



Appointed Counsel Billing Guidelines

Presented by the Office of Court Appointed Counsel
A Subdivision of Public Defense Services
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PIMA COUNTY **APPOINTED COUNSEL BILLING GUIDELINES**

The billing criteria outlined below will be applied to work performed effective July 1, 2020. Pima County reserves the right to amend these guidelines. Any such amendments shall become effective upon notice to Attorney.

1. General Expectations:

- a. The following guidelines are to inform the attorneys AND all other professionals performing indigent services for Pima County of the County's expectations, and provide direction in the submission of claims for payment.
- b. Consistent with these guidelines, the County expects all counsel receiving funds pursuant to a client's affidavit of indigency to exercise fiscal responsibility by using the most reasonable method to provide high quality legal and other services to indigent clients. Attorneys have an obligation to limit expenses to the greatest extent possible while still providing full and effective representation to the client.
- c. Whenever appropriate, without compromising the quality of the work, services should be performed by the least expensive, competent service provider capable of performing the work. Counsel is responsible for ensuring that all those providing services on the assigned case are in compliance with these billing guidelines.
- d. Attorneys are expected to use the least expensive form of duplication. Documents should be scanned and transferred as digital files as these methods are more cost effective. Likewise, attorneys must acquire and maintain the appropriate technology and skills to receive electronic files.
- e. The Office of Court Appointed Counsel (OCAC) is committed to ensuring that all services and expenses charged to the County are necessary and reasonable for effective representation. To that end, bills submitted to OCAC for payment are subject to review to ensure compliance with these guidelines. OCAC may adjust, or deny, any claims that do not conform to these guidelines. If a downward adjustment of greater than \$250 is made, the provider will be notified of the adjustment and the reasons for the reduction.

2. Billable Time:

- a. Only actual time for any service may be billed. “Value billing” is not permitted. Attorneys may not claim time for previously prepared “boiler plate” documents, but may bill for the time expended in adapting the document for use in the new case.
- b. Attorneys may bill only for work that SUBSTANTIALLY ADVANCES the case toward conclusion, such as: court time, discovery review, consultation with client, interviewing witnesses, correspondence, legal research, and drafting pleadings. Billable time does not include, for example, time spent on multiple motions to continue where little or no work is performed between motions, or simple receipt and review of standard minute entries.
- c. Time spent on multiple cases that require overlapping services (such as research, attendance in court, jail visits, etc.) may not be billed in full to each case, but must be appropriately allocated among the cases, and may not exceed the actual time expended. Billings should indicate that time listed is the actual time to be apportioned to each case. If not indicated, OCAC will assume that the billing is duplicative and spilt the time.
- d. Court time includes time spent in the courtroom, including both time spent engaged in the proceeding and time spent waiting. Time begins at the scheduled start time of the proceeding (or upon arrival to the courtroom, whichever is later) and ends at the conclusion of the proceeding. Time spent before or after the proceeding consulting with the client or others must be billed as a separate task. An attorney may not bill for time required to prepare a second attorney to cover a hearing.
- e. The bill must contain a description of the work performed that is sufficiently detailed for OCAC to adequately evaluate the reasonableness of the time and services claimed, without violating the canons of ethics or disclosing client confidences. Such descriptions should include the identity of persons involved in the interaction (phone call, email, meeting, interview) and general topics discussed; specific topics researched; type of documents reviewed, drafted or edited; and type of court proceeding attended.
- f. All time billed must indicate the individual who actually performed the task. An attorney may not claim as their own, work performed by another.

- g. ALL Document review, Audio review and Video review (including Body Worn Cameras) SHALL BE billed at **actual** time. Documents reviewed should be specifically identified and include the start time and end time for each review period and the number of pages reviewed indicated during each time period listed.

For Example:

1/4/2021: Therapy Report Review – 1:05 p.m. – 1:25 p.m. pages 1 - 35 - .3 hours

1/4/2021: Therapy Report Review – 4:15 p.m. – 4:50 p.m. pages 36 - 60 - .6 hours

Audio and video reviewed should indicate the length and complexity of the recording along with the actual time of the listening/viewing. Counsel must, of course, review disclosure and other documents, but discretion must be exercised in determining the depth of review required to provide effective representation to the client. Excessive time spent on document/audio/video review is subject to audit, which will require access to, and review of, the subject materials.

