

**POLICY RE:  
ATTORNEY FEES IN COURT APPOINTED CASES**

**1. FEES**

- a. Court appointed counsel whose fees and expenses are not covered by an existing contract (Public Defender, Conflict I and II), (unless otherwise ordered by the Court prior to the rendering of service for which a fee is earned) shall be paid in accordance with the following fee schedule:

Misdemeanor cases in Adult and Juvenile Court:	\$ 75.00 per hour
Felony cases in Adult and Juvenile Court:	85.00 per hour
Murder and Keenan counsel	100.00 per hour
Keenan counsel if Death Penalty certified	125.00 per hour
§187 P.C. "Special Circumstance" cases	125.00 per hour
Juvenile Dependency cases	85.00 per hour
Service Members Civil Relief Act (SCRA)	90.00 per hour*
	(* \$230 /case maximum)

- b. At such time as the prosecution no longer seeks the Death Penalty, the fees for appointed counsel shall be reduced to \$100.00 per hour, and the appointment of Keenan Counsel shall be terminated.

**2. PRESENTATION OF CLAIM AND PROGRESS PAYMENTS**

- a. Fee Claims in criminal matters shall be submitted through the Public Defender's Office to a member of the Criminal Courts Bar Association (CCBA) review panel member for review. Fee Claims submitted shall conform to the requirements established by the CCBA and the policies established and promulgated by the Courts. (See Exhibit A.) Claims may be submitted to the Public Defender: (1) with all supporting documents attached, (2) with supporting documents sealed in an envelope to be forwarded to the reviewer, or (3) with a letter stating the intention to submit supporting documents directly to the reviewer.
- b. Reviewer assignment will be based on panel member availability (A reviewer is not available if they are representing a co-defendant or if the reviewer declines the assignment.), and an effort to maintain a balanced number of cases assigned to each panel member.
- c. If the claim is an interim claim, effort will be made to assign the claim to the panel member who previously reviewed the claim(s) in the case. Following review of the claim by the CCBA panel member, all claims will be returned to the Public Defender for his signature. Fee Claims submitted to the Public Defender shall conform to the requirements established by the CCBA and the policies established and promulgated by the Court. (See Exhibit A.)

### **W & I Section 602 Cases**

- d. Fee Claims for W & I Section 602 juvenile matters shall be submitted directly to the assigned Judge/Commissioner of the Juvenile Court. Following the review of the claim all claims in Section 602 matters will be forwarded to the Public Defender for signature in the manner described in paragraph (a) above. (Exhibit B must be used.)

### **W & I Section 300 Cases**

- e. Fee Claims for W & I Section 300 juvenile matters shall be submitted directly to the assigned Judge/Commissioner of the Juvenile Court. Following the review of the claim all claims in Section 300 matters will be forwarded to the Superior Court Executive Officer or his/her designee for signature. (Exhibit B must be used)
- f. Fee Claims shall be made using the prescribed form. See Exhibits A and B. Any claim submitted on an improper form or not approved per 2.a, 2.b, or 2.c will be returned to the submitting attorney resulting in a possible delay in payment.
- g. Fee Claims in criminal matters shall be submitted to the Public Defender within 30 days following completion of the case.
- h. In all cases lasting more than one month, the method of payment will be on a monthly basis at the attorney's option.
- i. Failure to timely file such claim will be deemed a waiver of fees and expense, absent good cause to the contrary. Any late claim for payment shall be accompanied by a declaration stating the reasons for the late presentation.

### **3. FEE CLAIMS - SECOND COUNSEL**

- a. Fee Claims for second counsel shall be submitted to the Public Defender's Office for review and shall have corresponding Application and Order authorizing second counsel, and the specific duties of counsel, attached each time the claim is submitted. (See Second Counsel Policy.) A claim will not be paid unless the Application and Order is attached.
- b. The same review procedure will be used as outlined in 2.a through 2.i above.

### **4. EXPENSES**

- a. Before incurring any expense for which reimbursement will be sought, counsel shall present to the Supervising Criminal Judge, or to the trial judge if the expense occurs during the course of a trial, a request together with a supporting declaration that the court pay for such expense.
- b. Normal overhead costs are not considered allowable expenses for reimbursement. Such costs include: telephone, duplicating, mailing, secretarial work, rent, etc.

