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. This is the eleventh revision and is effective October 19, 2012.

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 a case 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. 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 preauthorization of an increase in the original cap on co-counsel hours, by submitting a letter to 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* 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 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.

1.7 Substitution of Appointed Counsel

1.7.1 Need for Consultation With OPDS

A court may substitute one appointed counsel for another only when:

(a) in the exercise of its discretion, the court determines that appointed counsel who is seeking to withdraw cannot ethically continue to represent the client and, except as described in Section 1.7.2, the court consults with OPDS regarding counsel to whom the case will be assigned, or

(b) in other circumstances, when the interests of justice so require, and after consultation with OPDS regarding the need for substitution of counsel and counsel to whom the case will be assigned.

1.7.2 Reassignment within Public Defender Office, Law Firm or Consortium

The court need not consult with OPDS regarding counsel to whom the case will be assigned if appointed counsel and counsel to whom the case will be assigned are part of the same public defender office, law firm, or consortium under contract with the PDSC.

1.7.3 Limits on Matters Which May be Discussed Regarding Need for Substitution under 1.7.1 (b)

In consultation with the court regarding the need for substitution, OPDS may only:

(a) obtain information regarding the reasons for substitution;

(b) obtain information which may affect public defense planning in future cases;

(c) provide information to the court regarding the cost of substitution; and

(d) discuss options available to the court in terms of counsel to whom the case might be assigned and cost factors related to each option.

1.7.4 Consultation Regarding Substitutions for Case Types

Consultation between the court and OPDS may include discussion of the procedure for handling substitutions in a category of case types as well as the procedure in an individual case.

1.8 Recoupment of Attorney Fees and Expenses

At the conclusion of a case in which the court appointed counsel at state expense to represent a person, the court may order the person to pay a reasonable amount for the cost of appointed counsel and for expenses authorized under ORS 135.055. Pursuant to ORS 151.505(2), determination of reasonable costs by a court may be made by reference to a Schedule of Compensation established by PDSC. For this purpose, PDSC will provide and update as necessary a Schedule of Compensation (Exhibit 7), which describes the typical cost to PDSC to provide representation for listed case types and the average amount expended for each case type for nonroutine expenses authorized under ORS 135.055.

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 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 juveniles charged with aggravated murder 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 the trial court level for adult defendants are limited to the rates shown in the Schedule of Guideline Amounts for lead counsel and for co-counsel or associate counsel. The rates also apply to direct appeal and postconviction relief cases and to postconviction relief appeals where the underlying case had a conviction resulting in a sentence of death.

2.2 Requests for Increased Hourly Attorney Rate

2.2.1 In General

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

a) counsel shows compelling circumstances; and

b) OPDS finds that no feasible alternative exists.

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; and

c) counsel has received higher rates in other public defense cases.

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. 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 OPDS. The request must document the compelling reasons that warrant an exception to the fee schedule.

OPDS will review counsel's request and will confirm in writing the decision and the terms of any exception 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 OPDS for tentative approval. The tentative approval is subject to 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 OPDS a statement of all reasonable fees and expenses:

a) supported by appropriate receipts; 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 OPDS designee will review the statement and determine whether the hours and expenses are reasonable, necessary, and properly payable from public defense funds.

OPDS will pay only for legal services related to the specific appointment. 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).

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. 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 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 PDS 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 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.

Counsel may bill for time dealing with post-judgment matters if those matters are concluded within 60 days after the judgment is entered. Counsel's time and expenses for consultation with assigned counsel on appeal or postconviction relief may be billed beyond the 60-day limit provided in this section.

When services to the client are suspended, counsel may submit payment requests to 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; or

c) the court determines the client is unable to aid and assist.

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.

OPDS will return requests submitted late unless counsel submits a written explanation showing good cause to excuse the delay. OPDS will review the written explanation and approve or disallow payment based upon the reason.