- h. Attorneys may not bill for non-legal or secretarial tasks. Such tasks, considered overhead, include copying, filing, printing, preparing routine correspondence, emails, phone calls, letters or texts regarding scheduling, leaving voice-mails, maintaining office calendar, downloading electronic documents or files, notifying client of dates and times of court appearances or appointments with counsel, opening and closing files, time spent communicating with OCAC regarding expense authorization or time spent preparing bills.
- i. Work performed by an attorney which is deemed to be paralegal work will be paid at the paralegal rate. This includes routine file organization and preparation of trial exhibits.
- j. An associate in the same firm may assist counsel on a court-appointed case. However, the aggregate hours expended by appointed counsel and others working on the case must be reasonable and not duplicative. Associates at a firm with a contract attorney may not have spent more aggregate time on a case than the attorney with the OCAC contract. If appointed counsel wishes to use an attorney who is not a member of his or her firm, pre-authorization must be obtained.
- k. OCAC reserves the right to review any bill submitted by Counsel for accuracy, reasonableness, and for excessive or unwarranted claims. In the event improvident payments were made to Counsel, such amounts shall be returned to OCAC.

- I. Attorney bills that are unclear or for other reasons require excessive time to review may be rejected.

3. Travel:

- a. Travel time to and from the courthouse or to a meeting with members of the defense team, is not compensable.
- b. Reasonable travel time to conduct a witness interview, a home visit, jail visit, or an investigation, may be billed. Round-trip travel to the jail should be billed at .3 hours. All other compensable travel should be billed at the lesser of actual time or travel time from downtown (or Juvenile Court Center in the case of juvenile matters). Round-trip travel should be quantified separately.
 - i. Example: “Round-trip travel to jail (.3); jail visit re: plea agreement (.9).”
- c. Authorization for travel outside a 50-mile radius of downtown must be obtained from OCAC in advance.
- d. Out-of-county travel by automobile begins at either the individual’s work (or downtown, if closer) and ends at the place of lodging or work destination. Billing for such travel must include the exact address of each location.
- e. In the case of air travel, the time begins at the arrival to the Tucson International Airport and ends at either the place of lodging or the work destination. Air travel is billed at one-half the hourly rate paid for that case, however, work conducted during air travel may be billed at the full rate.
- f. Billable work time while out-of-county is limited to the time spent conducting case-related business, and travel to and from lodging, airport, or work destination.
- g. All case-related air travel and lodging must be arranged by OCAC, unless authorization is given otherwise.

- h. An attorney or service provider whose office is located outside Pima County may bill for travel to Pima County beginning only upon entry into Pima County, unless otherwise authorized by OCAC.

4. Billing:

- a. Pima County is developing an internet-based invoice submission portal, JusticeWeb. When this program becomes available, bills for attorney services and reimbursements, including bills submitted for services rendered by expert witnesses, investigators and any other approved vendors, should be submitted using JusticeWeb. Absent extraordinary circumstances, paper billings will be rejected once online submissions become available.
- b. Counsel must maintain contemporaneous time and attendance records for all work performed on a case.
- c. Time must be reported in tenths of an hour.
 - i. Except as provided below, discrete tasks must be described, and the time quantified separately. One task each day of less than .1 hours may be claimed at .1 hours if no other service is claimed for that day.
 - ii. Multiple tasks performed in a single day of less than .1 hours each must be aggregated, and no more than the total actual time expended on all tasks may be claimed. For example, document review, multiple short e-mails, and/or phone messages made or received, must be measured as a whole and billed accordingly. Longer emails or phone calls, are billed according to time expended, and must include a description of the content of the communication and the recipient. Multiple tasks in a single case, in a single day, totaling more than .1 hours may be reported in a block of time, but the time spent on each individual task must be indicated.
 - 1. Example: “Research re: search of vehicle (1.2); telephone conference with CA regarding plea (0.2); letter to client re: plea (0.2). Total: 1.4 hours.”
- d. Counsel is required to bill monthly for cases where there has been billable activity. Attorney’s fees and expense reimbursements for the previous month’s activities are due

on or before the 20th day of each month. All work performed in that billing period must be reflected in the bill. Failure to bill monthly may result in the denial of the claim.

