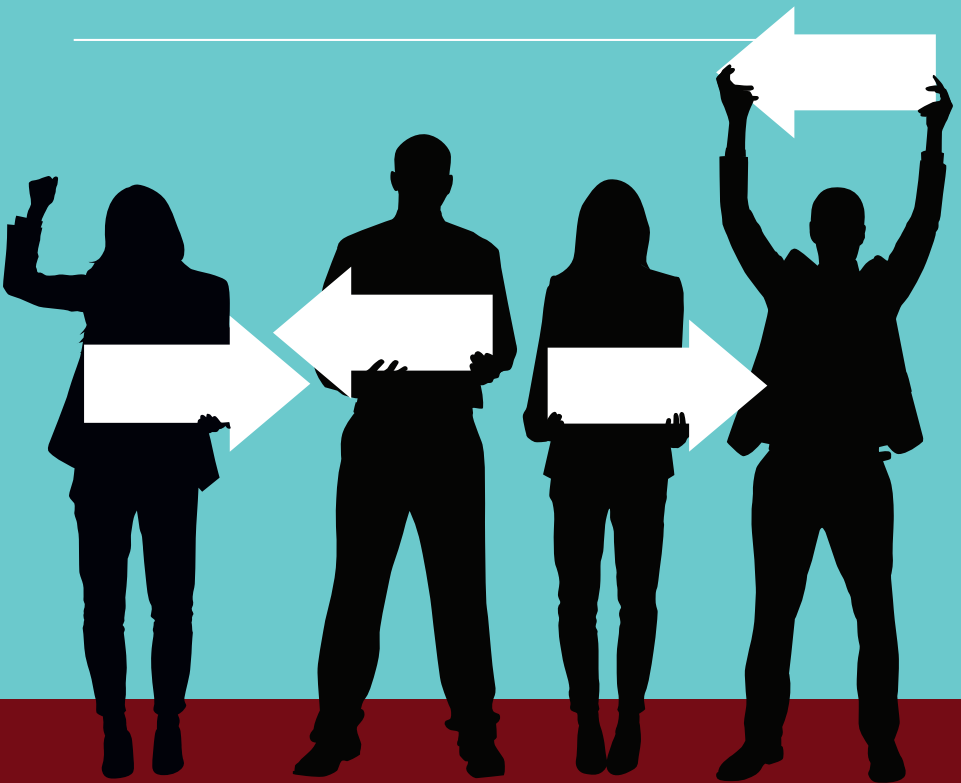

WHAT TO EXPECT WHEN TRANSITIONING INTO AND OUT OF GOVERNMENT SERVICE



Many lawyers move from government service to private practice and vice versa. This guide will give you a brief overview of the differences between the two and the changes to expect if you make the transition.

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WHAT TO EXPECT WHEN TRANSITIONING INTO GOVERNMENT SERVICE

Working for the government means that there will never be a lack of work. The work will be steady, endless, challenging, and rewarding. Your time is no longer governed by money because you're not billing clients for the hours worked. However, you'll find that you're still working the long hours because you're doing it to pursue justice and all that is right.

As a government attorney, your day will be very structured without much flexibility. Coming in late so you can go to that early morning doctor's appointment isn't usually an option without turning in an absence approval for the time off work. Most government offices work on an 8:00 a.m. to 5:00 p.m. work schedule with days off for federal holidays. The plus side is that working for the government comes with benefits (e.g. health insurance), and if you work for a government agency long enough, you may qualify for student loan forgiveness.

You will have autonomy with the ability and discretion to make decisions about your cases and to do what you want to do, within reason. You have the ability to research the issues, negotiate with other attorneys, and come to a just and reasonable resolution. You do not represent a client; instead you represent the government and thus don't have a legal obligation to perform to your client's satisfaction. On that note, you will have the reassurance of job security. The government does not depend on the state of the economy, the success of certain industries, or the happiness of the clientele; there will always be plenty of work to do and rarely enough people to do it.

In private practice, you are often limited in your area of practice. Working for the government usually presents you with the opportunity to delve into different areas of law. Working for a City Attorney? You may handle everything from city government issues to traffic tickets to minor criminal offenses, and even if you're only assigned to one of these practice areas, you can try to branch out into another part of the office's mission statement. Working for a District Attorney? There are aspects of the job that require knowledge of civil procedure (asset forfeiture, protective orders, etc.) and appellate procedure. There are some offices that ask their assistant district attorneys to act as the primary attorney on any given case all the way from intake to final affirmation by the appellate court.

When working for the government, you will find yourself in a courtroom a lot more often than in private practice. Civil cases or family law cases often come down to the amount of paperwork exchanged or the compromise of emotions in a reasonable settlement. But if you represent the government, more of the proceedings have to take place on the record in open court, so you will be in front of a judge on a nearly daily basis. There is no better position as an attorney for a large amount of early trial work than working for a government agency.

