

PUBLIC DEFENSE

PAYMENT POLICIES AND PROCEDURES

PUBLIC DEFENSE SERVICES COMMISSION

OFFICE OF PUBLIC DEFENSE SERVICES

PUBLIC DEFENSE PAYMENT POLICIES AND PROCEDURES

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The following Public Defense Payment Policies and Procedures (PDPPP) are adopted by the Public Defense Services Commission (PDSC), pursuant to ORS 151.216(1)(f)(B) through (E). The PDPPP govern all appointment and expense matters, effective December 1, 2003.

1. APPOINTMENT OF COUNSEL FOR ELIGIBLE PERSONS

1.1 In General

Appointment of counsel and payment of related expenses at state expense, payable from funds within the Public Defense Services (PDS) Account, are subject to and limited by statutes, state caselaw, policies adopted by the PDSC, and the terms of public defense services contracts.

For purposes of this policy statement, a person whom a state court has determined to be financially eligible for assigned counsel at state expense shall be referred to as "client".

1.2 Appointment of Assigned Counsel

Courts may only appoint counsel at state expense in those types of cases in which there is express authority, by statute or caselaw, for payment of assigned counsel from the PDS Account. (See Exhibit 1, Appointment Type Codes). Counsel appointed by courts in cases where there is no express authority for payment from the PDS Account will **not** be paid from the PDS Account.

Courts shall appoint contract attorneys, when available, prior to appointing private bar attorneys.

1.3 Appointment Agreement

By accepting an appointment to represent a client, assigned counsel agrees to abide by relevant statutes (e.g., ORS 135.055 regarding non-routine expenses) and this PDPPP, except as expressly provided otherwise in a public defense services contract.

1.4 Types of Assigned Counsel

For purposes of this policy statement, "counsel at state expense" or "assigned counsel" is limited to counsel appointed by state courts where there is express statutory or caselaw authority for payment of assigned counsel from the PDS Account.

"Assigned counsel" is counsel appointed by a court at state expense and may be "contract" or "private bar" counsel.

Appointments made under a public defense services contract are subject to that contract. Such appointments are called contract appointments or contract cases. Counsel appointed under a public defense services contract is "contract counsel".

Appointments made other than pursuant to a public defense services contract are called private bar appointments or private bar cases. These appointments are assignments to individual attorneys, not to firms. The individual attorney is held responsible for the case to which he or she is assigned. A contract attorney appointed to cases outside the contract is "private bar counsel" under this policy statement.

1.5 Appointment of Co-Counsel

1.5.1 Circumstances Supporting Appointment

A court has discretion to appoint co-counsel when the court finds that appointment is reasonable and necessary considering both the circumstances of the case and lead counsel's circumstances and needs. Lead counsel must file a motion with the court to appoint co-counsel and must file a supporting affidavit that explains why the appointment is reasonable and necessary.

As a general policy, however, the Office of Public Defense Services (OPDS) discourages appointing co-counsel except in:

- a) capital cases;
- b) complex or lengthy murder or serious felony cases when qualified lead counsel would not be able to take the case unless co-counsel were appointed, e.g., lead counsel is a sole practitioner and the length or complexity of the case would require lead counsel in effect to close a going practice or decline appointment; or
- c) no qualified lead counsel is available within the area, and appointment of co-counsel would help local counsel obtain experience to qualify as lead counsel for future appointments of this type.

Compensation of co-counsel is limited by the cap on hours set in Section 1.5.2, subject to subsequent modification as provided in that section.

1.5.2 Caps on Co-Counsel Hours

The court order appointing co-counsel must set a limit on the number of co-counsel hours. The OPDS recommends a cap of 300 hours in a capital case and a cap of no more than 150 hours in any other case.

Lead counsel may request authorization of an increase in the original cap on co-counsel hours, by submitting a letter to the OPDS setting forth the name of co-counsel, date on which co-counsel was appointed by the court, the number of hours approved by the court, the number of additional co-counsel hours requested, and a statement of why additional co-counsel hours are necessary and reasonable in the particular case.

1.6 Associate Counsel – Limitation on Use in Private Bar Cases

"Private bar" appointments are assignments to individual attorneys, not to firms. The individual attorney is held responsible for the case to which he or she is assigned.

Public defense funds will **NOT** compensate associates of the assigned counsel or assigned counsel for time spent on a case by attorney associates **UNLESS** the OPDS has preauthorized the use of associate counsel in writing or the use of associate counsel is limited to exigent circumstances (illness of assigned counsel) where the service of associate counsel is ministerial (e.g., appearance in court to request a set-over due to assigned counsel's illness).

In requesting preauthorization from the OPDS for use of an associate other than in exigent circumstances, the assigned counsel shall describe in detail:

- a) the type(s) of legal services the associate would provide; and
- b) how the time expended by an associate will reduce the time that assigned counsel will need to expend without increasing the total cost to the state.

Assigned counsel will supervise and have full responsibility for the services performed by an associate. Assigned counsel may not delegate those functions that require the ability and experience for which counsel was assigned, including the handling of evidentiary hearings, trials, or oral arguments.

2. PRIVATE BAR ATTORNEY FEES AND BILLINGS

2.1 Hourly Rate Schedule

2.1.1 Noncapital Cases

Except in capital cases or as otherwise expressly authorized by the OPDS, the hourly rate for attorney fees for private bar lead counsel, co-counsel or associate counsel is limited to the rate in the Schedule of Guideline Amounts (Exhibit 3). The rate for "regular" cases applies to both the remand and trial of juveniles charged with aggravated murder and remanded to adult court because statute prohibits the death penalty in those cases. The rate applies to cases at the trial and appellate levels.

2.1.2 Capital Cases, Adult Defendants

Private bar attorney fees at trial and on appeal in capital cases involving adult defendants are limited to the rate shown in the Schedule of Guideline Amounts for lead counsel and for co-counsel or associate counsel. The rates also apply to postconviction relief cases and postconviction relief appeals where the underlying case contained a charge of aggravated murder.

2.2 Requests for Increased Hourly Attorney Rate

2.2.1 In General

Only the OPDS *may* allow an exception to increase the private bar hourly rate where:

- a) counsel shows compelling circumstances; and
- b) the OPDS finds that no feasible alternative exists.

In no case will the OPDS allow an exception to increase the hourly rate to more than the rate for lead counsel in capital cases.

2.2.2 Compelling Circumstances

Compelling circumstances include, but are not limited to, circumstances that:

- a) would impose substantial financial hardship on counsel because of the anticipated length or complexity of the proceedings; or
- b) establish that an increased hourly fee in that case would probably result in overall savings to the PDS Account.

Circumstances that are *not* compelling include:

- a) the scheduled rate is less than counsel's standard billing rate;
- b) the case or client is difficult or unpopular unless that fact may cause counsel substantial financial hardship at the scheduled rate;
- c) counsel has received higher rates in other public defense cases; and
- d) the court is unable to find qualified counsel at the scheduled rate.

2.2.3 Procedure to Request Increased Hourly Rate

Counsel must submit any request for an increased hourly rate as soon as possible prior to or after appointment. The OPDS will not consider requests for an increased hourly rate first submitted late in the case.

Private bar counsel or counsel considering appointment must submit a letter requesting an increased hourly rate directly to the OPDS. The request must document the compelling reasons that warrant an exception to the fee schedule.

