
Chapter 11

Nonroutine Expenses: How to Convince OPDS to Pay for What You Want

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PUBLIC DEFENSE PAYMENT POLICY AND PROCEDURES

Public Defense Services Commission
Office of Public Defense Services

Effective December 13, 2018

PUBLIC DEFENSE PAYMENT POLICY 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 fifteenth revision and is effective April 1, 2018.

SECTION 1 – APPOINTMENT OF COUNSEL FOR ELIGIBLE PERSONS

1.1 IN GENERAL

- 1.1.1 Appointment of counsel and payment of related expenses at state expense, payable from funds within the Professional Services Account (PSA), are subject to and limited by statutes, state case law, policies adopted by the PDSC, and the terms of public defense services contracts.
- 1.1.2 For purposes of this policy statement, a person whom the court has determined to be financially eligible for assigned counsel at state expense shall be referred to as “client”.

1.2 APPOINTMENT OF COUNSEL

- 1.2.1 Courts may only appoint counsel at state expense in those types of cases in which there is express authority, by statute or case law, for payment of assigned counsel from the PSA. (*see Exhibit 1 – Appointment Type Codes*).
- 1.2.2 Counsel appointed by courts in cases where there is no authority for payment from the PSA will **not** be paid from the PSA.
- 1.2.3 Courts shall appoint contract attorneys, when available, prior to appointing private bar attorneys.

1.3 APPOINTMENT AGREEMENT

- 1.3.1 By accepting an appointment to represent a client, assigned counsel agrees to abide by relevant statutes and this payment policy, except as expressly provided otherwise in a public defense services contract.

1.4 TYPES OF APPOINTED COUNSEL

- 1.4.1 “Counsel at state expense” or “assigned counsel” is limited to counsel appointed by state courts where there is statutory or case law authority for payment of assigned counsel from the PSA.

- 1.4.2 Assigned counsel is counsel appointed by a court at state expense and may be contract or private bar.
- 1.4.3 Contract counsel is counsel appointed under a public defense services contract.
- 1.4.4 Contract appointments or contract cases are appointments made under a public defense services contract and are subject to that contract.
- 1.4.5 Private bar counsel is an attorney appointed to a private bar case, and may include a contract attorney appointed to a case outside the attorney's contract.
- 1.4.6 Private bar appointments or private bar cases are appointments made other than pursuant to a public defense services contract. These appointments are assignments to individual attorneys, not to firms. The individual attorney is responsible for the case to which he or she is appointed.

1.5 APPOINTMENT OF CO-COUNSEL

1.5.1 Circumstances Supporting Appointment

- A. 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.
- B. 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.
- C. The Office of Public Defense Services (OPDS) discourages appointing co-counsel except in the following:
 - 1. Capital cases,
 - 2. 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, or
 - 3. 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.

1.6 ASSOCIATE COUNSEL – Limitation on Use in Private Bar Cases

- 1.6.1 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 or the use of associate counsel is limited to exigent circumstances where the service of associate counsel is ministerial.
- 1.6.2 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.
- 1.6.3 Assigned counsel will supervise and have full responsibility for the services performed by an associate.
- 1.6.4 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. A court may substitute one appointed counsel for another only when:
 - 1. 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 describes in Section 1.7.2 The court consults with OPDS regarding counsel to whom the case will be assigned, or
 - 2. 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 is assigned.

1.7.2 Reassignment within Public Defender Office, Law Firm or Consortium

The court does not need to consult with OPDS regarding the substitution of counsel if appointed counsel and counsel to whom the case will be reassigned 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 (a)(ii)

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

- A. Obtain information regarding the reason 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 Substitution of Case Types

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

1.8 RECOUPMENT OF ATTORNEY FEES AND EXPENSES

1.8.1 At the conclusion of a case in which the court appointed counsel is at state expense, 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.

1.8.2 PDSC will provide and update as necessary a Schedule of Compensation, which describes the typical cost to PDSC to provide representation for listed case types and the average amount expended for each case type in non-routine expenses authorized under ORS 135.055. The most current version of this schedule can be found at:
<http://www.oregon.gov/OPDS/docs/CBS/PDSC%202015%20Compensation%20Schedule.pdf>

SECTION 2 – PRIVATE BAR ATTORNEY FEES AND BILLINGS

2.1 HOURLY RATE SCHEDULE

2.1.1 Noncapital Cases

- A. 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.
- B. The hourly rate applies to trial and appellate level cases and juveniles charged with aggravated murder.

2.1.2 Capital Cases, Adult Defendants

- A. 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, co-counsel or associate counsel.
- B. The rates also apply to direct appeal and post-conviction relief cases and to post-conviction 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 Exceptions to Schedule of Guideline Amounts:

- A. Only OPDS may allow an exception to increase the private bar hourly rate when:
 - 1. Counsel shows compelling circumstances; and
 - 2. OPDS finds that no feasible alternative exists.

2.2.2 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 should result in overall savings to the PSA.