If you transition into public service from an established private practice, it's important to make sure that both you and your employer are protected from any misconduct allegations arising out of your prior cases. If you are going to work in a district attorney's office, you will likely have former clients come across your desk with new offenses to address. When in doubt, recuse yourself from anything involving them. A good practice would be to prepare a list of all former clients and make sure the person responsible for assigning cases has that list with instructions to keep them away from you. This will help avoid conflicts, but you will still be responsible for making sure that you don't violate any former client's privilege.

When you enter public practice, it's vital to take the initiative. Jump in with both feet and volunteer to take on matters that are of interest to you. Make sure that it's known (by example) that you're a solid, eager attorney who is available to help with projects. Make yourself someone the organization you work for wants to promote. Promotions won't happen overnight, but make sure you lay the groundwork. Most importantly, understand that every organization and office has its own unique character and you will have to adapt to be effective in that office.

WINDING DOWN YOUR PRACTICE WHEN TRANSITIONING TO GOVERNMENT PRACTICE FROM PRIVATE PRACTICE

In “Considerations When Closing Your Law Practice,” James Brill provides guidance to lawyers winding down their practice for retirement. Many of Brill’s suggestions, which you can read in the February 2013 issue of the Texas Bar Journal, are equally instructive for lawyers transitioning from private practice to government practice. Here are a few things to do/plan for when wrapping up your private practice before moving into government practice:

1. Do not accept new work, no matter how interesting or lucrative it may seem. You are closing your practice, and that case that may look like it will take only three hours could easily stretch into six months if you’re wrong. Don’t take the risk.
2. Review all pending files, and do the work necessary to conclude the representations. Sometimes that will mean closing the case out, and sometimes that will mean substituting in new counsel. Remember that your primary consideration is to take the course of action that is in the best interests of your client.
3. Send final bills and collect any owed fees.
4. Pay yourself currently earned fees and accrued expenses from clients’ retainers as you are authorized. Return unearned and unused retainers and deposits to your clients. If possible, make sure your IOLTA account is cleaned out before your office is closed.
5. Provide clients with all original documents, and give them the opportunity to receive the entirety of their files. Remember that you are entitled to make copies of those documents but not at the expense of the client. Be sure to obtain receipts or other written instructions from your client.
6. If active matters are to be taken over by other lawyers, be sure that the substitution has been finalized and that the court has approved it. It is a good idea to have the client agree that you will have no responsibility for events that may occur in the future.
7. Regardless of what procedures you use, be mindful of your clients. They hired YOU for a reason and you are walking away from them and their legal issues. ALWAYS treat them with the courtesy and respect that the law requires and that they deserve.

When making the transition to government practice, talk to people who have been in your shoes. There is always someone who has experienced what you are dealing with. It may be a judge, it may be an assistant district attorney who previously had a criminal practice. There is no need to “reinvent the wheel.” These mentors/colleagues will be a wealth of knowledge and will assist you in sidestepping any proverbial landmines that you may be unaware of.

Finally, you may think you have thought of everything in regards to closing your practice. Rest assured that you have not. Be prepared to deal with unforeseen issues with your practice for months to come. Leave some money in your law office operating account to deal with any odd bills that may come your way that you have not accounted for. If you can still receive mail at your old office, check it every once in a while. If you receive your mail at a P.O. box, leave it open. Something will likely come up and will have to be dealt with.

TRANSITIONING OUT OF GOVERNMENT SERVICE

So you’ve made the decision to leave government service and strike out into private practice. Congratulations. Working as an attorney in the private sector can be incredibly rewarding and fulfilling. Before you step away from the dry land of government service and enter the oceans of private practice, you should prepare for your new reality. We will first address the realities of solo practice, and then we will talk about transitioning into a more established office.

If you’re leaving a government practice to start your own solo practice, then the first thing you need to prepare for is that there will be a significant reduction of consistency in your life. The best word to describe life as a solo practitioner is “chaos.” On any given day, you will be:

- In court;
- Evaluating new cases;
- Making sure you’re meeting any deadlines on existing cases;
- Meeting with clients;
- Processing all your paperwork; or
- Keeping up your billing and accounting.

In addition, you will be on-call and on display 24 hours a day, 7 days a week. You will be on-call because clients will attempt to reach you whenever and wherever it is convenient for them. You will have to work out for yourself how flexible and available you choose to be. You will be on display at all times, because you never know when a potential client will interact with you. This means that you will have to be aware of how you present yourself in public at all times.

Another thing to consider when leaving government practice to start your own practice is that you will have substantially less consistency in your financial affairs, at least for the first 6 to 18 months. There will be no way to know or predict how much money your office will make from month to month. There will be no way to tell when business will come in or how much that business will pay. If you are planning to start your own practice, it would be a good idea, if possible, to set aside a substantial financial cushion before going out on your own.

