

**AMENDMENT TO AGREEMENT
BETWEEN THE COUNTY OF SAN MATEO AND
THE SAN MATEO COUNTY BAR ASSOCIATION**

THIS AMENDMENT TO THE AGREEMENT, entered into this 17th day of
May, 2022, by and between the COUNTY OF SAN MATEO, hereinafter called
"County," and the San Mateo County Bar Association hereinafter called "Contractor";

W I T N E S S E T H:

WHEREAS, pursuant to Government Code, Section 31000, County may contract with independent contractors for the furnishing of such services to or for County or any Department thereof;

WHEREAS, on June 8, 2021, the parties entered into an Agreement (Resolution No. 078195) to continue to provide appropriate and competent legal services to financially eligible persons accused of a crime in San Mateo County, to those who are subject to the delinquency laws of the Juvenile Court, and to all those entitled to the services of court-appointed counsel in other proceedings for the term July 1, 2021 through June 30, 2023 for an amount not to exceed \$43,966,291; and

WHEREAS, the parties wish to amend the Agreement to increase the not to exceed amount by \$659,000 to a new amount not to exceed \$44,625,291 and incorporate Appendix B1 effective April 1, 2022 with no change to the term of the Agreement.

NOW, THEREFORE, IT IS HEREBY AGREED BY THE PARTIES HERETO AS FOLLOWS:

1. Section 1 of the agreement is amended to read as follows:

1. SERVICES

The Association will provide qualified attorneys for acceptance of appointment as counsel for all financially eligible persons entitled to court-appointed counsel as a matter of law in the Superior Court of San Mateo County. The Association will provide such representation in criminal cases, juvenile delinquency cases, mental health cases, civil and miscellaneous cases as more fully described in Section 2 of this Agreement and Fee Schedule detail in **APPENDIX B** and **APPENDIX B1**. As part of such representation, the Association shall provide attorneys to appear at all arraignment calendars, all specialty courts, juvenile court detention calendars, review calendars, '602' placements calendars, and as requested by the Superior Court of San Mateo County. As to the cases

described in Section 2 of this Agreement, and Fee Schedule detail in **APPENDIX B** and **APPENDIX B1**, the Association will provide necessary and appropriate ancillary services such as investigations, experts and other forensic services, the expense of which is not otherwise provided for by law. The Association shall also employ appropriate staff as may be required to fulfill its obligations under this Agreement.

The Association agrees and understands that the services performed under this Agreement, whether by the Association or the attorneys and/or investigators providing the representation described herein, are performed as independent contractors and not as employees of the County, and that neither the Association nor any attorneys and/or investigators performing hereunder acquire any of the rights, privileges, powers, or advantages of County employees.

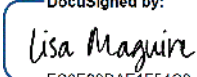
3. COMPENSATION

a. Costs will be based upon the actual amount paid by the Association for representation of PDP clients on all types of cases and services provided pursuant to this Agreement based upon the Fee Schedule which is attached hereto as **APPENDIX B** and **APPENDIX B1**, plus any actual administrative overhead costs incurred that are not included in **APPENDIX B** and **APPENDIX B1**. The total paid to the Association shall not exceed the total sum of \$21,648,544 for services provided through June 30, 2022 and \$22,976,747 through June 30, 2023, unless stipulated by written agreement of the Parties.

- 2. All other terms and conditions of the agreement dated June 8, 2021, between the County and Contractor shall remain in full force and effect.**

In witness of and in agreement with this Agreement's terms, the parties, by their duly authorized representatives, affix their respective signatures:

For Contractor: SAN MATEO COUNTY BAR ASSOCIATION

<small>DocuSigned by:</small>  <small>FC0E99DAE1F54C6...</small>	<u>5/5/2022</u>	<u>Lisa Maguire</u>
Contractor Signature	Date	Contractor Name (please print)

For County:

COUNTY OF SAN MATEO

By:
President, Board of Supervisors, San Mateo County

Date:

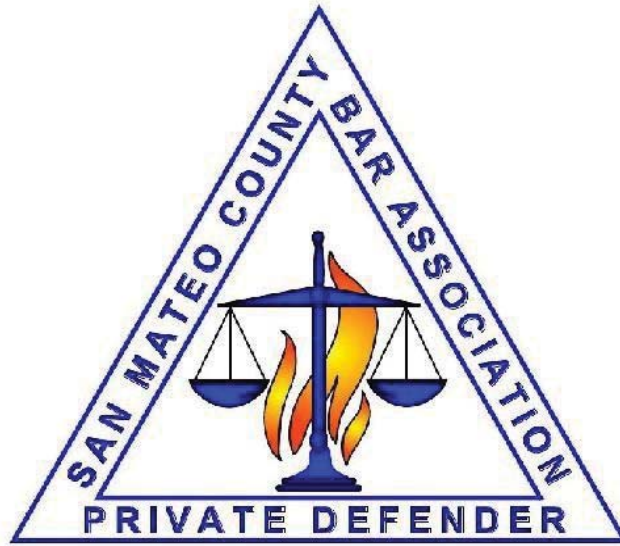
ATTEST:

By:
Clerk of Said Board

Exhibit B1

**Fee Schedule
Effective April 1, 2022**

San Mateo County Bar Association Private Defender Program



FEE SCHEDULE

Effective 04/01/2022

SECTION I - MISDEMEANOR/FELONY CRIMINAL -ADULT**1. Misdemeanor- General non DV charges**

A. Case Fee	\$275
B. Client Conference fee	\$100
C. Pre-trial Conference	\$125
D. Probation Violation – unconsolidated case fee	\$200
E. Probation Violation – consolidated case fee	\$125
F. Probation Violation – unconsolidated – pre-trial conference fee	\$125
G. Probation Report and Sentencing or Restitution	\$150
H. Contested Hearings on Probation Violations, sentencing, restitution, etc.	\$125/hour

2. Misdemeanor- Domestic Violence

A. Case Fee	\$300
B. Client Conference fee	\$100
C. Pre-trial Conference	\$125
D. DV Probation Violation – unconsolidated case fee	\$200
E. DV Probation Violation – consolidated case fee	\$125
F. DV Probation Violation – unconsolidated – pre-trial conference fee	\$125
G. Probation Report and Sentencing or Restitution Determination	\$150
H. Contested Hearings on Probation Violations, sentencing, restitution, etc.	\$125/hour

NOTE: Client conference fees are billable only one time per case. This fee is payable after an in-person conference with client, before the first court appearance. Where client is unable to meet, a substantive call or detailed e-mail exchange will suffice. Where **client** has multiple cases pending on the same calendar, the fee should only be billed on one of those cases.

3. Felony- Original Filing in Court of Limited Jurisdiction (prior to “Superior Court”)

Case Fee depends on what happens with the case. This is a total fee and there are no separate SCR fees.

A. PRELIMINARY HEARING IS HELD when there is NO SCR	
1. First Session (a.m. or p.m.)	\$685
2. Additional sessions – per hour	\$125
3. Client conference fee	\$100
B. PRELIMINARY HEARING IS HELD when there IS an SCR	
1. SCR fee	\$125
2. First Session (a.m. or p.m.)	\$625
3. Additional Sessions – per hour	\$125
4. Client conference fee	\$100

When the Preliminary Hearing IS HELD and after the prelim the Court or DA reduces the entire case to a misdemeanor, the case is dismissed, the client pleads or the case is simply certified, then the fee is the same as above. If case is reduced to a misdemeanor after Preliminary Hearing but not completely resolved, you should bill misdemeanor case fee and Pre-trial fee as appropriate.

C. NO PRELIMINARY HEARING IS HELD AND:

1. SCR fee	\$125
2. Client WAIVES Preliminary Hearing	\$270
3. Client fails to appear and attorney withdraws at SCR	\$225
4. Client fails to appear and attorney withdraws at Preliminary Hearing	\$280
5. Retained counsel substituted in at SCR	\$225
6. Retained counsel substituted in at Preliminary Hearing	\$280
7. Client pleads to a felony or misdemeanor and is fully sentenced	\$400
8. Client pleads to a felony or misdemeanor and is put over for sentencing or restitution report	\$270
9. Case is totally dismissed at SCR	\$345
10. Case is totally dismissed at Preliminary Hearing	\$400
11. Client pleads and is sentenced to DEJ	\$400
12. Case is reduced to misdemeanor before Preliminary Hearing is held. (If this occurs at any time without client immediately entering a plea, you should create new billing entries for misdemeanor case fee, pre-trial and jury trial fee as appropriate.)	\$190
13. If a doubt is declared at any time before certification to Superior Court (See also Fee Schedule 9. A.)	\$300
14. Contested hearings on restitution or sentencing issues.	\$125/hour
15. Client conference fee	\$100

NOTE: Client conference fees are billable only one time per case. This fee is payable after an in-person conference with client, before the first court appearance. Where client is unable to meet, a substantive call or detailed e-mail exchange will suffice. Where **client** has multiple cases pending on the same calendar, the fee should only be billed on one of those cases.

