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I.D.# 49167

TARRANT COUNTY

TARRANT COUNTY ADMINISTRATION BUILDING - ROOM 506

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August 25, 2022

Dear OAG Opinion Committee,

Please accept this as my formal request for an opinion on the following fact pattern listed below:

FACTS: Chapter 54 of the Texas Government Code authorizes specified counties' criminal courts to appoint criminal-law magistrates to perform certain adjudicatory duties. In Tarrant County, these duties include but are not limited to conducting hearings, entering findings of fact and conclusions of law, ruling on pretrial motions, compelling production of relevant evidence, selecting juries, accepting negotiated pleas and imposing sentence, conducting contested probation-revocation hearings, conducting bond-forfeiture proceedings, conducting specialty-court proceedings, and deciding post-conviction matters. Tex. Gov't Code Ann. §§ 54.656, 54.658. In addition, a magistrate has the same judicial immunity as a district judge. *Id.* § 54.654. The Tarrant County criminal courts also hire licensed attorneys to serve as staff legal counsel to the criminal courts, the appointed magistrates, and court administrative-staff members. These attorneys provide confidential legal advice as part of a client-lawyer relationship on all issues arising in the criminal courts.

QUESTION: May a magistrate appointed by a judge or group of judges simultaneously serve as staff legal counsel for the appointing judge or judges and for the other appointed magistrates?

While I understand you are no doubt inundated with requests for opinions, I would request rendering an opinion on this issue as soon as possible as this is an ongoing situation. Any help and guidance you can provide is greatly appreciated. Job descriptions are also attached for the positions in question.

Thank you for your help,

S. Renee Tidwell, CPA
County Auditor

Attachments: Job Descriptions



Counsel, Chief Judicial Staff - Criminal Courts Administration

Class Code:
20006458

Bargaining Unit: EX 77

TARRANT COUNTY
Established Date: Sep 30, 2019
Revision Date: Aug 27, 2021

SALARY RANGE

\$53.30 - \$58.63 Hourly
\$4,264.08 - \$4,690.49 Biweekly
\$9,238.84 - \$10,162.73 Monthly

SUMMARY:

Serves as chief legal advisory counsel for and manages attorneys and staff involved in advising the judges trying criminal cases, criminal law magistrates, and staff. Provides written and verbal legal advice and drafts legal instruments or other written documents with legal implications. Serves as a sworn criminal law magistrate, handling post-conviction writ and forensic DNA matters, and manages the post-conviction writ and forensic DNA testing dockets for the courts. Acts as liaison between magistrates and elected judges.

ESSENTIAL DUTIES AND RESPONSIBILITIES:

1. Assigns workload to each attorney and supervises progress. Observes, critiques, and evaluates performance of attorneys and staff and completes an annual performance evaluation for each.
2. Drafts and files pleadings, answers, motions, briefs, findings, orders and responses necessary to conduct litigation and proceedings in related forums.
3. Drafts legal instruments and documents with legal implications.
4. Counsels and advises clients within the bounds of confidentiality, when applicable, regarding legal issues in all phases of litigation and in non-adversarial contexts.
5. Appears in court to act as an advocate when appropriate.
6. Appears in court to act as a judicial officer when appropriate.
7. Answers questions and advises attorneys.
8. Directs the preparation of cases and organization of evidence when appropriate.
9. Incorporates and develops new methods and techniques to ensure proper presentation of cases.
10. Researches case law and remains informed on current case law through reading legal opinions.
11. Advises and interacts with elected judges and magistrates handling criminal matters.

12. May render legal advice to the criminal judiciary and criminal court administrative staff.
13. Recommends policies, procedures, practices, and specific actions to best deal with critical issues.
14. Provides input on annual budgetary needs and expenditures for specific area of supervision.
15. Provides advice and moderates regarding magistrate employee matters. Serves on and reports to the criminal judges' magistrate committee regarding hiring and personnel decisions at the discretion of the presiding judge. Implements and facilitates magistrate training and education opportunities.
16. Calls and presides over meetings of magistrates.
17. Acts as liaison between magistrates and elected judges.
18. Acts as principal advisory counsel as needed regarding issues before the magistrates as a whole and individually.
19. Performs other related duties as assigned.

MINIMUM REQUIREMENTS:

Juris Doctorate (JD) degree required. Must be licensed to practice law in Texas and be a member in good standing of the State Bar of Texas for at least five years. Prior experience in the relevant area of law is required. Admission to federal courts may be required. Excellent working knowledge, understanding of, and ability to apply current applicable laws, procedures, case holdings, and departmental policies and proficient ability to apply such to decision making is essential. Ability to work efficiently and effectively in all high-pressure situations and excellent, advanced verbal and written communication is required as evidenced by courtroom pleading/arguing skills. Possesses advanced professional level of analytical ability, is diplomatic and tactful, and uses good judgment and common sense. Possesses excellent professional verbal and written skills to communicate information and directions to courts, attorneys, investigators, police agencies, and citizens. Attorney is responsible for working in a cooperative manner with support staff, attorneys, and other officials. Attorney must be computer literate.

PHYSICAL DEMANDS AND WORK ENVIRONMENT:

While performing the duties of this position, the incumbent is regularly required to bend, carry, keyboard, perform repetitive tasks, sit, stand, talk, use his/her hands, walk, and work alone.

