoint counsel for the juvenile as soon as possible, but within 72 hours after the detention.

- (5) If the juvenile does not qualify for appointed counsel, the Office shall so inform the juvenile and explain the juvenile's right to appeal the denial to the Juvenile Court.

B. Not-in-Custody Procedure

- (1) If a juvenile is released from custody before the Office can interview them, the Office shall interview the juvenile in court at the juvenile's next court date. Unless there is a conflict of interest between the juvenile and the parents of the juvenile, the Office shall give parents the opportunity to apply for appointed counsel for the juvenile.
- (2) If the parents apply for appointed counsel for the juvenile, the Office shall determine indigence based on the parents' financial resources.
- (3) If there is a conflict of interest between the juvenile and the parents, or if the parents refuse to retain counsel or apply for appointed counsel for the juvenile, the juvenile himself or herself shall be permitted to apply for appointed counsel. In this event, the Office shall determine indigence based on the juvenile's financial resources.
- (4) If the juvenile or his or her parents applies for appointed counsel, the Office shall promptly review the application to determine indigency. If the Office determines that the juvenile qualifies for appointed counsel, the Office shall appoint counsel for the juvenile without delay.
- (5) If the juvenile does not qualify for appointed counsel, the Office shall so inform the juvenile and explain the juvenile's right to appeal the denial to the Juvenile Court.

**ARTICLE VI
Attorney Panels**

Sec. 1. Attorney Panels

A. Attorney Panels shall be as follows:

<u>Name</u>	<u>Purpose</u>
1. Juvenile	Represent clients in Juvenile Court.
2. Misdemeanor	Represent adult clients charged with misdemeanors.
3. Felony	Represent adult clients charged with misdemeanors or felonies other than major felonies.
4. Major Felony	Represent adult clients charged with misdemeanors, felonies, or major felonies
5. Major Felony-Life Sentence	Represent adult clients charged with misdemeanors, felonies, or major felonies where a life sentence can be imposed.

B. Major felonies shall be as follows:

1. Murder;
2. Armed Robbery;
3. Kidnapping;
4. Rape;
5. Child Molestation;
6. Aggravated Child Molestation;
7. Aggravated Sodomy;
8. Aggravated Sexual Battery.

Sec. 2. General Qualifications

A. All Panel Attorneys:

- (1) Must be a member in good standing of the State Bar of Georgia;
- (2) Must meet the requirements of the State Bar of Georgia for participation in litigation as lead counsel;
- (3) Must practice law full-time, unless otherwise approved by the Committee;
- (4) Must represent clients in the courts of Forsyth County or adjacent counties; and
- (5) Must attend at least one criminal law seminar each calendar year. (Juvenile Panel attorneys may satisfy this requirement by attending a juvenile law seminar.)
- (6) Effective January 1, 2008 each panel attorney must be a member of the Forsyth County Criminal Defense Bar. Annual member dues, as set by the Forsyth County Criminal Defense Bar, must be paid in full by March 1st of each year. Annual dues verification will be provided to the Forsyth County Indigent Defense Office Administrator by the Secretary/Treasurer of the Forsyth County Criminal Defense Bar.

Sec. 3. Panel Qualifications

A. Juvenile Panel

To be admitted to the Juvenile Panel, an attorney:

- (1) Must meet the general qualifications set out in Section 2;
- (2) Must have practiced law full-time for the preceding 12 months;
- (3) Must have attended at least one criminal law or juvenile law seminar during the preceding 12 months; and

- (4) Must have appeared in or observed at least 20 hours of juvenile court proceedings.

B. Misdemeanor Panel

To be admitted to the Misdemeanor Panel, an attorney:

- (1) Must meet the general qualifications set out in Section 2;
- (2) Must have practiced law full-time for the preceding 12 months;
- (3) Must have attended at least one criminal law seminar during the preceding 12 months; and
- (4) Must have participated as lead or assisting counsel in two misdemeanor trials, one of which must have been a jury trial.

C. Felony Panel

To be admitted to the Felony Panel, an attorney:

- (1) Must meet the general qualifications set out in Section 2;
- (2) Must have practiced law full-time for the preceding three years;
- (3) Must have attended at least one criminal law seminar during the preceding 12 months; and
- (4) Must have participated as lead or assisting counsel in four misdemeanor or felony trials, two of which must have been jury trials.