Also, as a private attorney, you will be limited in what you can argue or investigate. There will be times when your client expressly forbids you from pursuing an argument or a line of investigation, either because they don't want to pay for it or because they simply don't want to go there. This also means that because of client instruction, you may be limited on how much work or time you can put into a project or case. Making peace with this reality is something that every private attorney must do.

All of this is not to say that starting your own practice is a bad idea, because it isn't. It's not steady, but it is exciting. There will almost always be new issues or new cases to stimulate you into reaching your potential. In addition, while your finances will not be as steady as they may have been in government service, there is always the potential to make substantially more money as a private lawyer.

If you do decide to open your own practice, the first thing you should do is find a mentor - or five. Most of the time, one will not have all the answers. However, there's always someone among your peer group who has been through what you are doing right now. Seek those people out and get their input. The most important thing to remember is to not "reinvent the wheel." There is a lot of wisdom and experience in the courthouse among those attorneys. You're only hurting yourself if you don't tap into it. Another thing that a sole practitioner should strongly consider is enrollment and involvement in local and state bar associations. Between your local bar

association, any local specialization bar organizations, your state bar sections, Texas Young Lawyers Association, and your local young lawyers association, there are a large number of attorneys with whom you can associate and network. These groups will assist you in finding mentors, CLE, and referrals.

If you're starting your own practice, there are certain resources you should use when getting started:

The Law Practice Management Program

- The Law Practice Management Program was established by the State Bar of Texas in 1995 to assist members of the State Bar, primarily solos and small firm practitioners, with day-to-day practice management issues.
- **www.texaslawpracticemanagement.com**

Ten Minute Mentor

- Ten Minute Mentor, developed by TYLA, is an online collection of video presentations from leading lawyers in their areas of expertise.
- Each presentation is typically short, practical, and free. Viewing presentations qualifies the attorney for self-study CLE credit.
- **<http://texasbarcle.com/CLE/TYLA/Home.asp>**

Office in a Flash

- Office in a Flash was also created by the Texas Young Lawyers Association in order to provide information on various topics relevant to establishing a law practice.
- **<http://tyla.org/tyla/index.cfm/projects/officeinaflash/>**

Transitioning out of government practice to work at a more established office presents different challenges. While you will likely have no need to address many of the administrative and business development challenges associated with starting your own firm, one of your first challenges will involve effectively translating your government experience into a role with an established firm. Some transitions may be more natural, such as transitioning from district attorney to a criminal defense firm, from agencies to firms defending government suits in the same area of the law or from civil divisions of government agencies to civil defense firms. Outside of more

natural transitions, however, it may take some time to develop the skill set necessary to begin practicing as a mid-level associate in your ideal private firm.

Once you secure a job in an established private firm, the transition presents others challenges. In many ways, the challenges a young attorney faces in an established firm may be identified by thinking of yourself as a solo practitioner within the firm—with the firm’s partners as your individual clients—and your ability to manage and meet expectations is necessary for developing your career much like it is necessary for a solo practitioner to develop his or her practice.

The firm’s partners will collectively have expectations for you to manage and meet. For example, the firm likely:

- Has an annual hourly requirement or target, which requires different work management skills.
- Works on the billable hour (and likely by six-minute increments) and expects time to be recorded daily. This requires a system to accurately record time and a mindset to ensure your time is well-focused. Moreover, since your time is not free, you may need to discuss and ensure that the partner on the case agrees with how you are spending your time on a matter.
- Has expectations pertaining to non-billable legal activities, including pro bono work, participation in local or state bar organizations, community involvement and business development. You should learn the firm’s expectations.

Working in an established firm has its own challenges pertaining to working for multiple partners. In most circumstances as a government attorney, there is a supervising attorney to whom you report. If that person leaves, another person takes his or her place. If you are working overwhelmingly for one partner in a firm, your work may be heavily dependent on that partner’s workload and his or her decision to remain with the firm. Conversely in many firms, associates work for multiple partners. This presents different challenges because associates are simultaneously responsive to numerous partners and must manage expectations of partners who do not know the expectations being placed on you in other cases by other partners.

Along those same lines, each partner often seeks associates to write in the style and tone of the partner. And each partner often has styles for how to litigate cases as a whole. Whether working for one partner or numerous partners, transitioning into an established firm requires young attorneys to understand the partner's preferences and relationship with the client and meet the partner's expectation of work for such clients.

CONCLUSION

The decision to change practice areas or change employers can be a new and exciting adventure. The key is to adapt as necessary and not get overwhelmed as you find your way. We hope this guide eases your transition.

Prepared as a Public Service by the
Texas Young Lawyers Association
and Distributed by the State Bar of Texas

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