2.2.3 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 this circumstance may cause counsel substantial financial hardship at the scheduled rate; and
- C. Counsel has received higher rates in other public defense cases.

2.2.4 Procedure to Request Increased Hourly Rate

- A. Counsel must submit a request for an increased hourly rate no more than 30 days after appointment in the case.
- B. In most circumstances, the increased hourly rate will be retroactive to the time of the appointment.
- C. Private bar counsel or counsel considering appointment must email a request letter to OPDS at mail@opds.state.or.us.
- D. The request must document the compelling reasons that warrant an exception to the guideline rate.
- E. OPDS will review counsel's request and will confirm in writing the decision and the terms of any exception OPDS has allowed.
- F. 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.

2.3 BILLING FOR SERVICES

- 2.3.1 ORS 135.055(4) provides private bar counsel, on completion of all services, to submit a statement of all reasonable fees and expenses to OPDS;
 - A. Supported by an invoice and appropriate receipts; and

- B. Certified by appointed counsel to be true and accurate.
- 2.3.2 The OPDS 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.
- 2.3.3 OPDS will pay only for legal services related to the specific appointment.
- 2.3.4 OPDS will not compensate counsel or other providers for time spent preparing invoices or payment requests, keeping time records, attending seminars, or otherwise managing one's office and career.

2.4 PROVIDER'S FEE STATEMENT FOR ATTORNEY FEES AND ROUTINE EXPENSES

- 2.4.1 Assigned counsel must use and complete the Public Defense Provider's Fee Statement for Attorney Fees and/or Routine Expenses and an invoice with supporting documentation to include:
 - A. Your business name
 - B. Remittance address
 - C. Tax identification or vendor number
 - D. Dates of services itemized by day, in tenths or hundredths of an hour
 - E. Mileage details including departure and destination city
 - F. Appropriate receipts for expenses

2.5 BILLING FOR CONSULTING WITH ASSIGNED COUNSEL ON APPEAL OR POST-CONVICTION RELIEF

- 2.5.1 Assigned counsel on an original trial-level case may bill for time and expenses expended in consulting with counsel on the client's appeal or post-conviction relief case.
- 2.5.2 Time and expenses by original assigned counsel consulting with respondent's counsel in a post-conviction relief or appeal proceeding (e.g. Department of Justice) is *not* a public defense expense.

2.6 TIMELY SUBMISSION OF PAYMENT REQUESTS

2.6.1 Trial Level Cases – Criminal and Juvenile Delinquency

- A. 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:
 - 1. An order allowing or requiring counsel to withdraw; or,
 - 2. Final judgement or disposition.
- B. Counsel may bill for time dealing with post-judgment matters if those matters are concluded within 60 days after the judgement is entered. Counsel's time and expenses for consultation with assigned counsel on appeal or post-conviction relief may be billed beyond the 60-day limit.
- C. In cases where services to the client are not complete, counsel may submit payment requests to OPDS no sooner than 30 days and no later than 90 days from the date:
 - 1. The client enters into a program or agreement which delays final adjudication; or,
 - 2. The client fails to appear or the court issues a warrant; or,
 - 3. The court determines the client is unable to aid and assist.

2.6.2 For Juvenile Dependency (proceeding up to the time of entry of a disposition) and post-disposition matters

- A. 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 post-dispositional matter before the court, such as a review hearing.
- B. Counsel should bill monthly at each billable event such as a permanency, review or Citizens' Review Board hearing.

2.6.3 Appellate Level Cases

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

2.7 LATE SUBMISSIONS

- 2.7.1 A written explanation showing good cause must be included with the late submission to excuse the delay.
- 2.7.2 OPDS will review the written explanation and approve or disallow payment based upon the reason.

2.8 INTERIM BILLINGS

2.8.1 Aggravated Murder and Murder Cases

- A. Assigned counsel may submit interim billings for aggravated murder and murder cases and post-conviction relief cases where the underlying case contained a conviction for aggravated murder or murder, both at the trial and appellate level.
- B. Fee statements may be submitted monthly but no less than quarterly.

2.8.2 All Other Case Types

- A. OPDS will not pay interim requests for attorney fees and expenses unless OPDS has authorized interim billing.
- B. 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.
- C. An exception to this policy will be made when sentencing is delayed more than 60 days after a finding of guilty or entry of guilty plea.
- D. Approval process to interim bill
 - 1. To request approval for interim billing, counsel must email a letter to OPDS at accounts.payable@opds.state.or.us. 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) with a fee statement and invoice.

2. An interim billing request must be submitted with each invoice and will be reviewed on its own merits.
3. 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.

SECTION 3 – CASE EXPENSE GUIDELINES

3.1 CASE EXPENSE GUIDELINES

- 3.1.1 Public Defense funds will not be used to pay expenses for a person who is determined financially eligible for appointed counsel, but who is not represented by appointed counsel, unless a statute or case law expressly provides otherwise. Statutes that provide otherwise are:
 - A. 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 appointed counsel.
 - B. ORS 135.055 provides that a person who is financially eligible for appointed counsel, but who is pro se or has retained counsel, may request preauthorization of non-routine expenses to be paid from the PSA. Reimbursable expenses must be reasonable and necessary to the investigation, preparation, or presentation of the case.