D. Major Felony Panel

To be admitted to the Major Felony Panel, an attorney:

- (1) Must meet the general qualifications set out in Section 2;
- (2) Must have practiced law full-time for the preceding five years; and
- (3) Must have participated as lead or assisting counsel in three felony jury trials.

E. Major Felony Panel (Life Sentence)

To be admitted to the Major Felony Panel (Life Sentence), an attorney:

- (1) Must meet the qualifications set out for the Major Felony Panel;
- (2) Must have participated as lead or assisting counsel in a jury trial where a life sentence can be imposed.

Sec. 4. Assisting Counsel

- A. Panel Attorneys are authorized and encouraged to permit another attorney, upon request, to serve as assisting counsel in the trial of an appointed case for the purpose of obtaining experience. In this event, the following rules shall apply:

- (1) The defendant must consent to the participation of assisting counsel.
 - (2) The appointed attorney shall serve as lead counsel throughout the trial.
 - (3) The Office shall not pay the assisting counsel for his or her time.
- B. If a panel attorney has an emergency leave of absence they may request a non-panel attorney to handle a matter for them. In this event the following rules shall apply:
- (1) The non-panel attorney must be in the same law firm as the panel attorney.
 - (2) The non-panel attorney must have equal or greater experience as the panel attorney.
 - (3) The non-panel attorney must be pre-approved by the Indigent Defense Administrator prior to handling any matter.
 - (4) The non-panel attorney must receive approval for each emergency leave of absence as no blanket approvals will be done.
- C. A “Second Chair” Attorney will be appointed for cases where a life sentence can be imposed. In this event the following rules shall apply:
- (1) Second chair attorney shall be defined as listed in Section 4 (A).
 - (2) Appointment of Second Chair Attorney will be done upon indictment of the case or upon written request by lead attorney.
 - (3) Second Chair Attorney shall be paid at the same hourly rate as the lead attorney.

Sec. 5. Admission to Attorney Panels

- A. Attorneys currently on the appointed list shall be assigned to an Attorney Panel based on their qualifications.
- B. New attorneys may apply for admission to an Attorney Panel by letter to the Committee, in care of the Office. The letter should state which panel the attorney is applying for, and should set out the attorney’s qualifications. The Committee may require the applicant to appear before the Committee in person.
- C. Panel Attorneys may request transfer to different panel by letter to the Committee. The letter should state which panel the attorney is requesting transfer to, and should set out the attorney’s qualifications.
- D. The Committee shall regulate the number of attorneys admitted to each panel to ensure:
 - (a) that there are enough attorneys to handle the caseload;
 - (b) that there are not too many attorneys for the Committee to effectively oversee; and
 - (c) that each attorney receives enough appointments to make it worthwhile to participate in the program.

Sec. 6. Orientation and Training

- A. Newly-admitted Panel Attorneys shall complete a training course conducted by the Office before they are assigned cases.
- B. The training course shall be approved by the Committee, and shall include, but not be limited to, the following topics:
 - (1) Policies and procedures of the Forsyth County indigent defense program;
 - (2) Standards for indigent defense as promulgated by the Georgia Public Defender Standards Council;
 - (3) The Duty Attorney program;
 - (4) Use of investigators;
 - (5) Use of experts;
 - (4) Fees, expenses, and vouchers; and
 - (5) Reporting requirements.

ARTICLE VII Appointment of Attorney

Sec. 1. Procedure

The Office shall use the following procedure to appoint an attorney to a case:

- A. The Office shall consider the charges and any other available information to estimate the difficulty and complexity of the case, and shall assign more difficult and complex cases to attorneys with greater experience and skill.
- B. The Office shall also consider attorneys' caseloads and potential conflicts in making appointments.
- C. In the event that all Panel Attorneys have a conflict on a particular case, the Office shall have the authority to appoint a qualified out-of-county attorney to represent the defendant. Such attorney shall comply with, and be paid according to, these Policies and Procedures.
- D. The Office shall two attorneys to represent the defendant in murder cases. Upon request to the Administrator, the Office may appoint two attorneys to represent the defendant in other serious cases that are especially difficult and complex.
- E. The Office shall make every effort to ensure a fair distribution of appointments to all Panel Attorneys.

