

General Sessions Division IX

Attorney Representation Standards

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General Sessions Division Attorney Representation Standards

Attorneys should seek to meet these representation standards in every case. If an attorney is unable to meet one or more standard for reasons that are not obvious (i.e., case was resolved on a jail review docket), he or she should document the reason(s) in the client's file.

Vertical/Single Attorney Representation

One assigned to represent a client, an attorney shall represent the client until the case is closed, unless a supervisor approves transfer of the case or the client to another attorney. The attorney shall appear with the client at all substantive court appearances. If the client is charged with any new offenses during the course of the representation, the attorney shall represent the client on those charges as well (assuming no conflict of interest exists for the office).

Client Communication

Attorneys should meet with a client in person as soon as possible after case assignment, and before the first court appearance date. For clients in jail, the first meeting should occur within 72 hours of case assignment for clients on bond, the first meeting should occur within two weeks of case assignment.

Before having a substantive conversation with the prosecutor about any case, attorneys should meet the client, discuss his/her situation and initial goals for the case, and determine if the client has any other active involvement in criminal court.

Attorneys should respond to client inquiries within 48 hours (72 hours over the weekend), and otherwise inform clients in a timely manner about all case developments.

Prior to advising a client whether to take a plea, attorneys should fully advise a client about the following:

- 1 What the State must prove to convict the client of the charged offense(s);
- 2 The strengths/weaknesses of the evidence against the client;
- 3 The possible defense available to the client, and strength/weaknesses of those;
- 4 Any other potential course of action to fight the charges (i.e., legal issues in the case);

- 5 All potential plea bargain offers, the collateral consequences of each, and what efforts the attorney has made to negotiate a better outcome;
- 6 How each course of action available to the client meets or does not meet the client's stated goals;
- 7 What, if anything, you have not yet done that would be appropriate if time permitted; and
- 8 Your recommendation about the plea offer, if you have one, and why that is your recommendation.

Fact and Mitigation Investigation

Attorneys should conduct a factual investigation as soon as possible after case assignment, and before advising a client whether to accept a plea offer. The nature of the investigation to be done depends upon the case, but includes witness interviews, evidence collection and examination, document review, scene visits, and other relevant work.

Attorneys should conduct sentencing mitigation investigation, when appropriate, as soon as possible after case assignment, and before advising client whether to accept a plea offer. This includes investigation into social, medical, economic, racial, ethnic, educational, cultural, or other factors that may impact the client's case, and may require involvement of the social services staff.

Legal Issues and Research

If a client is in custody, attorneys should evaluate all potential options for seeking and obtaining the client's release from custody pending trial and discuss those options with the client. If a decision is made not to seek the client's release, attorneys should document reasons for that decision in the client's file.

As soon as possible, attorneys should identify possible legal issues in the case, and conduct preliminary research on the viability of those being raised successfully, including suppression of evidence; dismissal of charges; exclusion of evidence; discovery of exculpatory evidence; statutory challenges; constitutional challenges; etc. Attorneys should discuss these matters with the client as well and seek to litigate any such issues as early in the case as appropriate.

Collateral Consequences

Prior to case disposition, attorneys should identify potential collateral consequence of the client's involvement with the criminal justice system and seek to mitigate any negative consequences in a timely manner.

Attorneys should identify potential collateral consequences of a client's conviction, or of any plea bargain offers, and educate the client thoroughly about those consequences.

Attorneys should seek to mitigate collateral consequences through plea bargains and sentencing advocacy.