3.2 GUIDELINE AMOUNTS

- 3.2.1 The Schedule of Guideline Amounts are guidelines for most fees and expenses. The guideline amount is not equivalent to a pre-approved cost and is not a substitute for preauthorization.
- 3.2.2 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.
- 3.2.3 Counsel should provide relevant portions of the guidelines, including amounts and billing procedures, to prospective service providers **before** incurring any costs for services expected to be paid from public defense funds.

3.3 RECEIPTS

- 3.3.1 In general, providers must submit an original receipt for an expense unless otherwise stated in this policy. An original receipt may be electronic (scanned and submitted by email or fax) or in paper format.
- 3.3.2 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 does not have documentation to support the expense, the provider must state in writing:
- A. What the expense was for;
 - B. The amount of the expense, excluding any non-public defense expenses (e.g. room service, car rental insurance);
 - C. To whom it was paid; and,
 - D. Why the provider does not have a receipt.

The provider must sign and date this statement and submit it with the payment request.

- 3.3.3 The provider must keep reasonable underlying records in case OPDS requires further documentation.

3.4 TYPES OF EXPENSES

- 3.4.1 Expense categories are overhead, routine and non-routine.
- 3.4.2 Overhead expenses, including services performed by an employee or an independent contractor of provider, are not reimbursable, except in extraordinary circumstances with the preauthorization of OPDS. Overhead expenses, except as otherwise expressly provided in this policy, includes, but are not limited to:
- A. Travel time and expense between home and office;
 - B. Paraprofessional Services (law clerk, legal assistant, paralegal, and secretarial services);
 - C. Timekeeping and bill preparation;
 - D. Rent and utilities;
 - E. Office equipment and supplies;
 - F. Library materials; and,
 - G. Computerized legal research software, installation and monthly access fees.

3.4.3 Absent a contract, 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:

1. The provider's services are reasonable and necessary and that the standard rate for such services does not include certain overhead expenses.

3.5 ROUTINE EXPENSES FOR APPOINTED COUNSEL

3.5.1 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.

3.5.2 **Discovery:** The custodian's actual cost of printing electronic discovery, but not more than a reputable private vendor would charge for making copies. In addition, OPDS will pay for one copy for the client. Any additional copies must be preauthorized.

OPDS will not pay premiums for expedited copies unless appointed counsel gives a reasonable explanation of why this situation could not have been avoided.

A. *For criminal cases*, discovery is material obtained from the District Attorney.

B. *For a juvenile case*, discovery is material obtained from the District Attorney, County Juvenile Department or the Department of Human Services.

C. *For post-conviction relief cases*, discovery is a copy of trial counsel's file, appellate counsel's file, the District Attorney's file, the court file, and the material obtained from the defendant in the post-conviction case (e.g., the Superintendent of the Department of Corrections).

- D. Discovery materials include audio and video media, photographs and other similar items obtained from the sources described above.

3.5.3 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.

- A. If no certified interpreter is available, counsel should use a qualified interpreter, as defined in ORS 45.275(8)(b).
- B. Attorney/client communication includes written communication to and from the client.
- C. If no OJD Certified or Registered Interpreter is available and outside sources are needed: If the hourly rate for interpretation is \$45 per hour or less for in person visits, or \$1.25 per minute or less for phone interpretation, and the services are for attorney/client communication, the service of the interpreter does not need to be preauthorized.
- D. Preauthorization is not needed in court appointed cases for interpretation within the guideline rates for authorized investigation, mitigation, psychiatric, and polygraph services.
- E. OPDS will pay the hourly rate shown in the schedule for interpreters.
- F. Any mileage over 60 miles round trip must be preauthorized.
- G. For interpreters whose rates exceed the guideline amount, counsel must request preauthorization from OPDS.
- H. OPDS will pay a one-hour minimum if the service provided requires less than one hour.
- I. Mileage will be reimbursed on actual miles traveled.
- J. Interpreters may bill for travel time at a rate of ½ of the hourly rate, per travel hour. Travel time will be billed at a standard rate of 1.2 minutes per mile, defined as 1 hour for every 50 miles traveled, regardless of the actual time traveled.
- K. 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 that on the Interpreter Fee Statement worksheet and fill in the name of counsel for whom the service was provided. Indicating “telephone approval” on the signature line is not sufficient.

