

Humboldt County Court Appointed Attorney Program (HCAAP)

Rate Schedule

Effective March 12, 2019

I. DEFINITIONS

1. **Billable Activity:** Any activity reasonably required to represent a client and consistent with the Humboldt County Court-Appointed Attorney Fee Schedule.
2. **Dependently heard case:** A subsequent case involving a client with a primary case already assigned to the panel attorney that is pending in the same courthouse or court location as the primary case. Typically, a probation violation arising out of the same facts that led to criminal charges. The cases do not have to be filled at the same time, nor do they have to be heard or resolved at the same time.
3. **Non-Billable Activity:** Any activity done in connection with representing a client, but identified in the Fee Schedule as a non-compensable service. See section IV Payment Guidelines, subsection , Non-Billable Activities, for an exemplary list on non-billable activities.
4. **MR:** Miscellaneous Representation refers to representation of witnesses during trial.
5. **Panel:** Attorneys whose applications are approved by the Committee shall be placed on a panel. The Court will be able to select from the panel when choosing an attorney to appoint to a case.
6. **Presumptive Cap:** The maximum amount of attorneys fees that may be billed in a case prior to commencement of a trial without an approved waiver of the presumptive pretrial cap (see section IV Payment Guidelines, subsection J, for additional information).
7. **PV:** Probation violation
8. **PX:** Preliminary examination
9. **Waiver of Presumptive Pretrial Cap:** Certain cases may require an attorney to provide more services before trial than the cap for that particular case allows. An attorney may request a waiver of the cap to the Coordinator. See section IV Payment Guidelines, subsection J, for additional information.
10. **The Committee:** Made up of one representative from each the Humboldt County Administrative Office (CAO), Humboldt County Counsel, and Humboldt County Court Executive's Office.
11. **The Coordinator:** Committee representative from the CAO.

II. Applications and Acceptance

1. Attorneys who wish to be eligible to be appointed to serve in the Humboldt County Superior Court as a court-appointed attorney representing indigent defendants shall submit an application to the Committee. Applications can be found on the county's website at humboldt.gov/attorney and submitted to the Humboldt County Administrative Office (CAO) at cao@co.humboldt.ca.us. You can pick up the applications and submit them in person at: Humboldt County Administrative Office

825 5th Street, #112
Eureka, CA 95501

2. After applications are submitted, the Committee will have 7 days to review the application and determine whether the applicant will be accepted, denied, or to notify the applicant that the committee needs more information or more time to review.
3. Once accepted, the applicant's name, including the class for which they are approved, will be added to the panel of attorneys available for appointment in the courts. An updated panel list will be transmitted to the courts each time there is an addition or removal from the list.
4. Courts will choose from the list of panel attorneys when there is need.
5. Courts will attempt to ensure attorney assignments are shared equitably. However, nothing in this rate schedule guarantees that each attorney shall receive an equal number of assignments.

III. TIME FOR SUBMISSION OF ATTORNEY FEES AND EXPENSE REIMBURSEMENTS

1. Attorney fees and expense reimbursements shall be submitted on a monthly basis for cases where there has been billable activity.
2. Attorney fees and expense reimbursements for the previous month's activities and expenses are **due** on or before the 10th day of each month. Attorneys shall submit fee reimbursements for the previous calendar month's billable activities to the county on or before that date.
3. Attorneys are responsible for reviewing and approving an ancillary service provider's bill before submitting it to county for reimbursement.
4. Beginning 30 days after the declaration is due; there will be a 10 percent reduction per month in fees until the fee declaration is completed. For example, attorney has billable activity in a case during the month of February. Attorney's bill is due to the county on (or before) March 10th. Attorney submits his/her bill for those services on April 10th. The attorney's bill would be reduced by 10 percent because the bill was due on March 10th and the bill was deemed late after April 9th.
5. The county will mail payments to attorneys on or about the 5th of each month, provided that funds from the county are available.

IV. CATEGORIES OF CRIMES

A. Criminal Cases

There are four (4) classes of criminal cases. The Committee has set requirements and guidelines for determining which classes of cases an attorney can take with the primary focus on the interests of the client. The Committee may change the attorney's class at any time.

The four classes are:

1. **Class One: Felonies as defined in Penal Code 667.5(c)(1),(2),(7),(16).**

Cases where a defendant is charged with certain felonies listed in subd. (c) of Penal Code section 667.5.

2. **Class Two: All felonies as defined in 667.5 not listed in class one; 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.**

Sexually violent predator cases are included in class two.

3. **Class Three: Felonies and Serious Misdemeanors**

All felonies not described by Classes One and Two and any misdemeanor that requires registration as a sex offender.

4. **Class Four: Misdemeanors**

All misdemeanors not described by Class Three and misdemeanor appeals.

