



OFFICE OF COURT-APPOINTED COUNSEL

OCAC PROCEDURE

Determining Eligibility and Attorney Fee Assessment for Justice Courts

Reference:
Arizona Revised Statutes
Arizona Rules of Criminal Procedure
American Bar Association Standards

Effective Date: 06/01/2004

Revised: _____

Director: 

Determining Eligibility and Attorney Fee Assessment for Justice Courts

I. Statement

The following procedure is to be used by the Office of Court Appointed Counsel (OCAC) to screen defendants facing misdemeanor charges to determine financial eligibility for court appointed counsel. The procedure also describes the steps to determine the amount of the attorney fee assessment.

II. Determination of Eligibility

- A. Each day OCAC staff will review the misdemeanor arraignment calendar for the following day and enter the relevant case information into the OCAC indigence screening program.
- B. Each day OCAC staff will attend Justice Court misdemeanor arraignment hearings and prepare two forms for the defendants potentially eligible for court appointed counsel, the Instructions for Obtaining a Court Appointed Attorney (Attachment A) and the Defendant's Financial Statement (Attachment B). If a defendant refuses court appointed counsel or is retaining private counsel, only the Request for Court Appointed Counsel will be completed and maintained. The NO box should be checked and the form signed by the defendant.
- C. An eligibility Interview is conducted in court and the Defendant's Financial Statement (Attachment B) is completed. The computer program will calculate the income information and conclude whether defendant is Indigent, Quasi Indigent or Non Indigent. The Defendant's Financial Statement will be printed for the defendant's review and signature.

III. Attorney Fee Assessment

- A. The computerized indigence screening program will refer to the Attorney Fee Assessment Schedule for Court-Appointed Attorney (Attachment C) and set the appropriate fee assessment. The fee assessment will be entered on the Justice Court Order for Court Appointed Counsel (Attachment D) and explained to the defendant.
- B. OCAC staff will explain the Instructions For Payments of Assessed Attorney Fees (Attachment E) to the defendant and complete the form with the defendant.
- C. Collecting the Assessment
 - 1. All defendants will be asked to pay all or part of the fee immediately.
 - 2. If the defendant is not prepared to make any payment, OCAC will set-up a payment plan with monthly installments. The due date of the first payment should be within 21 days of arraignment.

NOTE: OCAC allows only five months to pay the total fee. Installments should be divided into no more than five equal payments.

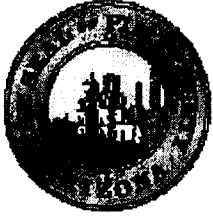
IV. Conclusion of the Financial Screening

- A. All defendants will be given a copy of the Instructions for Payments on Assessed Attorney Fees and directed to have a seat until the Judge calls the case.
- B. The original Instructions for Obtaining Court Appointed Counsel and the original Financial Statement will be attached to the Order for Court Appointed Counsel and given to the court room Clerk.
- C. The Judge will sign the Order for Court Appointed Counsel and give the defendant a copy.

V. Reports

- A. OCAC will prepare quarterly reports on misdemeanor cases with court appointed counsel. The reports will include the total number of cases with court appointed counsel, the number of cases assigned to the Public Defender, the number of cases assigned to contract attorneys, the total number of misdemeanor defendants screened for indigence, the number of defendants found to be indigent and quasi-indigent, the amount of attorneys' fees assessed, and the amount of attorneys' fees collected.
- B. The quarterly reports will be distributed to Justice Courts administration and the County Administrator.

ATTACHMENT A



PIMA COUNTY OFFICE OF
COURT APPOINTED COUNSEL
130 W Congress, 2nd Floor
Tucson, AZ 85701
(520) 243-4468

Defendant's Name: _____ Case No. _____

Instructions for Obtaining a Court Appointed Attorney

****WARNING: It Is A Felony To Intentionally Submit False Information To A Court**

If you are requesting a court appointed attorney you are required to verify financial status and you may be required to provide financial documents.

DO YOU WANT A COURT APPOINTED ATTORNEY?