4. SUPERIOR COURT CASES

A. Felony Case fee/non-special fee	\$800
B. Superior Court pre-trial conference	\$200
C. Probation Report and Sentencing (859) or Restitution Determination (This fee applies only to felonies that are resolved at SCR or Preliminary Hearing and require a future sentencing/restitution appearance in Superior Court).	\$250
D. Probation Report and Sentencing/Restitution on Superior Court felonies	\$150
E. Contested hearing on sentencing issues	\$125/hour
F. Client conference fee	\$100

NOTE: Client conference fees are billable only one time per case. This fee is payable after an in-person conference with client, before the first court appearance. Where client is unable to meet, a substantive call or detailed e-mail exchange will suffice. Where client has multiple cases pending on the same calendar or a consolidated probation violation, the fee should only be billed on one of those cases.

5. POST CONVICTION CASES

A. Felony Probation Violation Unconsolidated - Case Fee	\$300
B. Felony Probation Violation Consolidated - Case Fee	\$125
C. PRCS Violation Unconsolidated - Case Fee	\$300
D. PRCS Violation Consolidated- Case Fee	\$125
E. Parole Violation Unconsolidated -Case Fee	\$300
F. Parole Violation Consolidated -Case Fee	\$125
G. Pre-Trial Conference for Probation, Parole and PRCS Violations if Unconsolidated	\$125
H. Hearings on Probation, Parole, PRCS Violations	\$125/hour
I. Client conference fee	\$100

NOTE: Client conference fees are billable only one time per case. This fee is payable after an in-person conference with client, before the first court appearance. Where **client** is unable to meet, a substantive call or detailed e-mail exchange will suffice. Where client has multiple cases pending on the same calendar or a consolidated probation violation, the fee should only be billed on one of those cases.

6. TRIAL FEES - Misdemeanor and Felony (in addition to case fees)

A. Jury Trial	
1. Trial Fees – Per Hour	\$150
2. Preparation Fee – Per Day	\$350
3. Jury Deliberation – (payable only if attorney is unable to return to office – explain on bill)	\$125/half day \$250/day
B. Court Trial	
1. Court Trial Fees - Per Hour	\$125
2. Preparation Fee – Per day	\$250

NOTE: Trial fees commence ONLY when and if a case is assigned out to a TRIAL department, and is thereafter payable ONLY for hours in court, or for in-chambers discussions.

Preparation fee is payable for each day of jury trial and each day of court trial, once the case is assigned to a TRIAL department AND once *in limine* motions or jury selection has begun through closing argument only.

The Preparation Fee is NOT paid for Probation Violations or Court Trials on transcripts with no testimony.

7. MOTIONS - a copy of the motion must be attached to the bill for review.

A. COMPLEX MOTIONS	\$400
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A complex motion is one that includes complex issues, original research, original writing, or a combination of these things. Extensive details and facts regarding the client could also make a motion fall into this category. (e.g.- a detailed Romero motion, a 995 with citations to the record and detailed legal analysis.) In this type of motion, facts are detailed and the attorney has attempted to analyze and distinguish the case, or go beyond addressing simple issues that have been previously briefed.

B. STANDARD MOTIONS \$250

A standard motion is one that uses material that has been previously briefed, but still requires some original material that analyzes the applicability of the case's facts to the cited law and a statement of facts. It should include unique application to your client and argument applicable to your case.

C. BOILERPLATE MOTIONS \$50

A Boilerplate motion is one that has no original research, writing, or argument about the case and the only original work is the caption and possibly a brief statement of facts. These are basic motions to continue, join in someone else's motion, *in limine* motions for not using certain terms like "victim", federalizing all objections, and the like.

