

**TWENTY-SEVENTH JUDICIAL DISTRICT**

**COURT OF COMMON PLEAS OF WASHINGTON COUNTY, PENNSYLVANIA**



**POLICY FOR FEES AND EXPENSES INCURRED BY COURT-APPOINTED COUNSEL**

**I. DEFINITION OF TERMS**

- A. Billable Activity. Any activity reasonably required to represent a client and consistent with this Policy with regard to billable and non-billable activities. This includes in-court and out-of-court tasks.
- B. Block Billing. Listing multiple tasks in a summary under a single date/time entry. Block billing is permitted or time increments up to one hour.
- C. Maximum Fee. The maximum amount of fees that may be billed in a case without prior judicial approval to deviate from the Policy.
- D. Dependently Heard Case. A subsequent case involving a client with a primary case already assigned to a court-appointed attorney. Typically, a probation/parole violation arising out of the same facts that led to criminal charges. The cases do not have to be filed at the same time, nor do they have to be heard or resolved at the same time.
- E. Non-Billable Activity. Any activity done in connection with representing a client, but identified in this Policy as a non-compensable service.

**II. TIME FOR SUBMISSION OF ATTORNEY FEES AND EXPENSE REIMBURSEMENTS**

- A. Attorney fees and expense reimbursements shall be submitted on a monthly basis for cases where there has been billable activity in excess of \$50.00.
- B. Attorney fees and expense reimbursements for the previous month's activities and expenses are **due** on or before the 10<sup>th</sup> day of each month. Attorneys shall submit fee and expense reimbursements to the Office of the District Court Administrator.

- C. Attorneys shall submit a court-appointed counsel cover sheet for each case in which the attorney is seeking reimbursement.
- D. Beginning thirty (30) days after the declaration is due; there will be a 10% reduction per month in fees until the fee declaration is completed.
- E. The Controller of Washington County will mail payments to attorneys in a reasonably prompt manner upon receipt of an approved declaration from the District Court Administrator. It is the responsibility of the attorney to have a current W-9 on file in the Controller's office.

### **III. CATEGORIES OF CASES**

- A. Criminal
- B. Juvenile Delinquency
- C. Juvenile Dependency
- D. Orphans' Court
  - 1. Guardianship Cases
  - 2. Termination of Parental Rights

### **IV. MAXIMUM CASELOADS. RATES PER CLASS/TYPE OF CASE**

- A. Maximum Caseload. The Court may impose reasonable limits on the amount of cases that an attorney and/or firm may receive. The Court shall make efforts to rotate appointments equitably among attorneys willing to accept appointments to a particular case type; provided however, that the Court has discretion to appoint a certain attorney to a case in the interests of justice.
- B. Rate of Pay. Effective July 1, 2018, attorney fees for court-appointed counsel in all case categories shall follow the presumptive billing guidelines set forth below.
- C. Contracted Court-Appointed Counsel. Remuneration for court-appointed counsel who have a contract with the County of Washington shall be provided in accordance with the terms of their contract.

Rate Chart

<b>Class Type</b>	<b>Hourly Rate</b>	<b>Maximum Fee (excluding trial)</b>
Capital Homicide	\$150.00	\$10,000.00
Capital Homicide (Penalty Phase Counsel)	\$150.00	\$7,500.00
Homicide	\$100.00	\$5,000.00
Felony (1 <sup>st</sup> Degree)	\$75.00	\$2,500.00
Felony (Other)	\$60.00	\$1,500.00
DUI/Misdemeanor/General	\$50.00	\$750.00
Capital Homicide PCRA	\$75.00	\$5,000.00
PCRA	\$50.00	\$2,000.00
Violation of Probation/Parole	\$50.00	N/A
Fifth Amendment Witness	\$50.00	N/A
Juvenile Delinquency	\$60.00	N/A
Juvenile Dependency (Counsel)	\$60.00	N/A
Guardian Ad Litem (Dependency)	\$60.00	N/A
Guardian Ad Litem (Orphans' Court)	\$60.00	N/A
Incapacitated Person (Counsel)	\$60.00	N/A
Termination of Parental Rights (Counsel)	\$60.00	N/A

**V. PAYMENT GUIDELINES**

A. General Information

1. The purpose of the Policy is to promote uniformity in billing, to aid in the review and processing of billings, and to assist and educate court-appointed attorneys in good billing practices.
2. The Policy cannot address all situations. The basic principles of billing are (a) bill for actual time spent; (b) work efficiently; and (c) provide sound, succinct

explanations and descriptions of work performed, without revealing confidential client information. For example, entries such as “Telephone call with client,” “Preparation for review hearing,” or “Research case law in support of Motion to Suppress” are sufficient. Billing activity inconsistent with these principles will not be compensated.

