

**FIRST JUDICIAL DISTRICT OF PENNSYLVANIA
ADMINISTRATIVE GOVERNING BOARD**

No. 01 of 2017

In Re: First Judicial District of Pennsylvania Court-Appointed Counsel, Investigative and Expert Witness Fee Schedule

ORDER

AND NOW, this 26nd day of June, 2017, upon consideration of Act No. 438 of 1967 and Act No. 180 of 1970 which provided the legislative authority to the First Judicial District to adopt and award reasonable fees and expenses to be paid to court-appointed counsel; it appearing that Act No. 87 of 1984 provided for the repeal of said acts “effect[ive] upon the adoption of court rules accomplishing the purposes of the acts being repealed;” it further appearing that court rules referenced by Act 87 were adopted by the Board of Judges of Philadelphia County at its February 27, 1986 meeting and the said court rules became effective on July 1, 1986, namely Phila.Crim.R. 424 and 425 (now known as Phila.Crim.R.*122-11 and *122-12); it further appearing that the since July 1, 1986, counsel fee payments and processes have been revised by the Court in a piecemeal fashion, including by Directives No. 1 and 2 issued in 1997 by this Administrative Governing Board, resulting in an amalgam of rules, orders, general court regulations, memoranda and directives which are confusing in application and which, substantively, do not currently provide adequate or reasonable compensation for court-appointed conflict counsel and supporting investigative and expert witnesses;

NOW, therefore, in order to ensure that court-appointed conflict counsel are reasonably compensated, and further to ensure the timely payment of court-appointed conflict counsel as provided in Administrative Governing Board Administrative Order No. 02 of 2012: In Re: Payment of Court Appointed Counsel for Indigent Representation, it is hereby ORDERED and DECREED that attorneys **appointed** by the Court as conflict counsel on and after the dates identified below, shall be paid by the City of Philadelphia in accordance with the following procedures and comprehensive Fee Schedule.

(1) Procedures effective for Court of Common Pleas and Philadelphia Municipal Court - Criminal Division for court-appointed conflict counsel appointed on and after July 1, 2017.

- (a) Court-appointed conflict counsel will receive a uniform trial preparation fee. There will be no distinction between preparation fees for cases that resolve by non-trial disposition and those that resolve by trial.
- (b) Court-appointed conflict counsel will be paid the case appropriate per diem fee for pre-trial motions that are litigated and approved for payment by the court.
- (c) Court-appointed conflict counsel will be paid the appropriate fee for all days spent on trial, including jury selection and deliberation, when required to be present in the Courthouse.

- (d) Philadelphia Rule of Criminal Procedure * 112-12 (E), which provided for review of hourly Fee Petitions by the Deputy Court Administrator for Fiscal Affairs, is rescinded effective July 1, 2017. All hourly Fee Petitions for trial/appellate/PCRA work (regardless of the compensable hourly rate) will be reviewed, as applicable, by the trial judge, Supervising Judge, Administrative Judge or President Judge.
- (e) Court-appointed conflict counsel will be paid a second preparation fee for retrials. Counsel may file a Payment Voucher following a mistrial, and a subsequent Payment Voucher following a retrial.
- (f) Court-appointed conflict counsel will be paid a full felony first degree preparation fee for successful decertification motions. Time spent litigating the motion will be treated as compensable in-court time.
- (g) The trial judge will have discretion to authorize payment of the entire preparation fee to the court-appointed conflict counsel upon entry of outside counsel.
- (h) Until further order, Fee Petitions and Payment Vouchers will continue to be submitted directly to the appropriate judge for review and approval without first being filed with the Office of Judicial Records or other applicable filing office or officer. However, upon approval by the appropriate judge, the original Fee Petition, Payment Voucher and any other order directing the payment of court-appointed counsel, being “legal papers” shall be filed as provided in Subsection (C) of this Order and Philadelphia Criminal Rule 576 (d).

(2) Fee Schedule effective for Court of Common Pleas and Philadelphia Municipal Court - Criminal Division court-appointed counsel appointed on and after July 1, 2017.

- (a) Felony Appellate/PCRA:
 - (i) Maximum Fee \$2,400
 - (ii) Per Hour (In-court and Out of Court) \$65
- (b) Homicide Appellate/PCRA:
 - (i) Maximum Fee \$6,000
 - (ii) Per Hour (In-court and Out of Court) \$85
- (c) Felony Trial Preparation:
 - (i) First Degree \$1,200
 - (ii) Other felonies \$750
- (d) Homicide Trial Preparation:
 - (i) Non-Capital \$3,500
 - (ii) Capital \$10,000 (Lead Counsel)
\$7,500 (Penalty Phase Counsel)
- (iii) In order to provide homicide trial experience to attorneys, and at the request of defense counsel, the court may appoint a “second chair” defense lawyer in non-capital homicide cases. Second chair defense counsel shall receive a total fee of

\$600.00 for their services through the conclusion of the trial court proceedings provided that second chair counsel has been present in the courtroom for the duration of the trial.