Immigration Consequences

All attorneys are expected to inquire about clients' immigration status and to discuss possible consequences. See *Padilla v. Commonwealth of Kentucky*

GENERAL SESSIONS CHECKLIST

- ___ Print and review Affidavits
- ___ Review client's criminal history
 - ___ Anything else pending?
 - ___ Client on probation or parole -- now or ever?
- ___ Calculate client's exposure and jail credit
- ___ Initial meeting with client
 - ___ Complete Uniform Affidavit of Indigency
 - ___ Complete Intake / History with client (Gather as much information as possible)
 - ___ Get releases signed if necessary
 - ___ Make records requests if necessary
 - ___ Discuss case / process / rights
- ___ Investigate
 - ___ Interview witnesses
 - ___ Victim(s)
 - ___ Police
 - ___ Others
 - ___ Consider visiting scene
 - ___ Gather evidence
 - ___ If co-defendants, speak with their attorneys
- ___ Court
 - ___ Confirm who is present in court. Can the State make their case?
 - ___ 10-day rule
 - ___ Negotiate with DA
 - ___ Discuss options with client and convey all offers
 - ___ Resolution in GS:
 - ___ B/O with Preliminary Hearing
 - ___ BIO without Preliminary Hearing on waivers
 - ___ B/O with an Information Agreement
 - ___ Dismiss / Nolle / Retire
 - ___ Bench trial (to misdemeanors only in GS)
 - ___ Plea (to misdemeanors only in GS)
 - ___ Time to serve
 - ___ Probation
 - ___ Supervised
 - ___ Unsupervised
 - ___ Treatment Court
 - ___ Diversion
 - ___ Under advisement
 - ___ Bond negotiations
- ___ Get Uniform Affidavit of Indigency Signed by Judge
- ___ Follow-up
 - ___ Make sure client knows what s/he's supposed to do after court (next court date, call probation, etc.)
 - ___ If case is bound over:
 - ___ Request copy of prelim (if had hearing)
 - ___ Preserve evidence that can be lost during this period
 - ___ Continue investigation
 - ___ Continue meeting with client and keeping him/her informed
 - ___ File bond reduction motion in Criminal Court if necessary
 - ___ File 48(b) Motion in Criminal Court if necessary
 - ___ If bound over on IAJ do necessary paperwork (such as Diversion app, etc.)

Date:

Client Intake

Client Name:

DOB:

Age:

SSN:

Phone:

Email:

Address:

Next of Kin Contact Info:

Dependents / Sig. Others:

Employment / Military Hx:

Educational Hx:

Medical Hx:

Drug Hx:

Mental Hx:

Social Hx:

Disability Status:

BOND REDUCTION QUESTIONS

Please fill out BOTH SIDES and mail to:

1. Who will make your bond?
 - a. What is their relationship to you?
 - b. What is their contact information?
2. How much bond can you afford?
3. If released, where will you live?
 - a. What is the address?
 - b. Who lives there?
 - c. How do you know them?
 - d. How old are the people living there?
4. How long have you lived in Nashville?
5. What was your last permanent address?
 - a. How long did you live there?
6. Are you a member of any church or community organizations in Nashville?
Which?
7. What is the last grade in school you completed?
8. Where do you work? (If not working, what are you doing to look for a job?)
9. Where do you get income?
10. Do you receive any Social Security Income of any type?
 - a. If so, what kind and how much?
11. Do you have children?

- a. If so, what are their names and ages? Where do they live?
12. Do you take care of anyone else (relative, spouse, etc.)?
 - a. If so, who?
13. Do you have family in Nashville?
 - a. Who?
 - b. What is their phone number and address?
14. Have you ever been given a mental health diagnosis?
 - a. What?
15. Are you supposed to take any medications?
 - a. If so, what kinds?
 - b. Where do you go to the doctor? .
16. Tell me about your prior juvenile record.
17. Tell me about your prior adult record.
18. Do you have ANYTHING (even a traffic ticket!) pending in another county or State?
Tell me about it.
19. List the names and contact numbers and addresses for any responsible person who will vouch for your reliability.
20. Why should the Judge be sure that you will come back to court?

IN THE GENERAL SESSIONS COURT FOR DAVIDSON COUNTY, TENNESSEE

STATE OF TENNESSEE

vs.