3. Attorneys must keep track of both in-court and out-of-court preparation time and are expected to use reasonable judgment in deciding what to request compensation for.
4. Attorneys may not bill more than eight (8) hours each day for work completed except when in trial.
5. Attorneys are expected to request compensation only for work performed for the case. This includes time spent modifying motions or other work previously done by themselves or other attorneys, but not for “recycled” material that is simply copied into a current motion or pleading.
6. Attorneys should work efficiently; payment will only be made for work that is necessary for providing effective representation.
7. Ancillary services are not billable (*e.g.*, copying, envelopes, messengers, etc.).
8. Receipts are required for any reimbursable expenses.
9. Attorneys are required to use the least expensive form of duplication. Attorneys are encouraged to scan documents and transfer them as digital files as these methods are more cost-effective.

B. Hourly Billing

1. Attorney bills must include a clear itemization of the date and nature of each court appearance, and the date, nature, and time expended for each out-of-court task. A description of a court appearance must include a start and end time.
2. Individual tasks must be delineated. The information provided should be sufficient to review, **but not reveal confidential matters**.
3. Attorney bills that are unclear or require excessive time to review may be rejected and returned.
4. Time shall be accounted for in 0.1 (*i.e.*, six minute) increments.
5. Small tasks may be combined and billed in a single block up to one half (0.5) hour.

6. When reviewing paper documents, identify what the documents are and indicate the number of pages reviewed.
7. When reviewing digital discovery and recordings such as CDs, DVDs and audiotapes, indicate the total number of images viewed or duration of the recording, the actual time spent reviewing it and whether the recording and/or review were particularly complex. Describe the recording to make it clear what was reviewed. Reviewing printouts from electronic media should include the number of pages and a description of the content.
8. Reconstruction of time spent on a task (i.e. motion, discovery review, etc.) when finished, at the end of the day, or at the end of the month is prone to error and it is evident to staff. The better practice is to record the time and task throughout the day.
9. Formulaic billing is billing the same amount of time for a certain activity, no matter how long that activity actually took. For example, always billing 1.5 hours for the first court appearance, 1 hour for every 50 pages reviewed, or 1 hour for preparing before every court appearance is billing by formula and is impermissible.
10. Communication with your client is necessary and essential in order to provide excellent representation. Communication with family and/or friends that is not investigatory will not be compensated.

C. Billable Activities

1. Services performed while Court is in session either in court or in chambers. This includes time spent waiting for a case to be called. Attorney must not the judge or hearing officer when billing for court time.
2. Any out of court activities reasonably required to represent a client and not identified as non-billable.
3. Travel time to and from an institutional facility housing your client for the purposes of visiting him/her.
4. File review is not compensable.
5. Attorney shall personally perform or oversee all necessary services in the cases in which the attorney has been appointed, with the exception of court appearances for continuances and settings. When the attorney is not available to appear in court for a continuance or setting, the attorney may arrange for another attorney to appear in his or her place. Payment for the substitute

attorney's services is the responsibility of the appointed attorney, who may bill for those services as if the appointed attorney personally performed them. Attorneys may not bill for communications with the substitute attorney.

D. Billing Guidelines

1. The District Court Administrator shall have the authority to modify any bill.
2. The Court reserves the authority to deny payment for any billed services or expense that is determined to be unreasonable, unnecessary, or to have been done inefficiently.
3. Attorneys may not bill for reviewing court orders or notices, correspondence over routine matters, unanswered phone calls, or administrative or clerical tasks, (i.e., overhead costs).
4. If an attorney appears for court for multiple cases the actual time spent in court must be split equally among the different cases.