- e. All work performed in the fiscal year - July 1 through June 30 - must be billed no later than July 17th following the close of the fiscal year. Any bills received after July 17th for work performed in the prior fiscal year WILL BE DENIED. **Work performed in July must be billed separately from work performed in June.**
- f. If services rendered in a single case are less than \$250 for the month, the billing may be carried over to the next month, but may not be carried over to the next fiscal year. All work however slight must be billed by the end of the fiscal year.
- g. Attorneys may not bill more than ten total hours in a single day, except when in trial for 4 or more hours in any one given day. No more than 2,000 total hours may be billed for attorney time to Pima County (cumulative of all contracts with Pima County) in any 12 month period, absent authorization from OCAC.
- h. Should billing irregularities persist, the attorney may be subject to suspension or termination of the contract.

5. Ancillary Services, Rates of Pay:

- a. Prior authorization must be obtained from OCAC for the use of experts, investigators, mitigation specialists, or other service providers. The request should include a completed ancillary service request form including an explanation for the need for the request, a description of the work, the hourly rate required, and the estimated number of hours to complete the work.
- b. Requests for payment of previously approved Ancillary Services must be submitted by the attorney to OCAC after the attorney receives the bill FROM the expert and the attorney has reviewed the bill for accuracy. The expert SHOULD NOT send the bill to OCAC directly. The expert billing submitted by the attorney to OCAC on the ancillary service request payment form should include the original APPROVAL form and the expert's submitted invoice attached.

- c. **Investigator:** on approval by OCAC, an investigator will be paid an hourly rate of \$40 per hour, or \$45 per hour in a case in which a Spanish speaking investigator is required. The investigator will submit billing through the attorney. The attorney will review the billing and certify that the hours billed by the investigator are reasonable and were expended in the defense of the assigned case. The billing should include a recap of total hours approved and all hours billed to date. The attorney must sign and submit the Ancillary Service Payment Request Form to OCAC.
- d. **Paralegal:** on approval by OCAC, a paralegal will be paid an hourly rate of \$25 per hour. The paralegal will submit billing through the attorney. The attorney will review the billing and certify that the hours billed by the paralegal are reasonable and were expended in the defense of the assigned case. The billing should include a recap of total hours approved and all hours billed to date. The attorney must sign and submit the Ancillary Service Payment Request Form to OCAC.
- e. **Capital Mitigation Specialist:** on approval by OCAC, a mitigation specialist on a death penalty case will be paid an hourly rate of \$60. The mitigation specialist will submit billing through the attorney. The attorney will review the billing and certify that the hours billed by the mitigation specialist are reasonable and were expended in the defense of the assigned case. The billing should include a recap of total hours approved and all hours billed to date. The attorney must sign and submit the Ancillary Service Payment Request Form to OCAC.
- f. **Transcriptions:** requests for transcriptions should be submitted by the attorney to OCAC using the approved form. Unless otherwise approved, the transcription will be prepared by transcribers on staff with the County. When possible, the attorney should allow at least 30 Days lead time for the completion of the transcript. If a request is made for preparation of a transcript for use at trial, the attorney must notify OCAC immediately if the trial is either continued or vacated.

6. Expense Reimbursements:

- a. Reimbursable expenses include case specific costs incurred by an attorney while defending a client. Regular postage is not reimbursable. Major mailings are reimbursable with itemized receipts.
- b. Copies are reimbursable at a rate of ten cents per page. The use of electronic copies when possible is encouraged. Copy jobs in excess of 300 pages require OCAC authorization. Paper copies less than 300 pages can be screened by OCAC to determine if they can be completed in-house by OCAC staff.
- c. ALL color copying requests require approval by OCAC.
- d. Copies from Pima County Superior Court and City Court are not reimbursable. OCAC has inter-governmental agreements with these courts. Prior requests must be submitted to OCAC. The copying will be facilitated through OCAC.
- e. Mileage for authorized travel outside a 50-mile radius of downtown is reimbursable at the standard rate established by Pima County.
- f. Counsel, members of the defense team, and experts, may be reimbursed for actual expenses incurred for meals and lodging while on authorized overnight travel. Meals are reimbursable only up to the existing County per diem rate.
- g. Itemized receipts are required for all reimbursable expenses.

7. Non-reimbursable expenses:

- a. Costs associated with the operation of an office, such as office supplies and equipment, books and publications, computerized research plans, land and cellular telephone fees, and costs related to educational seminars are not reimbursable.
- b. In-town parking is not reimbursable.