- (e) Municipal Court Trial \$450
- (f) Status Hearing
 - (i) Mental Health Court \$100
 - (ii) Treatment Court \$100
 - (iii) Diversion \$100
 - (iv) Early Bail Review Hearings \$100
 - (v) Bench Warrant Hearing \$100
- (g) Investigators – Adult Criminal
 - (i) Guaranteed Initial Fee
 - (A) Homicide \$300
 - (B) Felony \$100
 - (ii) Hourly Fee \$40
 - (iii) Maximum Billable without court order \$500
 - (iv) Amounts in excess of \$500 require approval by the trial judge and the Supervising Judge or Administrative Judge.
- (h) Expert Witnesses
 - (i) Decertification Mental Health Evaluation \$750
 - (ii) All other expert witnesses to be authorized by court order listing amount authorized with voucher submitted directly to trial judge with chronological list of services once case disposed.
 - (iii) Amounts in excess of \$7,500 in non-capital cases to be approved by the Supervising Judge or the Administrative Judge.

(3) The current adult homicide, felony and misdemeanor per diem rates shall remain in effect for court-appointed conflict counsel appointed until June 30, 2018.

(4) Effective for court-appointed conflict counsel appointed on and after July 1, 2018 in addition to the above-mentioned preparation fees, attorneys appointed by the Court as adult homicide, felony and misdemeanor court-appointed conflict counsel shall be paid the following:

- (a) Felony Case Per Diem:
 - (i) Full Day \$450
 - (ii) Half Day (under 3 hours) \$225
- (b) Homicide Case Per Diem:
 - (i) Full Day (Non-capital) \$600
 - (ii) Half Day (under 3 hours – Non-Capital) \$300
 - (iii) Full Day (Capital) \$700
 - (iv) Half Day (under 3 hours – Capital) \$400

(c) Preliminary Hearing	\$225
(d) Violation of Probation Hearing:	
(i) Common Pleas	\$150
(ii) Municipal	\$150
(e) Fifth Amendment Witness	\$150
(f) Contempt	\$150
(g) Early Parole Petition	\$250

(5) Fee Schedule effective for Philadelphia Municipal Court Traffic Division court-appointed counsel appointed on and after July 1, 2017.

(a) On Call Counsel	\$350
(b) Traffic Division Appeal	\$450

(6) Fee Schedule effective for Family Division Delinquent court-appointed counsel appointed on and after July 1, 2017.

(a) Felony	\$550
(b) Misdemeanor	\$450
(c) Consent Decree	\$225
(d) Delinquent Review Per Hearing	\$75
(e) On Call Counsel – no appt.	\$350
(f) Investigator-Trial Preparation	
(i) Initial Fee	\$100
(ii) Per Hour	\$40
(g) Appointment with Prior Counsel	
(i) Prior to Adjudication = Felony/Misdemeanor Rate	\$550 or \$450
(ii) Post Adjudication = Review Hearing	\$75
(h) Private Counsel Retained	\$225
(i) Fifth Amendment Witness	\$225
(ii) Bench Warrant	\$225
(i) Rape, IDSI & Juvenile Felony Sex Case	\$750
** (requires 3 annual CLE credits & court certification)	

(7) Fee Schedule effective for Family Division – Dependent court-appointed counsel appointed on and after July 1, 2017.

- (a) First Year: After
 - (i) First Hearing \$200
 - (ii) Second Hearing \$200
 - (iii) Third Hearing \$175
 - (iv) Fourth Hearing \$175
 - (v) The total annual fee shall not exceed \$750. If dismissed during the first year, court-appointed conflict counsel shall be paid the outstanding balance of \$750.
- (b) Second Year: After
 - (i) First Hearing \$125
 - (ii) Second Hearing \$125
 - (iii) Third Hearing \$100
 - (iv) Fourth Hearing \$100
 - (v) The total annual fee shall not exceed \$450. If dismissed during the second year, court-appointed conflict counsel shall be paid the outstanding balance of \$450.
- (c) Third Year and Subsequent Years: After
 - (i) First Hearing \$75
 - (ii) Second Hearing \$75
 - (iii) Third Hearing \$75
 - (iv) Fourth Hearing \$75
- (d) On Call Counsel (2) – no appt. \$350
- (e) Appeal:
 - (i) Maximum \$2,400
 - (ii) Out of Court per Hour \$65
 - (iii) In Court per Hour \$75
- (f) Adoption = AP matter only
 - (i) Maximum \$2,400
 - (ii) Out of Court per Hour \$65
 - (iii) In Court per Hour \$75
- (g) Investigator - per hour \$40

(8) Fee Schedule effective for Family Division – Domestic Relations court-appointed counsel appointed on and after July 1, 2017.