- c. Attorneys shall not be reimbursed for the use of their own office staff to serve papers, pick up discovery or for the running of any errand.

## 5. UNAPPROVED EXPENSES

- a. Counsel should not expect to be reimbursed for expenses incurred prior to court obtaining approval. Counsel contracts for unapproved expenses at his or her own risk. The court is not bound to ratify unapproved expenses.

## 6. BILLING FORMS FOR FEES

- a. The following forms shall be submitted to secure payment for attorney fees and expenses:

- 1) Claim Form (Exhibit A or B).
- 2) Daily Time Sheet Form (Exhibit C). All forms other than time sheets must be typed. Writing which is not legible will be disallowed.
- 3) Time Recapitulation Form (Exhibit C). Required on all claims for payment exceeding 20 hours. The Time Sheet Recapitulation shall show the total amount of time logged in the Daily Time Sheets for the various phases of work such as:

Appearance and appointment,  
Arraignment - entry of plea,  
conferences with client, Review prelim  
transcript, Preparation of motions -  
995, 1538.5, 1368, discovery, change  
of venue, bail reduction, etc.- specify;  
Appearances on motions - specify;  
Review of transcripts - specify;  
Research - specify areas; Pretrial  
Conference, Trial - time in court; Out

of court work during trial - specify;  
Post-trial motions - specify type/work;  
Appearance for judgment; Post-  
judgment work - specify; Interviews  
with witnesses - names; \*Subpoenas -  
prep, place of service \* \*Upon request  
of the reviewing judge and in-camera

- 4) Standard Time Calculator (Exhibit D). Time shall be calculated to the closest tenth (.1) of an hour. Counsel shall detail all work done along with the time spent on such work.
- 5) CCBA Reviewer Form - CCBA2 (Exhibit E). All claims shall include a completed and signed CCBA2 form attached at the end of the Fee Claim packet.
- 6) Fee Cap Increase Application (Exhibit F).

## 7. FEE CAP RULE

In no case shall court appointed counsel be paid for more than 50 hours per calendar week (Monday through Sunday) for all of his/her court appointed cases without prior court approval. Approval must be secured using the Fee Cap Increase Application Form (Exhibit F). The application shall be made to the trial/hearing judge. The authorization shall be only for the week requested and must be renewed as necessary. A copy of this authorization must be submitted with the Fee Claim.

## 8. REQUEST FOR RECONSIDERATION OF FEE CLAIM

- a. A CCBA evaluator may reduce or disallow certain services or costs submitted on a claim. The evaluator shall notify claimant of such action and the reasons of such action.

The Presiding Judge of the Criminal Team, or his or her designee, may reduce or disallow certain services or costs submitted on claims if a request from the Manager of the Indigent Defense Fund is presented do so with good cause for the request.

- b. An attorney may request reconsideration of a claim(s) which has been reduced or changed by the CCBA evaluator(s) by performing the following:

Indicate orally to the evaluator that you "request reconsideration." Do not engage the evaluator(s) in a discussion on the merits or issues of the claim unless asked to do so by the evaluator. The Fee Claim is your case. **A violation of this rule may constitute grounds for removal from the Court Appointed List.**

- c. The contested Fee Claim will be forwarded by the Public Defender (manager of the Indigent Defense budget) to the Superior Court Executive Officer for presentation to the Presiding Judge of the Criminal Team. The assigned judge and/or the Criminal Team, excluding any judge prohibited under Penal Code §987.9, shall review all contested claims within 45 days if possible.
- d. The CCBA evaluator may forward to the Superior Court Executive Officer only that portion(s) of the claim that is in dispute unless the attorney filing the claim requests or the CCBA evaluator determines that the entire claim should be reviewed by the Criminal Team.
- e. In the event that only part(s) of the claim are to be reviewed, the CCBA evaluator may forward to the Superior Court Executive Officer the undisputed claim and amount for payment.
- f. The Fee Claim shall contain a stamped or handwritten notation that "reconsideration" has been requested. Attached to the claim shall be: 1) the evaluation form completed by the evaluator(s), and 2) any and all comments and/or correspondence the evaluator(s) deems necessary in order for the Courts to review and decide on the Fee Claim.
- g. A representative of the Office of the Superior Court Executive Officer shall notify the claimant regarding the results of the review. The assigned judge of the Criminal Team may contact the claimant, the evaluator(s) or any other person as necessary in order to complete the review process. In no circumstance is the claimant or his/her agent to contact any member of the