2.5.2 Appellate Level Cases

Counsel may bill for time and expenses after the original brief is filed. A final billing should be submitted within 60 days of the entry of the appellate judgment.

2.6 Interim Billings

2.6.1 Aggravated Murder and Murder Cases

Assigned counsel may submit interim billings for aggravated murder and murder cases and postconviction relief cases where the underlying case contained a conviction for aggravated murder or murder, both at the trial and appellate level. Fee statements should not be submitted more often than monthly.

2.6.2 All Other Case Types

As a general policy, OPDS will not pay interim requests for attorney fees and expenses unless OPDS has authorized interim billing. An interim request is any request submitted before appointed counsel has completed all services in a trial-level case; for appellate cases, an interim request is a request submitted prior to filing the original brief. An exception to this policy will be made when sentencing is delayed more than 60 days after a finding of guilt or entry of guilty plea.

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

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

a) correct arithmetic or clerical errors; or

b) ensure total representation costs are not excessive.

An 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 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, 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 pre-approved 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. Expenses above the guideline amount may be approved if 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 an original receipt for an expense unless otherwise stated in this policy. A copy of the provider's credit card statement or cancelled check may be submitted if an original receipt is not available. If the provider has no documentation to support the expense, the provider must state in writing:

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.

The provider must sign and date this statement and submit it with the payment request. The provider must keep reasonable underlying records in case 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 OPDS or in limited, *extraordinary* circumstances with the preauthorization of 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, 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 non-attorney providers, 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, 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. 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.

   For postconviction relief cases, discovery is a copy of trial-counsel's file, appellate counsel's file, the district attorney's file or the court file. Discovery material includes audio and video media, photographs and other similar items obtained from the sources described above.

b) Interpreter Services: For out-of-court attorney/client communication, 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). Attorney/client communication includes written communication to and from the client.

If the hourly rate for interpretation is within the guideline amount, and the service is for attorney/client communication, the services of an interpreter need not be preauthorized.

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

OPDS will pay a one-hour minimum if the service provided was verbal communication either by telephone or in person and requires less than one hour. An interpreter may not bill OPDS more than once for the same period of time. Actual time of service must be recorded even though an appointment was less than one hour and the interpreter is claiming the fee for one hour of service. Travel time may be claimed in addition to the one-hour minimum.

OPDS will pay for actual time worked for services that combine translation and transcription of written communications between the attorney and the client.

Interpreters shall bill for time and expenses on the Interpreter Fee Statement form and the Interpreter's Travel Worksheet, (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 interpreter services not related to attorney/client communication, such as translation and transcription of recorded interviews or interpreter services to assist an investigator, must be preauthorized.

Counsel shall not use an interpreter to deliver a message to or request information from the client unless counsel or counsel's staff person participates in the communication.

c) Medical, School, Birth, DMV and Other Similar Records: When the cost of an individual record does not exceed $150 for aggravated murder and murder cases or $75 for all other case types.

d) 911 Recordings and Emergency Communication Recordings and Logs: When the cost of an item does not exceed $150 for aggravated murder and murder cases or $75 for all other case types.

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 and Scanning: Amounts per page as shown in the schedule. Copies made or scanning services provided by a 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, the same rate as that for in-house copies applies.

h) Routine Mileage and Parking: Routine mileage does not include travel between counsel's office and the courthouse or other location where a hearing or judicial appearance is scheduled unless specifically authorized. The actual cost of parking, when the travel qualifies for mileage payment, may be reimbursed. An original receipt is required if the cost of parking is over $10 for any one period.

i) Postage:

1) first-class mail. Receipt required if the cost to send an individual item exceeds $5.00;

2) express mail, only if counsel shows that express mail was reasonable and necessary and the additional expense was not caused by counsel's delay;

3) messenger service other than for routine filings, only if counsel shows it was reasonable and necessary or that the method of delivery was the most economical available.

j) Computerized Legal Research: Only fees for actual on-line time or usage may be claimed as a reimbursable expense. Documentation of on-line time must be submitted.

k) Service of Process: ORS 21.410(1)(a) provides that no fee shall be charged to the state by the county sheriff for cases in which the party requesting service has counsel appointed at state expense. Counsel should use the most economical 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 serve 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.

l) Lay Witness Fees and Mileage: Upon submission of documentation, OPDS will reimburse counsel the amount paid for the attendance of a lay witness as long as the per diem amount and mileage do not exceed those set by statute. Payment in excess of the statutory amounts is a non-routine expense and requires preauthorization.

m) 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 OPDS has preauthorized those expenses.