- NO. I have or will hire and pay for my own attorney.
 YES. I will provide all information required to determine my eligibility.

If yes, you must complete a financial statement in order to determine if you are eligible for court appointed counsel.

It may be determined that you are eligible, but have sufficient resources to pay a portion of the costs associated with your legal representation, if eligible, you will be assessed a minimum of \$ 350.00 to reimburse the county for a portion of your legal defense. Payment must be made by Money Order, Credit Card or Cash.

TO OBTAIN A COURT APPOINTED ATTORNEY, YOU MUST DO THE FOLLOWING:

- 1) At your eligibility interview, you will be asked to pay a \$ 25.00 Indigent Administrative Assessment Fee authorized by Arizona Revised Statutes 11-584(B)(1).
- 2) Fill out the Financial Statement, which includes authorization for release of information (for the purpose of verifying the financial information you have provided to the court.

THE FOLLOWING DOCUMENTATION MAY BE REQUIRED TO DETERMINE ELIGIBILITY

- Most Recent Tax Return
 Current Wage Stubs (For You and Your Spouse)
 Current Checking and Savings Account Statements

MY SIGNATURE BELOW INDICATES THAT I UNDERSTAND AGREE TO THE PROVISIONS OF THIS DOCUMENT. UNDER THE PENALTIES OF PERJURY, ALL INFORMATION I HAVE SUPPLIED ON THE FINANCIAL STATEMENT IS COMPLETE AND TRUE, TO THE BEST OF MY KNOWLEDGE.

_____ Date: _____
DEFENDANT'S SIGNATURE

OFICINA DEL CONDADO DE PIMA
DE ASIGNACIÓN DE ABOGADOS DE OFICIO
130 W. Congress, Segundo Piso
Tucson, AZ 85701
(520) 243-4468

Nombre del Demandado _____ No. Del Caso _____

INSTRUCCIONES PARA OBTENER ABOGADO DE OFICIO DESIGNADO POR EL TRIBUNAL.

****ADVERTENCIA: ES FELONÍA EL INTENCIONALMENTE SOMETER INFORMACIÓN FALSA A LA CORTE.**

Si esta pidiendo un abogado de oficio es requerido a verificar su estado financiero y posiblemente sera requerido a proporcionar documentos financieros.

¿QUIERE UN ABOGADO DE OFICIO?

() NO. He contratado o voy a contratar abogado.

() SI. Voy a proporcionar toda información requerida para determinar mi elegibilidad.

Puede ser determinado que es elegible, pero que tiene los suficientes recursos para pagar una porción de los costos asociados con su representación legal. Si es elegible, podrá ser avaluado un mínimo de \$350.00 para reembolsarle al Condado por la porción de su defensa legal. Pagos tiene que ser por giro postal, tarjeta de crédito o en efectivo.

PARA OBTENER UN ABOGADO DE OFICIO ASIGNADO POR EL TRIBUNAL, TIENE QUE HACER LO SIGUIENTE:

1) En su entrevista de elegibilidad, se le pedirá que pague \$25.00 cuota por su Evaluación Administrativa de Indigente, autorizada por Arizona Revised Statutes 11-584(B)(1).

2. Completar la Declaración Financiera, la cual incluye una autorización para el obtener su información (para el proposito de verificar su información financiera que le proporcione a la corte).

LA SIGUIENTE INFORMACIÓN PODRÁ SER REQUERIDA PARA DETERMINAR ELEGIBILIDAD

- () El mas reciente retorno de impuestos (Tax Return).
- () El mas reciente talón de cheque (De Ud. y su esposa).
- () Cuenta de cheques y declaración de cuenta de ahorros.

MI FIRMA AQUÍ ABAJO INDICA QUE ENTIENDO Y ESTOY DE ACUERDO CON LAS PROVISIONES DE ESTE DOCUMENTO. BAJO LOS CASTIGOS POR TESTIMONIO FALSO Y A LO MEJOR DE MI CONOCIMIENTO, TODA INFORMACIÓN QUE HE PROPORCIONADO EN MI DECLARACIÓN FINANCIERA ESTA COMPLETA Y VERDADERA.