Sec. 2. Additional Charges

- A. Normally, one attorney shall be appointed to represent an indigent defendant on all charges pending against the defendant in Forsyth County.
- B. If, after an appointment is made, the appointed attorney discovers that there are additional charges pending against the defendant in Forsyth County, the appointed attorney shall notify the Office so that the attorney can be appointed to represent the defendant on the additional charges.

Sec. 3. Appeals

- A. Appointed counsel shall file and complete any needed interlocutory appeals as part of the trial of a case.
- B. If an indigent client suffers an unfavorable verdict in the trial of an appointed case, or if an indigent client receives an unfavorable sentence upon a non-negotiated guilty plea, and the client wishes to appeal, the appointed counsel shall promptly notify the Office. The office shall promptly appoint counsel, which may include the Panel Attorney previously assigned, to conduct the appeal.
- C. If the client suffers an unfavorable decision on appeal of the case, appellate counsel may request that the Administrator authorize an additional appeal. If the Administrator approves the request, the Office shall appoint counsel to pursue the additional appeal.

ARTICLE VIII Duty Attorneys

Sec. 1. Adult Defendants

- A. Initial Visit by Duty Attorney
 - 1. A Duty Attorney shall visit the jail daily to confer with newly-arrested defendants. Each in-custody defendant, whether indigent or not, shall be given the opportunity to consult with the duty attorney within 72 hours after their arrest.
 - 2. Each Misdemeanor, Felony, and Major Felony Panel Attorney shall serve as Duty Attorney for a period of one week on a rotating basis.
 - 3. If a Panel Attorney is unable to serve as Duty Attorney when scheduled, the attorney shall find a substitute to serve in his or her place.
 - 4. A Panel Attorney's failure to comply with the requirements of this Section shall be cause for disciplinary action against the attorney, including admonishment, suspension from the panel, or removal from the panel.

B. Initial Visit by Appointed Attorney

1. An appointed attorney shall make an initial visit with an in-custody client within 72 hours after the attorney receives notice of the appointment. If the appointed attorney is unable to meet this time limit, the attorney shall promptly notify the Office, and the Office shall re-appoint the case to a different attorney.
2. An appointed attorney shall complete an Initial Visitation Form time of the initial visit and promptly return the form to the Office. The Office shall not process a voucher for payment of attorney's fees until the Office receives the Initial Visitation Form for the case.
3. A Panel Attorney's failure to comply with the requirements of this Section shall be cause for disciplinary action against the attorney, including admonishment, suspension from the panel, or removal from the panel.

Sec. 2. Juveniles

A. Initial Visit by Juvenile Duty Attorney

1. A Juvenile Duty Attorney shall visit the Juvenile Court before each detention hearing to confer with newly-detained juveniles. Each in-custody juvenile, whether indigent or not, shall be given the opportunity to consult with the duty attorney within 72 hours after their detention.
2. Each Juvenile Panel Attorney shall serve as Juvenile Duty Attorney for a period of one week on a rotating basis.
3. If a Panel Attorney is unable to serve as Juvenile Duty Attorney when scheduled, the attorney shall find a substitute to serve in his or her place.
4. A Panel Attorney's failure to comply with the requirements of this Section shall be cause for disciplinary action against the attorney, including admonishment, suspension from the panel, or removal from the panel.

B. Initial Visit by Appointed Attorney

1. An appointed attorney shall make an initial visit with an in-custody juvenile within 72 hours after the attorney receives notice of the appointment. If the appointed attorney is unable to meet this time limit, the attorney shall promptly notify the Office, and the Office shall re-appoint the case to a different attorney.
2. An appointed attorney shall complete an Initial Visitation Form time of the initial visit and promptly return the form to the Office. The Office shall not process a voucher for payment of attorney's fees until the Office receives the Initial Visitation Form for the case.

3. A Juvenile Panel Attorney's failure to comply with the requirements of this Section shall be cause for disciplinary action against the attorney, including admonishment, suspension from the panel, or removal from the panel.