The OPDS will review counsel's request and will confirm in writing the decision and the terms of any exception the OPDS has allowed. In most circumstances, the increased hourly rate will be retroactive to the time of the appointment.

When the nature of the case requires the court to expedite an appointment and a decision on the increased rate may determine whether the proposed private bar counsel accepts the case, the court may consult with the OPDS for tentative approval. The tentative approval is subject to the OPDS's timely receipt of the written request required by this section.

2.3 Billing for Services

2.3.1 In General

ORS 135.055(4) provides private bar counsel, on completion of all services, shall submit to the OPDS a statement of all reasonable fees and expenses:

- a) supported by appropriate receipts or invoices; and
- b) certified by appointed counsel to be true and accurate.

"Completion of services" is addressed in Section 2.5.

The PDSC Executive Director or the OPDS designee will review the statement and determine whether the hours and expenses are reasonable, necessary, and properly payable from public defense funds.

The OPDS will pay only for legal services related to the specific appointment. The OPDS will not compensate counsel or other providers for time spent preparing payment requests, keeping time records, attending seminars, or otherwise managing one's office and career.

2.3.2 Provider's Fee Statement for Attorney Fees and Routine Expenses

Assigned counsel must use and complete the Public Defense Provider's Fee Statement for Attorney Fees and Routine

Expenses (Exhibit 1). A Travel Claim Worksheet (Exhibit 2), must be completed and attached to the fee statement form if travel expenses are being claimed for reimbursement.

Private bar counsel must submit, in addition to the one-page fee statement, supporting documentation for hours claimed. The supporting documentation must itemize time:

- a) by day; and
- b) in tenths of hours.

The attorney who requests payment of expenses must also submit appropriate receipts or invoices. See Section 3.1.2. Appointed counsel must certify that the information in the fee statement is true and accurate.

2.4 Billing for Consulting With Assigned Counsel on Appeal or Postconviction Relief

Assigned counsel on an original trial-level case may bill for time and expenses expended in consulting with counsel on the client's appeal. Assigned counsel on an original trial-level case or assigned counsel on appeal (other than the OPDS counsel) may bill for time and expenses incurred in consulting with *petitioner's* counsel on postconviction relief. Time and expenses expended by original assigned counsel consulting or otherwise assisting respondent's counsel in a postconviction relief proceeding (e.g., Department of Justice) may not be compensated from the PSD Account.

2.5 Timely Submission of Payment Requests

2.5.1 Trial Level Cases

For all cases in which services are completed, appointed counsel must submit payment requests to the OPDS within 60 days of the date the court enters in the register of actions:

- a) an order allowing or requiring counsel to withdraw; or
- b) final judgment.

When services to the client are suspended, counsel must submit payment requests to the OPDS not sooner than 30 days and not later than 120 days from the date:

- a) the client enters into a program or agreement which delays final adjudication; or
- b) the client fails to appear or the court issues a warrant.

For juvenile dependency (proceeding up to the time of entry of a disposition) and post-disposition matters (e.g., review hearings), counsel must submit a request for payment within 60 days of:

- 1) entry of an order disposing of the original matter of the petition; or
- 2) entry of an order disposing of a discrete postdispositional matter before the court, such as a review hearing.

The OPDS will return requests submitted late unless counsel submits a written explanation showing good cause to excuse

the delay. The OPDS will review the written explanation and approve or disallow payment based upon the reason.

2.5.2 Appellate Level Cases

The time frame for requesting payment of attorney fees and expenses in appellate cases is set forth in ORS 138.500(4); i.e., after submission of the original brief by assigned counsel and after appellate judgment.

2.6 Interim Billings

As a general policy, the OPDS will not pay interim requests for attorney fees and expenses unless the OPDS has authorized interim billing. An interim request is any request submitted before appointed counsel has completed all services in a trial-level case and for appellate cases, an interim request is a request submitted prior to filing the original brief. Interim payments will be made only in:

- a) capital murder and murder cases;
- b) cases other than capital murder and murder cases when the OPDS grants an exception; or
- c) when sentencing is delayed more than 60 days after a finding of guilt or entry of plea.

To request approval for interim billing, counsel must submit a letter to the OPDS. The request must document the compelling reasons that warrant authorization of interim billings (e.g., a case has been pending for greater than six months). The OPDS will review counsel's request and will confirm in writing the decision and the terms of any exception the OPDS has allowed.

Each interim billing will be reviewed on its own merits. When approving final payment requests, the OPDS will not reduce earlier-approved amounts except to:

- a) correct arithmetic or clerical errors; or
- b) ensure total representation costs are not excessive.

If the OPDS allows an exception, counsel must submit separate billings for interim payment. For each billing counsel must submit the fee statement form required of assigned counsel in other cases. Monthly billings are encouraged.

Each interim billing must include a statement that lists each of the following:

- a) limits (caps) set on fees, hours, or expenses, if any;
- b) amounts paid and incurred to date for fees and expenses; and
- c) amounts remaining within any limits.

The final request for payment also must include a statement of the total time spent for services rendered and the total fees requested in the case.

3. CASE EXPENSE GUIDELINES

3.1 In General

Public defense funds will not be used to pay expenses for a person who is determined financially eligible for assigned

counsel, but who is not represented by assigned counsel, unless a statute or case law expressly provides otherwise. Two statutes that provide otherwise are ORS 40.325 (OEC 604) on interpreters in *criminal* cases, and ORS 138.500 on fees for transcripts in appellate cases. These statutes do not require the client to have assigned counsel. In addition, ORS 135.055 provides that a person who is financially eligible for assigned counsel, but who is pro se or has retained counsel (e.g. hired by someone other than the person), may request preauthorization of non-routine expenses to be paid from the PDS Account.

Reimbursable expenses must also be both reasonable and necessary to the investigation, preparation, or presentation of the case.

3.1.1 Guideline Amounts

The amounts shown in the Schedule of Guideline Amounts are guideline amounts, for most fees and expenses. The guideline amount is *not* equivalent to a preapproved cost and is *not* a substitute for preauthorization.

Assigned counsel must obtain needed services by the least expensive means available and within the guideline amount whenever possible, unless the OPDS approves a more expensive means as reasonable and necessary. Counsel must discontinue those services no later than when the case is disposed.

Counsel should provide relevant portions of the guidelines, including amounts and billing procedures, to prospective service providers *before* incurring any cost for services expected to be paid from public defense funds.

3.1.2 Receipts

In general, the provider must submit with the payment request an original receipt or an original invoice for an expense when the cost of an individual item or service is over \$25 unless otherwise stated in this policy. A copy of the provider's cancelled check (copy of front and back) may be submitted if an invoice or receipt can not be obtained. If the provider does not have a receipt, invoice or cancelled check, the provider must state on a separate paper:

- a) what the expense was for;
- b) the amount of the expense and to whom it was paid; and
- c) why the provider does not have a receipt or invoice.

The provider must sign and date this statement and submit it with the payment request. The provider must keep reasonable underlying records in case the OPDS requires further documentation.

3.2 Types of Expenses

Expense categories are overhead, routine and non-routine.

3.2.1 Overhead

Overhead, including services performed by an employee or an independent contractor, is not reimbursable, except by contract with the OPDS or in limited, *extraordinary* circumstances with the preauthorization of the OPDS. Overhead except as otherwise expressly provided in this policy, includes, but is not limited to:

- a) travel time and expenses between home and office;
- b) secretarial services;
- c) timekeeping and bill preparation;
- d) rent and utilities;
- e) office equipment and supplies;
- f) library materials;
- g) computerized legal research software, installation and monthly access fees; and
- h) paraprofessional (law clerk, legal assistant and paralegal) services.