- L. OPDS will not pay for counsel to 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.
 - M. An interpreter may not bill OPDS more than once for the same period of time.
 - N. Actual time of service must be recorded even if an appointment was less than one hour and the interpreter is claiming the fee for one hour of service.
 - O. OPDS will pay for actual time worked for services that combine translation and transcription of written communications between the attorney and the client.
 - P. Interpreters shall bill for time and expenses on the Interpreter Fee Statement form and the Interpreter's Travel Worksheet and shall bill no more than every two weeks.
 - Q. Counsel, or a person designated by counsel, must certify the interpreter's time by signing the Interpreter Fee Statement form.
 - R. Other Interpreter services not related to attorney/client communication, such as translation and transcription of recorded interviews must be preauthorized.
 - S. S. If the interpretation is in conjunction with an in-custody polygraph or psychological-evaluation, OPDS will pay a four-hour minimum, regardless of time spent interpreting. Actual interpretation time must still be documented and section 3.5.3 (Q) must still be followed. Interpreters must notate on the interpreter worksheet the facility the services took place and identify the type of service (polygraph/psychological evaluation).
- 3.5.4 **Medical, School, Birth, DMV and Other Similar Records:** When the cost of an individual record does not exceed \$200 for aggravated murder and murder cases or \$100 for all other case types.
- 3.5.5 **911 Recordings and Emergency Communication Recording Logs:** When the cost of an item does not exceed \$200 for aggravated murder and murder cases or \$100 for all other case types.
- 3.5.6 **Telephone Charges:** International telephone charges and collect calls from a client in a jail, prison, hospital or other similar government institutions.
- 3.5.7 **Photocopying and Scanning:** Amounts per page only as shown in the schedule. Copies made or scanning services provided by a vendor must be supported by a receipt if over \$25.
- Fax Charges:** International charges for documents sent will be paid the same as for regular international telephone calls. Faxes received will be paid the same rate as in-house copies.

3.5.8 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.

- A. Out-of-state mileage requires preauthorization if over 60 miles outside the Oregon state line.
- B. The departure and destination city are required for mileage reimbursement.
- C. Case related attorney or attorney staff mileage that is out of county, or in county and over 60 miles round trip, is routine mileage.
- D. 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 \$25 for any one period.

3.5.9 Postage:

- A. First-class mail. Receipt required if the cost to send an individual item exceeds \$25;
- B. Express mail, only if counsel shows that express mail was reasonable and necessary and the additional expense was not caused by counsel's delay;
- C. 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.

3.5.10 Service of Process:

- A. ORS 21.300 (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.
- B. Counsel should use the most economical method available.

- C. If the investigator for the case, who is paid from the PSA, 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.
- D. If a different investigator is used for the sole purpose of providing process service, the investigator will be paid the amount in the schedule for each location where service is made or attempted.

3.5.11 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, ORS 44.415.

- A. Payment in excess of the statutory amounts is a non-routine expense and requires preauthorization.
- B. OPDS will not pay the salary or expenses of law enforcement officers required to accompany incarcerated witnesses.

3.5.12 Other Routine Expenses: For similar expenses as described in excess of the limits stated in the policy, counsel should submit a written explanation with proper documentation that shows the expense to be both reasonable and necessary and properly payable from public defense funds unless OPDS has preauthorized the expense.

3.6 NON-ROUTINE EXPENSES

3.6.1 OPDS will reimburse counsel or other providers for non-routine public defense expenses only if the expense is authorized in advance of incurring the expense, see ORS 135.055.

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

- A. Expert witness fees and expenses;
- B. Investigation and mitigation;
- C. Psychological, psychiatric and other medical examinations, evaluations and reports;
- D. Polygraph examinations;
- E. Law clerk, legal assistant, and paralegal time;
- F. Travel expenses, such as meals, lodging, airfare and rental cars; and,
- G. Out-of-state travel expenses.

- 3.6.3 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 deviation from guideline amounts; and
 - 2. Except for reimbursement for counsel (e.g. law clerk, lay witness fees and paralegal).
- 3.6.4 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.
- 3.6.5 A request for preauthorization of a non-routine expense must be submitted on the Request for Preauthorization of Non-Routine Expense form.
- 3.6.6 The form should be submitted by email to OPDS/Financial Services at NRE@opds.state.or.us or by fax at 503-378-4463.
- 3.6.7 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. The written narrative is not required if the OPDS Short Form is used.
- 3.6.8 It is not necessary to submit an affidavit.
- 3.6.9 For aggravated murder and murder cases at the trial level and post-conviction relief or appellate cases in which the underlying case had a charge of aggravated murder or murder, 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.
- 3.6.10 The requirement for preauthorization remains for all other case types and for other types of services for aggravated murder and murder cases.

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

3.6.12 AUTHORIZATIONS MAY ONLY BE BILLED AGAINST ONCE.

3.6.13 Non-Routine expense authorizations must be billed against within two years of the issue date.

3.6.14 If a request is denied in full or in part, OPDS will generate a partial authorization or denial.

3.6.15 Counsel may request reconsideration by submitting to OPDS a letter requesting reconsideration and including additional support for counsel's request.

3.6.16 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.

3.6.17 Counsel must notify OPDS in writing that the matter is being appealed, and copy OPDS with any documents submitted to the court.