ARTICLE IX

Attorney Standards of Performance

Sec. 1. General Standards of Performance

- A. Every Panel Attorney shall:
 - (1) Represent their client vigorously, within the bounds of law and rules of ethical conduct, at every stage of the criminal proceedings;
 - (2) Conduct themselves in a professional and courteous manner, and observe rules of proper court behavior;
 - (3) Effectively manage and accurately report his or her time spent on an appointed case;
 - (4) Comply with these Policies and Procedures;
 - (5) Comply with the standards for attorney performance promulgated by the Georgia Public Defender Standards Council; and
 - (6) Comply with the Georgia Rules of Professional Conduct as promulgated by the State Bar of Georgia.

Sec. 2. Notification of Complaints and Disciplinary Actions

- A. A Panel Attorney shall notify the Committee of any bar complaint filed against the attorney with the State Bar of Georgia that has been forwarded to the Investigative Panel for investigation.
 - (1) Notification shall be given to the Committee within five days after the attorney receives the Notification of Investigation.
 - (2) Thereafter, the Panel Attorney shall then notify the Committee of the final disposition of the investigation within five days after the attorney receives notice of the disposition.
- B. A Panel Attorney shall notify the Committee of any suspension or disciplinary action taken against the attorney by the State Bar of Georgia, the Georgia Supreme Court, or any other bar association or court not later than five days after the attorney receives notice of such suspension or disciplinary action.
- C. A Panel Attorney shall notify the Committee in the event that the attorney is found by any court to be ineffective in the representation of a client.

- D. A Panel Attorney's failure to comply with these requirements shall be cause for disciplinary action against the attorney, including admonishment, suspension from the panel, or removal from the panel.

Sec. 3. Client Complaints

Client complaints against Panel Attorneys shall be processed as follows:

- A. The Office shall keep a supply of client complaint forms at the Forsyth County jail, readily available to in-custody defendants. Completed forms shall be transmitted to the Office by inter-departmental mail, without cost.
- B. The Office shall also provide a client complaint form by mail or in person to any client who requests one. A client may return the form to the Office by mail or in person.
- C. The Office may also receive a client complaint by telephone. In this event, the Office shall record the complaint on a client complaint form. All calls from the Forsyth County jail shall be cost free.
- D. The Office shall review each complaint form received, and promptly forward a copy of any complaint regarding a Panel Attorney to the Committee and to the attorney.
- E. The Committee shall review and investigate each complaint filed against a Panel Attorney.
- F. The Committee may request the Panel Attorney to provide a written response to the client complaint within 10 days of the Panel Attorney's receipt of such request. Failure of the Panel Attorney to provide a written response to the client complaint upon request of the Committee may result in disciplinary action, including suspension and/or removal from the panel.
- G. The Committee may request the Panel Attorney to answer written interrogatories and/or to produce documents related to or concerning the client complaint within 10 days of the Panel Attorney receipt of such request. Failure of the Panel Attorney to answers such interrogatories and/or to produce documents requested by the Committee within 10 days of the Panel Attorney's receipt of such request may result in disciplinary action, including suspension and/or removal from the panel.
- H. The Committee may request the Panel Attorney to appear before the Committee to answer questions concerning the client complaint.
- I. If the Committee's investigation discloses misconduct or ineffectiveness on the part of the Panel Attorney, the Committee may take disciplinary action against the Panel Attorney. Such disciplinary action may include admonishment, requiring the attorney to complete additional training, suspension from the panel, and/or removal from the panel.
- J. The Committee may also decide, without a hearing, to re-appoint the case to a different attorney even though the complaint is held to be unfounded or frivolous.
- K. At the conclusion of the matter, the Committee shall notify the attorney and the indigent defendant of its findings and of any action taken.

Sec. 4. Attorney Conflicts

- A. Panel Attorneys and the Office shall look for conflicts and potential conflicts in appointed cases.
- B. If a Panel Attorney discovers a conflict or potential conflict, the attorney shall immediately notify the Office. If the Office agrees that a conflict or potential conflict exists, the Office shall promptly re-appoint the case to a different attorney.
- C. If the Office discovers a conflict or potential conflict, the Office shall immediately notify the Panel Attorney. If the attorney agrees that a conflict or potential conflict exists, the Office shall promptly re-appoint the case to a different attorney.
- D. If a Panel Attorney and the Office do not agree on whether a conflict or potential conflict exists, the Committee shall be notified and the Committee shall decide the issue.
- E. If the Committee determines that a Panel Attorney continued to represent a defendant after discovering a conflict, the Committee may take appropriate disciplinary action against the attorney. Such disciplinary action may include admonishment, requiring the attorney to complete additional training, suspension from the panel, or removal from the panel.