FIRMA DEL ACUSADO

FECHA: _____

ATTACHMENT B

PIMA COUNTY, ARIZONA

State Vs.	Case No. _____ Defendant's Financial Statement for Indigence Screening and Attorney Fee Assessment	
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AUTHORIZATION FOR RELEASE OF INFORMATION: I give my permission to the Court or to its representative to contact anyone or any agency with regard to any investigation for purposes of verifying the financial information I have or will provide to the Court in support of my application for indigent defense services.

Full Name: _____ D.O.B. _____

Drivers License No. _____ Phone No. _____

Other Names Used: _____

Address: _____ City _____ State _____ Zip _____

Age _____ Marital Status _____

Other than yourself, how many people are you legally obligated to support in your household? _____

Total Number of Children* _____ Total Number of Adults* _____

Employed Full-Time Part-Time Unemployed Student Other

If Other, explain _____ How Long? _____

Employer _____ Telephone _____

Address _____ Contact _____

Spouse's Name _____ Dr. Lic. No. _____

Spouse's Employer _____ Telephone _____

Address _____ Contact _____

Supply two references: Name, Address and Telephone Number

TOTAL MONTHLY INCOME (Must Report All Household Income)

Your Total Monthly **Gross** Income _____

Spouse's Income, Or Other Monthly Income _____

Public Assistance _____

(List Programs) _____

TOTAL MONTHLY INCOME \$ _____

ASSETS

Amount of Cash Available on Hand _____

Checking Account (Avg. Balance) _____
Bank _____ Acct # _____Savings Account (Avg. Balance) _____
Bank _____ Acct# _____

Life Insurance (Cash Value) _____

Net Real Estate (Value Less Amount Owed) _____

Automobiles, Recreational Vehicles or Other
Forms of Transportation _____

Stocks, Bonds, CD's, Other Redeemable Paper _____

IRA's, 401(K)'s, Deferred Comp. Plan _____

Furniture, Collectibles, Guns, Jewelry, Etc. _____

Other _____

**** TOTAL AMOUNT OF ASSETS:****OATH UNDER PENALTY OF PERJURY**

I have truthfully given the information which appears in this statement. I have not knowingly concealed, or in any way misrepresented my financial resources. I am aware that I can be held in contempt of courts, or prosecuted for perjury if I have made any false statement or misrepresentation or concealment, and that I can be prosecuted for theft if I obtain the services of the public defender or a court-appointed attorney by means of false statement, misrepresentation, or concealment, or if I continue to accept such services after my financial condition has materially changed without notifying the Courts and that in any such case this application may be used against me.

I will notify the Court of any change in my address, financial resources, employment, cash income, or any of the other items listed in the application within 5 days of said change.

DEFENDANT _____

DATE _____

Dependents (*)

Name	Age	Relationship
Name	Age	Relationship
Name	Age	Relationship
Name	Age	Relationship
Name	Age	Relationship
Name	Age	Relationship

CONDADO PIMA, ARIZONA

Estado Vs.	Case No. _____ Declaracion Financiera del Acusado para Asesorar los honorarios del abagado/a	
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AUTORIZACION PARA QUE SE EVELE INFORMACION: Autorioz a la corte o a sus representates que se comuniquen con cualquier persona o agencia respecto a cualquier investigacion con el fin de verificar la informacion financiera que you he proveido o proveere a la corte para respaldar mi solicitud para obtener servicios para la defensa de indigentes.