Absent a contract, the OPDS will pay for overhead expenses as non-routine expenses *only if*,

- a) for appointed counsel, the OPDS finds that
 - 1) the case will require counsel to incur a duplication of overhead expenses, where for example the court grants a change of venue and counsel requires support services at the new venue while maintaining similar services at his or her primary office; or
 - 2) the expense will be outweighed by savings in attorney fees, such as work done by a law clerk;
- b) for nonattorney providers, the OPDS finds that the provider's services are reasonable and necessary and that the standard rate for such services does not include certain overhead expenses;
- c) for all providers, the OPDS preauthorizes the expense as a non-routine expense within this policy statement.

3.2.2 Routine Expenses for Assigned Counsel

Except for expenses included in a contract, the OPDS will reimburse counsel or pay directly to the provider actual costs without preauthorization for the following items within the limits described below and as outlined in the Schedule of Guideline Amounts.

- a) Discovery: The custodian's actual cost of copying discovery, but not more than a reputable private vendor would charge for making copies. The OPDS will not pay premiums for expedited copies where appointed counsel reasonably could have avoided the need to expedite copies. For criminal cases, discovery is material obtained from the district attorney. For a juvenile case, discovery is material obtained from the district attorney, county juvenile department or the Department of Human Services. Discovery material includes audio and video tapes, photographs and other similar items obtained from the sources described above.
- b) Interpreter Services: For out-of-court attorney/client communications, counsel should use interpreters who are certified by the Office of the State Court Administrator, under ORS 45.291. If no certified

interpreter is available, counsel should use a qualified interpreter, as defined in ORS 45.275(8)(b).

If the hourly rate for interpretation is within the guideline amount, the services of an interpreter need not be preauthorized.

The OPDS will pay the hourly rate shown in the schedule for foreign language interpreters. In addition, the OPDS will pay travel time at one-half the current hourly rate and mileage at the current reimbursement rate. For foreign language and for sign language interpreters whose rate exceeds the guideline amount, counsel must request preauthorization from the OPDS.

The OPDS will pay a one-hour minimum for certified interpreters if the appointment requires less than one hour of the interpreter's time.

Interpreters shall bill for time and expenses on the Interpreter Fee Statement form, (Exhibit 4) and shall bill no more often than every two weeks. Counsel, or a person designated by counsel, must certify the interpreter's time by signing the Interpreter Fee Statement form. If the interpretation service is provided by telephone and the interpreter is not at the same location as counsel when the service is provided, the interpreter should indicate such on the Interpreter Fee Statement form and fill in the name of counsel for whom the service was provided.

Other expenses related to interpretation, such as translation of written documents, or interpreter services to assist with investigation, must be preauthorized.

- c) Medical, School, Birth, DMV and Other Similar Records: When the cost of an individual record does not exceed \$75. Original receipt or invoice required.
- d) 911 Recordings and Emergency Communication Recordings and Logs: When the cost of an item does not exceed \$75. Original receipt or invoice required.
- e) Telephone Charges: Long-distance telephone charges and local collect calls from a client in a jail, prison, hospital, or other similar government institution.
- f) Photocopying: Amounts per page as shown in the schedule. Copies provided by an outside vendor must be supported by a receipt.
- g) Fax Charges: Long-distance charges for documents sent shall be paid the same as for regular long-distance telephone calls. For faxes received, counsel may request reimbursement for the same amount as for in-house copies.
- h) Routine Mileage and Parking: Routine mileage does not include travel between office and courthouse unless specifically preauthorized. Parking costs, when the travel qualifies for mileage payment, may be reimbursed in an amount not to exceed the guideline amount shown in the schedule.
- i) Postage:
 - 1) first-class mail;

- 2) express mail, only if counsel shows that express mail was reasonable and necessary and the additional expense could not have been avoided by better planning;
- 3) messenger service other than for routine filings, only if counsel shows it was reasonable and necessary or that it was less expensive than first-class mail would have been.

- j) Computerized Legal Research: Only fees for actual on-line time or usage may be claimed as a reimbursable expense.
- k) Service of Process: ORS 21.410(1)(a) provides that no fee shall be charged to the state by *any* process server for civil cases in which the party requesting service has counsel appointed at state expense. In criminal proceedings, counsel should use the sheriff's office (many do not charge service fees) or the least expensive method available. If the investigator for the case, who is paid from the PDS Account, provides for service, the investigator will be paid the hourly rate for time spent locating and serving or attempting to service a witness as long as the number of hours does not exceed the total hours preauthorized. If a different investigator is used for the sole purpose of providing service, the investigator will be paid the amount in the schedule for each location where service is made or attempted, rather than the flat rate per subpoena.
- l) Other: Similar to those described in this section or in excess of the limits stated in this policy with proper documentation that shows the expense to be both reasonable and necessary and properly payable from public defense funds. Counsel should submit a written explanation with any request for payment of out-of-pocket expenses not listed in this section or in excess of the limits shown in the Schedule of Guideline Amounts unless the OPDS has preauthorized those expenses.

3.2.3 Non-Routine Expenses

Except for expenses included in a contract, the OPDS will reimburse counsel or other providers for non-routine public defense expenses *only* if:

- a) The expense is **authorized in advance**, see, e.g., ORS 135.055; *and either*
- b) The expense is within the guidelines; or
- c) The deviation from the guideline amount has been properly approved under Section 3.5.

Non-routine expenses include, but are not limited to:

- a) expert witness fees and expenses (lay witness fees and expenses are set by statute and do not require preauthorization unless the expense requires a deviation from those set by statute);
- b) investigation;
- c) mitigation;
- d) psychological, psychiatric and other medical examinations, evaluations and reports;

- e) polygraph examination; and
- f) meals, lodging, airfare and rental cars.

Non-routine expenses may also include law clerk, legal assistant, or paralegal time that has been preauthorized as an expense that can be incurred outside of overhead costs.

3.2.3.1 Preauthorization Required for Non-Routine Expenses/Process to Request Reconsideration of Denials (Partial or Total)

The OPDS will reimburse or pay directly to the provider non-routine expenses only if the expense was preauthorized and is:

- a) within the guideline amounts listed in the schedule, or
- b) in excess of scheduled guideline amounts when:
 - 1) appointed counsel shows compelling circumstances that justify deviating from guideline amounts; and
 - 2) the expense is other than for transcription services.

A request for preauthorization of a non-routine expense must be submitted on the Request for Preauthorization of Non-Routine Expenses form (Exhibit 5). The form must be completed, signed and dated by the attorney requesting the expense. It should be faxed to the OPDS Contract and Business Services Division for review.

Counsel must include with the form a narrative stating the date counsel was appointed, the most serious charge (if criminal), the type of service or expense requested, the reason the service or expense is necessary and reasonable for proper representation, and what results counsel expects to obtain with the service or expense requested. It is not necessary to submit an affidavit.

If approved, the OPDS will generate an authorization form which is also the provider's fee statement form.

Authorizations may only be billed against once.

If a request is denied in full or in part, the OPDS will generate a partial authorization or denial. Counsel may request reconsideration by submitting to the OPDS a letter requesting reconsideration and including additional support for counsel's request. If the OPDS denies in whole or in part the request for reconsideration, counsel may appeal the denial to the presiding judge in the court in which the subject case is pending or the Chief Judge or Chief Justice when the request involves an appellate case. The decision of the judge is final.