3.2.3 Non-Routine Expenses

Except for expenses included in a contract, 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;

b) investigation;

c) mitigation;

d) psychological, psychiatric and other medical examinations, evaluations and reports;

e) polygraph examination;

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)

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 service for cases on appeal.

OPDS will authorize the use of an out-of-state expert only if a qualified in-state expert is not available or the use of an out-of-state expert is more economical.

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 should be submitted via fax or email to 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.

For aggravated murder and murder cases, once the initial approval has been given for fact and mitigation investigation, subsequent requests for additional hours for the same provider may be submitted up to 14 days past the effective date being requested. This exception applies to aggravated murder and murder cases at the trial level and to postconviction relief cases in which the underlying case had a charge of aggravated murder or murder. The requirement for preauthorization remains for all other case types and for other types of services for aggravated murder and murder cases.

If approved, 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, OPDS will generate a partial authorization or denial. Counsel may request reconsideration by submitting to OPDS a letter requesting reconsideration and including additional support for counsel's request. If 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. Counsel must notify OPDS in writing that the matter is being appealed. The decision of the judge is final.

3.2.3.2 Advances

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 and will be made only to assigned counsel.

To request OPDS to advance funds, counsel should:

a) follow the procedures in Section 3.3; *and*

b) specify the date by which counsel needs the funds.

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

3.2.3.3 Postauthorization of Non-Routine Expenses

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

3.2.3.4 Compliance with Applicable Requirements

Investigators, mitigation experts and other expert providers who perform case-related services in another state or country are responsible for complying with any applicable requirements, including but not limited to licensing, that another state or country may impose for the performance of investigative or other services in those jurisdictions.

Out-of-state investigators, mitigation experts and other experts approved to perform services in Oregon are responsible for complying with any applicable requirements, including but not limited to licensing, that the State of Oregon may impose for the performance of investigative or other services.

3.3 Procedures to Request Payment

3.3.1 Case Expenses, In General

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.

Non-attorney providers should submit payment requests directly to OPDS. See Section 3.3.2. OPDS allows non-attorney providers to bill directly for preauthorized non-routine expenses such as for transcript services, investigation, expert witnesses, medical and psychiatric evaluations. OPDS does *not* allow direct billing from non-attorney providers for advances.

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

Non-attorney providers should submit bills for services directly to OPDS. To request payment,

non-attorney providers must use the Non-Routine Expense Preauthorization and Fee Statement form generated by OPDS when the service or expense is preauthorized. A Travel Claim Worksheet, which details travel expenses, should be completed and submitted with 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 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 Missed Appointments

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

b)

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, 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 the purposes of this policy, transcription is the process of converting a stenographic or electronically recorded spoken word to a written document.

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

3.4.1.2 No Appearance or Other Fees for Transcripts

Except as provided below, 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 OPDS based on compelling circumstances.

3.4.1.3 Number of Originals/Copies

Except for transcripts for cases on appeal, 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 where an appellant/petitioner who qualifies for a state-paid transcript has requested a transcript, OPDS will pay for the creation 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, 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

The hourly fee includes all overhead expenses. Routine case-related mileage may be reimbursed. Parking costs may be reimbursed in an amount not to exceed the guideline amount. A receipt for parking is required if the amount for any period exceeds $10.