B. Juvenile Cases

The Committee uses the adult criteria to assign juvenile cases.

V. HOURLY RATES PER CLASS/TYPE OF CASE

Class		Presumptive up to trial
Class One	\$90 per hour	N/A
Class Two	\$85 per hour	N/A
Class Three	\$80 per hour	\$1500
Class Four	\$75 per hour	\$750
Contempt	\$75 per hour	\$375
Dependently hear probation violations	Bill time solely on the probation violation separately at the same rate as the charged case making reference to the charged case	
Independent felony probation violations	\$80 per hour	\$500
Miscellaneous (witnesses etc.)	Hourly rate for the charged case.	
Misdemeanor appeals	\$75 per hour	\$1,500
Independent misdemeanor probation violations	\$75 per hour	\$375

Class	Presumptive up to trial
Juvenile cases	Calculate by determining the maximum exposure as if the minor was charged as an adult.
Attorneys shall not bill for more than 10 hours per day except when in trial.	
NOTE: If at any point in the proceedings charges are changed to a different case type, the hourly rate of compensation will be changed accordingly from that point forward.	

Other Payments

Charge		Presumptive Rate
Non-Appointment Fee	\$95	\$95 per case
Same day first/last appearance	\$100	\$100 per case
In-custody client visits	Based on class of case	

VI. PAYMENT GUIDELINES

A. General Information

1. The purpose of these guidelines is to promote uniformity in billing, to aid staff review and payment of billings, and to assist and educate panel attorneys in good billing practices.
2. The guidelines cannot address all situations. The basic principles of billing are (a) a bill for actual time spent; (b) work efficiently; and (c) provide staff with detailed explanations of work performed.
3. Attorneys keep track of both in-court and out-of-court preparation time and use reasonable judgment in deciding how to request compensation.
4. Attorneys may request compensation only for work performed on a case. This includes time spent modifying motions and other work previously done by themselves or other attorneys, but not for “recycled” material that is simply copied into a current motion or pleading.
5. Attorneys should be experienced and knowledgeable in the practice of criminal law. Attorneys will not be compensated to become familiar with law and procedure.
6. Attorneys should work efficiently. Attorneys will only be compensated for work that is necessary for defending the client and appropriate for the stage of the case.
7. Attorneys should use ancillary service providers as needed and whenever overall cost savings can be achieved.
8. Receipts are required for reimbursable expenses.

9. Attorneys must 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. Miscellaneous Payment Issues

1. Multiple Cases in One Calendar Session

Except for dependently heard probation violations, an attorney with multiple cases on calendar shall apportion any wait time equally between/amongst the cases. Dependently heard probation violations shall be billed only on the charged case unless time was spent solely on the probation violation.

2. Multiple Cases for One Defendant

When an attorney is handling multiple cases for a defendant concurrently, the attorney must apportion time amongst the cases as accurately as possible. If any of the cases include trailing probation violations being handled simultaneously with an open case, the attorney may not bill on the probation violation until and unless there are independent court dates.

3. Withdrawing From Case

An attorney may not accept appointment in a new case if the attorney has professional, personal, or calendar commitments that adversely affect the attorney's ability to represent the client. Where it is the client's wish or in the client's best interest to proceed on a no-time-waiver basis, an attorney may not accept the case if the attorney will not be available to represent the client.

Attorneys must check for ethical conflicts which would prevent the attorney from representing the client. The attorney must check for conflicts throughout the pendency of the case. The attorney may not accept appointment if a conflict is evidence. After the attorney accepts appointment, if a conflict arises, the attorney must withdraw immediately.

An attorney who accepts appointment to represent a client must continue to represent the client until the case is resolved. Examples of when an attorney must continue representation include:

- When the attorney withdraws after a bench warrant issues, the client is arrested on the warrant and the court requests the attorney to resume representing the client;
- When the court requires the attorney to represent the client at post-sentence hearings.

An attorney who withdraws from a case in violation of these rules may not be paid and, if already paid, the attorney may have to return the fee. If the attorney withdraws, the attorney must submit a letter setting forth the reasons for the withdrawal. Except in extraordinary circumstances, an attorney who accepts appointment in a case, and thereafter withdraws from it because of previous commitments will not be paid for the case.