Superior Court Bench to discuss the fee claim under review. Any violation of this rule may constitute grounds for removal from the Court Appointed List. The decision of the assigned judge and/or the Criminal Team is final.

- h. A second Fee Claim must be prepared by the attorney who submitted the original claim in the event the assigned judge and/or the Criminal Team approves the amount in dispute. Only the amount approved by the assigned judge and/or the Criminal Team shall be claimed.

## **9. OVERPAYMENTS**

If it is ultimately determined that appointed counsel has been overpaid and has been ordered to repay the overpayment, failure to repay as ordered is grounds for removal from the Appointed Counsel list.

STANISLAUS COUNTY SUPERIOR COURT

Case No. \_\_\_\_\_  
 The People of the State of California vs: )  
 ) **DECLARATION AND ORDER FOR ATTORNEY**  
 ) **FEES / RECAPITULATION**  
 ) **"FEE CLAIM"**

The undersigned attorney, who is duly licensed to practice law in California, declares that on \_\_\_\_\_ the Honorable \_\_\_\_\_ presiding, appointed the undersigned to represent the above named defendant, and \_\_\_\_\_ the final disposition of the case was made before the Honorable \_\_\_\_\_ presiding.

The undersigned states that he/she has performed the legal services and incurred the expenses listed in this Declaration as follows, and on which were reasonable and necessary.

Date	Description of Activity or Time Sheet No.	Time in 1/10
1.		
2.		
3.		
4.		
Total _____ x \$ _____ = _____		

I have received payment of \$ \_\_\_\_\_ on this case.  
 Harris Motion Appt. \_\_\_\_\_ "Y" or "N" (Yes or No)  
 (List additional information in order on reverse side of attachments.)

I declare under penalty of perjury that the foregoing, including any attachments, is true and correct.  
 Executed on \_\_\_\_\_ at Modesto, California.  
 Print Name: \_\_\_\_\_ Telephone No.: \_\_\_\_\_  
 Address: \_\_\_\_\_  
 \_\_\_\_\_  
 Declarant's Signature

**ORDER FOR PAYMENT OF FEES**

Pursuant to the above declaration and the information provided therein, attorney's fees and costs are hereby awarded to the declarant in the sum of \$ \_\_\_\_\_. The County Auditor-Controller is hereby directed to make said payment to the above declarant.

Dated: \_\_\_\_\_  
 \_\_\_\_\_  
 Authorized signature

Shaded areas for Accounting and Auditor's use only      **ORACLE ACCOUNT CODING STRIP**

BATCH NAME	PREPARED BY:	DEPT: PUBLIC DEFENDER
KEYED BY	DATE:	Phone:

Inv. Date: \_\_\_\_\_ Inv. # \_\_\_\_\_ Supplier # \_\_\_\_\_

AMOUNT	FUND	ORG	ACCOUNT	MISCELLANEOUS	DESCRIPTION	TERMS
	0100	27550	66750			IMMED

DATE AUTHORIZED DEPT. SIGNATURE \_\_\_\_\_ DATE AUDITOR APPROVING SIGNATURE \_\_\_\_\_  
 (Exceeding \$75,000)  
 REPORTABLE Y or N \_\_\_\_\_ SITE NAME: \_\_\_\_\_

STANISLAUS COUNTY SUPERIOR COURT

In the Matter of: \_\_\_\_\_ )  
 \_\_\_\_\_ )  
 \_\_\_\_\_ )  
 \_\_\_\_\_ a minor \_\_\_\_\_ )

Case No. \_\_\_\_\_  
**DECLARATION AND ORDER FOR ATTORNEY  
 FEES / RECAPITULATION  
 "JUVENILE FEE CLAIM"**

The undersigned attorney, who is duly licensed to practice law in California, declares that on \_\_\_\_\_ the Honorable \_\_\_\_\_ presiding, appointed the undersigned to represent \_\_\_\_\_ a minor / father / mother / legal guardian in a  W & I Code §300 or  W& I Code §602 proceeding, on \_\_\_\_\_ the final disposition of the case was made before the Honorable \_\_\_\_\_ presiding.