Sec. 5. Withdrawal from Appointed Case

- A. A Panel Attorney who is appointed to a case shall not delegate any work on the case to an attorney outside the firm without prior approval of the Administrator.
- B. If a Panel Attorney is unable to handle an appointed case, the attorney shall ask the Office to re-appoint the case to another attorney.
- C. A Panel Attorney who seeks to withdraw from an appointed case shall comply with all applicable State Bar rules regarding withdrawal, and shall file a motion to withdraw that complies with the Uniform Court Rules. The motion to withdraw shall also include the following information:
 - (1) that the attorney is appointed to the case;
 - (2) the date of the appointment; and
 - (3) the reason for the request to withdraw.
- D. If a Panel Attorney repeatedly withdraws from cases without good reason, it shall be cause for disciplinary action against the attorney, including admonishment, requiring the attorney to complete additional training, suspension from the panel, or removal from the panel.
- E. An appointed attorney shall not accept payment or other remuneration from a client for work done on an appointed case. If a Panel Attorney wishes to be privately retained to work on an appointed case, the attorney must first notify the Administrator, and the

client must sign a Waiver of Appointed Counsel form. Thereafter, the attorney may be privately retained to represent the client. Violation of this rule by a Panel Attorney shall be cause for disciplinary action, including admonishment, suspension from the panel, or removal from the panel.

- F. A Panel Attorney appointed to represent a party in a deprivation case shall promptly file a motion to withdraw from the case if the party fails to stay in touch or fails to cooperate with the attorney.
- G. Dead Docketed Cases. An appointed attorney may submit a withdrawal on a case if it remains on the dead docket for six months.

Sec. 5. Caseload Standards

- A. Panel attorneys shall not accept an additional appointed or retained case that would cause the attorney to exceed the caseload standards promulgated by the Georgia Public Defender Standards Council.
- B. The Administrator shall monitor Panel Attorney caseloads and shall remove an attorney from an appointed case if the attorney's caseload exceeds standards.

ARTICLE X Disciplinary Procedure

Sec. 1. Department Administrator and Employees

- A. The Committee may recommend reprimand or removal of the Indigent Defense Administrator or any other employee of the Indigent Defense Department subject to the rules of the Forsyth County Civil Service System and the approval of the Forsyth County Manager.
- B. If an Administrator or other employee of the Department is found to be in dereliction of duty or violation of office, the Committee shall give notice to the Administrator or employee by letter of intention to recommend reprimand or removal. The decision to send such letter shall be by majority vote of the Committee.
- C. Within 10 days of delivery of the letter to the Administrator or employee, the Administrator or employee may request a meeting with the Committee to answer the charges or calls for reprimand or removal. After the meeting, the Committee shall decide within 30 days whether the Committee will recommend that the Administrator or employee be reprimanded or removed from office. The decision to recommend reprimand or removal, after a meeting with the Administrator or employee, shall be by unanimous vote of the Committee.
- D. Within 10 days after any unanimous vote to recommend reprimand or removal, the Committee shall send a letter of recommending of reprimand or removal of the Administrator or employee to the Forsyth County Manager.
- E. The Forsyth County Manager shall then consider the recommendation pursuant to the applicable rules of the Forsyth County Civil Service System.

- F. Nothing in this section shall be construed to prevent the Administrator from reprimanding or recommending removal of any employee under the Administrator's supervision.

Sec. 2. Panel Attorneys

- A. The Committee may take disciplinary action against any Panel Attorney for violation of the standards or requirements set out in these Policies and Procedures. Such disciplinary action may include admonishing the attorney, requiring that the attorney complete additional training, suspending the attorney from the panel, or removing the attorney from the panel.
- B. If the Committee finds by majority vote that disciplinary action against a Panel Attorney is warranted, the Committee shall give notice to the Panel Attorney by letter of the Committee's intention to take specific disciplinary action against the attorney.
- C. Within 10 days after delivery of the letter to the Panel Attorney, the Panel Attorney may request a meeting with the Committee to answer the charges or calls for disciplinary action.
- D. If the Panel Attorney requests a meeting with the Committee, such request shall be granted before the Committee takes any proposed disciplinary action against the attorney.
- E. Within 30 days after the Committee's meeting with the Panel Attorney, or if no meeting is requested, within 30 days after the letter of intention to take disciplinary action against the attorney is delivered to the attorney, the Committee shall decide whether to take disciplinary action against an attorney. A decision to take disciplinary action against an attorney, after a hearing, must be by unanimous vote of the Committee. Within 10 days after any unanimous vote to take disciplinary action against a Panel Attorney, the Committee shall send a letter to the attorney notifying the attorney of the Committee's decision.