CASE No. _____

UNIFORM AFFIDAVIT OF INDIGENCY

Comes the defendant and, subject to the penalty of perjury, makes oath to the following facts (please list, circle, complete, etc.):

PART I

- 1. Full Name: 2. Social Security No.: 3. Any other names ever used: 4. Address (include City/State/Zip): 5. Telephone Nos.: (Home) (Work) (Other) 6. Are you working anywhere? Yes () No () Where 7. How much do you make? (bi-weekly, weekly, monthly, etc.) 8. Birth date: 9. Do you receive any governmental assistance or pensions (disability, SSI, AFDC, etc.)? Yes () No () What is its value? (weekly, monthly, etc.) 10. Do you own any property (house, car, bank acct., etc.): Yes () No () What is its value? 11. Are you, or your family, going to be able to post your bond? Yes () No () 12. Are you, or your family, going to hire a private attorney? Yes () No () 13. Are you now in custody? Yes () No () If so, how long have you been in custody? (If the defendant is in custody, unable to make bond and the answers to questions one (1) through eleven (11) make it clear that the defendant has no resources to hire a private attorney, skip Part II and complete Part III. If Part II is to be completed, do not list items already listed in Part I.)

PART II

- 14. Names & ages of all dependents: relationship relationship relationship 15. I have met with following lawyer(s), have attempted to hire said lawyer(s) to represent me, and have been unable to do so: Name Address 16. All my income from all sources (including, but not limited to wages, interest, gifts, AFDC, SSI, social security, retirement, disability, pension, unemployment, alimony, worker's compensation, etc.): \$ per from \$ per from 17. All money available to me from any source: A. Cash B. Checking, Saving, or CD Account(s)-give bank, acct. no., balance C. Debts owed me D. Credit Card(s)-give acct. no., balance, credit limit, and type (Visa, Mastercard, American Express, etc.) E. Other 18. All vehicles/vessels owned by me, solely or jointly, within the last six months (including but not limited to cars, trucks, motorcycles, farm equip., boats etc.): value \$ amt. owed value \$ amt. owed 19. All real estate owned by me, solely or jointly, within the last six months (including land, lots, houses, mobile homes, etc.): value \$ amt. owed value \$ amt. owed 20. All assets or property not already listed owned within the last six months or expected in the future: value \$ amt. owed value \$ amt. owed 21. The last income tax return I filed was for the year and it reflected a net income of \$ I will file a copy of same within one week if required. 22. I am out of jail on bond of \$ made by The money to make bond, \$ was paid by

PART III

- 23. Acknowledging that I am still under oath, I certify that I have listed in Parts I and II all assets in which I hold or expect to hold any legal or equitable interest. 24. I am financially unable to obtain the assistance of a lawyer and request the court to appoint a lawyer for me. 25. I understand that it is a Class A misdemeanor for which I can be sentenced to jail for up to 11 months 29 days or be fined up to \$2500.00 or both if I intentionally or knowingly misrepresent, falsify, or withhold any information required in this affidavit. I also understand that I may be required by the Court to produce other information in support of my request for an attorney.

This day of

Defendant (Signature)

Clerk

Judge

IN THE GENERAL SESSIONS COURT FOR DAVIDSON COUNTY, TENNESSEE

STATE OF TENNESSEE

vs.

)
)
)

CASE No. _____

ORDER APPOINTING LEGAL COUNSEL

It appearing, based upon the Affidavit of Indigency filed in this cause, and after due inquiry made, that the defendant is an indigent person and thereby qualifies for appointed counsel.

It is, therefore, ordered that the District Public Defender OR _____, Attorney at Law is hereby appointed as counsel for the defendant as provided by law.

This _____ day of _____, _____
Judge

ASSESSMENT OF ADMINISTRATIVE FEE PURSUANT TO T.C.A. 40-14-103

The defendant is indigent and/or partially indigent and the Court Appointed counsel in this case.

It is therefore, ordered by the Court that the defendant pay a nonrefundable administrative fee in the amount of \$_____. (minimum fee = \$50.00; maximum fee = \$200.00) This fee shall be paid prior to disposition of the case or within two (2) weeks following the appointment of counsel, whichever shall first occur. The Clerk shall receive a commission of five percent (5%) for collecting and disbursing said payments.