The undersigned states that he/she has performed the legal services and incurred the expenses listed in this Declaration as follows, and on which were reasonable and necessary.

Date	Description of Activity or Time Sheet No.	Time in 1/10
1.		
2.		
3.		
4.		
Total _____ x \$ _____ = _____		

I have received payment of \$ \_\_\_\_\_ on this case.  
 Harris Motion Appt. \_\_\_\_\_ "Y" or "N" (Yes or No)  
 (List additional information in order on reverse side of attachments.)

I declare under penalty of perjury that the foregoing, including any attachments, is true and correct.  
 Executed on \_\_\_\_\_ at Modesto, California.  
 Print Name: \_\_\_\_\_ Telephone No.: \_\_\_\_\_  
 Address: \_\_\_\_\_  
 \_\_\_\_\_  
 Declarant's Signature

**ORDER FOR PAYMENT OF FEES**

Pursuant to the above declaration and the information provided therein, attorney's fees and costs are hereby awarded to the declarant in the sum of \$ \_\_\_\_\_. The County Auditor-Controller is hereby directed to make said payment to the above declarant.  
 Dated: \_\_\_\_\_  
 \_\_\_\_\_  
 Authorized signature

Shaded areas for Accounting and Auditor's use only **ORACLE ACCOUNT CODING STRIP**

BATCH NAME	PREPARED BY:	DEPT: PUBLIC DEFENDER
KEYED BY	DATE:	Phone:

Inv. Date: \_\_\_\_\_ Inv. # \_\_\_\_\_ Supplier # \_\_\_\_\_

AMOUNT	FUND	ORG	ACCOUNT	MISCELLANEOUS	DESCRIPTION	TERMS
	0100	27550	66750			IMMED

DATE AUTHORIZED DEPT. SIGNATURE \_\_\_\_\_ DATE AUDITOR APPROVING SIGNATURE \_\_\_\_\_  
 (Exceeding \$75,000)

REPORTABLE Y or N \_\_\_\_\_ SITE NAME: \_\_\_\_\_

**STANISLAUS COUNTY SUPERIOR COURT  
DAILY TIME SHEET / TIME RECAPITULATION**

\_\_\_\_\_ ple vs. \_\_\_\_\_ Case No. \_\_\_\_\_ Attorney \_\_\_\_\_

DESCRIPTION OF ACTIVITY	DATE	TIME IN/OUT	TIME IN 1/10 (.1)	DAILY TOTAL

TOTAL TIME EXPENDED \_\_\_\_\_

I am currently appointed on the following Superior Court cases: \_\_\_\_\_



STANISLAUS COUNTY SUPERIOR COURT

STANDARD TIME CALCULATOR

.1 = 6 minutes

.2 = 12 minutes

.3 = 18 minutes

.4 = 24 minutes

.5 = 30 minutes

.6 = 36 minutes

.7 = 42 minutes

.8 = 48 minutes

.9 = 54 minutes

1.0 = 60 minutes

**CRIMINAL COURTS BAR ASSOCIATION  
CCBA REVIEWER FORM**

People vs. \_\_\_\_\_ ) Case # \_\_\_\_\_ CCBA # \_\_\_\_\_  
 \_\_\_\_\_ )  
 \_\_\_\_\_ ) Appt'd Attorney: \_\_\_\_\_  
 Filing: \_\_\_\_\_ )  
 Felony \_\_\_\_\_ Misd. \_\_\_\_\_ Juv. \_\_\_\_\_ ) Attorney Phone: \_\_\_\_\_