Note on Motion Levels: If you feel that your motion does not fit into a specific level – Administrative Fees may be requested with a detailed explanation of why your work is beyond the level generally applicable. (See section IV: 1)

D. HEARINGS AND ARGUMENT ON MOTIONS \$125/hour

8. MISDEMEANOR AND FELONY CRIMINAL CALENDARS

- A. Misdemeanor Arraignment Calendar – two (2) hours or less \$175
1. Over two (2) hours – additional per hour \$100
 2. Cases closed on calendar–per case \$100

- B. Superior Court AM Arraignment Calendar- two (2) hours or less \$225
1. Over two (2) hours – additional per hour \$100
 2. Cases closed on calendar -per case \$100

- C. Superior Court PM Custody Calendar \$540
- NOTE:** Cases closed on this calendar or continued for resolution are not separately billable by attorney.

- D. Specialty Court Calendars
1. Drug Court, Treatment Court, Pathways, Veterans and Military Diversion Court, Mental Health Diversion Court, LPS calendar \$185/hour
 2. PC1370 Court, DV Review Calendar, DUI Review Calendar, DUI Conference Calendar and Restitution Court \$170/hour

- E. Specialty Court Calendars – preparation fee \$150
(Drug Court, Treatment Court, Veterans and Military Diversion Court, DUI Court, LPS and Restitution Court)

9. PC1367/1368 – WHEN A DOUBT IS DECLARED AS TO COMPETENCE

A. FEE WHEN DOUBT DECLARED FELONY CASES IN “LOWER COURT”

\$300

Upon a declaration of doubt regarding competence, the case will go to Superior Court for the appointment of doctor(s), receipt of doctor(s) report, and a possible placement order. This fee is to cover these appearances and review of the reports.

If the client is found **competent** and proceedings are reinstated, when the case returns to where it was left off, bill normally.

If a client is found **incompetent** and placed, bill a case fee. When and if the client is later returned as competent, the case should be billed as a new case. (Unless the client is returned to competency within 60 days).

B. FEE WHEN DOUBT IS DECLARED IN FELONY CASES IN SUPERIOR COURT

\$300

Upon a declaration of doubt regarding competence, the court will appoint doctor(s), and you will return to court for the receipt of doctor(s) report, and a possible placement order. This fee is to cover these appearances and review of the reports.

If the client is found **competent** and proceedings are reinstated, when the case returns to where it was left off, bill normally.

If the client is found **incompetent** and placed, bill a case fee. When and if the client is returned as competent, the case should be billed as a new case. (Unless the client is returned to competency within 60 days).

C. SPECIAL FEE CASES – Felony and Misdemeanor (These cases should be billed hourly for all work).

D. MISDEMEANOR CASES

\$300

Upon a declaration of doubt regarding competence, the case will go to the 1370 Calendar for the appointment of a doctor and receipt of that doctor’s report. If found incompetent, the court will conduct screening and status hearings pursuant to PC1370.01. This fee is to cover these appearances and review of the reports.

If the client is found competent and proceedings are reinstated, when the case returns to where it was left off, bill normally.

If the client is found incompetent and is accepted into Mental Health Diversion, bill according to section E.2 below.

If the client is found incompetent and is accepted into AOT or a conservatorship is established, the case will be dismissed, and you will close the case and bill a case fee and any other fees as appropriate.

If the client is found incompetent, and case is dismissed because the client does not meet any criteria under PC1370.01, you will close the case and bill a case fee and any other fees as appropriate.

E. WORK ON FELONY OR MISDEMEANOR CASES AFTER PLACEMENT IS ORDERED AND CASES WHERE SEEKING AND/OR PLACED ON MENTAL HEALTH DIVERSION

1. PLACEMENT CASES (FELONIES ONLY)

During the time in which criminal proceedings are suspended, it may be necessary or appropriate to deal with issues **after placement is ordered**, but before competency has been restored. In that event, any work done should be billed at the rate of **\$125 an hour**.

Examples of this type of work include: speaking to the jail or hospital personnel to determine if placement has occurred, checking on the client's mental health status and progress toward competence, keeping track of the maximum time for which the proceedings can be suspended, advocating for the client when the maximum confinement or competency restoration time is near, handling of a case where it is deemed that the client will not regain competency, and work towards getting a dismissal or other resolution of the case when appropriate. This may also include an appropriate motion to have the client returned to court and working with LPS attorney or County Counsel.

2. SEEKING MENTAL HEALTH DIVERSION CASES

Once a client begins to pursue MHD it may be necessary or appropriate to deal with issues regarding treatment or progress reports requiring additional time or court appearances. In that event, any work done both in seeking admission to MHD and in following up with client after admission into MHD should be billed at the rate of **\$125 an hour**.