3.2.3.2 Advances

The OPDS will advance preauthorized expenses only when it finds an advance is the only way a service or document may be obtained. Advances will be authorized only in extraordinary circumstances. To request the OPDS to advance funds, counsel should:

- a) follow the procedures in Section 3.3; *and*
- b) specify in a cover letter the date by which counsel needs the funds.

The OPDS requires two weeks lead time to process payment for an advance.

3.2.3.3 Postauthorization of Non-Routine Expenses

Under limited circumstances, the OPDS will pay non-routine expenses authorized after the expense has been incurred. Counsel must explain, when making a request to the OPDS for postauthorization of an expense, what exigent circumstances existed requiring counsel to incur the expense before requesting preauthorization or before the OPDS could act on the request.

3.3 Procedures to Request Payment

3.3.1 Case Expenses, In General

For advances and for reimbursement of routine expenses incurred or already paid *by counsel* and not yet reimbursed, counsel must submit payment requests with the request for attorney fees. See Sections 2.3.

Nonattorney providers should submit payment requests directly to the OPDS. See Section 3.3.2.

The OPDS allows nonattorney providers to bill directly for preauthorized non-routine expenses such as for transcript services, investigation, expert witnesses, medical and psychiatric evaluations. The OPDS does *not* allow direct billing from nonattorney providers for advances or for services that would normally be included in overhead but that were preauthorized by the OPDS as non-routine expenses; e.g., secretarial, word-processing, law clerk. These latter expenses must be billed by assigned counsel.

3.3.2 Use of Non-Routine Expense Preauthorization and Fee Statement Form

Nonattorney providers should submit bills for services directly to the OPDS. To request payment, *all* nonattorney providers must use the Non-Routine Expense Preauthorization and Fee Statement form generated by the OPDS when the service or expense is preauthorized. A Travel Claim Worksheet, which details travel expenses, is completed and attached to the fee statement form if travel expenses are being claimed for reimbursement.

3.3.3 Services at the Request of Assigned Counsel

If a provider provides services *at the request of assigned counsel*, the provider should obtain *from the attorney* a copy of the Non-Routine Expense Preauthorization and Fee Statement form for the services, which is generated by the OPDS when the service is approved.

The provider must fill in the provider's name, address, tax identification number, phone number, service rate (if applicable) and billed amount. The certification statement at the bottom of the form must be signed and dated. Except for transcript service providers submitting a fee statement for transcription, the provider must attach a detailed invoice that describes the services provided *and* specifies the date(s) of service. Transcript service providers must indicate on the fee statement form the number of pages and the cost per page.

3.3.4 Services Ordered on the Court's Own Motion

If services are provided at the court's request *on the court's own motion* (or at the request of a client without counsel) and are properly payable from the PDS Account, the provider must obtain from the OPDS an authorization for the service.

3.3.5 Missed Appointments

The party, counsel, or court responsible for the missed appointment is responsible to pay for it. The OPDS will pay for a missed appointment only:

- a) when a client is responsible for missing an appointment because of illness, injury, lack of capacity, or other good cause that:
 - 1) prevented the timely cancellation of the appointment; and
 - 2) is not attributable to another party, to counsel, or to the court; *or*
- b) when the client requesting the appointment was personally responsible for the missed appointment and cannot show good cause; however, the OPDS will not pay for a second or later appointment for the same purpose.

The person seeking payment from public defense funds has the burden to establish that the client was responsible for the missed appointment.

3.4 Guideline Amounts for Non-Routine Expenses

The amounts shown in the Schedule of Guideline Amounts (Exhibit 3), are *guideline amounts* only, for most expenses. See Section 3.5 on how to request deviation from these guidelines.

3.4.1 Transcript Services

3.4.1.1 Rate

For transcripts of court proceedings or other reporting services when requested by appointed counsel, the OPDS will pay *no more* than the scheduled rate per page for the transcription, creation and production of one original. Additional copies produced are paid at the rate shown in the schedule. In circumstances where an original transcript of a court proceeding has already been prepared (e.g., co-defendants tried together, consolidated hearings for multiple cases), the OPDS will compensate the transcriber for production of a subsequent "original" transcript at the guideline rate for copies of transcripts. The cost to mail a transcript may be reimbursed when the expense is supported by a receipt.

The scheduled rates apply regardless of whether:

- a) the transcript is for appeal or other purposes;
- b) the court reporter is an official court reporter or "unofficial" court reporter (as defined in the Oregon Judicial Department Policy Statement on Court Reporters), or an independent contractor.

3.4.1.2 No Appearance or Other Fees for Transcripts

Except as provided below, the OPDS will *not* pay any additional fees, such as:

- a) costs incurred attending depositions;
- b) appearance fees;
- c) reviewing notes, or similar tasks related to taking testimony or preparing transcripts.

The OPDS will pay additional fees *only* if before the expense is incurred a deviation is granted by the OPDS based on compelling circumstances.

3.4.1.3 Number of Originals/Copies

Except for transcripts for cases on appeal, the OPDS will pay for one original but no copies when appointed counsel is the first person to request transcription.

When another party or the court is the first to request transcription and appointed counsel for the person requests a copy, public defense funds will pay for one copy only.

In an appeal or postconviction relief proceeding where an appellant/petitioner who qualifies for a state-paid transcript has requested a transcript, the OPDS will pay for the transcription, creation and production of one original and two copies. When more than one appellate case is filed resulting from the same trial court proceeding or in juvenile appeals where there are multiple parties on appeal, the OPDS will pay for a sufficient number of copies so that counsel for each party to the case has one copy of the transcript.

3.4.2 Forensic Investigation

Not to exceed the hourly rate shown in the schedule. The hourly fee includes all overhead expenses. Routine case-related mileage may be reimbursed. Parking costs, when the travel qualifies for mileage, may be reimbursed in an amount not to exceed the guideline amount. Other travel expenses must be preauthorized.

Counsel should consult first with the state crime lab and the state medical examiner to determine whether counsel requires extensive independent forensic services.

3.4.3 Handwriting Analysis

Not to exceed the hourly rate shown in the schedule. Travel expenses, including mileage, must be preauthorized.

3.4.4 Investigation/Mitigation

Not to exceed the hourly rate shown in the schedule. The hourly rate includes all overhead expenses, including secretarial services. Time should be billed in tenths of hours.

The OPDS will pay for investigation and mitigation services only:

- a) when it has determined before the expense is incurred that investigation is reasonable and necessary *and* that an investigator would be the least expensive means; *and*
- b) when counsel is unable to proceed without that investigation.

All requests for and approvals of investigative services must include a *conservative*, projected maximum amount and number of hours. If the OPDS finds that the case may require extensive investigation, the OPDS will approve investigation in conservative increments.

The OPDS will reimburse the following out-of-pocket expenses for investigators:

- a) Actual cost of long-distance telephone calls and collect calls from a client.

- b) The actual cost of copying documents, with detailed documentation and within the guideline amounts. Copies made by an outside vendor must be supported by a receipt.
- c) Case-related mileage at the guideline amount. Parking costs may be reimbursed in an amount not to exceed the guideline amount.
- d) Medical, school, birth, and other similar records when the cost of an individual record does not exceed \$75.
- e) 911 recordings and emergency communication recordings and logs when the cost of an individual item does not exceed \$75.
- f) Film, film developing, photos, audio and video tapes, compact discs, exhibit material and other similar expenses when the cost of an individual item or group of items from one provider does not exceed \$75.
- g) In-house production of digital photographs at the guideline amount.

