

**SUPERIOR COURT OF THE STATE OF CALIFORNIA  
COUNTY OF NEVADA**



**APPOINTED COUNSEL AND EXPERT  
POLICY AND PROCEDURE**

## **PURPOSE**

To facilitate uniform procedures and expectations of counsel and experts appointed by the court, the following policies and procedures are adopted by the court. Pursuant to Local Rules 7.07, this policy is intended to provide guidelines for appointed counsel and facilitate a consistent process for the Nevada County Superior Court to review and the County of Nevada to make payments to appointed counsel and experts for services rendered.

## **SCOPE**

The following policy document covers three areas: appointment, compensation scale, and payment of counsel and experts. Policies and procedures are described for both counsel and experts with contracts and those appointed pursuant to a special order of the Nevada County Superior Court. Specific policies relevant to contract and non-contract services are noted throughout.

## **APPOINTMENT AND SERVICES OF COUNSEL AND EXPERTS**

### **I. APPOINTED COUNSEL**

In any case where a defendant cannot afford counsel as determined pursuant to Penal Code sections 987(a), (b) or (c), counsel shall be appointed in the following order: (1) the public defender; (2) contract conflict counsel firm, (3) private counsel. This order may be varied if appropriate under existing contracts, statutes, or case law, and all appointments are subject to Penal Code section 987.05.

### **II. PRIVATE COUNSEL AND EXPERTS**

Appointment of private counsel, and other service providers shall be by minute order or written order signed as directed by the appointing judge. Services shall end upon imposition of judgment or rendering of an order granting probation unless otherwise stated in a writing executed before services commence. Additional services performed by private counsel that are reasonably related to the imposition of judgment or the granting of probation shall also be compensated. Compensation may be capped by the court subject to proof of additional need.

### **III. PARALEGALS**

Paralegal services are distinguished from that of standard clerical work in that paralegals have responsibilities that include substantive legal work under the supervision or direction of an attorney. A paralegal must comply with all legal requirements imposed by the State of California in order to qualify for payment.

## **COMPENSATION OF APPOINTED COUNSEL AND EXPERTS**

Private counsel may be compensated pursuant to contract or by the hour in the court's discretion, but in no event shall compensation exceed the hourly rates set by the court unless a judge determines in a written order that said rate is not reasonable under Penal Code section 987.3. The rates set by the court are subject to change. The current rates are listed in Appendix A.

### **I. COMPENSATION ABOVE STANDARD RATES (PURSUANT TO PC 987.9)**

Subject to Penal Code Section 987.9, if appointed counsel seeks to receive compensation above and beyond the amounts allowed pursuant to this policy for services of others, counsel must file a

declaration before any such services are performed justifying that such services are "necessary expenses" to enable counsel to render legally adequate defense services. Boilerplate declarations will be deemed an admission of no merit to the request. (See *People v. Lucero* (1981) 122 Cal.App.3d 484, 489-490.)

Compensation for such services shall not be made absent a written declaration signed by the service provider detailing the services rendered and a written declaration by counsel that the services were necessary to render legally adequate representation.

Expert witness, investigative, and paralegal services should not exceed the current hourly rate set by the court absent evidence and a judicial determination that such amount is unreasonable under the circumstances.

## **PAYMENT OF APPOINTED COUNSEL AND EXPERTS**

To facilitate timely payment and an effective review process, the court adopts the following payment policy. Unless otherwise specified by court order or contract, all payments must adhere to this policy. Attorneys contracted with the court are not included in this payment policy and must follow payment policies laid out in the relevant memorandum of understanding.

### **I. INVOICING**

Attorneys and experts appointed by the court must bill the court for services rendered pursuant to this policy and the court's fee schedule. Invoices are due no less than quarterly for services rendered in the preceding three months on October 1<sup>st</sup>, January 1<sup>st</sup>, April 1<sup>st</sup>, and July 1<sup>st</sup> or the prior business day if the due date falls on a court holiday or weekend. Services are considered "rendered", and therefore must be invoiced, irrespective of whether a case and services pursuant thereto remain ongoing.

Attorneys shall utilize the Appointed Counsel and Expert Invoice Form, included in the appendix of this policy. A PDF version of the form may also be found on the court's website under the Local Forms section.

### **II. PAYMENT**

Upon receipt of the invoice, the court will review the invoice for completeness and accuracy. If discrepancies are found, the court may request a new invoice or may grant partial payment with an explanation to the attorney.

Once approved, the court ordered invoices will be sent to the County of Nevada for payment on a no less than quarterly schedule.

### **III. ENFORCEMENT**

To facilitate reliable budgeting for the County of Nevada, timely invoices are essential. The court has the option of reducing payment by 5% per month for late invoices in breach of the court's policy.