F. TRIAL ON COMPETENCY

If there is a trial on competency, then billing should be done pursuant to Section 6 of the Fee Schedule, billing like any other trial.

10. PETITIONS FOR REDUCTION AND DISMISSAL PURSUANT TO PROP 47 AND PROP 64

- A. Filing Petition for Reduction or Dismissal \$50
- B. Mandatory Court Appearance for resolution of Petition \$80
- C. Writing and Arguing Motion for resolution of Petition are billed according to Section I:7:A-D of the fee schedule

11. SPECIAL ASSIGNMENTS (Only by assignment from the Staff Attorneys)

- A. Special Assignment by Staff Attorneys \$125/hour
- B. Expungements (basic) \$250/Case
- C. Expungement (with declaration) \$350/Case

D. PC 290.5 Sex Registration Petition for Relief	
1. Tier 1 Review & Petition Case Fee	\$350
2. Tier 2, 3, TBD Review & Petition Case Fee	\$600
3. Post-Petition Proceedings and/or Contested Hearing	\$125/hour
E. Line-Up	\$295
F. Motion to Withdraw Plea Review	\$325 fee
Case Fee plus hourly rate	\$125
G. Officer of the Day – half day/full day	\$325/\$650
H. Witness Representation	\$325 fee
Case Fee plus hourly rate	\$125/hour

12. BILLING NOTES FOR ALL CASE TYPES

- A. Where a single client has multiple cases on the same calendar for pre-trial conference, only a single pre-trial conference fee may be billed. (Attorney can pick the case on which to apply the single fee).

When a case or probation violation is consolidated with other cases then only one pre-trial fee may be billed.

In all cases the pre-trial fee is payable only one time, regardless of how many pre-trials are held on the case.

As with any case that requires an extraordinary amount of work, an administrative fee request can be submitted if multiple pre-trial conferences occur and the case is appropriate for such a fee.

- B. In ANY CASE – when the client fails to appear at any point in the proceedings and the PDP is relieved, the case may be submitted for payment. If the client returns to court within sixty (60) days of the FTA, then the previously assigned attorney will be expected to resume representation of the client, and no additional case fee may be billed. (See Policy and Procedure Manual)

If a client fails to appear for a third time with the same attorney, then the attorney can bill as if the case is a new case. (Case Fee and Pre-Trial Fee if held)

- C. ALL bills must be submitted within 90 days of completion of the case or they may not be paid.
- D. All Special Fee/Hourly Cases must be billed MONTHLY or bills may not be paid.

SECTION II - SPECIAL SERVICES**1. CIVIL PROCEEDINGS**

(Family Law Contempt, DCSS Contempt, Probate, Military Dissolution, Paternity, etc.)

- | | |
|---|-------|
| A. Per hour (up to 15 hours: Special Fee request required if over 15 hours) | \$125 |
| B. Trial fees – Same as Adult see section I:6:A and B (except Prep Fees are not paid) | |
| C. Probate Code Sect. 3200 Medical Consent cases | |
| 1. Case Fee | \$250 |
| 2. Hourly | \$125 |
| D. DCSS Contempt Calendar | |
| 1. Two (2) hours or less | \$175 |
| 2. Over two (2) hours – additional per hour | \$100 |

NOTE: Civil Cases MUST be paid MONTHLY like other special fee and hourly cases. A bill should be submitted EVERY month.

2. WRITS

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|---|-------|
| A. Case Fee – if a new assignment only | \$250 |
| B. Per hour – including preparation and hearing (up to 15 hours; Special Fee request required if over 15 hours) | \$125 |

3. APPEALS

- | | |
|---|-------|
| A. Per Hour – including preparation and hearing (up to 15 hours; Special Fee request required if over 15 hours) | \$125 |
|---|-------|

4. MENTOR SERVICES

- | | |
|-------------|--------|
| A. Case Fee | \$1080 |
|-------------|--------|

NOTE: This fee is intended to compensate for the time the mentor invests as a resource to the mentee. It covers such things as telephone conversations and other casual meetings that do not consume significant amounts of time during the period of the relationship.

- | | |
|---------------|-------|
| B. Hourly Fee | \$125 |
|---------------|-------|

NOTE: This rate is paid in addition to the Case Fee above, and covers time spent in more structured meetings that consume significant amounts of time, including but not limited to scheduled meetings to discuss cases, attending court appearances including pre-trials and jury trials that you attend with your mentee, etc.