E. Non-Billable Activities

1. Travel time to and from the courthouse and to and from the attorney's office and/or home.
2. Clerical and support staff activities including preparation of proofs or service, faxing, filing, copying, or preparation of bills. These are considered overhead costs.
3. Time spent waiting for copies, faxes, emails, walking to the post office or time spent waiting for other administrative tasks to be completed.
4. Being available to the Court on telephone standby.
5. Service of documents and subpoenas on the District Attorney, Public Defender, or any other agency or attorney that accepts service by fax, mail, or email.
6. Attorneys will not be compensated for the preparation of multiple subpoenas for a single witness or agency once the witness or agent has appeared in Court. Attorneys must have the court recognize and order back all witnesses who appear pursuant to a subpoena.
7. File maintenance is not billable. Opening, labeling, and storing a client's file is an overhead expense. Many file-related activities, such as breaking down discovery and exhibits and creating trial notebooks, are billable so long as the activity is specifically described.

F. Non-Reimbursable Costs and Expenses. The following are considered non-reimbursable costs or expenses:

1. Parking;
2. Telephone charges – collect or otherwise;
3. Fax charges; or
4. Office supplies including audiotapes, videotapes, DVDs, CDs, and USB flash drives, unless prior approval is obtained because of an extraordinary need.

G. Presumptive Pretrial Caps (Criminal Cases)

1. Caps apply to all work performed up to trial absent an approved waiver of the presumptive pretrial cap.
2. Caps remain in effect even after the client has pled guilty or an admission of guilt is made.
3. Caps no longer apply once jury selection begins in a case, unless a waiver of the presumptive pretrial cap has been approved.

H. Requests to Waive the Presumptive Pretrial Cap (Criminal Cases)

1. An attorney may request a waiver of the applicable cap if the additional work is reasonable and necessary to provide an adequate defense.
2. Requests must be submitted in a written motion to the presiding judge and must include the following information: (a) facts of the case; (b) what is unusual about the case; (c) description of the work performed; (d) description of the future work or task anticipated; and (e) itemization of the time needed to complete the anticipated work or tasks.
3. Requests shall be submitted prior to reaching the cap. Requests received after an attorney has exceeded the cap may be denied summarily.
4. Decisions to approve or deny requests are based on the information provided by the attorney's request for waiver of the presumptive pretrial cap and any additional information or documentation provided by the attorney. Boilerplate requests will be denied.
5. No payment shall be made for services which are not reasonable and necessary to provide an adequate defense.

I. Miscellaneous Payment Issues

1. Multiple Cases for One Client: When an attorney is handling multiple cases for a defendant concurrently, the attorney must apportion time amongst the cases as accurately as possible.
2. Permission to hire an expert, investigator, or similar individual/service to perform tasks in a case must be obtained from the presiding judge with a written motion and order. Payment of the expense will be made upon submission of the invoice for services rendered.
3. Transcription Services. The use of a court reporter and/or transcriptionist for a preliminary hearing recording or deposition shall be submitted as a reimbursable cost or expense.

**VI. BILLS. APPROVAL. CONFIDENTIALITY.**

A. Authority to Approve Bills

1. The District Court Administrator shall review payment requests submitted by court appointed counsel, and shall have the authority to approve payment.
2. Nothing in this Policy shall prohibit a common pleas judge from approving or disapproving a request for payment or authorization to incur an expense by counsel, including permission to exceed the maximum fee cap.

B. Confidentiality

1. Bills approved for payment shall be provided to the Controller of Washington County for payment by Court Administration. Counsel shall comply with all necessary tax and/or vendor requirements set forth by the Controller as a condition of receiving payment.
2. The Controller shall retain bills approved for payment, whether in electronic or paper storage.
3. The Controller shall not provide a copy of any bill approved pursuant to this Policy to any other governmental agency, or member of the public, without the permission of the President Judge, the presiding judge, or the District Court Administrator, unless provided pursuant to applicable authority, including subpoena, rule, statute, and/or regulation. Any Right-to-Know-Law request seeking production of a bill, and not just simply the amount paid to court-appointed counsel, shall be forwarded to the District Court Administrator for processing in accordance with Pennsylvania Rule of Judicial Administration 509.