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. OPDS will pay for investigation and mitigation services only:

a) when it has been determined before the expense is incurred that investigation is reasonable and necessary *and* that an investigator would be the most economical;

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 OPDS finds that the case may require extensive investigation, OPDS will approve investigation in conservative increments.

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 scanning or copying documents, with detailed documentation and within the guideline amounts. Reimbursement for services provided by a vendor must be supported by a receipt.

c) Case-related mileage at the guideline amount. Mileage will be reimbursed for private vehicle use for both in-state and out-of-state travel unless commercial transportation is more economical. See section 3.4.10.4. Parking costs when incurred during routine travel 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 $150 for aggravated murder and murder cases or $75 for all other case types.

e) 911 recordings and emergency communication recordings and logs when the cost of an individual item does not exceed $150 for aggravated murder and murder cases or $75 for all other case types.

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 $150 for aggravated murder and murder cases or $75 for all other case types.

g) In-house production of digital photographs at the guideline amount.

h) Other items similar to those described in this section with proper documentation that shows the expense to be both reasonable and necessary and properly payable from public defense funds. Provider 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 OPDS has preauthorized those expenses.

i) Fax transmittal at the rate for regular long-distance telephone calls. For faxes received, provider may request reimbursement at the same rate as for in-house copies.

j) Postage or shipping costs. Original receipt required if the cost to send an individual item is over $5.00.

3.4.5 Paraprofessionals

When OPDS makes the findings required in Section 3.2.1, it will reimburse counsel for paraprofessional services as a non-routine expense at the rate shown in the schedule. Counsel should include in the request for this service a description of the tasks to be assigned. Paraprofessionals include law clerks, legal assistants, paralegals, and trial assistants.

Requests for payment must include 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 the time records are accurate.

3.4.6 Psychiatrists, Physicians, Psychologists and Other Experts

3.4.6.1. Hourly Rate

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

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

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

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.

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

3.4.9 Secretarial

When OPDS makes the findings required in Section 3.2.1, 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

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 for all expenses except meals with a completed Travel Claim Worksheet and the fee statement.

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. OPDS must review and approve proposed travel *before* the expenses are incurred.

3.4.10.2 Travel Time

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, OPDS will pay only for the time spent working. 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 OPDS. When a request for airfare al is preauthorized, OPDS will notify the travel agency having the state contract that the expense for the provider has been approved. 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 travel

arrangements. Authorizations for airfare expire after 60 days. The cost of airfare is billed directly to OPDS.

If a provider requests authorization and receives approval to purchase a ticket outside the state contract, OPDS will approve such a request only in accordance with the state contracts for airfare. An exception to purchase a ticket outside the state contract must be sought and granted prior to incurring the expense. If an exception is 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 Car Rental

Arrangements for a rental car may be made through the travel agency having the state contract for airfare. OPDS will reimburse the provider for a mid-size car. Rental of any other size or type of vehicle must be specifically approved. The provider should rent from the least expensive rental agency. In addition to the cost of the rental car, OPDS will reimburse for fuel upon submission of an original receipt. The provider is responsible for any insurance costs related to the car rental. Those costs will not be reimbursed.

3.4.10.5 Mileage and Parking

Reimbursable mileage is paid at the guideline rate shown in the schedule. Parking costs may be reimbursed, without specific preauthorization, if the travel qualifies for mileage reimbursement or if other travel expenses have been preauthorized. Submission of an original receipt is required if the parking cost is more than $10.00 for any one period of time.

If a private vehicle is used for a trip when the use of a rental car or air travel is an option and is more economical than personal vehicle mileage, OPDS will pay the traveler the amount of the most economical method of travel. When determining the amount to pay, OPDS will consider the overall cost of the trip, including travel time.

3.4.10.6 Meals

Generally, a meal allowance will be approved only when lodging is authorized. Approval for meals for day trips may be approved when specifically requested and if the traveler's departure or return time and the distance traveled are such that lodging would be justified. Receipts for meals are **not** required.

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 full 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 determined by 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.