SECTION III - LPS**1. LPS TRIALS AND RE-HEARINGS**

A. Case Fee	\$500
B. Client conference fee	\$100
C. Jury Trial	
1. Jury Trial Fees – Per Hour (in addition to case fee)	\$150
2. Preparation Fee – Per Day	\$350
3. Jury Deliberation – Per half day	\$125
4. Jury Deliberation – Full day	\$250

(NOTE: Deliberations are compensated only when attorneys are unable to return to their office or other court appearances.)

A. Court Trial	
1. Court Trial Fees – Per hour (in addition to case fee)	\$125
2. Preparation Fee – Per day	\$250
B. Re-Hearing Hourly	\$125

NOTE: Client conference fees are billable only one time per case. This fee is payable after an in-person conference with client, before the first court appearance. Where **client** is unable to meet, a substantive call or detailed e-mail exchange will suffice. Where client has multiple cases pending on the same calendar or a consolidated probation violation, the fee should only be billed on one of those cases.

NOTE: Trial fees commence ONLY when and if a case is assigned out to a TRIAL department, and are thereafter payable ONLY for hours in court, or, for in-chambers discussions.

Preparation fee is payable for each day of jury trial and each day of court trial, once the case is assigned to a TRIAL department AND once *in limine* motions or jury selection has begun through closing argument only.

The Preparation Fee is NOT paid for Probation Violations or Court Trials on transcripts with no testimony.

2. WRITS

A. Case Fee	\$250
B. Per Hour – including preparation and hearing. (Up to 15 hours; Special Fee request required if over 15 hours)	\$125

3. MEDICAL CONSENT/DO NOT RESUSCITATE

A. Case Fee	\$250
B. Hourly	\$125

NOTE: Civil Cases that are determined to be special fee MUST be paid MONTHLY like other special fee and hourly cases. A bill should be submitted EVERY month.

SECTION IV - EXTRAORDINARY FEE REQUESTS

1. ADMINISTRATIVE FEE CASES– Reviewed by Staff Attorneys (Chief Defender, Assistant Chief Defender and Managing Attorneys) for requests up to \$3500 additional to fee schedule.

Cases that do not meet the criteria for treatment as a Special Fee Case (see below), and yet require extraordinary effort and time, may be considered for additional compensation. The standard case fee already includes compensation for things that would normally come up in a case including working with a PI, experts, mental health experts, motions to continue, etc. When you have a case that is particularly complex or difficult you may apply for an Administrative Fee.

Administrative Fee requests allow for additional compensation, beyond the case fees, up to a certain amount. A request describing the case and specific factors that made it extraordinary should be attached to the bill. Additionally, you should include a detailed itemization of the time spent, which will be compensated @ \$125/hour up to the max amount. A cursory statement simply asking for the additional fee without details is insufficient. Insufficiently documented requests will be returned for documentation and may not be paid.

Your bill should reflect your understanding that the Fee Schedule was designed to cover most cases, and is intended to compensate all attorneys on the panel equally for their work. While the Administrative Fee process is available to compensate lawyers for truly extraordinary cases, the management will be mindful of the fact that panel attorneys are never asked to return money on cases assigned to them that settle quickly with little time or effort.

Management reserves the right to review and modify the amount awarded as an administrative fee.

2. SPECIAL FEE CASES– Special Fee cases are assigned by the Staff Attorneys. These cases are billed hourly; no other part of the fee schedule is used in billing these cases. There are different types of Special Fee Cases.

- A. Life Imprisonment: This category includes murders and any case that includes a charge for which the penalty prescribed by law is life imprisonment. Examples of this type of case include murder, attempted pre-meditated murder, One-Strike sexual assault, kidnapping for ransom, etc.
- B. Three Strikes Cases:
1. A true Three Strikes Case where the client has two or more strike priors and the new charge is a serious or violent felony will start out as a “Life Case” under the Special Fee schedule and is billed at \$140/hour.
 2. If a Three Strikes Case, at any time during the pendency of the case, becomes a second-strike case (e.g.- by designation of the District Attorney or because a prior is determined to not be valid and this is acknowledged by the DA) then the special fee amount changes from \$140/hour to \$125/hour from that point forward.
 3. If a Client has multiple strike priors but the case is filed as, or is being prosecuted as, a second strikes case, then the case is NOT a Three Strikes Case. (e.g. – The new charge is not a serious or violent felony.) This case should be billed as a general felony case. If you believe that the case qualifies for a special fee, then follow the instructions regarding making a request under that section of this fee schedule. (Section IV: 2: D)

C. Non-Life Imprisonment: Cases that most frequently fall into this category are extremely difficult felony cases. Examples are: manslaughter, kidnapping, sexual assault, child molestation, high tech crimes, complex fraud litigation, or any other case a Staff Attorney determines to be appropriately set as a special fee case based on the charges.