3.4.5 Paraprofessionals

When the OPDS makes the findings required in Section 3.2.1, it will reimburse counsel for the services of paraprofessional services as non-routine expenses at the rate shown in the schedule, but only for legal research and writing, investigation, and client interviewing. Paraprofessionals include law clerks, legal assistants, paralegals, and trial assistants.

When preauthorizing the expense, the OPDS will set an initial cap on paraprofessional hours, not to exceed 100 hours even in the most serious cases. Counsel may request an increase in the number of hours authorized as for co-counsel's hours. See Section 1.5.2.

Counsel may request payment only as a case expense listed separately from attorney fees and must submit the following supporting documents:

- a) time records listing the service dates, time expended in tenths of hours, and tasks performed on the case by the paraprofessional on each date listed; *and*
- b) counsel's statement and the paraprofessional's statement certifying that:
 - 1) the time records are accurate, *and*
 - 2) counsel paid the paraprofessional the amount counsel now requests as reimbursement.

3.4.6 Psychiatrists, Physicians, Psychologists and Other Experts

3.4.6.1 Hourly Rate

The OPDS will pay the rates shown in the schedule. These rates include all overhead. Reimbursement for travel expenses must be specifically preauthorized. When a medical expert is required to testify, the trial court and counsel should accommodate these witnesses, whenever possible, by taking testimony out of order.

3.4.6.2 Standby Fees

The OPDS will pay standby fees for experts only when the court or opposing counsel is responsible for incurring the

standby expense. For example, the trial court refuses to take testimony out of order or grants opposing counsel's belated request for a continuance over appointed counsel's objection after the expert is on standby.

3.4.7 Nonresident Attorneys

The OPDS will pay the rate shown in the schedule or the minimum public defense hourly rate of the state or county in which the attorney resides, whichever is more.

3.4.8 Polygraph

The OPDS will pay an amount not to exceed the total shown in the schedule for examination and report. Reimbursement for travel expenses must be specifically preauthorized.

The OPDS will authorize polygraph services only when the service is necessary to an adequate trial defense or negotiated disposition. The OPDS will not authorize polygraph expenses for testing the truthfulness of communications between a client and appointed counsel.

3.4.9 Secretarial

When the OPDS makes the findings required in Section 3.2.1, the OPDS will reimburse counsel for secretarial services as non-routine expenses, not to exceed the hourly rate shown in the schedule.

3.4.10 Travel Expenses

The OPDS will pay for travel expenses up to the amounts shown in the schedule. The reimbursement amounts for lodging are limited to actual costs or the amount in the schedule, whichever is less. The maximum amounts for lodging in the schedule include tax and other assessments directly related to the cost of the room.

The person requesting reimbursement must submit original receipts or invoices for all expenses except meals with a completed Travel Claim Worksheet and the fee statement.

The following information does not apply to lay witnesses, whose per diem and mileage rates are set by statute.

3.4.10.1 Preauthorization Required

Mileage, meals, lodging, airfare and other similar travel costs are non-routine expenses except for mileage and parking defined as routine expenses for counsel, investigators and forensic experts. See Sections 3.2.2, 3.4.2 and 3.4.5. The OPDS must review and approve proposed travel *before* the expenses are incurred.

3.4.10.2 Travel Time

The OPDS will reimburse providers for travel time when the provider could not reasonably spend the time working on the case. If the provider works or could reasonably work on the case while traveling, the OPDS will pay only for the time spent working. The OPDS will not pay for the provider's time spent commuting from the provider's home to the office.

3.4.10.3 Airfare

Arrangements for airfare must be made through the OPDS. When a request for airfare is preauthorized, the OPDS will notify the travel agency having the state contract that airfare for the provider has been approved. The OPDS will provide the travel agency with the pertinent information regarding the trip. The attorney or other provider must contact the travel agency to make arrangements for the flight. Authorizations for airfare expire after 30 days. The cost of airfare is billed directly to the OPDS.

If a provider requests authorization and receives approval to purchase a ticket outside the state contract, the OPDS will approve such a request only in accordance with the state contract for airfare services. If approved, the provider should also obtain cancellation insurance. Additional costs incurred because the provider failed to obtain cancellation insurance are not reimbursable.

3.4.10.4 Mileage and Parking

Reimbursable mileage is paid at the guideline rate shown in the schedule. Parking costs, when mileage is approved, may be reimbursed in an amount not to exceed the guideline amount. If a private vehicle is used for a trip involving out-of-state travel, the OPDS will pay the lesser of mileage or the lowest cost of a regular-fare, round-trip coach airline ticket between the travel destination and airport nearest the traveler's home.

3.4.10.5 Meals

A meal allowance will be approved *only* when lodging is authorized. Receipts for meals are not required. Meal allowance amounts should be entered on the Travel Claim Worksheet.

If the traveler does not wish to record departure and return times, the schedule below shall apply.

First day of travel - the allowance for dinner as shown in the Schedule of Guideline Amounts

Second and subsequent days of travel - the full per diem as shown in the Schedule of Guideline Amounts

Last day of travel - the allowance for breakfast and lunch as shown in the Schedule of Guideline Amounts

If the person traveling wishes to record departure and return times, the amount of the meal allowance on the first and last day of travel is dependant upon the time the traveler departs and returns. The travel times below determine what meal allowance can be paid if the person traveling is away during certain times of the day. The allowance for a particular meal is shown in the Schedule of Guideline Amounts. The following times apply:

Breakfast allowance - Leave before 6:00 a.m. or return after 9:00 a.m.

Lunch allowance - Leave before 11:00 a.m. or return after 2:00 p.m.

Dinner allowance - Leave before 5:00 p.m. or return after 8:00 p.m.

Meal allowances for day-trips must be preauthorized and will only be approved when unusual or extraordinary circumstances exist.

3.4.10.6 Lodging

The OPDS must preauthorize lodging expenses for all providers. Original itemized invoices must be submitted with the travel worksheet and fee statement.

- 1) In-state Lodging. Total cost of lodging, including tax and other assessments related to the cost of the room not to exceed the amount shown for each county in the

Schedule of Guideline Amounts. The traveler should request a government or commercial rate.

- 2) Out-of-state Lodging. An amount considered to be reasonable for a standard room for the area. The traveler should request a government or commercial rate.
- 3) Non-commercial Lodging. The amount shown for non-commercial lodging in the Schedule of Guideline Amounts may be claimed if a traveler spends the night with a friend or relative or arranges for some other type of non-commercial accommodation. The traveler should submit a brief written explanation as to the type of alternate accommodation used unless the alternative accommodation was specifically authorized.

3.5 Requests for Deviation from Case Expense Guidelines - Timely Preauthorization Required

The OPDS may grant a deviation from the expense guidelines. Counsel may request a deviation for these expenses *only* before the expenses are incurred. The OPDS may grant deviation from the expense guidelines only when:

- a) the OPDS finds the expense is reasonable and necessary; *and*
- b) counsel requests the deviation in writing before incurring the expense or explains what exigent circumstances existed requiring counsel to incur the expense before requesting the preauthorization or deviation (see Section 3.2.3.3); *and*
- c) the request specifies the circumstances that compel increased expenses, such as the inability to find any local competent provider to render the service within the guideline amount; *and*
- d) the OPDS issues *written* authorization for the expense at the higher rate *before* the expense is incurred or issues a proper late authorization under Section 3.2.3.3.