3.7 POST AUTHORIZATION OF NON-ROUTINE EXPENSES

3.7.1 Under limited circumstances, OPDS may authorize non-routine expenses after the expense has been incurred.

3.7.2 Counsel must explain, when making a request to OPDS for post authorization of an expense, what exigent circumstances exist that require counsel to incur the expense before requesting preauthorization or before OPDS could act on the request.

3.8 COMPLIANCE WITH APPLICABLE REQUIREMENTS

3.8.1 Investigators, mitigation experts and other expert providers who perform case-related services in another state or country are responsible for complying with all 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.

3.8.2 All out-of-state services and travel must be preauthorized by OPDS.

- 3.8.3 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.

3.9 PROCEDURES TO REQUEST PAYMENT

- 3.9.1 For reimbursement of routine case expenses incurred, counsel must submit payment requests with the request for attorney fees.
- 3.9.2 Non-attorney providers should submit payment requests directly to OPDS for preauthorized non-routine expenses except for paralegal and lay witness fees.

3.10 USE OF NON-ROUTINE EXPENSE PREAUTHORIZATION AND FEE STATEMENT FORM

- 3.10.1 Non-attorney providers should submit bills for services directly to OPDS, by mail, email at accounts.payable@opds.state.or.us or fax to 503-378-4463.
- 3.10.2 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.
- 3.10.3 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.

3.11 SERVICES AT THE REQUEST OF APPOINTED COUNSEL

- 3.11.1 If a provider provides services at the request of appointed 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 and emailed to the attorney when the service is approved.
- 3.11.2 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 and the provider must attach a detailed invoice that describes the services provided and specifies the date(s) of service.

- 3.11.3 For transcript services, providers must submit a fee statement for transcription and describe on the fee statement form the number of pages, the cost per page and the designation of record.

3.12 MISSED APPOINTMENTS

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

- 3.12.2 OPDS will pay for a missed appointment only:

- A. When a client is responsible for the missed appointment because of illness, injury, lack of capacity, or other good cause that:

1. Prevented the timely cancellation of the appointment; and,
2. Is not attributable to another party, to counsel, or to the court; or,
3. When the client requesting the appointment was personally responsible for the missed appointment and cannot show good cause.

- 3.12.3 The maximum OPDS will pay for a missed appointment under the above circumstance is 50% of the original approved amount, unless the provider has a set missed appointment rate.

- 3.12.4 OPDS will review, on a case by case basis, requests for a second or later appointment for the same purpose.

- 3.12.5 The person seeking payment from public defense funds has the burden to establish that the client was not responsible for the missed appointment.

3.13 GUIDELINE AMOUNTS FOR NON-ROUTINE EXPENSES

- 3.13.1 The amounts shown in the Schedule of Guideline Amounts are guideline amounts only, for most expenses.

3.13.2 Transcript Services: For the purpose of this policy, transcription is the process of converting a stenographic or electronically recorded word to a written document. The rate for transcript services is set in statute, see ORS21.345.

- A. 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.
- B. No appearance or other fees for transcript except as provided below:
 - 1. Costs incurred attending depositions;
 - 2. Appearance fees;
 - 3. Reviewing notes or similar tasks related to taking testimony or preparing transcripts.
 - 4. Transcribing audio with extensive periods of no talking.
- C. OPDS will pay additional fees only if it is requested before the expense is incurred and a deviation is granted by OPDS based on compelling circumstances. The maximum allowance for Rush/Difficult Audio requests will be \$4.00 per page for non-certified court reporters, and \$5.00 per page for certified court reporters. Detailed justification will be required for each request including **audio specific** justification or detailed reasoning for the rush request.
- D. Number of Originals and/or Copies: OPDS will pay for one original but no copies when appointed counsel, another party or the court is the first person to request transcription.

3.13.3 Investigation and Mitigation: Not to exceed the hourly rate shown in the schedule.

- A. The hourly rate includes all overhead expenses, including secretarial services.
- B. Time should be billed in tenths of an hour (ex. 6 minutes = 0.1 hours) or hundredths of hours (ex. 15 minutes = 0.25 hours).
- C. OPDS will pay for investigation and mitigation services only after it has been determined that investigation is reasonable and necessary.
- D. All requests for and approvals of investigation services must include a conservative, projected maximum amount and number of hours.

- E. If OPDS finds that the case may require extensive investigation, OPDS will approve investigation in conservative increments.
- F. OPDS will reimburse the following **out-of-pocket expenses for investigators**:
 - 1. Telephone calls: Actual cost of international telephone calls and collect calls from a client.
 - 2. Fax transmittals: Reimbursed at the rate of a regular international telephone call. For faxes received, provider may request reimbursement at the same rate as for in-house black and white copies.
 - 3. Scanning or copying of documents: OPDS will reimburse actual costs with detailed documentation and within the guideline amounts. Reimbursement for services provided by a vendor must be supported by a receipt, if over \$25.
 - 4. Postage and shipping: Most economical method of shipping must be used. Original receipt required if the cost to send an individual item is over \$25.
 - 5. Mileage: Case related mileage at the guideline amount will be reimbursed for private vehicle use for both in-state and out-of-state, when authorized, unless commercial transportation is more economical.
 - a. Out-of-state mileage requires preauthorization if over 60 miles outside the Oregon state line.
 - 6. Parking: Actual costs when incurred during routine travel may be reimbursed in an amount not to exceed the guideline amounts. Receipts required if over \$25.
 - 7. Records: Medical, school, birth, 911 recordings, emergency communication recordings and logs and other similar records, including film, film developing, photos, audio and video tapes, compact discs, exhibit materials when the cost of an individual record does not exceed \$200 for aggravated murder and murder cases or \$100 for all other types of cases.
 - 8. In-house production of digital photographs at the guideline amount.