## Appendix A

### Fee Schedule

<b>Indigent Conflict Defense Fee Schedule</b>	
<b>Service</b>	<b>Rate</b>
Attorney Fees – Tier 1 cases <sup>1</sup>	\$125 / hour
Attorney Fees – Tier 2 cases <sup>2</sup>	\$105 / hour
Attorney Fees – Tier 3 cases <sup>3</sup>	\$95 / hour
Attorney Fees – Tier 4 cases <sup>4</sup>	\$85 / hour
Juvenile Cases <sup>5</sup>	
Investigators	\$50 / hour
Psychological Evaluations	\$125 / hour
Expert Witnesses	\$100 / hour
Transcription	\$25 / hour
Paralegals	\$35 /hour
Interpreters /Translators	\$45 / hour
Travel Rate <sup>6</sup>	\$85 / hour
<b>Case Tier Definitions:</b>	
<p><sup>1</sup> <b>Tier 1:</b> All crimes listed in 667(e)(2)(C)(iv), specifically:</p> <p>(I) A “sexually violent offense” as defined in <a href="#">subdivision (b) of Section 6600 of the Welfare and Institutions Code</a> .</p> <p>(II) Oral copulation with a child who is under 14 years of age, and who is more than 10 years younger than he or she as defined by <a href="#">Section 288a</a> , sodomy with another person who is under 14 years of age and more than 10 years younger than he or she as defined by <a href="#">Section 286</a> , or sexual penetration with another person who is under 14 years of age, and who is more than 10 years younger than he or she, as defined by <a href="#">Section 289</a>.</p> <p>(III) A lewd or lascivious act involving a child under 14 years of age, in violation of <a href="#">Section 288</a>.</p> <p>(IV) Any homicide offense, including any attempted homicide offense, defined in <a href="#">Sections 187 to 191.5</a> , inclusive.</p> <p>(V) Solicitation to commit murder as defined in <a href="#">Section 653f</a>.</p> <p>(VI) Assault with a machine gun on a peace officer or firefighter, as defined in <a href="#">paragraph (3) of subdivision (d) of Section 245</a>.</p> <p>(VII) Possession of a weapon of mass destruction, as defined in <a href="#">paragraph (1) of subdivision (a) of Section 11418</a>.</p> <p>(VIII) Any serious and/or violent felony offense punishable in California by life imprisonment or death.</p>	
<p><sup>2</sup> <b>Tier 2:</b> All felonies as defined in Penal Code section 667.5 not listed in Tier 1; AND all other felonies carrying a maximum exposure of ten years or more; OR a combination of felonies, and/or combination of felonies and special allegations carrying a maximum exposure of ten years or more.</p>	
<p><sup>3</sup> <b>Tier 3:</b> All felonies, including all violations of felony supervision, that are not described by Tiers 1 or 2; AND/OR any misdemeanor that requires registration as a sex offender.</p>	
<p><sup>4</sup> <b>Tier 4:</b> All other cases not defined by Tiers 1, 2 or 3.</p>	
<p><sup>5</sup> Juvenile case rates will be determined using the maximum exposure as if the minor was charged as an adult.</p>	
<p><sup>6</sup> Actual travel time may be billed for any attorneys traveling from the west of the intersection of I-80 and State Highway 20 to the Truckee courthouse for in-person appearances. Actual travel time may only be billed once per day and at a rate of \$85 per hour. Notwithstanding the foregoing, an attorney whose primary working location is more than 25 miles away from the courthouse where in person services are provided may bill for actual travel time incurred, from their primary working location, once per day at a rate of \$85 per hour. When invoicing for travel time, travel must be listed as a separate line item on a per-day basis and cannot be billed partially for multiple cases.</p>	

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**Appointed Counsel and Expert Invoice**

Complete this invoice coversheet for the appointing judicial officer and attach client invoices to request payment for appointed conflict counsel fees or appointed expert fees. Please Note: Pursuant to the court's payment policy, this form is due no less than quarterly on April 1, July 1, October 1, and January 1 or the preceding business day for all services rendered in the quarter. The court has the option of reducing payment by 5% per month if invoiced late.

Vendor Name: \_\_\_\_\_ Vendor Number: \_\_\_\_\_ Invoice Date: \_\_\_\_\_  
Vendor Address: \_\_\_\_\_  
Street City State Zip

Check all that apply:

Invoice for Conflict Counsel  
Attach one invoice per client.

Invoice for Appointed Expert  
Attach Expert invoice and Court Order.

Homicide Case

Invoice Number	Case Number	Tier	Charge*	Hours	Not-To-Exceed**	Remaining NTE***	Amount
<b>Appointing Judicial Officer:</b>					<b>Total Amount Billed:</b>		

\* Indicate the charge used for tier determination. If the charge level is reduced, use a new line on the invoice and adjust billing as of the date of reduction.

\*\* List Not to Exceed amount ordered.

\*\*\* List Remaining Not to Exceed amount including the current invoice.

The undersigned, under penalty of perjury, states that the above claim and the items therein set out are true and correct that no part thereof has been paid, that the amount therein is justly due, and that the same is presented pursuant to the court's payment policy.

Date: \_\_\_\_\_ By: \_\_\_\_\_  
Signature of Claimant

Invoices for appointed expert fees only:  
Date: \_\_\_\_\_ By: \_\_\_\_\_  
Signature of Approving Attorney

Court Use Only: Once approved by the court, this invoice coversheet shall serve as a court order to issue payment for services rendered and accepted.

Ordered by: \_\_\_\_\_ Title: \_\_\_\_\_ Date: \_\_\_\_\_