OTHER REQUIREMENTS:

Regular attendance is essential. Incumbent must arrive at work on time, prepared to perform assigned duties and work assigned schedule. Incumbent must have the ability to work well with others. Incumbent must be able to perform the essential functions of the position without posing a direct threat to the health and safety of themselves and others. Requested

accommodations to work hours and schedules are considered on an individual basis. Tarrant County will conduct background checks on new hires that will include a criminal background check related to convictions and deferred adjudications in the past seven years and may include credit reports, motor vehicle records, employment records, and educational attainment. A conviction or deferred adjudication is not an automatic bar to employment. Each case is considered individually.

DECISION MAKING:

Enters findings and conclusions of law in post-conviction matters, offers legal and policy advice and directs responses to legal and policy matters as appropriate, and manages staff.

CONTACTS:

Interacts with Criminal Judges, Judicial Staff Counsel, Criminal Magistrates, Criminal Courts Administration, Sheriff's Office, Criminal District Attorney's Office, Defense Attorneys, Court of Appeals Judges and Staff, Court of Criminal Appeals General Counsel and Staff, Law Enforcement Agencies, Office of the Attorney General, Commissioners Court and County Administration, Staff Counsel of other Counties, Citizens, TDCJ, MHMR, Laboratories, and Forensic Experts.



Counsel, Judicial Staff - Criminal Court Administration

Class Code:
20006458

Bargaining Unit: EX 77

TARRANT COUNTY
Established Date: Aug 6, 2009
Revision Date: Aug 20, 2014

SALARY RANGE

\$53.30 - \$58.63 Hourly
\$4,264.08 - \$4,690.49 Biweekly
\$9,238.84 - \$10,162.73 Monthly

SUMMARY:

Coordinates the response of criminal judges to post conviction writs. May also provide written or oral legal advice to the criminal judges and draft legal instruments or other written materials carrying legal implications. Investigates facts giving rise to legal issues. Handles criminal matters of the greatest complexity and gravity, including issues of DNA and actual innocence. Works under the general supervision of the criminal district judges.

ESSENTIAL DUTIES AND RESPONSIBILITIES:

1. Evaluates all writs when filed; determines whether additional testimony should be developed; drafts findings of fact and conclusions of law, motions, briefs, and responses necessary to conduct writ proceedings. Meets all statutory and court-set deadlines for writ procedures.
2. Investigates writ process in other jurisdictions to determine 'best practices' for writ procedures.
3. Creates and implements formal procedures for post-conviction writ process from filing to final disposition.
4. Develops and maintains 'law bank' for court's findings of fact and conclusions of law.
5. Analyzes complex post-conviction legal matters including issues of DNA and actual innocence.
6. Performs complex legal research.
7. Supervises legal interns and support staff when available.
8. Identifies witnesses to present oral or written testimony to court for resolution of the issues raised in writs.
9. Counsels and advises clients/judges within the bounds of confidentiality, when applicable, regarding legal issues in all phases of litigation.
10. Develops knowledge and expertise in applicable areas of law to keep pace with constant developments and to impart this knowledge and skill to others in various

settings.

11. Researches legal issues that arise during criminal trials as time permits.
12. Performs all other related duties involved in writ practice as assigned or required.

MINIMUM REQUIREMENTS:

Juris Doctorate (JD) degree required. Five (5) years experience as licensed attorney is required. Appellate or criminal law experience is preferred. Prior experience in relevant areas of law is required. Knowledge of all applicable laws and procedures is essential. Must be licensed to practice law in the State of Texas. Must be a member in good standing of the State Bar of Texas. Ability to work efficiently and effectively in high-pressure situations and ability to communicate effectively. Excellent, advanced oral and written communication and presentation skills. Must possess advanced analytical ability and be professionally polished/versed in the art of being diplomatic and tactful in addition to the use of good judgment and common sense. Must be able to handle all stressful situations with an even temperament and work effectively with others in achievement of tasks. Must possess superior research skills. Must possess necessary writing skills at a well-advanced and professionally creative level to communicate information and directions to judges and attorneys. Must have solid, up-to-date working knowledge and understanding of Penal Code and Code of Criminal Procedure, parole laws and rules, and constitutional issues as well as full comprehension of case holdings and filing requirements in state and federal appellate matters. Must possess advanced computer skills. Must have highest ethical standards.

PHYSICAL DEMANDS AND WORK ENVIRONMENT:

While performing the duties of this position, the incumbent is regularly required to sit, stand, walk, bend, lift, pull, push, and reach.

OTHER REQUIREMENTS:

Regular attendance is essential. Incumbent must arrive at work on time, prepared to perform assigned duties and work assigned schedule. Incumbent must have the ability to work well with others. Incumbent must be able to perform the essential functions of the position without posing a direct threat to the health and safety of themselves and others. Requested accommodations to work hours and schedules are considered on an individual basis. Tarrant County will conduct background checks on new hires that will include a criminal background check related to convictions and deferred adjudications in the past seven years and may include credit reports, motor vehicle records, employment records, and educational attainment. A conviction or deferred adjudication is not an automatic bar to employment. Each case is considered individually.

DECISION MAKING:

This attorney constantly exercises substantial professional discretion and independence under general supervision. The attorney should expect to provide input into certain policy-making decisions, although the position carries no policy-making power.

CONTACTS:

Interacts with Criminal District Judges, Court of Appeals, Private Attorneys, and Assistant District Attorneys.