- (a) Contempt On Call Counsel (2)
 - (i) 10 am – 2 pm \$250
 - (ii) All Day Assignment \$350

(9) Payment to Conflict Court-Appointed Counsel in Extraordinarily Complex Cases.

Notwithstanding any of the above fee provisions, the Court of Common Pleas judge before whom a case is being tried or was tried, shall have the discretion, in extraordinarily complex cases requiring court-appointed conflict counsel, to request that counsel be compensated at a rate to be determined by applicable Supervising Judge, Administrative Judge or President Judge.

It is further ORDERED and DECREED that:

- (A) Representatives of the City of Philadelphia and the First Judicial District of Pennsylvania shall draft Fee Petitions and Payment Vouchers which will be utilized in each case type for all of the above listed matters and which will be utilized in each case by the court-appointed conflict counsel.
- (B) All Fee Petitions and Payment Vouchers must be filed within the following periods:
 - (1) For yearly payments, no later than ninety (90) days after the calendar year at issue.
 - (2) After verdict, plea, or mistrial, no later than ninety (90) days after the disposition.
 - (3) After sentencing, no later than ninety (90) days after sentencing, regardless of whether the case is appealed.
 - (4) For Appeals and PCRA's, no later than ninety (90) days after resolution of the appeal by the court with which the appeal or PCRA was filed.
- (C) Following judicial review and approval of the Fee Petition and Payment Voucher, the signed order and approved Payment Voucher shall be filed of record with Criminal Listings, 2nd Floor, Justice Stout Center (for Adult Criminal Matters), and with the Liaison Unit, 11th Floor, Family Court Building (for Family Court Matters), or with any other filing office or officer as the Court may decide from time to time. Upon receipt, the applicable filing officer shall time-stamp, docket and convert the Order or Payment Voucher filed in a paper format to a pdf format. In criminal matters, service of the Order or Payment Voucher shall be accomplished on all parties as well as on the City of Philadelphia, Counsel Fee Unit, as provided in Philadelphia Civil Rule 576 (g). All original hard-copy Fee Petitions and Payment Vouchers will be provided to the City of Philadelphia, Counsel Fee Unit, for processing and retention consistent with Philadelphia Criminal Rule 576 (d).
- (D) The City of Philadelphia shall issue payment to court-appointed conflict counsel within sixty (60) days of the date a Payment Order or Payment Voucher appropriately prepared as provided in this Order, and consistent with Phila. Code § 17-1702 (1) (b), is received by the Counsel Fee Unit of the City of Philadelphia. If payment is delayed, the City of Philadelphia shall pay interest on the unpaid amount at the rate of one and one-half percent (1.5%) per month or part of a month until payment is made, unless such delay results from an existing tax lien in accordance with 53 P.S. §§ 16082, 16083.
- (E) To the extent any local rule, administrative order or memoranda governing the payment of court-appointment counsel is in conflict with any provision of this order, the provisions contained in this order prevail and the conflicting local rule, order or memoranda are deemed to have been rescinded.

This Administrative Order is issued in accordance with the April 11, 1986 order of the Supreme Court of Pennsylvania, Eastern District, No. 55 Judicial Administration, Docket No. 1. As required by Pa.R.J.A. 103(d), this Administrative Order was reviewed by the Supreme Court of Pennsylvania Criminal Procedural Rules Committee, the Juvenile Court Procedural Rules Committee, and the Domestic Relations Procedural Rules Committee which have concluded that the Order is not inconsistent with the Pennsylvania Rules of Criminal Procedure, Pennsylvania Rules of Juvenile Court Procedure, and the Pennsylvania Rules of Domestic Relations Procedure.

This Administrative Order shall be filed with the Office of Judicial Records (formerly the *Prothonotary, Clerk of Courts and Clerk of Quarter Sessions*) in a docket maintained for Administrative Orders issued by the First Judicial District of Pennsylvania. As required by Pa.R.J.A. 103(d)(5)(ii), Two certified copies of this Administrative Order, as well as one copy of the Administrative Order shall be distributed to the Legislative Reference Bureau on a computer diskette for publication in the *Pennsylvania Bulletin*. [As required by Pa.R.J.A. 103(d)(6)] One certified copy of this Administrative Order shall be filed with the Administrative Office of Pennsylvania Courts, shall be published on the website of the First Judicial District at <http://courts.phila.gov>, and shall be incorporated in the compiled set of local rules no later than 30 days following publication in the *Pennsylvania Bulletin*. Copies of the Administrative Order shall also be published in *The Legal Intelligencer* and will be submitted to *American Lawyer Media*, *Jenkins Memorial Law Library*, and the Law Library for the First Judicial District.

BY THE COURT:

/s/ Sheila Woods-Skipper

Honorable Sheila Woods-Skipper
Chair, Administrative Governing Board of
the First Judicial District of Pennsylvania
President Judge, Court of Common Pleas of
Philadelphia County