- 9. Other items similar to those described in this section with proper documentation that show the expense to be both reasonable and necessary and properly payable from public defense funds.
 - G. 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 the expense.
- 3.13.4 **Paraprofessionals:** When OPDS makes the findings required in Section 3.4.2, counsel will be reimbursed for paraprofessional services as a non-routine expense at the rate shown in the schedule.
- A. Counsel should include in the request for this service a description of the tasks to be assigned. Paraprofessionals include law clerks, legal assistants, paralegals, trial assistants and secretarial services.
 - B. Reimbursement for travel expenses must be preauthorized.
 - C. Requests for payment must include the following supporting documents:
 - 1. Time records listing the service dates, time expended in tenths or hundredths of hours, and tasks performed on the case by the paraprofessional on each date listed; and,
 - 2. Counsel's statement and the paraprofessional's statement certifying that the time records are accurate.

3.13.5 Psychiatrists, Physicians, Psychologists and Other Experts

- A. Hourly Rate: OPDS will pay the rates shown in the schedule, which include all overhead expenses.
- B. Unless authorized for a flat rate service, billings must include the hours worked for each date service is performed. **Date ranges will not be accepted.**
- C. Reimbursement for travel expenses must be specifically preauthorized. Routine case related mileage may be reimbursed.

- D. 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.
- E. 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.

3.13.6 Forensic Investigation

- A. The hourly fee includes all overhead expenses.
- B. Routine case-related mileage may be reimbursed.
- C. 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 \$25.

3.13.7 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.

3.13.8 Polygraph: OPDS will pay an amount not to exceed the total shown in the schedule for examination and report.

- A. Reimbursement for travel expenses must be preauthorized. Routine case-related mileage may be reimbursed.
- B. OPDS will authorize polygraph services only when the service is necessary to an adequate trial defense or negotiated disposition.
- C. OPDS will not authorize polygraph expenses for testing the truthfulness of communications between a client and appointed counsel.

3.13.9 Preauthorization Requirements for Travel Expenses

- A. Mileage, meals, lodging, airfare and other similar travel costs are non-routine expenses except for mileage and parking defined as routine .
- B. OPDS must review and approve proposed travel before the expenses are incurred.

- C. Day Trip Meal Reimbursement: To be eligible to request day trip meal reimbursement the provider must provide clear justification for the need and be traveling more than 60 miles one way. Travel times must be provided and meals will be reimbursed according to the travel times indicated in Exhibit 2 of this policy.
- D. 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.
- E. Airfare: Arrangements for airfare must be made through OPDS.
 - 1. When a request for airfare 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.
 - 2. The attorney or other provider must contact the travel agency to make the travel arrangements.
 - 3. Authorizations for airfare expire after **60 days**.
 - 4. The cost of airfare is billed directly to OPDS.
 - 5. Purchasing airfare outside the state contract: A provider may purchase airfare outside the state contract, with approval from OPDS, if the purchase price of the ticket is less than the contract price and the provider pays for the ticket in advance and requests reimbursement from OPDS. The provider should obtain cancellation insurance. Additional costs incurred because the provider failed to obtain cancellation insurance are not reimbursable.
 - 6. All individuals shall fly coach regardless of funding source. First-class and Business-class travel is not permitted.
- F. Car rental: Arrangements for a rental car may be made through the travel agency having the state contract for airfare.
 - 1. OPDS will reimburse the provider for a compact car. Rental of any other size or type of vehicle must be specifically approved.

2. The provider should rent from the least expensive rental agency.
 3. In addition to the cost of the rental car, OPDS will reimburse for fuel, not mileage, upon submission of an original receipt.
 4. The provider is responsible for any insurance costs related to the car rental.
- G. Mileage and Parking: Reimbursable mileage is paid at the guideline rate shown in the schedule.
1. Parking costs may be reimbursed, without specific preauthorization, if the travel qualifies for mileage reimbursement or if other travel expenses have been preauthorized.
 2. Submission of an original receipt is required if the parking cost is more than \$25 for any one period of time.
 3. 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.
- H. Meals: Generally, a meal allowance will be approved only when lodging is authorized.
1. Day trip meals 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.
 2. Receipts for meals are not required.
 3. If the traveler does not record departure and return times, the schedule below shall apply:

Day of Travel	Meal	Per Diem Amount
First day	Dinner only	\$24
Second and subsequent full days	Full per diem	\$51
Last day	Breakfast and Lunch	\$27

4. If the person traveling records 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 following schedule below shall apply:

Meal Allowance	Per Diem Amount	Departure Time	Return Time
Breakfast	\$12	Before 6:00 am	After 9:00 am
Lunch	\$15	Before 11:00 am	After 2:00 pm
Dinner	\$24	Before 5:00 pm	After 8:00 pm

- I. Lodging: OPDS must preauthorize lodging expenses for all providers.
 1. Original receipts must be submitted with the travel worksheet and fee statement.
 2. In-state lodging: Total cost of lodging, excluding taxes not to exceed the amount shown for each county in the Schedule of Guideline Amounts.
 3. The traveler must request a government or commercial rate. If the hotel requires proof of state affiliation, OPDS can provide a letter on the providers' behalf.
 4. Out-of-state lodging: The Federal GSA Guidelines are used for out-of-state lodging per diem amounts.
 5. Non-commercial lodging: Lodging of \$25 may be claimed if a traveler arranges for non-commercial accommodations.
 6. The traveler should submit a brief written explanation as to the types of alternate accommodations used unless it was specifically authorized.
 7. Direct Billing: OPDS may approve direct billing from a hotel.
 - a. Direct billing must be approved in advance and is on a case by case basis.
 - b. If approved, the direct bill is only valid for that specific case.
- J. Client Clothing: OPDS may authorize the purchase of clothing for a client if the client needs appropriate attire for court appearances.
 1. Counsel agrees to contact contractors who maintain "clothing rooms" to determine whether suitable clothing is available prior to submitting a request to OPDS.

2. If counsel receives preauthorization to purchase clothing for a client, that clothing must be provided to a “clothing room” upon completion of the case.
3. 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.

3.14 REQUEST FOR DEVIATION FROM CASE EXPENSE GUIDELINES

3.14.1 Counsel may request a deviation for these expenses only **before** the expenses are incurred.

3.14.2 OPDS may grant deviation from the expense guidelines only when all the following are true:

- A. OPDS finds the expense is reasonable and necessary;
- B. Counsel requests 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 3.7); 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.

SECTION 4 – BILLINGS/PREAUTHORIZATION DISPUTE RESOLUTION

4.1 ADJUSTMENT NOTICE

4.1.1 When OPDS approves an amount different than what was requested by a provider, OPDS will send to the provider a Notice of Adjustment to Fee Statement if the difference is more than \$10.00.

4.1.2 The notice will include:

- A. The amount requested;
- B. The amount to be paid;
- C. A description of the reason(s) for the adjustment; and
- D. The right to request reconsideration.

- 4.1.3 Within 30 days of the date of the notice of adjustment, the provider may request reconsideration by submitting to OPDS an explanation of the facts and reasons to support the request, and supporting documentation, if any.

4.2 REQUEST FOR RECONSIDERATION

- 4.2.1 Within 30 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.
- 4.2.2 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.
- 4.2.3 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, the 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.
- 4.3.1 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. Provider shall copy OPDS with all appeal documents presented to the court.
- 4.3.2 The court will notify the provider and OPDS in writing when a decision has been made.

SECTION 5 – CONFIDENTIALITY OF BILLING AND NON-ROUTINE EXPENSE INFORMATION

5.1 CONFIDENTIALITY

- 5.1.1 In order for OPDS to carry out its obligation 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.

- 5.1.2 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.
- 5.1.3 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.
- 5.1.4 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.
- 5.1.5 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.
- 5.1.6 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:

- A. It may release, upon request at the conclusion of the trial, the total amount of money paid for representation in the case.
- B. It shall disclose information regarding non-routine expense requests in a particular case and the cost of representation of a client to:
 - 1. The attorney who represents or represented the client in the particular case;
 - 2. The attorney who represents the client in a matter arising out of a particular case;
 - 3. Or upon written request, from the client, except that OPDS shall not disclose information to the client that it is prohibited from disclosing under state or federal law.

- C. This policy does not prohibit OPDS from disclosing statistical information that cannot be identified with any particular case.
- D. 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 providers.
- E. OPDS shall disclose information regarding the cost of representation as required by law.

