

# **ORLEANS PUBLIC DEFENDERS 2007 CONFLICT PANEL RULES AND PROCEDURES**

The Orleans Public Defenders (OPD) in compiling a list of lawyers willing to represent indigent criminal defendants in criminal district court when the OPD cannot do so due to conflicts or excessive caseloads.

The lawyers on this list can elect to represent these defendants pro bono or for a fee of \$60 per hour and \$40 per hour for investigators. The Orleans Public Defenders office has been chronically underfunded and is only now beginning to recover from the effects of Katrina. In light of these circumstances, lawyers who can afford to do so are asked to consider accepting a pro bono appointment.

## **How the Service Works**

1. The lawyer completes the conflict panel application found online at the OPD website, <http://www.orleanspublicdefenders.org>, and returns it to the OPD.
2. When the Orleans Public Defenders (OPD) cannot represent an indigent client, due to a conflict or excess caseloads, the OPD selects the next name on the list at the appropriate "level", I-V. Each lawyer is certified to handle a certain level of criminal case according to the individual's experience in the area of criminal law.
3. The OPD then contacts that attorney, informs him or her of the next court date and any other essential information and arranges for the transfer of any file.
4. Bills are to be submitted monthly to the OPD for payment.

## **RULES AND REGULATIONS**

### **Eligibility**

A person is eligible to participate in the Orleans Public Defender Conflict Panel if he/she:

1. Is licensed to practice law in the State of Louisiana;
2. Is a member in good standing of the Louisiana State Bar Association, and any and all other courts, administrative bodies and/or entities before which he/she has been admitted to practice;
3. Personally certifies that he/she is competent to represent a criminal defendant at the level to which he/she was assigned.

### **Requirements**

An attorney who participates in the Orleans Public Defender Conflict Panel must adhere to the following requirements:

4. Adheres, in the representation of cases assigned through the conflict panel, to the State of Louisiana Performance Standards for Criminal Defense Representation in Indigent Criminal Cases in the Trial Court and in addition, if assigned to a capital case, to the ABA Guidelines for the Appointment and Performance of Defense Counsel in Death Penalty Cases;
5. Refrains from exceeding LIDAB mandated caseload limits (see LIDAB's Standards Relating To Workload For Counsel Providing Defense Services To Indigents (Chapter 12));
6. For attorneys whose experience corresponds to classes IV and V, agrees to attend a one one-day training, offered quarterly by the OPD, during their first three months of representing defendants via the conflict panel; and

7. OPD is not responsible for the monitoring of progress of cases and every attorney must comply with ethical and professional obligations including the Code of Professional Responsibility and other statutory and jurisprudential obligations of attorneys.

## **Billing**

8. Attorneys can accept cases pro bono or can be paid \$60 per hour for representation of an indigent client. In capital cases, attorneys are compensated at \$110 per hour. Investigators are paid \$40 per hour; payment is made to the attorney.
9. OPD billing forms (available at the OPD offices at 2601 Tulane Ave., 7<sup>th</sup> Floor, or by emailing Martina Sakryd of the OPD at [martinas@orleanspublicdefenders.org](mailto:martinas@orleanspublicdefenders.org)) must be utilized. Billing forms for the preceding month's work shall be submitted to Martina Sakryd, Orleans Public Defenders, 2601 Tulane Ave., 7th Floor, New Orleans, LA, 70119, by the tenth day of each month. Absent extraordinary circumstances, forms submitted later than this shall not be paid. Absent extraordinary circumstances, the OPD will pay within 30 days of submission.
10. Except in extraordinary circumstances, attorney travel time is compensated only via mileage, at the rate set by the Louisiana Department of Administration (see [www.doa.Louisiana.gov/osp/travel](http://www.doa.Louisiana.gov/osp/travel)). Per diem for meals, hotels and other expenses accrued in case-related travel are also compensated at these rates. Investigators can bill for travel time.
11. There is no compensation for time spent on secretarial tasks, e.g., xeroxing documents. Compensation for paralegal time shall not exceed \$40 per hour.
12. To secure payment for experts, counsel should fill out an OPD "Expert Request Form (Conflicts)" and submit it to Martina Sakryd, Orleans Public Defenders, 2601 Tulane Ave., 7th Floor, New Orleans, LA, 70119, fax (504-821-5285); email ([martinas@orleanspublicdefenders.org](mailto:martinas@orleanspublicdefenders.org)). Forms are available from Ms. Sakryd at the OPD offices. To secure payment for experts in capital cases, attorneys should contact Marsha Olivier at LIDAB.

## **Cases Assignments and Experience Levels**

13. Cases are classified in the following categories pursuant to the Orleans Criminal District Court local rules; lawyers are assigned to these cases according to the following levels of experience:

### **CLASS I**

#### **Capital offenses.**

*Two attorneys must be assigned to all Class 1 cases. One of these attorneys must be certified by the Louisiana Indigent Defense Assistance Board (LIDAB) as lead capital trial counsel; the other must be certified by LIDAB as associate capital trial counsel.*

### **CLASS II**

#### **Offenses necessarily punishable at hard labor.**

*Counsel must:*

*(A) Be an experienced and active criminal trial practitioner with at least three years of criminal litigation experience; and*

*(B) Have prior experience as lead counsel in no fewer than five felony jury trials which were tried to completion, at least one of which must have involved crimes for which the statutory penalty independent of repeat offender status was ten years or more.*

### **CLASS III**

#### **Offenses not necessarily punishable at hard labor.**

*Counsel must:*

*(A) Be an active criminal trial practitioner with at least one year of criminal litigation experience; and*

*(B) Have prior experience as lead counsel in at least three criminal jury trials.*

**CLASS IV AND V**

**Class Four: Those triable by the Court without a jury, and all appeals from Municipal and Traffic Court of New Orleans, writs, and fugitive cases.**

**Class Five: Civil forfeiture petitions under ‘Seizure and Controlled Dangerous Substance Property Forfeiture Act of 1989’ which shall be entitled ‘In Rem Forfeiture Proceedings’ and shall originate in the Magistrate Court.**

*Any attorney licensed to practice law in Louisiana.*

**Case Assignments**

14. Counsel must contact Martina Sakryd at the OPD immediately if unable to accept assignments for any reason so that counsel can be placed on inactive status with the Orleans Public Defender Conflict Panel. Counsel will remain on inactive status until counsel notifies the OPD that he or she is able to accept cases.
15. Attorneys on the conflict panel may not refer a case assigned by the Conflict Panel to another attorney. If a Conflict Panel attorney is unable to represent the client, the attorney should return the case back to the OPD. Failure to comply may result in removal from the Conflict Panel.

**Client Relations**

16. Any client who seeks to make a complaint about a panel member attorney will be instructed that such complaint must be made in writing. Copies of complaints received will be sent to the panel attorney member referenced in the complaint and may be the basis for suspension or termination on the Conflict Panel.

**Suspension/Termination**

17. The OPD has the authority to suspend or terminate membership of any panel member on all pending and future matters for good cause upon written notice.

**Right to Appeal**

18. If any panel member receives notice of suspension or termination, he/she may make his/her objection known in writing to the OPD. The OPD shall consider such objections and relay, in writing, the results of its review within 30 days of the meeting to the objecting party.