Nombre Completo _____ Fecha de Nacimiento _____

#LIC de Manejar _____ Tele # _____

Otros Nombres que usa _____

Direccion _____ Cdad _____ Edo _____ Codigo P _____

Edad _____ Estado Civil _____

¿Además de Ud. Cuántas personas son mantenidas legalmente y obligadamente en su ogar? _____

Niños* _____ Adultos* _____

Empleado Turno completo Turno Parcial Desempleado Estudiante Otra

Si es Otra cosa, explique _____ Cuanto tiempo _____

Empleador _____ Tele # _____

Direccion _____ Comunicarse con _____

Nombre del Conyuge _____ #LIC Manej. _____

Empleador del Conyuge _____ Tele # _____

Direccion _____ Comunicarse con _____

Dos referencias; Nombre, Direccion, No. Tele

1. _____

2. _____

TOTAL INGRESO MENSUAL (Deben Declararse todos los Ingresor del Hogar)

Total de Su Sueldo Mensual _____

Ingreso del Conyuge, U otro Ingreso Mensual _____

Asistencia Publica _____

(Anote los Programas) _____

Saldo de Ingreso Mensual \$ _____

BIENES

Cantidad De Dinero Efectivo A La Mano

Cuenta de cheques (Promedio del Balance)
Banco _____ Cuenta # _____

Savings Account (Avg. Balance)
Banco _____ Cuenta # _____

Seguro de Vida (Valor Liquidable)

Neto de Bienes Raices (Valor Menos Adeudo)

Automoviles, Vehiculos de Recreacion U Otras
Formas de Transportacion

Acciones, Bonos, CDs, Otro Documento Cambiario

IRA's, 401(K)'s, Deferred Comp. Plan

Muebles, Colecciones, Armas de Fuego, Joyas

Otra Cosa _____

**** CANTIDAD TOTAL DE BIENES**

JURAMENTO BAJO PENA DE PERJURIO

Declaro que la informacion que di en este documento es veridica. No he ocultado ninguna informacion intencionalmente, ni de ninguna manera he dado informacion falso sobre mis recursos. Estoy consciente que puedo encontrarme en desacato a la corte, o puedo ser enjuiciado por falso testimonio si he dado informacion falso, o he dado informacion erronea o si he ocultado informacion, y que me pueden enjuiciar por hurto de servicios del testimonio, informacion erronea, o por ocultar informacion, o si continuo aceptando tales servicios despues que mi situacion economica hjaya cambiado materialmente sin haberselo notificado a las Cortes y que si tal fuera el caso esta solicitud puedo usarse contra mi.

Le notificare a la Corte cualquier cambio de direccion, recursos financieros, empleo, dinero en efectivo, o cualquiera de los detalles anotados en la solicitud, endtro de 5 dias de dicho cambio.

ACUSADO

FECHA

Dependientes (*)

Nombre	Edad	Relacion
Nombre	Edad	Relacion
Nombre	Edad	Relacion
Nombre	Edad	Relacion
Nombre	Edad	Relacion
Nombre	Edad	Relacion

ATTACHMENT C

ATTORNEY FEE ASSESSMENT SCHEDULE FOR COURT-APPOINTED ATTORNEYS

Indigence is defined as annual income less than 133% of the 2004 Health and Human Services Poverty Guidelines. Quasi-indigence is annual income between 133% and 266% of the 2004 Health and Human Services Poverty Guidelines. Any person who requests a court-appointed attorney will be charged a \$25 Indigent Administrative Assessment in addition to the attorney fee assessment.

Size of Household	If income is between:	Attorney fee assessment is:
1	0 - 12,381	0
2	0 - 16,611	0
3	0 - 20,840	0
4	0 - 25,070	0
5	0 - 29,299	0
6	0 - 33,528	0
7	0 - 37,758	0
8	0 - 41,987	0

If Income is between:		Attorney fee assessment is:
12,382	24,765	350
16,612	33,223	350
20,841	41,682	350
25,071	50,141	350
29,300	58,600	350
33,529	67,059	350
37,759	75,517	350
41,988	83,976	350

Not entitled to Court-appointed attorney if income is greater than:
24,765
33,223
41,682
50,141
58,600
67,059
75,517
83,976

Indigent Defense will update this chart annually to reflect changes to the Federal Poverty Guidelines and/or changes to the base rates for contract attorneys.