_____ This fess shall be waived by the Court _____ This fee shall NOT be waived by the Court.

This _____ day of _____, _____
Judge

ORDER FOR PARTIAL REIMBURSEMENT OF COSTS OF COURT APPOINTED COUNSEL

The defendant in indigent but able to partially reimburse the State's expense in providing him/her court appointed counsel.

It is, therefore, ordered that the defendant pay into the office of the Clerk of the Court the sum of \$_____ per _____ (until the sum of \$_____ is paid) (until further orders of the Court). The Clerk shall receive a commission of five percent (5%) for collecting and disbursing said payments.

This _____ day of _____, _____
Judge

DETERMINATION OF NONINDIGENCY

It appearing, based upon the Affidavit of Indigency filed in this cause, and after due inquiry made, that the defendant is not an indigent person as defined by law,

It is Order and Adjudged that the defendant does not qualify for Court appointed counsel.

This _____ day of _____, _____
Judge



IN THE GENERAL SESSIONS COURT FOR DAVIDSON COUNTY
OF NASHVILLE

STATE OF TENNESSEE)
)
VS)
)
_____)

WARRANT NO: _____

TRANSFER ORDER

It appearing to the Court for good cause shown, to wit: _____

This matter (s) should be transferred to: _____

_____ Div. _____
Transferring Judge Date: _____

_____ Div. _____
Receiving Judge Date: _____

District Attorney

Defense Attorney

Medical Information Services
 Authorization for Release of Medical Information

Medical Record #

FOR STAFF USE ONLY

Please complete all pages of this form, sign, and return to:

Vanderbilt University Medical Center o Medical Information Services Attn: Release of Information 0 4560 Trousdale Drive o Suite 101 0 Nashville, TN 37204-4538- Or submit by fax to (615) 343-0126. Contact our office at (615) 322-2062 with questions.

Vanderbilt Psychiatric Hospital o Medical Information Services o Attn: Release of Information 0 1601 23rd Ave. South Nashville, TN 37212. Or submit by fax to (615) 327-7158. Contact our office at (615) 327-7153 with questions.

PATIENT IDENTIFICATION	Name:	Date of Birth:
	Address:	
	City:	State:
	Previous Name:	Social Security#:
	Patient Phone#:	Zip:

I request and authorize Vanderbilt University Medical Center to release medical information of the patient named above.

RELEASE RECORDS TO: (Where records should be sent)

<input type="radio"/> Mail <input type="radio"/> Pick up in person <input type="radio"/> Fax <input type="radio"/> Electronic	<input type="radio"/> Same as above Name/Agency:		
	Address:	City:	State:
	Phone#:		Fax#:
	E-mail Address:		Zip:
			(For Doctors or other HealthCare Providers Only)

INFORMATION, REQUESTED: Fees may apply. See Billing & Fees.

Is this request for psychotherapy notes? If yes, this is the only item you may request on this authorization. You must submit a separate authorization for any items below. If no, you may check any items below.

MEDICAL RECORD INCLUDES RECORDS FROM: <ul style="list-style-type: none"> • Vanderbilt University Hospital • Monroe Carol Jr Children's Hospital at Vanderbilt • Vanderbilt Psychiatric Hospital • Vanderbilt Medical Group 	DATES OF TREATMENT TO BE RELEASED		
	Dates from:	to	Or specific date:
	<input type="radio"/> Abstract (see definition on page 1) <input type="radio"/> Legal medical record (see definition on page 1)		
	OR Specific Categories		
	<input type="radio"/> History and physical <input type="radio"/> Discharge summaries <input type="radio"/> Operative/procedure notes <input type="radio"/> Consultations <input type="radio"/> Other (specify):	<input type="radio"/> Radiology reports <input type="radio"/> Cardiac reports <input type="radio"/> Pathology reports <input type="radio"/> Lab results <input type="radio"/> Emergency services	<input type="radio"/> Obstetrics (labor and delivery) <input type="radio"/> Office/clinic notes <input type="radio"/> Respirat0 reports <input type="radio"/> Circle One: FIVILA, Power of Attorney, Pre-Admission Screening & Resident Review