4. BILLING DISPUTE RESOLUTION

When the OPDS approves less than the amount requested by a provider, the OPDS will send to the provider a Notice of Adjustment to Fee Statement (Exhibit 6).

The notice will include the amount requested, the amount to be paid and describe the reason(s) for the adjustment and the right to request reconsideration.

Within 21 calendar days of the date of the notice, the provider may request reconsideration by submitting to the OPDS an explanation of the facts and reasons to support the request, and supporting documents, if any.

Within 21 calendar days of the date the request for reconsideration is submitted, the executive director of the OPDS, or the person designated by the executive director, will review the request and issue a final determination. A notice shall inform the provider that the OPDS either has granted the request for reconsideration or has denied the request in whole or in part for the reasons stated in the original Notice of Adjustment or for other reasons, which the OPDS will list in the notice.

The time for requesting reconsideration and for issuing a final determination may be extended for good cause.

If the OPDS denies in whole or in part the request for reconsideration, counsel may appeal the denial to the presiding judge in the court in which the subject case is pending or the Chief Judge or Chief Justice when the request involves an appellate case. The decision of the judge is final.

5. CONFIDENTIALITY OF BILLING AND NON-ROUTINE EXPENSE INFORMATION

Statutes effectively prohibit the OPDS from disclosing information regarding the cost of representation of a client or requests for non-routine expenses to the district attorney before the case concludes. See, e.g., ORS 135.055.

It is the policy of the OPDS that its staff will keep confidential all information regarding the cost of representation of a client and non-routine expense requests for a particular case until the case concludes. For purposes of this section, a case concludes when:

- a) it is dismissed with prejudice and no appeal is filed;
- b) it is dismissed without prejudice and not refiled within one (1) year, except those cases where there is no statute of limitation;

- c) the defendant is acquitted;
- d) the time for filing a notice of appeal has run and no appeal has been filed;
- e) the appellate judgment is final and the case is not remanded for further proceedings from which the client may appeal; or
- f) the court unseals the records by written order.

The OPDS will release confidential information on a client's defense costs before the case concludes only:

- a) to appointed counsel or appointed counsel's client on written request; or
- b) pursuant to written court order.

This policy does not prohibit the OPDS from disclosing statistical information that cannot be identified to any particular case.

During an audit by the Secretary of State's Audit Division, the auditors may need to review confidential information to ensure that the funds have been disbursed lawfully. The OPDS will inform the auditors that the information is confidential.

**EXHIBIT 1.
PUBLIC DEFENSE PROVIDER'S FEE STATEMENT
FOR ATTORNEY FEES AND ROUTINE EXPENSES**

(The fee statement for non-routine expenses is included in the preauthorization for such expenses.)

County/Court _____

Case Name _____ Case Number(s) _____

1. APPOINTMENT INFORMATION

Client _____

Appointed Counsel _____ OSB Number _____

Appointment Date _____ Appointment Type _____

Disposition Date _____ Disposition Type _____

2. PROVIDER INFORMATION

Provider's Name _____ Tax ID No. _____

Mailing Address _____ Phone No. _____

3. BILLING INFORMATION

<u>Code</u>	<u>Description</u>	<u>Hrs (in 0.1) or Quantity</u>	<u>Rate</u>	<u>Amount Billed</u>
4602	Attorney Fees	_____	_____	\$ _____
4601	Routine Expenses	_____	_____	\$ _____
4632	Mileage	_____	_____	\$ _____
4609	Discovery	_____	_____	\$ _____
4610	Other	_____	_____	\$ _____
			TOTAL	\$ _____

PDSC use only
<u>Amount Approved</u>
\$ _____
\$ _____
\$ _____
\$ _____
\$ _____
\$ _____

I certify that the information above and in the supporting detail is true. I have not received and will not accept direct or indirect compensation for these services other than as approved by PDSC or authorized by contract.

Date _____ Signature _____

Send completed form and supporting documentation to: Accounts Payable
Public Defense Services Commission
324 Capitol Street NE
Salem, OR 97301-1400

INSTRUCTIONS FOR ATTORNEY FEES AND ROUTINE EXPENSES FORM

You must submit this form to the OPDS to request payment, including advances, for fees or expenses to be paid from the Public Defense Services Account. The codes used on this form for appointment type and disposition type are listed after these instructions.

Caption

"Case Name" is the name under which the case was filed. If you represent a parent in a juvenile case, the case name is "IN RE: CHILD'S NAME".

Section 1, Appointment Information

"Client" is the name of the person you represent. For a juvenile case where you represent a parent, fill in the parent's name. The "Appointment Type" is the code which best describes the most serious charge involved in the case. A Measure 11 appointment type will be the most serious charge, even when there are other charges of a higher class. For example, a case has a Class B Measure 11 charge and a non-Measure 11 Class A felony charge. The appointment type code should be "BM11". A list of the appointment types and their ranking follows these instructions.

If counsel represented a client in more than one case and the cases were disposed close in time to each other, counsel should submit one fee statement and supporting documentation for all cases.

Section 2, Provider Information

The "Provider's Name" is the name of the person requesting payment. The "Tax ID No." is the provider's federal tax ID number or social security number if the provider does not have a federal tax ID number.

Section 3, Billing Information

Time should be reported in 0.1 (tenths) of hours. Hourly rates higher than the scheduled rates set forth in the Schedule of Guideline Amounts, Exhibit 3 to this policy, must have been pre-approved by the OPDS. The OPDS will complete the "Amount Approved" column.

Case expenses fall into one of the four categories listed under "Attorney Fees". Those expenses not itemized in this section are generally "Routine Expenses" expenses which can be grouped and entered as one dollar amount. A breakdown of the items included in the routine expense category should be shown in the provider's backup documentation with a cost per unit where applicable (e.g., 20 copies at 5 cents each). If the cost of an item or service is higher than the guideline amount, the provider should attach an explanation to justify a higher cost. Original receipts, invoices or a copy of a cancelled check must be submitted to support the claim for reimbursement of services or goods provided as required by the policy.

Non-Routine Expenses - THE OPDS MUST PREAUTHORIZE NON-ROUTINE EXPENSES. Descriptions of non-routine expenses can be found in the PDPPP. Requests for payment of preauthorized non-routine expenses must be made by submitting the Non-Routine Expense Preauthorization and Fee Statement form which is generated when the OPDS preauthorizes the expense.

Certification

The provider must sign and date the certification section. Fee statements that are not signed or dated will be returned to the provider and not processed.