ARTICLE XI Fees and Vouchers

Sec. 1. Attorney's Fees

- A. Attorney's representing indigent defendants shall be paid as follows:
 - (1) Attorneys shall be paid for in-court time at the rate of \$85.00 per hour, and for out of court time at the rate of \$75.00 per hour for major felony and felony cases appointed after January 1, 2015. All other case types shall be paid for in-court time at the rate of \$75 per hour, and for out of court time at the rate of \$65.00 per hour.
 - (2) Attorney shall be paid a minimum fee of \$500 for major felony and felony cases appointed after January 1, 2015. The minimum fee for all other cases types shall be \$300.

(3) Cases appointed prior to January 1, 2015 will be paid for in court time at the rate of \$75 per hour and for out of court time at the rate of \$65 per hour. A minimum fee of \$300 will apply for all case types.

B. There shall be no caps on attorney fees. If attorney's fees exceed the following amounts, however, the attorney must attach a letter providing a detailed explanation of the charges:

(1) <u>Superior/State Court</u>	<u>Amount</u>
(a) Probation Revocation	\$500.00
(b) Misdemeanor	\$2,000.00
(c) Felony	\$3,500.00
(d) Major Felony	\$5,000.00

(2) <u>Magistrate Court</u>	<u>Amount</u>
(a) Probation Violation	\$500.00
(b) Misdemeanor	\$1,000.00

(3) <u>Juvenile Court</u>	<u>Amount</u>
(a) Probation Violation	\$1,000.00
(b) Misdemeanor or status Offense (Unruly, Runaway, Truency)	\$1,000.00
(c) Felony	\$1,500.00
(d) Guardian Ad Litem	\$2,000.00
(e) Deprivation or Termination of Parental Rights	\$3,500.00

C. Attorney's assigned as a duty attorney shall be paid as follows:

- (1) Daily per diem of \$200 for the following appearances: First Appearance Hearings, State Court Probation Revocation Hearings, State Court Criminal bonded Arraignment, Magistrate Court Arraignment, and Juvenile Delinquency.
- (2) Daily per diem of \$250 for the following appearances; Superior Court Probation Revocation hearings and \$250 for one consultation day with the probationers prior to the scheduled revocation day.

D. Attorney's assigned as an alternative court defense attorney shall be paid as follows:

- (1) Felony Drug Court Defense Attorney shall be paid a daily per diem of \$300 for one day per week for the purpose of apprising possible participants about the program.
- (2) Mental Health Court Defense Attorney shall be paid a daily per diem of \$300 for one day per week for the purpose of apprising possible participants about the program. The

Defense Attorney shall be paid a daily per diem of \$300 to attend one court session every other week. Staffing sessions are considered to be a part of the court session. The Defense Attorney shall be paid a daily per diem of \$300 to attend one planning session meeting per quarter.

- (3) DUI Court Defense Attorney shall be paid a daily per diem of \$200 for DUI Court Arraignment Day's for the purpose of apprising possible participants about the program. The Defense Attorney shall be paid a daily per diem of \$200 to attend two court sessions per month. Staffing sessions are considered to be a part of the court session. The Defense Attorney shall be paid a daily per diem of \$200 to attend one planning session meeting per quarter.
- (4) Juvenile Drug Court Defense Attorney shall be paid a daily per diem of \$200 for one staffing session per week and a daily per diem of \$100 for one court session per week.