3.4.10.7 Lodging

OPDS must preauthorize lodging expenses for all providers. Original itemized receipts 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 arranges for non-commercial accommodations. The traveler should submit a brief written explanation as to the type of alternate accommodation used unless the alternative accommodation was specifically authorized.

3.4.11 Client Clothing

OPDS may authorize the purchase of clothing for a client if the client needs appropriate attire for court appearances. Counsel agrees to contact contractors who maintain "clothing rooms" to determine whether suitable clothing is available prior to submitting a request to OPDS. (Contact OPDS for a current list of contractor's with "clothing rooms".) If counsel receives preauthorization to purchase clothing for a client, that clothing shall be provided to a "clothing room" upon completion of the case. Dry cleaning or commercial laundering of purchased or borrowed clothing, prior to return or donation to a "clothing room", is considered a routine expense and may be reimbursed.

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

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

a) 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) 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 OPDS approves less than the amount requested by a provider, OPDS will send to the provider a Notice of Adjustment to Fee Statement (Exhibit 6) if the amount of the adjustment is more than $5.00.

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 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 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 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 OPDS will list in the notice.

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

If OPDS denies in whole or in part the request for reconsideration, provider 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. A motion requesting the court's review of the disallowance must be filed within 21 days of the date of the reconsideration letter from OPDS to the provider. The court will notify the provider and OPDS in writing when a decision has been made. The decision of the judge is final.

5. CONFIDENTIALITY OF BILLING AND NON-ROUTINE EXPENSE INFORMATION

In order for OPDS to carry out its obligations under ORS 135.055, ORS 151.216 and other statutes regarding payment of counsel and authorization and payment of non-routine expenses in public defense cases, it is necessary for OPDS to receive information that may be confidential or privileged, or both.

ORS 135.055(9) prohibits disclosure of requests and administrative orders for preauthorization of non-routine fees and expenses, and billings for such fees and expenses, to the district attorney before the conclusion of the case. ORS 135.055(10) permits disclosure to the district attorney of the total amount of moneys determined to be necessary and reasonable for non-routine fees and expenses at the conclusion of the trial in the circuit court.

ORS 40.255(5) provides that the lawyer-client privilege is maintained for communications made to OPDS for the purpose of seeking preauthorization for, or payment of, non-routine fees or expenses.

ORS 192.502(4) exempts from disclosure under the Public Records Law information submitted to a public body in confidence and not otherwise required by law to be submitted, where such information should reasonably be considered confidential, the public body has obliged itself in good faith not to disclose the information, and when the public interest would suffer by the disclosure.

In light of the foregoing statutory provisions, the PDSC adopts the following policy.

It is the policy of the PDSC that OPDS staff will keep confidential all information regarding the cost of representation of a client and non-routine expense requests for a particular case, except as follows:

1) It may release, upon request at the conclusion of the trial, the total amount of moneys paid for representation in the case.

2) It shall disclose information regarding non-routine expense requests in a particular case and the cost of representation of a client to: the attorney who represents or represented the client in the particular case; the attorney who represents the client in a matter arising out of the particular case; or upon written request, the client, except that OPDS shall not disclose information to the client that it is prohibited from disclosing under state or federal law.

3) This policy does not prohibit OPDS from disclosing statistical information that cannot be identified with any particular case.

4) OPDS may disclose to appropriate authorities information regarding non-routine expense requests and the cost of representation when such information is reasonably believed to be evidence of, or relevant to, alleged criminal activity on the part of the court-appointed attorney or other OPDS-paid provider.

5) OPDS shall disclose information regarding the cost of representation as required by law.

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

Code	Description	Hrs (in 0.1) or Quantity	Rate	Amount Billed	PDSC use only Amount Approved
4602	Attorney Fees	_____	_____	$_____	$_____
4601	Routine Expenses	_____	_____	$_____	$_____
4635	Mileage	_____	_____	$_____	$_____
4609	Discovery	_____	_____	$_____	$_____
4610	Other	_____	_____	$_____	$_____
			TOTAL	$_____	$_____

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:
Or fax to (503) 378-4462 if amount requested does not include expenses for which an original receipt must be submitted.

