

## **B. CRIMINAL PROCEEDINGS**

### **1. DISTRICT COURT CASES**

Attorneys who wish to accept misdemeanors and concurrent felonies in the District Court must (1) be accepted into the panel of attorneys of a county bar advocate program; (2) complete a required training program; and (3) be certified by CPCS. For information on being accepted into a bar advocate program, contact the program in the counties in which you wish to practice. A directory of these programs is available online at [www.publiccounsel.net/dir/bar-ad-offices](http://www.publiccounsel.net/dir/bar-ad-offices).

#### **a. Training Requirements:**

Once an attorney is accepted into a bar advocate program, the program will submit that attorney's name for attendance at the next CPCS Zealous Advocacy Training (ZAT) program. The program is administered by the CPCS Criminal Defense Training Unit in the Spring and Fall of each year. ZAT is a four-week hybrid program which combines on your own learning and live, in-person sessions at various locations around the state.

Attorneys who successfully complete the training and meet case assignment and billable hour thresholds within eighteen (18) months of completing the training will receive a payment equal to the number of training hours times the current

district court rate. District Court attorneys must bill at least 600 hours on at least 30 separate dockets to receive the payment. “No Case Duty Day” hours will count toward the total (see [Chapter 5 § FF - Duty Days](#)).

CPCS certified attorneys who are required to attend ZAT as a remedial measure will not receive the payment.

Information on upcoming training programs can be obtained by contacting the attorney’s bar advocate program.

**b. Certification:**

Attorneys who complete the training requirement and receive District Court certification by CPCS may represent indigent adults who are charged with misdemeanors and felonies that are within the final jurisdiction of the District Court as set forth in G.L. c. 218, § 26.

Initial certification of a private attorney joining a bar advocate program after completion of the Zealous Advocacy Training (ZAT) or after a waiver of the ZAT is provisional, subject to a performance evaluation(s) of the private attorney by the county bar advocate program conducted within 12 to 24 months, or a longer period if deemed necessary. Counsel must have a body of assigned legal work that includes at least 25 cases during the period of review. The evaluation of the private attorney will include a file review of cases prepared for substantive hearings, trial, and cases of clients in custody. The Supervising Attorney conducting the evaluation will select the assigned cases for review. The private attorney shall cooperate with the evaluation of their court-assigned work and failure to do so may result in not being certified to take court assignments. The certification determination will be based upon evidence of compliance with relevant Performance Guidelines set out in this manual in Chapter 4. If deemed necessary by the Supervising Attorney conducting the review, Counsel may be required to engage in remedial mentoring.

Provisional certification may be revoked at any time for reasons including but not limited to failure to comply with mentoring protocols, failure to make sufficient progress toward full certification, or deficient performance relative to the performance standards for adult criminal trial proceedings.

Attorneys certified for District Court cases may also represent indigent defendants charged with Superior Court felonies other than murder and accessory before the fact to murder in the district court for arraignment and bail hearings only or until successor counsel is appointed or retained. If the attorney is not properly certified, they must immediately notify the Bar Advocate Program of the need for prompt reassignment of a bind-over felony case after the arraignment.

Dangerousness hearings under G. L. c. 276, § 58A are considered substantial

proceedings in the case, requiring the same certification as the case in chief. Dangerousness hearings in bind-over felony cases must be handled by properly certified attorneys only except for extenuating circumstances when a properly certified attorney is unavailable. In such cases, the arraignment attorney will confer with their Supervising Attorney to determine if the arraignment attorney should conduct the Dangerousness Hearing. If a dangerousness hearing in a bind-over felony case is requested by the prosecutor, assigned counsel lacking certification to handle the case in chief should request a brief continuance and immediately notify the Bar Advocate Program to promptly reassign the case. The arraignment attorney should remain in contact with the client until successor counsel is appointed or retained.

To handle probable cause hearings in District Court or Superior Court jurisdiction felonies (other than arraignment and bail hearing), attorneys must be properly certified.

**c. Assignment of Cases:**

District Court cases are assigned through the county bar advocate programs.

**d. Performance Requirements:**

Attorneys who accept District Court cases must represent their clients at all stages of the criminal proceedings in the District Court. In the event of a final conviction in the District Court, it is the responsibility of the trial attorney to file a Notice of Appeal within 30 days after sentencing and to order the transcripts of the trial, the sentencing hearing and all other significant pre- and post-trial hearings. Trial counsel should then notify the CPCS Private Counsel Appeals Assignment Unit of the need for appellate counsel to be assigned by filling out and submitting the Appeal Referral Form.

By accepting assignments on District Court cases attorneys agree to abide by the [CPCS Performance Standards Governing Representation of Clients in Criminal Trial Cases](#), which are found in this manual at [Chapter 4](#), and are available online at [www.publiccounsel.net](http://www.publiccounsel.net).