C. Hourly Billing

1. Attorneys 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. Below is an illustration of acceptable and unacceptable billing practices:

Date	Time	Acceptable	Unacceptable
1/1	.9	Discovery review – 38 pages plus charting witness statements	Discovery
1/2	1.4	PT in 501, long line, conf. w/client	PT
1/8	2.1	PX prep-review Joe's two statements, prep cross	PX prep
1/9	.60	PX D100 – put over to 2 b/c DA witness FTA'd	PX
1/9	2.5	PX D101, W1, begin W2	PX
1/3	.40	Disco review – Cooper PDRD 1 of 3 (15 minute long) – hard to hear	Reviewed PDRD
1/16	.20	Comm w/co-counsel re: co-Ds 995	Comm w/co-counsel
1/22	.10	(before court) tel conf w/client's mother	Tel conf with family
1/22	.10	(after court) tel conf with client's mother explaining new/dismissed charges	Tel conf with family
3/10	3.70	Trial prep – reviewed 50 jury questionnaires; made jury chart	Trial prep

2. Discrete individual tasks must be delineated. Sufficient information must be provided to allow for meaningful review.
3. Attorney bills that are unclear or require excessive time to review may be rejected.
4. Attorney bills shall account for time in 0.1 hour (i.e., six-minute) increments.
5. Combine multiple small tasks and bill them as a single block up to one-half hour (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. The same is not necessarily true with communicating with your client's friends and family. You are expected to use your judgment when communicating with your client's friend and family and how frequently to do so.

D. Billable Activities

Attorney billable activities are defined as follows:

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 note department when billing for court time.
2. Any out of court activities reasonably required to represent a client and not identified as non-billable.
3. An attorney may charge no more than 1 hour for purchasing clothing for in-custody defendants.
4. Travel time to and from an institutional facility housing your client for the purposes of visiting him/her.
5. Time to review notes and/or summaries of a client's case in preparation for court dates will be compensated so long as an adequate description is provided of the work and its relation to the court date. "File review" as a description is inadequate. Reviewing the entirety of a client's file in preparation for a settlement conference, readiness conferences or progress report will not be compensated.
6. Appeals, Motions, Write: When an attorney is requesting payment for preparing an appeal, motion or writ, a copy of the document must be submitted to the Committee.
7. Attorneys shall personally perform or oversee all necessary services in the case 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 panel 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. This rule may be waived in emergencies and other exceptional situations, only with the prior approval of the Committee.

E. Billing Guidelines

The guidelines set out here are intended to exemplify a reasonable amount of time for performing the specified activities under ordinary circumstances.

1. Tasks completed within the times specified in the guidelines will not need further explanation. You must justify claims exceeding the guidelines by providing an explanation for the amount of time billed, including a detailed description of the work. If staff determines your explanation is inadequate, then you may not be paid for the amount of time over the guideline.

2. You may, but are not required to, request prior authorization from staff for more time to spend on a task.
3. The guidelines do not define either a maximum or a minimum. You are expected to bill the actual time spent to perform the billed activity regardless of the guidelines. In other words, the guidelines do not automatically authorize you to bill for reading discovery at a rate of 50 pages per hour without regard to the actual time spent. Nor do they indicate that you will not be paid for time exceeding the guidelines.
4. The Committee reserves the right to deny payment or adjust payment for any billed service or expense the Committee determines to be unreasonable, unnecessary or to have been done inefficiently.
5. The guidelines are not exhaustive. Attorneys are expected to follow the general billing practices outlined in subsection A, above, in section IV Payment Guidelines when billing for tasks not specified in the guidelines.

Billing Activity/Task	Guideline (in tenths of one hour)
Routine Court Appearance	1.0 hours
Reviewing paper discovery (includes time spent reading and reviewing and taking notes on facts and issues)	50 pages per hour
Telephonic communications with district attorney, court staff, and co-counsel	.10 per call
Written correspondence with client over routine matters (future dates, bench warrant letters, providing discovery)	.10 per letter/email
Preparing informal discovery request	.30
Preparing motion to continue	.30
Preparing motion to suppress (Williams/1538.5 notice and declaration)	1.0
Preparing motion to suppress (non-Williams)	2- 8 hours depending on complexity of issues
Preparing motions to disclose informant	3 – 5 hours depending on complexity of issues.
Reviewing PX transcripts	60 pages per hour
Preparing 995 motion	Statement of facts: up to half time spent reviewing PX transcript plus 1-3 hours to research and draft each distinct legal issue, depending on the complexity of the issue(s).
Preparing a pre-sentencing letter following a plea	1.0
Preparing a return of property motion	.5

F. Non-Billable Activities

The following are non-billable activities:

1. Expungement requests or termination of probation requests pursuant to Penal Code section 1203.4 are handled by the Public Defender for indigent defendants.
2. Travel time to and from the courthouse and to and from the attorney's office and/or home.
3. Clerical and support staff activities including preparation of proofs of service, faxing, filing, copying, or preparation of bills. The committee considers these overhead costs.
4. Attendance at mandatory continuing education classes (MCLE). The committee considers these overhead costs.
5. Time waiting for copies, faxes, emails, walking to and from the post office, or time spent waiting for other administrative tasks to be completed.
6. Being available to the court on telephone standby.
7. 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.
8. The committee will not authorize compensation for the preparation of multiple subpoenas for a single witness or agency once the witness has appeared in court. Attorneys must have the court recognize and order back all witnesses who appear pursuant to a subpoena.
9. File maintenance is not billable. Opening, labeling, and storing a client's file is an overhead expense. Some file-related activities such as breaking down discovery and exhibits and creating trial notebooks are billable so long as the activities is specifically described.
10. If errors are found in billing, either through deliberate or unintentional efforts, the county reserves the request a return of payment.