Accounts Payable
Public Defense Services Commission
1175 Court Street NE
Salem, OR 97301

INSTRUCTIONS FOR ATTORNEY FEES AND ROUTINE EXPENSES FORM

You must submit this form to 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 OPDS. 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, 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 - 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 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.

Submission to OPDS

If you are not submitting a fee statement which includes reimbursement of expenses for which an original receipt is required, you may fax the completed fee statement form along with the backup documentation to (503) 378-4462. All other fee statements must be mailed to Accounts Payable, Public Defense Services Commission, 1175 Court Street NE, Salem, OR 97301.

APPOINTMENT TYPE CODES AND RANKING
FOR TRIAL AND APPELLATE CASES

Rank	Code	Description
1	CMUR	Aggravated Murder, Adult Defendant
2	PCRA	Aggravated Murder Postconviction Relief - Sentence of Death
3	PCR	All other Postconviction Relief cases
4	MURD	Murder and Juvenile Charged with Aggravated 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 Driving Under the Influence
12	DVIO	Domestic Violence Assault IV Felony
13	UFEL	Unclassified Felony
14	DUIS	Misdemeanor Driving Under the Influence
15	MISS	Misdemeanors (Excluding DUIS/DWSS/OTMS and contempt)
16	DWSS	Driving While Suspended/Revoked Misdemeanor
17	OTMS	Other Traffic Misdemeanors
18	SCDV	Show Cause Diversion
19	EXTR	Extradition
20	CONT	Contempt (Includes misdemeanor contempt. Excludes 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 (Please specify type of appointment or case.)
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

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 Allowance	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		
Non-capital Case	$45 per hour	Includes juveniles charged with aggravated murder.
Capital Case, Lead Counsel	$60 per hour	See definition in section 2.1.2
Capital Case, Co-counsel	$45 per hour	Initial cap of 300 hours for trial-level cases. See definition in section 2.1.2.
Out-of-State	$45 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 OPDS)		
Paraprofessional	$10 per hour	
Transcription	$2.50 per page for original $0.25 per page for copies	Reimbursement for postage with receipt.
Guardian Ad Litem	$45 per hour maximum	For attorney and non-attorney providers
Handwriting Expert	$90 per hour	
Forensic Expert	$90 per hour	Mileage paid without specific preauthorization.
Investigator	$28 per hour	Mileage and some out-of-pocket paid without specific preauthorization.
Fact Investigator - Capital Case (See definition for capital case in section 2.1.2)	$39 per hour	Mileage and some out-of-pocket paid without specific preauthorization.
Mitigation Investigator - Capital Case (See definition for capital case in section 2.1.2)	$44 per hour	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 – all others	Flat fee for exam and report.
INTERPRETER FEES (For attorney/client communication, does not require preauthorization by OPDS)		
Qualified Interpreter	$25.00 per hour	Travel time at one-half the hourly rate and mileage at the guideline rate.
Certified Interpreter	$32.50 per hour	
ROUTINE CASE EXPENSES FOR COUNSEL & INVESTIGATORS (Preauthorization not required)		
Blank CD/DVD, case and label	$1.00 each	For media, case and label
Film Developing/Photograph Production, In-house and Vendor	Actual cost if vendor. Photos in-house at $0.40 for 3 x 5 or 4 x 6. $1.20 for full page.	Receipt required if produced by vendor.
Photocopies and Scanning, In-house	Maximum $0.05 per page	Also applies to in-coming faxes.
Photocopies and Scanning by 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. Receipt required.
Mileage from 8/1/08 through 1/31/09 From 2/1/09 through 12/31/09 From 1/1/10 through 12/31/10 From 1/1/11 to 4/16/12 From 4/17/12 to present	Maximum $0.585 per mile Maximum $0.55 per mile Maximum $0.50 per mile Maximum $0.51 per mile Maximum $0.555 per mile	Excludes counsel's trips between office and courthouse unless specifically authorized.
Parking - routine travel	Actual cost	If trip qualifies for mileage payment. Receipt required if over $10 per period.
Telephone	Actual cost	Long-distance charges, including those for faxes, and charges for collect calls from client held at an institution.
Discovery	Actual cost when supported by a receipt	Material obtained from district attorney, DHS or county juvenile department.
Postage	First-class mail	
Computerized Legal Research	Actual cost when supported by receipt or $0.40 per minute	Only actual on-line usage paid. No payment for monthly service fees. Provider may submit log of actual on-line time.
OJIN Online Searches	$0.25 per minute of usage	When provider has subscription for OJIN.
Service of Process	$30 per location of service	Use of sheriff's office is encouraged.
Special Delivery	UPS, Federal Express, USPS Express mail, messenger service	Explanation and 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 OPDS)		
Meal Allowance Amounts - When on overnight business and departure and return times are not reported	$20 for first day of travel $19 for last day of travel $39 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. **Receipts are not required.**
Breakfast - When on overnight trip	Maximum $9.00	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 $10.00	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 $20.00	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, investigators and forensic experts)	See date ranges and rates listed above.	Must be preauthorized for providers other than attorneys, investigators and forensic experts.
Parking	Actual cost	Receipt required if over $10.
Rental Car	Various	Mid-size vehicle plus fuel with submission of original receipts. Insurance costs will not be reimbursed.
Airfare	Various	Through state contract. Contact OPDS.