ATTACHMENT D

PIMA COUNTY, ARIZONA

STATE

No: _____

v

ORDER RE
COURT APPOINTED COUNSEL

() SUPERIOR COURT (X) JUSTICE COURT () CITY COURT

Having considered the Defendant's Financial Statement and finding that the defendant is charged with Class 1, () Felony (X) Misdemeanor

IT IS ORDERED in the above numbered cause(s):

- () Appointing the below-named attorney to represent the defendant for all further proceedings through the filing of a Notice of Appeal if required:
() Court Appointed Attorney: _____
- () Reserving the right to later assess attorney fees and/or reset review hearing for _____, at _____ a.m./p.m.
- () Assessing an indigent administrative fee of \$25.00 pursuant to A.R.S. § 11-584 (B)(1).
- () Assessing attorney fees of \$ _____ to offset the costs of legal services provided, with the defendant to pay the assessed fees at the rate of \$ _____ per month, commencing _____.
- () Denying the defendant's request for court appointed counsel.

JUDGE/COMMISSIONER/MAGISTRATE DATE

IF YOUR REQUEST FOR A COURT APPOINTED ATTORNEY HAS BEEN DENIED, YOU MAY WISH TO CONTACT THE PIMA COUNTY BAR ASSOCIATION LAWYERS REFERRAL PROGRAM AT (520) 623-4625.

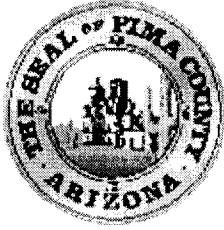
ALSO, IF YOUR REQUEST FOR A COURT APPOINTED ATTORNEY HAS BEEN DENIED AND YOU TRY BUT FIND THAT YOU CANNOT AFFORD TO HIRE YOUR OWN ATTORNEY, OR IF YOU DISAGREE WITH THE ADMINISTRATIVE ASSESSMENT, ATTORNEY FEES, OR PAYMENT TERMS, YOU MAY ASK THE COURT FOR A RECONSIDERATION AT A LATER TIME.

I UNDERSTAND THAT FAILURE TO COMPLY WITH THE ABOVE LISTED PAYMENT CONTRACT MAY RESULT IN COURT ACTION AGAINST ME. IN ADDITION, THE COURT HAS THE OPTION OF CIVIL LAWSUITS TO GARNISH WAGES AND ATTACHMENTS. THE COURT MAY TAKE WHATEVER ACTION IS NECESSARY TO COLLECT THE AMOUNT DUE.

FURTHER, I AGREE TO REPORT ANY CHANGE OF ADDRESS, PHONE OR EMPLOYMENT TO THE COURT WITHIN FIVE DAYS OF SAID CHANGE.

DEFENDANT DATE

ATTACHMENT E



PIMA COUNTY OFFICE OF
COURT APPOINTED COUNSEL
ELIGIBILITY ASSESSMENT PROGRAM
Administration Building
130 W. Congress, 2nd Floor
Tucson, Arizona 85701
(520) 243-4468

INSTRUCTIONS FOR PAYMENT ON ASSESSED ATTORNEY FEES

INDIGENT ADMINISTRATIVE ASSESSMENT	<u>\$ 25.00</u>
TOTAL ATORNEY FEE ASSESSMENT:	\$ _____
TOTAL ASSESSMENT:	\$ _____
AMOUNT PAID TODAY:	\$ _____
FIRST PAYMENT DUE:	_____

(1) Payments on assessed attorney fees are to be made in **CASH, CREDIT CARD or MONEY ORDER** only. Cash payments can only be accepted in person, not by mail. Specify on the **Money Order** that payment is for **attorney fees** and provide your **case number (CR#)**. If payments are made in person, you must inform the staff that payment is for **attorney fees**, again provide your **case number (CR#)** to ensure proper credit to your account.

(2) Please make **MONEY ORDERS** payable to:

Pima County Consolidated Justice Courts (PCCJC)

Attn: Attorney Fees/Case No. _____

(3) Mail payments OR bring in person to:

PCCJC
115 North Church Avenue, Second Floor
Tucson, Arizona 85701-1199

If you have any questions pertaining to the assessment of attorney fees, please call 243-4468.

