



# Appointed Counsel Billing Guidelines

Presented by the Office of Court Appointed Counsel  
A Subdivision of Public Defense Services  
(520) 724-4465

Dated: July 1, 2022

## **PIMA COUNTY** **APPOINTED COUNSEL BILLING GUIDELINES**

The billing criteria outlined below will be applied to work performed effective July 1, 2021. 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 regarding acceptable billable expenses and to provide direction in the content expected in the billing for reimbursable expenditures and claims for payment for services.
- 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 providing effective representation to clients. 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 on a particular bill 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.
  1. Disclosure review is to be billed at actual time expended. Billing disclosure at a “one minute per page” estimate is not acceptable, will be reviewed closely and adjusted appropriately. In dependency cases, re-reading material that was re-disclosed as part of CHILDS or GUARDIAN disclosure is not considered necessary and reasonable, does not substantially advance the case towards conclusion, and is not billable. Time spent reviewing CHILDS or GUARDIAN disclosure is limited to the time necessary to identify if material has been previously disclosed or if it is new material. New material within CHILDS or GUARDIAN disclosure should be identified by page number and billed for the actual time spent reading those pages. Substantially redacted pages should not be counted towards the total page count listed on the bill. Page counts must be included to allow OCAC to evaluate reasonableness.
  2. Attorneys may not claim time for previously prepared “boiler plate” documents (motions to modify, motions to continue, R.59 motions, stipulations, etc.). But attorneys may bill for the time expended in adapting a previously drafted document for use in a new case. All motions will be reviewed for uniqueness versus standardization and for the extent to which a motion was “adapted” versus “created”.
- 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. Motions to withdraw are not billable. Time spent reading disclosure that is irrelevant or immaterial to the defense of a case is not billable.
- 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 and must not exceed the actual time expended. Billings should indicate that time listed is the actual time apportioned to each case and indicate the multiple case numbers for the divided time. If not indicated, OCAC will assume that the billing is duplicative and split 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.
- 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. In Juvenile cases, if an attorney's staff is performing home visits, a request for ancillary services form must be submitted to OCAC for approval before the visit takes place, however, whenever possible it is expected that the attorney will visit with verbal minor clients personally. In-person visits are preferred, but video calls are also acceptable during pandemic restrictions.
- 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, and number of pages, for each review 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. An attorney may not bill for time required to prepare a second attorney to cover a hearing.
- 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.
- l. 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 travel time from downtown (or Juvenile Court Center in the case of juvenile matters) or the actual starting point whichever is less. Round-trip travel should be identified specifically.

- 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 unless actual case work is conducted during air travel and instead that time may be billed the full rate to the appropriate case.
- 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, auto rental 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 to be integrated with the PDS Case Management System. **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, must be submitted using the internet based portal. **When this program becomes available**, absent

extraordinary circumstances, paper billings will be rejected. **This program is not available at as of July 1, 2022.**

- 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.
- d. Except as provided below, discrete tasks must be described, and the time quantified separately. 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 phone calls 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.”
- e. 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 20<sup>th</sup> 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.
- f. All work performed in the fiscal year - July 1 through June 30 - must be billed no later than July 17<sup>th</sup> following the close of the fiscal year. Any bills received after July 17<sup>th</sup> for work performed in the prior fiscal year WILL BE DENIED. **Work performed in July must be billed separately from work performed in June.**
- g. 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.

h. 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.

i. The following time chart is used to calculate billable time from actual minutes:

Minutes	Decimal (in tenths)	Minutes	Decimal (in tenths)
1	0	31	0.5
2	0	32	0.5
3	0.1	33	0.6
4	0.1	34	0.6
5	0.1	35	0.6
6	0.1	36	0.6
7	0.1	37	0.6
8	0.1	38	0.6
9	0.2	39	0.7
10	0.2	40	0.7
11	0.2	41	0.7
12	0.2	42	0.7
13	0.2	43	0.7
14	0.2	44	0.7
15	0.3	45	0.8
16	0.3	46	0.8
17	0.3	47	0.8
18	0.3	48	0.8
19	0.3	49	0.8
20	0.3	50	0.8
21	0.4	51	0.9
22	0.4	52	0.9
23	0.4	53	0.9
24	0.4	54	0.9
25	0.4	55	0.9
26	0.4	56	0.9
27	0.5	57	1
28	0.5	58	1
29	0.5	59	1
30	0.5	60	1

j. 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. Ancillary request forms are located on OCAC's webpage: [https://webcms.pima.gov/government/office\\_of\\_court\\_appointed\\_counsel/](https://webcms.pima.gov/government/office_of_court_appointed_counsel/)
  
- 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. Ancillary Payment request forms are located on webpage: [https://webcms.pima.gov/government/office\\_of\\_court\\_appointed\\_counsel/](https://webcms.pima.gov/government/office_of_court_appointed_counsel/)
  
- c. **Daily Territorial Publications:** Contract attorneys are required to follow the procedure below when it is necessary to publish a notice in a Dependency or Severance matter.
  1. Send your request to [legals@dailyterritorial.com](mailto:legals@dailyterritorial.com) with notice that it is for an OCAC case.
  2. Receive an Ad Proof and Invoice from The Daily Territorial
  3. Complete the Ancillary request form, found on OCAC's website and send it to [OCAC\\_Service\\_Request@pima.gov](mailto:OCAC_Service_Request@pima.gov) with the Invoice Attached.
  4. OCAC will approve your request, return a signed copy for your records, and put the Approval in the OCAC Case file for audit purposes.
  5. Then, OCAC will pay The Daily Territorial directly based upon the Invoice. **You WILL NOT be bothered to deal with payment.**Publications that do not follow this process will be billed to the attorney by the Daily Territorial at their standard rate instead of the government rate and will therefore not be reimbursed by OCAC.
  
- d. **Process Service:** OCAC has an agreement with First Legal for process service. Orders should be sent to [tucprocess@firstlegal.com](mailto:tucprocess@firstlegal.com). Please include "BILL OCAC" on the order to have it billed to OCAC's account. IF First Legal bills the attorney directly at their standard

rates instead of OCAC's agreed upon rates, OCAC will only reimburse the attorney the total they would have been billed had the proper procedure been followed.

- 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. **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.
- g. **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.
- h. **Social Worker:** on approval by OCAC, a Social Worker will be paid an hourly rate of \$25 per hour on a Dependency/Severance Case. The social worker will submit billing through the attorney. The attorney will review the billing and certify that the hours billed by the social worker 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.
- i. **Transcriptions:** requests for transcriptions should be submitted by the attorney to OCAC using the approved form. The form is located on OCAC's website. Completed forms should be sent to [OCAC.Transcripts@pima.gov](mailto:OCAC.Transcripts@pima.gov). 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. Payment for Medical Record Expense must have prior expense authorization. It is possible that OCAC will negotiate a better government rate or for free.
- c. Copies are reimbursable at a rate of ten cents per page. OCAC will reimburse for one set of paper copies for distribution to the client. If reimbursement is requested, a description of what was copied is required. Use of electronic copies by the attorney and attorney staff is required. 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.
- d. ALL color copying requests require approval by OCAC.
- e. Copies of documents from Pima County Superior Court, Justice Court and City Court are not reimbursable. OCAC has inter-governmental agreements with these courts. Requests for copies of Court Documents must be submitted to OCAC for processing. The copying will be facilitated through OCAC.
- f. Mileage for authorized travel outside a 50-mile radius of downtown is reimbursable at the standard rate established by Pima County.
- g. Counsel, members of the defense team, and experts, may be reimbursed for actual expenses incurred for meals and incidentals while on authorized overnight travel. Meals are reimbursable only up to the existing County per diem rate.
- h. 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.