LODGING, MAXIMUM PER NIGHT, INCLUDING TAX (Must be preauthorized by OPDS for all providers)					
Maximum $90			**Maximum $100**		**Maximum $110**
Baker Benton Crook Douglas Gilliam Grant Harney	Jefferson Lake Linn Malheur Marion Morrow Polk	Sherman Umatilla Union Wasco Wallowa Wheeler Yamhill	Clackamas Clatsop Columbia Coos Curry Deschutes Hood River	Jackson Josephine Klamath Lane Tillamook Washington	Lincoln Multnomah
Out-of-state Lodging	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.				

EXHIBIT 4. PUBLIC DEFENSE INTERPRETER'S FEE STATEMENT SUMMARY FOR OUT-OF-COURT SERVICES (ATTORNEY/CLIENT COMMUNICATIONS)

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

1. PROVIDER INFORMATION

Provider's Name _____

Mailing Address _____

_____

_____

Phone No. _____ Federal Tax ID or SSN _____

2. BILLING INFORMATION

For cases filed in the county of _____ (Complete one summary for each county.)

Number of detail pages submitted with this summary: _____

For interpreter services for the period: _____ to _____

Code	Description	Hrs (in 0.1) or Quantity	Rate	Amount Billed	PDSC use only Amount Approved
4613	Interpretation Fees	_____	_____	$_____	$_____
4613	Travel Fees (At ½ the regular hourly rate)	_____	_____	$_____	$_____
4635	Mileage	_____	_____	$_____	$_____
			TOTAL	$_____	$_____

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 approved by PDSC or authorized by contract.

Signature_____ Date_____

Send completed form and supporting documentation to:

Or fax to (503) 378-4462

Accounts Payable
Public Defense Services Commission
1175 Court Street NE
Salem, OR 97301

WORKSHEET INSTRUCTIONS: Use a separate worksheet for each different county. Complete one section for each client for whom services were provided. Enter actual start and end times, even if a 1-hour minimum is claimed. All time should be entered in tenths (6 minute increments) and may be rounded up to the nearest tenth. Travel time may be claimed in addition to the 1-hour minimum for interpreter services. Mileage is paid at OPDS guideline rate. Transfer the total amounts claimed from the worksheet(s) to the Interpreter's Fee Statement Summary. For more information regarding policies, procedures and guideline rates, visit OPDS website at www.oregon.gov/opds.