OTHER DEPARTMENT	The information to be released will cover the time period from:	to	Or specific date:
	<input type="radio"/> Cardiac Images (e.g., Cath/ECHO/EKG - specify):		
	<input type="radio"/> Radiology Images (specify):		
	<input type="radio"/> Billing <input type="radio"/> Payment Records <input type="radio"/> Fetal Monitoring Strip <input type="radio"/> Pharmacy <input type="radio"/> Home Care Services		

Medical Record # _____
FOR STAFF USE ONLY

**PURPOSE OF
RELEASE**

- Patient Care Appointment/Sharing with other health care provider as needed
 Personal Use Disability/Insurance Application/Claim
 Administrative (i.e., FMLA) Attorney/Legal Other (*specify*)

I understand that my medical record may include information on diagnosis or treatment related to psychiatric or psychological conditions, drug or alcohol abuse, and acquired immune deficiency syndrome (AIDS) or HIV status. I agree that any information about such diagnosis or treatment may be released.

I also understand that if I do not ask for my legal medical record or specify the records I want; the Medical Information Services department will send an abstract of my legal medical record.

PLEASE CHECK THE STATEMENT BELOW THAT APPLIES

(You must check one): I do _____ do not _____ authorize this information to be released.

I would like to limit the information to:

I understand that:

- I may refuse to sign this authorization.
- Refusing to sign this authorization will not affect my treatment, payment, enrollment, or eligibility for benefits.
- I may take back (revoke) this authorization in Writing, except for any actions already taken based upon it.
- I understand that this authorization will expire when the records are released for the request dated below. Any requests after this date will need a separate authorization.
- If the the requestor or receiver is not a health plan or health care provider, the released information may no longer be protected by federal privacy rules and may be shared with others.
- I get a copy of this form after I sign it.

Printed Name of Patient / Legal Representative:

Signature of Patient / Legal Representative:

Date:

Time:

Relationship to Patient:



AUTHORIZATION TO RELEASE CONFIDENTIAL INFORMATION

Purpose and Laws: This form, when properly completed, permits the release of confidential information about a person receiving services (service recipient) governed and regulated by Title 33, Tennessee Code Annotated. Any information to be released under this form shall be released in accordance with the following confidentiality laws and regulations: Title 33, Tennessee Code Annotated; the federal Health Insurance Portability and Accountability Act of 1996 (HIPAA) and its regulations at 45 Code of Federal Regulations (CFR) Parts 160 and 164; and the federal Confidentiality of Alcohol and Substance Abuse Patient Records and its regulations at 42 CFR Part 2. The records released through this Authorization are protected by the above named confidentiality laws and regulations. A general authorization for the release of medical or other information is NOT sufficient for the purpose of disclosing mental health or alcohol and substance abuse information. Federal rules restrict any use of alcohol and substance abuse information to criminally investigate or prosecute the person to whom the information pertains. Further disclosure of this information to parties other than those designated on this form is expressly prohibited without the express written consent of the person to whom the information pertains.

I, _____ / _____, authorize
(Print name of service recipient) (Print date of birth)

_____ and _____
(Print name of agency/program making disclosure) (Mailing address of agency/program making disclosure)

To disclose to _____ / _____
(Print name of person(s) or organization to which disclosure is to be made, and their mailing address)

The following information: _____

(Describe the specific information to be used or disclosed)

The purpose of the authorized disclosure is to: _____

(Specific purpose/use of the disclosure)

By signing this form, I (the service recipient) understand that if the person or organization designated on this form to receive the information is not a Health Plan or Health Care Provider, some of the released information may no longer be protected by the above named confidentiality laws and regulations. I also understand that signing this Authorization is voluntary, and that I am not required to sign this Authorization in order to get treatment, payment, enrollment, or eligibility for benefits. I also understand that I may revoke this Authorization by doing so in writing at any time; except to the extent that action has been taken in reliance on the information, and that the revocation does not affect any information that was released before the revocation. Even if I do not revoke this Authorization, **the Authorization expires automatically one (1) year from the date of signature or as follows:**