Sec. 2. Investigators

- A. The Office shall maintain a panel of competent, efficient, and reliable investigators who have agreed to serve on the panel and work at program rates. Each investigator must be licensed in accordance with Georgia State Law through the Georgia Board of Private Detective & Security Agencies or any other agency required by Georgia State Law. Verification of said license must be provided to the Administrator of the Forsyth County Indigent Defense Office no later than December 31 of each calendar year and at any other time that may be requested by said Administrator.
- B. The Committee shall admit investigators to, and remove investigators from, the Investigators Panel.
- C. Investigators shall be paid for their services at the rate of \$35.00 per hour. No mileage will be paid.
- D. Investigators shall be paid a minimum fee of \$50.00 for any case.
- E. To use an investigator, an attorney shall select an investigator from the Investigators Panel and contact the investigator directly.
- F. An attorney does not need prior approval from the Office to use an investigator so long as the investigator's fees do not exceed the following amounts:

<u>Superior/State Court</u>	<u>Amount</u>
Probation Revocation	\$100
Misdemeanor	\$250
Felony	\$500
Major Felony	\$1,000
 <u>Magistrate Court</u>	
Probation Revocation	\$100

Ordinance Violation	\$100
Misdemeanor	\$100

Juvenile Court

Probation Revocation	\$100
Misdemeanor or status offense (unruly, runaway, truancy)	\$100
Felony	\$200
Deprivation or Termination of Parental Rights	\$500

- G. An attorney must get prior authorization from the Administrator for investigator’s fees to exceed the above-listed amounts. The Office shall not pay fees in excess of the above-listed amounts unless the Administrator gave prior authorization or unless payment of the excess amount is authorized by the Committee.
- H. An attorney must get prior authorization from the Administrator to use an investigator who is not on the Investigators Panel. The Office shall not pay fees for an investigator who is not on the Investigators Panel unless the Administrator gave prior authorization or unless payment of the fees is authorized by the Committee.
- I. An attorney must submit a voucher for investigator fees to the Office on a form supplied by the Office. The investigator’s bill must be properly itemized and supported with receipts. The attorney shall review and approve the investigator’s bill before submitting it to the Office for payment.
- J. The Office shall not approve a voucher for investigator fees in excess of the amounts stated in the table above or authorized by the Administrator unless payment of the excess amount is approved by the Committee.

Sec. 3. Experts

- A. An attorney who needs to hire an expert must submit a request to the Administrator to authorize funds for the expert. The Office shall supply forms for such requests.
- B. The Administrator shall review the request and contact the attorney to discuss the matter.
- C. The Administrator shall consider each request carefully, taking into account the seriousness of the charges, the importance of the issue, and the cost of the expert. After considering the matter, the Administrator may:
 - (1) Authorize the full amount requested;
 - (2) Authorize a smaller amount;
 - (3) Divide the expert’s task into stages, and authorize funds to cover the next stage;

- (4) Deny the request altogether; or
- (5) Devise another solution.
- D. If the attorney is dissatisfied with the Administrator's decision, the attorney may appeal the decision to the Committee.
- E. If the amount of funds authorized for the expert's services proves insufficient to complete the task, the attorney may submit additional requests for funds. Such requests shall state the amount already authorized and the amount already paid to the expert.
- F. When an attorney hires an expert, the attorney shall supervise the expert to ensure that the expert conducts an appropriate level of service considering the seriousness of the charges and the importance of the issue.
- G. An attorney must submit a voucher for expert fees to the Office on a form supplied by the Office. The expert's bill must be properly itemized and supported with receipts. The attorney must review and approve the expert's bill before submitting it to the Office for payment. The voucher must be accompanied by a copy of the authorization to hire the expert.
- H. The Office shall not pay a voucher for expert fees in excess of the amount of funds authorized by the Administrator unless payment of the excess amount is approved by the Committee.

Sec. 4. Court Reporters

- A. Court reporters shall submit invoices for their services directly to the Office.
- B. Invoices for transcripts must be accompanied by a copy of the Transcript Request Form signed by the attorney.

Sec. 5. Expenses

- A. Attorneys shall not be reimbursed for general office overhead such as rent, secretarial help, telephone service, photocopies, or routine postage.
- B. Attorneys shall be paid for travel time at the out of court rate, but shall not be paid for mileage, fuel expenses, or other expenses related to vehicle use. Travel time shall include time incurred by attorneys traveling to courts, jails, or other locations outside of Forsyth County for issues and procedures related to the defense of an indigent defendant. Travel time shall not include time incurred to travel to courts, jails or other locations within Forsyth County.
- C. Reimbursable expenses shall include long distance and collect telephone calls.
- D. All reimbursable expenses must be documented with receipts.
- E. If an attorney is in doubt over whether an expense is reimbursable, the attorney should discuss the issue with the Administrator before incurring the expense.