Trial/hearing Judge: \_\_\_\_\_ Reviewer: \_\_\_\_\_

Date submitted: \_\_\_\_\_ Hourly rate: \_\_\_\_\_ Total hours to date: \_\_\_\_\_

First billing \_\_\_\_\_ Final billing \_\_\_\_\_ Other (specify number) \_\_\_\_\_

<i>Charges</i>	<i>Code Section</i>	<i>Enhancements</i>
I:		
II:		
III:		

**Co-Defendants/Represented Witnesses** (use additional sheet if necessary)

Name	Attorney	Case no. (if different)
_____	_____	_____
_____	_____	_____
_____	_____	_____

Is this a complex case? No \_\_\_\_\_ Yes \_\_\_\_\_ (If yes, explain) \_\_\_\_\_

**Fee Cap**

\_\_\_\_\_ I hereby declare under penalty of perjury that payment of the requested fees will not result in payment of any fees exceeding the Fee Caps of Rule 4.14, Stanislaus County Local Rules.

\_\_\_\_\_ See attached Cap Increase Authorization Order. Signed: \_\_\_\_\_

**Reviewer's Analysis**

- \_\_\_\_\_ Approved as submitted.
- \_\_\_\_\_ Approved with modification: \_\_\_\_\_
- \_\_\_\_\_ Appointed attorney notified of modification. Attorney requests reconsideration of original bill. \_\_\_\_\_

Date submitted: \_\_\_\_\_ Reviewer: \_\_\_\_\_

Date submitted: \_\_\_\_\_ Lead Counsel: \_\_\_\_\_

STANISLAUS COUNTY SUPERIOR COURT  
INDIGENT DEFENSE  
**FEE CAP INCREASE APPLICATION**

I, \_\_\_\_\_ hereby apply for an increase in the weekly cap under the following provision of the Fee Cap Rule (#7 under the Attorney Fee policy):

I have been assigned a **P. C. §187 Murder Case**. I understand the Fee Cap is \$4,250 per week. I request the Fee Cap be increased to \_\_\_\_\_.

Defendant's name \_\_\_\_\_ Case No. \_\_\_\_\_

Estimated hours (over 50) \_\_\_\_\_ For week of \_\_\_\_\_

Reason(s) \_\_\_\_\_

I have been assigned a **P. C. §187 Murder w/Special Circumstances Case**. I understand the Fee Cap is \$6,250 per week. I request the Fee Cap be increased to \_\_\_\_\_.

Defendant's name \_\_\_\_\_ Case No. \_\_\_\_\_

Estimated hours (over 50) \_\_\_\_\_ For week of \_\_\_\_\_

Reason(s) \_\_\_\_\_

I currently have assigned to me **two (2) P. C. §187 Murder Cases**. I request the Fee Cap be increased to \_\_\_\_\_.

Defendant's name \_\_\_\_\_ Case No. \_\_\_\_\_

Estimated hours (over 50) \_\_\_\_\_ For week of \_\_\_\_\_

Reason(s) \_\_\_\_\_

I currently have been **in trial for two (2) weeks** on a court appointed case. Under this circumstance I request the Fee Cap be increased to \_\_\_\_\_ for all cases in progress commencing the third week.

Defendant's name \_\_\_\_\_ Case No. \_\_\_\_\_

Estimated hours (over 50) \_\_\_\_\_ For week of \_\_\_\_\_

Reason(s) \_\_\_\_\_

I have been assigned a case on "Short Notice." Under this circumstance I request the Fee Cap be increased to \_\_\_\_\_.

Defendant's name \_\_\_\_\_ Case No. \_\_\_\_\_

Estimated hours (over 50) \_\_\_\_\_ For week of \_\_\_\_\_

Reason(s) \_\_\_\_\_

The undersigned, under penalty of perjury, states the above information is true and correct..

Date: \_\_\_\_\_  
\_\_\_\_\_  
Attorney's signature

Having reviewed the foregoing, and good cause appearing, IT IS SO ORDERED.

Date: \_\_\_\_\_  
\_\_\_\_\_  
JUDGE