(Specify the date, event, or condition of expiration)

(Signature of service recipient who is 16 years of age or older)* (Date)

*If a service recipient gives oral consent or signs with an X, this form must be signed by two (2) witnesses:

(Witness) (Date) (Witness) (Date)

(Signature of individual acting on behalf of the service recipient)** (Date)

** If the individual signing this form is acting on behalf of the service recipient, the individual is: (1) the parent, legal guardian, or legal custodian of a service recipient who is under 18 years of age; (2) the conservator or guardian for the service recipient; (3) the *guardian ad litem* of the service recipient but only for the purposes of the litigation in which the *guardian ad litem* serves; (4) the attorney-in-fact under a power of attorney who has the right to make disclosures under the power for the service recipient; (5) the executor, administrator, or personal representative on behalf of a deceased service recipient; and (6) the treatment review committee, acting within the authority and scope of Tennessee Code Annotated Section 33-6-107. Appropriate documentation of proof of this individual's authority to act on behalf of the service recipient must be submitted to the entity being asked to release the information before any information will be released.

FEE AGREEMENT FOR DEFENSE IN CRIMINAL PROCEEDINGS

THIS AGREEMENT is made and entered into this (date) day of (month, year), by and between the law firm of (your law firm name), hereinafter referred to as "law firm" and (client name(s)), hereinafter referred to as "client(s)."

WITNESSETH:

WHEREAS, the law firm is a limited liability partnership of regular practicing attorneys located in (county, state) and certain members of said law firm represent Defendants in criminal proceedings, and

WHEREAS, the client(s) may be or has/have been charged in the (district, county, state) District Court with the crime of (specific offense), and

WHEREAS, the client(s) is/are desirous of hiring said law firm to prevent the filing of said charges and/or to defend him/her/them on said charges(s).

NOW, THEREFORE, the client(s) and law firm do hereby mutually agree that the law firm shall represent the Defendant in connection with the criminal matters above referred to. Attorney will endeavor to represent Client(s) competently in accordance with the highest legal and ethical standards. Client will be cooperative, responsible and truthful in its relationship with Attorney. However, both parties have the right to withdraw from the relationship at any time.

Client(s) agree(s) to pay law firm a nonrefundable retainer fee of \$(dollar amount) for representation in connection with the above set forth matters. Said retainer fee \$(dollar amount) shall be paid on the (date) day of (month, year) and \$(dollar amount) on the (date) day of each month thereafter until paid in full. That representation shall be provided at the rate of \$(dollar amount) per hour with the retainer charged for such representation to be the retainer fee as agreed above.

Client(s) further agree(s) to pay the law firm on a monthly basis all out-of-pocket expenses advanced by law firm on client's behalf. Said funds will not be paid from the funds in the trust account set aside for attorney's fees. Funds for out-of-pocket expenses may be established in a separate trust account for that purpose or paid promptly when billed by law firm on a monthly basis as agreed by the client(s) and the law firm. Said out-of-pocket expenses shall include but not be limited to copying costs and costs of experts, reports, records, and mileage at the RS rate.

This agreement contains the entire agreement between Client and attorney. This agreement may be modified only by subsequent written agreement between the director of Client and Attorney.

(Your law firm name)

(Client name) Date

By: (Client name) _____

Date

(Your name)

[Date]

[Title/Name]

[Address]

Dear [Title/Name]:

I am writing to inform you that our law office will be closing your case. We have made this decision since it is our understanding that [List reason for case closure].

We will keep the case file for a total of [List number of years]. During that time, please contact us to obtain a copy of the file, any information or documentation or to re-open the case. After [List number of years], the case file will be destroyed.

Should you have any questions, please call us at XXXX. We are grateful for the opportunity to serve you.

Sincerely,

[Name]

[Title]