INTERPRETER WORKSHEET FOR OUT-OF-COURT SERVICES (ATTORNEY /CLIENT COMMUNICATION)

Provider's Name: _____ Page _____ of _____ pages submitted with fee statement summary

County:			Case Number:			Client's Name:
Date	Start Time	End Time	Interpretation Time	Travel Time	Number of Miles	Printed Name of Counsel/Designee
						Signature of Counsel/Designee*
County:			Case Number:			Client's Name:
Date	Start Time	End Time	Interpretation Time	Travel Time	Number of Miles	Printed Name of Counsel/Designee
						Signature of Counsel/Designee*
County:			Case Number:			Client's Name:
Date	Start Time	End Time	Interpretation Time	Travel Time	Number of Miles	Printed Name of Counsel/Designee
						Signature of Counsel/Designee*
County:			Case Number:			Client's Name:
Date	Start Time	End Time	Interpretation Time	Travel Time	Number of Miles	Printed Name of Counsel/Designee
						Signature of Counsel/Designee*
TOTALS THIS PAGE:						

*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.

EXHIBIT 5. NON-ROUTINE EXPENSE REQUEST FORM

C O N F I D E N T I A L

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

A detailed justification stating the reason the requested service/expense is necessary and reasonable MUST be submitted with this form.

Email to NRE@opds.stae.or.us OR Fax to 503-378-4462

Email is the preferred method of delivery. If you email or fax, please do not also mail.

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

☐ Investigation ☐ Forensic ☐ DNA ☐ Psychosexual Evaluation

☐ Psychiatric/Psychological ☐ Polygraph ☐ Mitigation ☐ Other Expert

☐ Copies of _____ ☐ Transcript ☐ Interpreter ☐ 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: _____

Leaving from: _____ Going 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.)

☐ Rental car Number of days_____ 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: $_____

I am the attorney representing the client named on this form and I have reviewed and approve this submission.

_____ _____ _____

Signature of Attorney Signature Date Effective Date

Rev. 4/17/2012

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 amount: ___ rate per hour ___ rate per mile ___rate per day ___rate per page

_____ expense or fee requires preauthorization

_____ without sufficient documentation for an exception

_____ lacks sufficient supporting documentation (receipt or detail) for _____

_____ exceeds preauthorized amount(s)

_____ was billed at incorrect rate (see PDSC Payment Policy)

_____ was billed beyond statutory or policy deadlines

_____ mathematical error: ___hour/miles billed were _____ but were actually _____

___hours, fees or miles multiplied incorrectly by rate

___expenses added incorrectly

_____ not a public defense expense

_____ 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
1175 Court St NE
Salem, OR 97301

_____ _____

Accounts Payable Representative Business Services Manager

EXHIBIT 7. PUBLIC DEFENSE SERVICES COMMISSION
SCHEDULE OF COMPENSATION
FOR PURPOSES OF RECOUPMENT PURSUANT TO ORS 151.505(2)

	Typical Contract Rate	Average Expenses (rounded)	Total Cost
Murder	$20,000	$16,000	$36,000
Measure 11 felony	$1,600	$1,900	$3,500
Non-M11 A felony	$980	$320	$1,300
Non-M11 B felony	$820	$180	$1,000
C/U felony	$600	$150	$750
Misdemeanor, contempt, extradition	$310	$40	$350
FAPA & Support	$600	$0	$600
Probation violation	$200	$0	$200
Habeas corpus	$1,500	$100	$1,600
PCR	$2,300	$1,100	$3,400
Civil Commitment	$310	$40	$350
Juvenile felony	$600	$400	$1,000
Juvenile Misdemeanor	$310	$40	$350
Juvenile probation violation	$200	$0	$200
Juvenile dependency	$700	$100	$800
Termination of parental rights	$2,300	$300	$2,600

Effective October 22, 2010