EXHIBIT 1
APPOINTMENT TYPE CODES AND RANKING FOR
TRIAL AND APPELLATE CASES

Rank	Code	Description
1	CMUR	Aggravated Murder, Adult Defendant
	JAMR	Juvenile charged with Aggravated Murder
2	PCRA	Aggravated Murder Post-Conviction Relief - Sentence of Death
3	PCR	All other Post-Conviction Relief cases
4	JMUR	Juvenile charged with Murder
	MURD	Murder
5	JLAW	Jessica's Law
6	AM11	Measure 11 Class A Felony
	BM11	Measure 11 Class B Felony
	JM11	Measure 11 A/B Felony - 15, 16 or 17 year old juvenile charged as adult
7	AFEL	Class A Felony
8	BFEL	Class B Felony
9	CFEL	Class C Felony
	DFEL	Felony Driving Under the Influence
	DVIO	Domestic Violence Assault IV Felony
	PCS	Possession of Controlled Substances
	UFEL	Unclassified Felony
10	FAPA	Family Abuse Prevention Act Contempt
	SUPP	Support Contempt
11	CONT	Contempt (Includes misdemeanor contempt. Excludes FAPA & SUPP)
	DUIS	Misdemeanor Driving Under the Influence
	DWSS	Driving While Suspended/Revoked Misdemeanor
	EXTR	Extradition
	MHMI	Civil Commitment
	MISS	Misdemeanors (Excluding DUIS/DWSS/OTMS and contempt)
	OTHR	Other (Please specify type of appointment or case.)
	OTMS	Other Traffic Misdemeanors
	SCDV	Show Cause Diversion
12	HC	Habeas Corpus
13	DPV	DUII Probation Violation
	FPV	Felony Probation Violation
	JPV	Juvenile Delinquency – Probation Violation
	MPV	Misdemeanor Probation Violation
14	JUTC	Termination Parental Rights/Contested Adoption - Child
	JUTP	Termination Parental Rights/Contested Adoption - Parent
15	JDEC	Juvenile Dependency - Child
	JDEP	Juvenile Dependency - Parent
16	JPDC	Juvenile Post-disposition Review Hearing - Child
	JPDP	Juvenile Post-disposition Review Hearing - Parent
17	JUDF	Juvenile Delinquency - Felony
18	JUDM	Juvenile Delinquency - Misdemeanor
	JUDO	Juvenile Delinquency - Other (Modification, Emancipation, etc.)

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 Appellants 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 SCHEDULE OF GUIDELINE AMOUNTS

ATTORNEY FEES - TRIAL AND APPELLATE LEVEL CASES		
Non-capital Case	\$46 per hour	Includes juveniles charged with aggravated murder.
Capital Case, Lead Counsel	\$61 per hour	
Capital Case, Co-counsel	\$46 per hour	
Out-of-State	\$46 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	\$15 per hour	
Transcription	\$3.00 per page for original	Electronic submission-no postage paid.
Guardian Ad Litem	\$45 per hour maximum	For attorney and non-attorney providers
Investigator – Non-Capital Case	\$29 per hour	Mileage and some out-of-pocket paid without specific preauthorization.
Investigator – Bilingual	\$34 per hour	
Fact Investigator - Capital Case	\$40 per hour	Mileage and some out-of-pocket paid without specific preauthorization.
Mitigation Investigator - Capital Case	\$45 per hour	Mileage and some out-of-pocket paid without specific preauthorization.
Polygraph Exam	\$400 flat fee for exam and report	Reimbursement for travel expenses must be specifically preauthorized.
Psychiatrist and Psychologist	\$150 per hour	Travel expenses must be specifically preauthorized.
All Other Experts	Varies on type of service and provider qualifications	Preauthorization required
INTERPRETER FEES (For attorney/client communication, does not require preauthorization by OPDS)		
Qualified Interpreter	\$32.50 per hour	Travel time at one-half the hourly rate and mileage at the guideline rate.
Certified Interpreter-Non ASL	\$44.50 per hour	
Certified Interpreter- ASL	\$59.50 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. In-house must be produced on photo quality paper, otherwise In-house Color copy rate applies.
Photocopies, In-house, B&W	Maximum \$0.10 per page	Also applies to in-coming faxes.
Photocopies, In-house, Color	Maximum \$0.50 per page	
Scanning, In-house	Maximum \$0.05 per page	

Photocopies and Scanning by Vendor	Actual Cost	Receipt required.
Photocopies, State Court/Other Government Entities	Actual Cost	Certification costs also paid if necessary. Receipt required.
Mileage	Mileage will be paid at the IRS rate at time of travel	Excludes counsel's trips between office and courthouse unless specifically authorized. Mileage rates can be found at: http://www.oregon.gov/OPDS/pages/cbs/forms.aspx
Parking - routine travel	Actual cost	If trip qualifies for mileage payment. Receipt required if over \$25.
Telephone	Actual cost	International 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	
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
Other Items		See Section 3.5 for details.
TRAVEL EXPENSES (Must be preauthorized by OPDS)		
Meal Allowance Amounts - When on overnight business and departure and return times are not reported	\$24 for first day of travel \$27 for last day of travel \$51 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 \$12.00	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 \$15.00	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 \$24.00	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 \$25.
Rental Car	Varies	Compact vehicle (unless otherwise preauthorized) plus fuel with submission of original receipts. Insurance costs will not be reimbursed.
Airfare	Varies	Through state contract. Contact OPDS.

Lodging	Lodging will be paid at the GSA rate at the time of travel.	GSA rates can be found at: http://www.gsa.gov/portal/content/104877
Non-Commercial Lodging	\$25 per night	Allowance when traveler uses alternative accommodations. Must provide a short written explanation.