APPOINTMENT TYPE CODES AND RANKING

Rank	Code	Description
1	CMUR	Aggravated Murder
2	APAG	Aggravated Murder, Appeal
3	PCRA	Aggravated Murder Postconviction Relief
4	MURD	Murder
5	AM11	Measure 11 Class A Felony
6	BM11	Measure 11 Class B Felony
7	JM11	Measure 11 A/B Felony - 15, 16 or 17 year old juvenile charged as adult
8	AFEL	Class A Felony
9	BFEL	Class B Felony
10	CFEL	Class C Felony
11	DFEL	Felony DUII
12	DVIO	Domestic Violence Assault IV Felony
13	UFEL	Unclassified Felony
14	DUIS	DUII
15	MISS	Misdemeanors (Non DUII/DWSS/OTMS)
16	DWSS	Driving While Suspended/Revoked Misdemeanor
17	OTMS	Other Traffic Misdemeanors
18	SCDV	Show Cause Diversion
19	EXTR	Extradition
20	CONT	Contempt (Non FAPA/SUPP)
21	FAPA	Family Abuse Prevention Act Contempt
22	SUPP	Support Contempt
23	MHMI	Civil Commitment
24	HC	Habeas Corpus
25	PCR	Post-Conviction Relief (except Aggravated Murder PCR)
26	FPV	Felony Probation Violation
27	DPV	DUII Probation Violation
28	MPV	Misdemeanor Probation Violation
29	OTHR	Other
30	JUTP	Termination Parental Rights/Contested Adoption - Parent
31	JUTC	Termination Parental Rights/Contested Adoption - Child
32	JDEP	Juvenile Dependency - Parent
33	JDEC	Juvenile Dependency - Child
34	JPDP	Juvenile Post-disposition Review Hearing - Parent
35	JPDC	Juvenile Post-disposition Review Hearing - Child
36	JUDF	Juvenile Delinquency - Felony
37	JUDM	Juvenile Delinquency - Misdemeanor
38	JUDO	Juvenile Delinquency - Other (Modification, Emancipation, etc.)
39	JPV	Juvenile Delinquency - Probation Violation
40	AP	Appeals, except Aggravated Murder

DISPOSITION TYPE CODES AND DESCRIPTIONS

Code	Description
ACQC	Acquitted - Court Trial
ACQJ	Acquitted - Jury Trial
ADAK	Affirmed Without Opinion
ADAL	Affirmed On Appeal
ADAM	Affirmed, Reversed & Remanded in Part
CLCC	Convicted of Lesser Charge - Court Trial
CLCJ	Convicted of Lesser Charge - Jury Trial
CNVC	Convicted of Highest Charge - Court Trial
CNVJ	Convicted of Highest Charge - Jury Trial
COM	Committed
CONS	Consolidated for Plea
CONT	Continued (e.g., probation violations)
DENY	Denied, Petition or Writ
DIVR	Diversion/Conditional Discharge
DSCC	Civil Compromise
DSM	Dismissed
DSMA	Dismissed on Appellant's Motion
DSMC	Dismissed by Appellate Court (court's own motion)
DSMR	Dismissed by Respondent
DSMS	Dismissed by Stipulation
EMAN	Emancipated
EXTR	Extradited
GRNT	Granted, Petition or Writ
INSA	Guilty But Insane
INTM	Interim Billing
JUDP	Jurisdiction Found/Disposition Ordered
JUNF	Jurisdiction Not Found
MSTR	Mistrial
OTHR	Other Disposition
OTPA	Other Post-Adjudicative, Post-Commitment, Or Post-Conditional Release
PLGY	Pled to Highest Charge
PLLC	Plead to Lesser Charge
PRT	Parental Rights Terminated
RCOM	Recommitted
REVK	Revoked
RMND	Remanded
RMWR	Remanded to Trial Court
RVR	Reversed
RVRD	Reversed and Remanded
RVWO	Reversed Without Remand
TERM	Terminated
WAIV	Waived Extradition
WTBN	Bench Warrant
WTHD	Withdrew

EXHIBIT 2. TRAVEL CLAIM WORKSHEET FOR NON-ROUTINE PREAUTHORIZED EXPENSES

Provider's Name: _____

Tax ID No.: _____

County: _____

Case No.: _____

Case Name: _____

Authorization No.: _____

Date	Departure From (City)	Destination (City)	Depart Time	Return Time	Number of Miles	Mileage Amount	Meal Amount	Lodging Amount	Total
						\$	\$	\$	\$
						\$	\$	\$	\$
						\$	\$	\$	\$
						\$	\$	\$	\$
						\$	\$	\$	\$
						\$	\$	\$	\$
						\$	\$	\$	\$
						\$	\$	\$	\$
						\$	\$	\$	\$
TOTALS						\$	\$	\$	\$

Date	Description of Other Travel Expense	Amount
		\$
		\$
		\$
		\$
		\$
	TOTAL	\$

The total amount for each type of travel expense and a description of the type of other travel expense should be entered on the fee statement form. Attach this travel expense worksheet to the fee statement form when submitted.

EXHIBIT 3. SCHEDULE OF GUIDELINE AMOUNTS

ATTORNEY FEES - TRIAL AND APPELLATE LEVEL CASES		
Attorney, Lead - Regular Case	\$40 per hour	Includes juvenile aggravated murder.
Attorney, Lead - Capital Case	\$55 per hour	For adult defendants only. Includes PCR and PCR appeals where original charge was aggravated murder.
Attorney, Co-Counsel - Regular Case	\$40 per hour	Initial cap of 150 hours for trial-level cases.
Attorney, Co-Counsel - Capital Case	\$40 per hour	Initial cap of 300 hours for trial-level cases.
Attorney, Nonresident	\$40 per hour	Or the minimum public defense hourly rate of the state in which the attorney resides, whichever is more.
NON-ATTORNEY FEES (Must be preauthorized by the OPDS)		
Paraprofessional	\$10 per hour	
Transcription	\$2.50 per page for original \$0.25 per page for copies	May be reimbursed for postage/shipping with receipt.
Handwriting Expert	\$90 per hour	
Forensic Expert	\$90 per hour	Mileage paid without specific preauthorization.
Investigator - Regular Case	\$25 per hour	Mileage and some out-of-pocket paid without specific preauthorization.
Investigator - Capital Case	\$34 per hour (Adult defendants only)	Mileage and some out-of-pocket paid without specific preauthorization.
Psychiatrist, Psychologist, Physician, Other Expert	\$110 per hour	Travel expenses must be specifically preauthorized.
Polygraph Exam	\$200 – in office \$300 – in custody, in county \$350 – in custody, out-of-county	Flat fee for exam and report.
INTERPRETER FEES (For attorney/client communication, does not require preauthorization by the OPDS)		
Foreign Language, Qualified	\$25 per hour	
Foreign Language, Certified	\$32.50 per hour	
ROUTINE CASE EXPENSES FOR COUNSEL & INVESTIGATORS (Does not require preauthorization by the OPDS)		
Film Developing/Photograph Production	Actual cost	If produced digitally in-house, maximum reimbursement of \$0.40 per photo.
Photocopies, In-house	Maximum \$0.05 per page	
Photocopies, Vendor	Maximum \$0.10 per page	Receipt required.
Photocopies, State Court/Other Government Entities	Maximum \$0.25 per page	Certification costs also paid if necessary.
Mileage	Maximum \$0.325 per mile	Excludes trips between office and courthouse unless specifically preauthorized.
Parking	Maximum \$12 per day	If trip qualifies for mileage reimbursement. Also applies for investigator's parking. Receipt required.
Telephone	Actual cost	Long-distance charges, including those for faxes, and charges for local collect calls from institutions where client is held. Also applies for investigators.

