

Practice Standards

December, 2012

Section III, The Attorney-Client Relationship

2. Initial Contact:

Goal: Counsel shall be made available to indigent defendants at the earliest opportunity.

A. Effective representation should be available to an eligible person upon request of the person, or someone acting on the person's behalf, to a court, a public defender office, or contract counsel as soon as the person is under investigation, arrested, charged with a criminal offense, becomes a party to any litigation in which the person is entitled to public legal representation, or when the interests of justice require representation. This standard does not create a duty of counsel to provide indigent legal representation to a person beyond those duties imposed by statutes and case law.

B. A person not in custody shall be advised of the right to representation and, if eligible, offered the services of counsel at the person's first appearance before a judicial officer. Assigned counsel shall make an appointment at counsel's earliest convenience, prior to the next court appearance, to personally meet with any prospective client. A person in custody who is not represented by retained counsel shall be entitled to consult with a public defender for not less than fifteen minutes prior to his or her first court appearance. If feasible, counsel should offer representation for the initial appearance for the purposes of making a bond argument. When a court incarcerates a person who appears before it and that person requests indigent representation, counsel shall make personal contact with the person within three working days.

C. When it is determined that a person is ineligible for public legal representation, counsel should decline the case and advise the person of how to appeal the determination of ineligibility. However, should immediate service be necessary to protect that person's interests, such service should be rendered until the person has the opportunity to retain counsel. In that event, the Office of the State Public Defender shall be reimbursed for counsel's services at the current hourly rate for contract counsel.