G. Necessary Expenses

The Committee shall reimburse all reasonable and necessary expenses upon approval by the Committee Coordinator. The Coordinator may approve expenses up to \$5,000. When expenses in a case have/will exceed \$5000, the Committee shall review.

1. Investigators

It is the attorney's responsibility to read/review the discovery, develop a theory of defense of the case, and, if investigation is needed, communicate specific tasks to the investigator that need to be done. Investigators complete all work at the attorney's direction and the attorney is responsible for the verification of the reasonableness of their services.

Attorneys are responsible for monitoring, reviewing, and approving investigators', expert witness, and other ancillary providers' bills before such bills are submitted for payment.

It is the attorney's responsibility to ensure that the expert'/investigator's invoice does not exceed the authorized amount and to seek additional funds when necessary.

Billable non-investigative tasks include, but are not limited to, arranging clothes/dress out client for jury trial and coordinating witnesses' presence at hearings.

Necessary Expenses		
Expense	Rate	
Private investigators	\$50.00 per hour	Court approval of number of hours
Billable non investigative tasks	\$25.00 per hour	Court approval of number of hours
MP3 Creation	\$25.00 per disc for creating an MP3 file and \$18.00 per hour for editing/redacting material that may not be disclosed to the client.	
Out of County Mileage Reimbursement	Current IRS rate	Prior court approval for travel
Special Circumstances	Attorney must secure a court order for investigation and expert witness expenses pursuant to Penal Code section 987.9.	
Expert Witness		
Out of court preparation	Maximum \$200 per hour for consultation and \$150.00 per hour for travel up to a maximum of \$3000	Court approval required
Testimony	Maximum \$250 per hour and \$150.00 per hour for travel	Court approval required
Trial Clothing	Maximum \$75.00	Court approval not required.
Transcription	\$25.00 per hour for the actual time spent transcribing. When more than one appointed attorney is involved in a case, the Committee will authorize	

Necessary Expenses		
Expense	Rate	
	payment for only one transcript. An attorney shall make the transcriptions available to all other appointed attorneys on the case.	
Certified Interpreters	Maximum of \$75.00 per hour	Court approval not required.
Non-certified interpreters	Maximum of \$50.00 per hour	Court approval not required.
Copying costs	Not to exceed 10 cents per page.	Court approval not required.

H. Non-Reimbursable Costs and Expenses

The following are non-reimbursable costs or expenses:

1. Parking.
2. Telephone charges.
3. Fax charges.
4. Office supplies. In extraordinary cases, attorneys may obtain prior approval for reimbursement of DVDs, CDs and USB flash drives.

I. Presumptive Pretrial Caps

1. Caps apply to all work performed up to trial absent an approved waiver of the presumptive pretrial cap (see section F below).
2. Caps remain in effect even after the client has pled guilty or makes an admission of guilty.
3. Caps no longer apply when a case is sent to a department for trial once the court begins addressing in limine motions or the attorney begins picking a jury.
4. Time spent negotiating in court on a trial date does not count against the cap.

J. Requests to Waive the Presumptive Cap.

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. Attorneys must submit requests to the Committee Coordinator at the CAO's office 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 € itemization of the time needed to complete the anticipated work or tasks.
3. Attorneys must submit requests prior to reaching the cap.
4. Decisions to approve or deny waiver requests are guided by the standards of representation outlined in the State Bar of California's Guidelines on Indigent Defense Services Delivery Systems (2006). 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. The Coordinator will deny boilerplate requests.
5. The Decision of the Coordinator may be appealed to the full Committee.
6. The Committee will not authorize payment for services that are not reasonable and necessary to provide an adequate defense.

K. Performance Review

1. The Committee will periodically review the performance of panel attorneys. Such review will include, but is not limited to, court performance and effectiveness, billing practices and communication, and availability.
2. The Committee reserves the right to remove, at any time, an attorney from the panel. Reasons for removal from the panel can include, but are not limited to:
 - a. A breach of terms of the rate schedule;
 - b. Criminal conduct;
 - c. Poor performance;
 - d. Fraudulent, continuously late, or otherwise poor billing practices;
 - e. Unnecessarily declaring conflicts, or otherwise being unavailable for appointment;
 - f. If determined appropriate by a majority of the Committee.