

MEMORANDUM

FROM: David Peeples, for the Subcommittee on Time Standards
for Criminal Cases

TO: SCAC

RE: Time Standards for Criminal Cases

DATE: June 9, 2016

The Subcommittee on Time Standards for Criminal Cases makes the following report and recommendation to the full committee.

I. Some brief history.

We received our assignment in October 2015. After discussion, we concluded that the Court of Criminal Appeals should be consulted for two reasons. First, the SCAC has very little hands-on expertise in the work of the criminal trial courts. Second, the CCA sits at the top of the Texas criminal justice system and should have at least some input on this criminal matter.

After conferring with Chief Justice Hecht, the subcommittee sought the views of the Court of Criminal Appeals. I met in person with four members of the CCA (Hervey, Alcala, Newell, and Yeary) and its general counsel. We did some drafting and discussed things by email.

The CCA then discussed and studied the matter and consulted its own rules committee. Eventually it stated its views in the attached letter dated May 26, 2016 from Judge Elsa Alcala. The CCA opposes time standards for criminal cases and thinks they would be detrimental to the criminal trial courts. It suggested general language to replace the outdated language currently in Administrative Rule 6.1. Our recommendation below corresponds to and implements the CCA's suggestion.

II. Some basic legal principles. There is a considerable body of statutory and case law already occupying this field.

The **Sixth Amendment** to the U.S. Constitution says in part, "In all criminal prosecutions the accused shall enjoy the right to a speedy and public trial" This command has been incorporated and applied to the states. Basic speedy trial jurisprudence is summarized in footnote one of Judge Alcala's letter.

The Texas Constitution says: “Article I, § 10. RIGHTS OF ACCUSED IN CRIMINAL PROSECUTIONS. In all criminal prosecutions the accused shall have a speedy public trial by an impartial jury. . . .”

Three articles in the Texas Code of Criminal Procedure deal with speedy trial principles. They are: (1) article 17.151 (delay when accused has been charged and is in custody or out on bail), (2) article 32.01 (delay when person is in custody but not yet officially charged), and (3) article 32A.01 (trial priorities). The pertinent portions of these three statutes are reproduced here:

Art. 17.151. RELEASE BECAUSE OF DELAY.

§ 1. A defendant who is detained in jail pending trial of an accusation against him must be released either on personal bond or by reducing the amount of bail required, if the state is not ready for trial of the criminal action for which he is being detained within:

- (1) 90 days from the commencement of his detention if he is accused of a felony;
- (2) 30 days from the commencement of his detention if he is accused of a misdemeanor punishable by a sentence of imprisonment in jail for more than 180 days;
- (3) 15 days from the commencement of his detention if he is accused of a misdemeanor punishable by a sentence of imprisonment for 180 days or less; or
- (4) five days from the commencement of his detention if he is accused of a misdemeanor punishable by a fine only.

§ 2. The provisions of this article do not apply to a defendant who is:

- (1) serving a sentence of imprisonment for another offense while the defendant is serving that sentence;
- (2) being detained pending trial of another accusation against the defendant as to which the applicable period has not yet elapsed;
- (3) incompetent to stand trial, during the period of the defendant's incompetence; or
- (4) being detained for a violation of the conditions of a previous release related to the safety of a victim of the alleged offense or to the safety of the community under this article.

Art. 32.01. DEFENDANT IN CUSTODY AND NO INDICTMENT PRESENTED.

(a) When a defendant has been detained in custody or held to bail for the defendant's appearance

to answer any criminal accusation, the prosecution, unless otherwise ordered by the court, for good cause shown, supported by affidavit, shall be dismissed and the bail discharged, if indictment or information be not presented against the defendant on or before the last day of the next term of the court which is held after the defendant's commitment or admission to bail or on or before the 180th day after the date of commitment or admission to bail, whichever date is later.

(b) A surety may file a motion under Subsection (a) for the purpose of discharging the defendant's bail only.

Art. 32A.01. TRIAL PRIORITIES.

(a) Insofar as is practicable, the trial of a criminal action shall be given preference over trials of civil cases, and the trial of a criminal action against a defendant who is detained in jail pending trial of the action shall be given preference over trials of other criminal actions not described by Subsection (b).

(b) Unless extraordinary circumstances require otherwise, the trial of a criminal action in which the alleged victim is younger than 14 years of age shall be given preference over other matters before the court, whether civil or criminal.

III. Recommendation.

**The Subcommittee on Time Standards for Criminal Cases
recommends that Administrative Rule 6.1 be amended as follows:**

Rule 6.1. District and Statutory County Courts.

District and statutory county court judges of the county in which cases are filed should, so far as reasonably possible, ensure that all cases are brought to trial or final disposition in conformity with the following time standards:

(a) Criminal Cases. ~~As provided by Article 32A.02, Code of Criminal Procedure.~~ In timely compliance with state and federal constitutions and statutes.