Discovery	Actual cost when supported by invoice or receipt	Material obtained from district attorney, DHS or county juvenile department.	
Postage	First-class mail		
Computerized Legal Research	Actual cost when supported by invoice or receipt	Only actual on-line usage paid. No payment for monthly service fees.	
Service of Process	\$25 per location of service	Use of sheriff's office encouraged.	
Special Delivery	UPS, Federal Express, USPS Express mail, messenger service	Receipt required. See Section 3.2.2 of policy for details.	
Other Items		See Section 3.2.2 of policy for details.	
TRAVEL EXPENSES (Must be preauthorized by the OPDS)			
Meals - When on overnight business and departure and return times are not reported	\$15 for first day of travel \$15 for last day of travel \$30 for each full day between first and last	May qualify for additional allowance for first and last day depending on time of departure and return if traveler notes times on worksheet. (Meals automatically authorized when lodging is approved.)	
Breakfast - When on overnight trip	Maximum \$7.00	If leaving home or office prior to 6:00 a.m. or return is after 9:00 a.m.	
Lunch - When on overnight trip	Maximum \$8.00	If leaving home or office prior to 11:00 a.m. or return is after 2:00 p.m.	
Dinner - When on overnight trip	Maximum \$15.00	If leaving home or office prior to 5:00 p.m. or return is after 8:00 p.m.	
Mileage (other than routine mileage for counsel and investigators)	Maximum \$0.325 per mile	Must be preauthorized for providers other than attorneys and investigators	
Parking	Maximum \$12 per day	Must be preauthorized for providers other than attorneys and investigators.	
Rental Car	\$48 per day (includes taxes and other fees and assessments)	Actual fuel costs paid in addition to daily rate.	
Airfare	Various	Through state contract. Contact The OPDS.	
LODGING, INCLUDING TAX (Must be preauthorized by the OPDS for all providers)			
Maximum \$70 per Night		Maximum \$80 per Night	
Maximum \$90 per Night		Maximum \$100 per Night	
Benton Crook Douglas Gilliam Grant Harney Jefferson Linn	Malheur Marion Morrow Polk Sherman Umatilla Wallowa Wheeler	Baker Hood River Lake Lane	Union Wasco Washington Yamhill
		Clackamas Clatsop Columbia Coos Curry	Deschutes Jackson Josephine Klamath Tillamook
			Lincoln Multnomah
Out-of-state	A rate for a standard room that would be within the guidelines for in-state lodging and for which the cost would be deemed reasonable for the area. Traveler should request government or commercial rate.		
Non-commercial Lodging	\$25 allowance when traveler uses alternative accommodations. Provide a short written explanation the alternative has been preauthorized.		

EXHIBIT 4. INTERPRETER FEE STATEMENT FOR OUT-OF-COURT SERVICES (ATTORNEY /CLIENT COMMUNICATION)

Provider's Name: _____

Vendor No.: _____

Provider's Address: _____

Phone No.: _____

Language: _____

Hourly Rate: _____

Date	Case No.	County	Client's Name	Start Time	End Time	Total Time	Total Fee	Mileage Amount	Total This Appt.	Signature of Counsel or Designee*
							\$	\$	\$	
							\$	\$	\$	
							\$	\$	\$	
							\$	\$	\$	
							\$	\$	\$	
							\$	\$	\$	
							\$	\$	\$	
							\$	\$	\$	
							\$	\$	\$	
							\$	\$	\$	
							\$	\$	\$	
TOTALS							\$	\$	\$	

* By signing this fee statement, assigned counsel for the client, or the assigned counsel's designee, certifies that the information on this form pertaining to the services provided by the interpreter for counsel's client is accurate.

I certify that the information above is true. I have not received and will not accept direct or indirect compensation for these services other than as provided by the PDSC or authorized by contract.

Signature of Interpreter

Date

Note: If interpreter services are provided by telephone and interpreter is not in the same location as counsel, please note in the space for counsel's signature that services were provided by phone and fill in the name of appointed counsel for whom the service was provided.

EXHIBIT 5. NON-ROUTINE EXPENSE REQUEST FORM

CONFIDENTIAL
REQUEST FOR PREAUTHORIZATION OF NON-ROUTINE EXPENSES (ORS 135.055(3))

A detailed justification stating the reasons the requested service/expense is necessary and reasonable **MUST** be submitted with this form. Send completed form and justification to:

Preauthorization Desk, Public Defense Services Commission, 324 Capitol Street NE, Salem, OR 97301-4099

Or Fax to: 503-986-5879 or 503-986-5878 (Please do not fax in addition to mailing.)

County: _____ Case Type: _____ Case Number: _____ Retained
 Appointed

Client's First Name: _____ Client's Last Name: _____

Attorney Name: _____ Bar #: _____ Email: _____

Provider's Name: _____ Provider's City: _____ Provider's Phone: _____

I. SERVICE OR ITEM REQUESTED

- | | | | |
|--|-------------------------------------|--------------------------------------|--|
| <input type="checkbox"/> Investigation | <input type="checkbox"/> Forensic | <input type="checkbox"/> DNA | <input type="checkbox"/> Psychosexual Evaluation |
| <input type="checkbox"/> Psychiatric/Psychological | <input type="checkbox"/> Polygraph | <input type="checkbox"/> Mitigation | <input type="checkbox"/> Other Expert |
| <input type="checkbox"/> Copies of _____ | <input type="checkbox"/> Transcript | <input type="checkbox"/> Interpreter | <input type="checkbox"/> Other _____ |

Type of Service	No. of Hrs.	Rate Per Hr.	Total
_____	_____	_____	\$ _____
_____	_____	_____	\$ _____
Total Fees for Service			\$ _____

Type of Item	No. Each	Cost Each	Total
_____	_____	_____	\$ _____
_____	_____	_____	\$ _____
Total Cost of Items			\$ _____

II. TRAVEL REQUESTED

For Whom: _____

From: _____ To: _____

- Auto Mileage: Estimated number of miles _____ at \$ _____ per mile Total: \$ _____
- Air (Note: If air travel is approved, arrangements **MUST** be made through Azumano Travel.)
- Other Type of Transportation (describe) _____ Total: \$ _____
- Lodging Number of nights: _____ at \$ _____ per night Total: \$ _____
- Meals Number of days: _____ at \$ _____ per day Total: \$ _____
- Other Travel Expense (describe) _____ Total: \$ _____

Total Travel Requested: \$ _____

GRAND TOTAL REQUESTED: \$ _____

Do any of the above exceed the guideline rates? No Yes
 If "yes", include in the attached justification the reason counsel requires a deviation.

I certify that the services/expenses shown above are necessary and reasonable for adequate representation of the above-named client.

 Signature of Attorney

 Signature Date

 Effective Date *

EXHIBIT 6. NOTICE OF ADJUSTMENT TO FEE STATEMENT

Notice of Adjustment to Fee Statement

Notice Date:

Provider:

Case Number:

Client's Name:

County/Court:

Voucher:

Under the Public Defense Services Commission Payment Policy and Procedures, the amount requested on your fee statement for the above-referenced case has been adjusted for the following reason(s):

- _____ exceeds guideline amounts
 - _____ without preauthorization
 - _____ without sufficient documentation for an exception
- _____ lacks sufficient supporting documentation
- _____ exceeds preauthorized amount(s)
- _____ was billed at incorrect rate (see PDSC Payment Policy)
- _____ payment from public defense funds is not authorized by statute or constitution
- _____ was billed beyond statutory or policy deadlines
- _____ mathematical error
- _____ other

Notes:

WITHIN 21 CALENDAR DAYS OF THIS NOTICE, YOU MAY REQUEST RECONSIDERATION BY SUBMITTING ADDITIONAL INFORMATION TO OUR OFFICE:

Attn:
Accounts Payable
Public Defense Services Commission
324 Capitol St NE
Salem, OR 97301-4099

Accounts Payable Representative