- F. An attorney may petition the Committee for payment of extraordinary expenses that are not normally reimbursable.

Sec. 6. Vouchers

A. Voucher Forms

- (1) Attorneys shall submit vouchers to the Office on forms supplied by the Office. The form must be signed and filled out completely, including disposition, date case was completed, and judge. Omissions on the voucher will cause delay of payment.
- (2) Time charges must be itemized in any case with more than \$300.00 in attorney's fees.
- (3) Time shall be billed in tenths of an hour.
- (4) In-court time shall be distinguished from out-of-court time. In-court time must be explained by type of court appearance.
- (5) If an attorney wishes to submit his or her time by attaching a computer printout to the voucher, the format of the printout must be approved in advance by the Administrator.

B. Voucher Procedure

- (1) The Office shall review all vouchers for accuracy.
- (2) The Administrator shall require an explanation if a voucher item is unclear, unsupported by documentation, or appears to violate these policies.
- (3) Normally, all vouchers associated with a case should be submitted at the end of the case. If a case is prolonged, however, the attorney may submit an interim voucher for attorney's fees and expenses every 120 days. In addition, if the attorney is using an investigator or expert, the attorney may submit an interim voucher for them every 120 days. If the attorney determines that the investigator's work is completed prior to the 120 days or end of the case the attorney may submit the invoice for payment at that time. Each such voucher must be clearly marked "Interim Voucher". No interim vouchers shall be accepted for minimum fees.
- (4) All vouchers associated with a case shall be submitted to the Office for payment not later than 120 days after the case is complete, or not later than 120 days of conclusion of an attorney's work on a case resulting from that attorney's withdrawal or replacement from representation of an indigent defendant. Any vouchers submitted after 120 days shall not be paid unless approved by the Committee. Failure to submit an invoice within 180 days of the date of final disposition of a case, or within 180 days of conclusion of an attorney's work on a case resulting from that attorney's withdrawal or replacement from representation of an indigent defendant, shall result in the automatic waiver of an attorney's right or claim to receive payment for

attorney's fees and expenses incurred in representation of an indigent defendant which have not been submitted to the Office for payment within that period of 180 days.

- (5) Payment of vouchers will be processed and paid within forty-five (45) days of their submittal to the Office, provided that such vouchers are submitted in strict compliance with the Forsyth County Indigent Defense Program Policies & Procedures. Panel attorneys shall not request that voucher payments be made in advance of that forty-five (45) day period.

Sec. 7. Witness Expenses

- A. Witness required to travel, to provide in-court testimony, shall be reimbursed for their reasonable lodging expenses not to exceed \$100.00 per night, and not to exceed \$200.00 for cases where extended lodging may occur.
- B. Witnesses required to travel, to provide in-court testimony, shall be reimbursed for their round-trip mileage expenses at the rate of ten (10) cents per mile.
- C. Except as provided hereinabove, witnesses shall not receive or be reimbursed a food per diem or for any other cost or expense incurred or that it otherwise ancillary to their participation as a witness.

ARTICLE XII Construction

These Policies and Procedures shall be subject to, and construed to be consistent with, the Georgia Indigent Defense Act of 2003, O.C.G.A. § 17-12-1 *et seq.*, all standards for indigent defense promulgated by the Georgia Public Defender Standards Council, and all other requirements of State and Federal law.

ARTICLE XIII Severability

To the extent that any part or section of these Policies and Procedures are found to be contrary to the Georgia Indigent Defense Act of 2003, O.C.G.A. § 17-12-1 *et seq.*, and any other applicable law, the remaining parts and sections of these Policies and Procedures shall remain in full force and effect.

ARTICLE XIV Amendments

The Tripartite Committee may amend these Policies and Procedures at any time by majority vote of the Committee. All amendments shall comply with the requirements of the Georgia Indigent Defense Act of 2003, O.C.G.A. § 17-12-1 *et seq.*, all standards for indigent

defense promulgated by the Georgia Public Defender Standards Council, and all other requirements of State and Federal law.

ARTICLE XV
Effective Date

These Policies and Procedures shall be effective October 1, 2005, provided that Article XI, Section 1 shall apply only to cases appointed on or after that date.