D. Difficult and Complex Issue Cases

These cases are ones that place extraordinary demands on the attorney's time and skills, and thus qualify, in the Staff Attorneys' judgment, for treatment as Special Fee cases payable at an hourly rate described below.

Generally, this type of case will be assigned by a Staff Attorney as a Special Fee case from the beginning. However, an attorney should make a request when it becomes clear that a case seems it should appropriately be billed as Special Fee. (See section IV: 3)

In determining whether it is appropriate for a case to be a special fee case, the Staff Attorneys will evaluate the request for compensation in light of the realities of indigent criminal defense representation, including our inability to pay the true market value of attorney services. Factors that are considered in determining whether a case merits Special Fee treatment include:

1. Difficult Client – serious mental issues, personality, contrariness, etc.
2. Nature of charges – the gist of the case, the prosecution position, potential punishment.
3. Extra Hours – unusual legal issues, unusual number of or type of expert witnesses to deal with, travel, quantity of documentary evidence to review, difficult witnesses to interview, etc.
4. Motions – unusual in scope or number (attach copy to billings)

E. Petitions for Resentencing on Murder Convictions

\$140/hour

3. SPECIAL FEE REQUEST FORMAT

Most Special Fee cases will be predetermined by the Staff Attorneys (Chief Defender, Assistant Chief Defender and Managing Attorneys). If you have a case that was not already marked as a Special Fee case that should have been (by charge or sentence exposure), you should contact one of the Staff Attorneys.

If you have a case that you would like to have considered as a Special Fee case (that is not one by definition by its charge or sentence), then you **MUST** get approval from a Staff Attorney BEFORE you submit **ANY** hourly billing. Vouchers will be returned if you do not get approval prior to submitting hourly billing.

Without violating the attorney client privilege or compromising either the rights of the client or the attorney's ethical or legal duties, each Special Fee request **MUST** include the following:

- A. An email to a Staff Attorney explaining the charges against the client and why you believe the case is or should be a Special Fee case.
- B. A notation on the first billing of the case as to why it is Special Fee and which staff attorney made the Special Fee approval, and why (very briefly) it is special fee.

- C. Special Fee billing must be specific and detailed and done MONTHLY. Specific examples of how this billing must be done are as follows:
1. Attorneys shall identify each major issue researched and the time spent on them.
 2. The bill shall indicate the nature of the work performed, i.e. SCR, pre-trial, review discovery, Preliminary Hearing, preparation for trial, meeting with client, investigator, DA, or witness, etc.
 3. Identify the documents reviewed
 4. Identify any motion researched or drafted
 5. State the nature of the court appearance and the time involved
 6. All time spent must be itemized in 1/10 hour increments

4. SPECIAL FEE HOURLY RATES

When a case is a special fee case, the billing consists only of hourly billing. You should not bill a case fee, pre-trial fee, motion fees, or any other event-based fee.

- | | |
|-----------------|---|
| A. \$180/hour* | Applies to Lead Counsel in Death Penalty Cases |
| B. \$150/hour | Applies to Lead Counsel in Special Circumstance Cases |
| C. \$150/hour* | Applies to Second Counsel in Death Penalty Cases and Transfer Cases |
| D. \$140/hour | Applies to all other murder, attempted-premeditated murder cases, Three Strikes Life cases, and cases that include a charge for which life imprisonment can be imposed. |
| E. \$125/hour** | Applies to extremely difficult felony cases, such as manslaughter, non-premeditated attempted murder, vehicular manslaughter, kidnapping, sexual assault, sexually violent predator, child molestation, gang cases, high tech crime, complex fraud prosecution, or any other case a Staff Attorney determines is appropriately set at this level. |

*In death penalty cases where two attorneys are authorized, counsel may agree to split the hourly rates between themselves. For example, Lead Counsel and Second Counsel might agree to each bill at \$165 per hour instead of \$180 and \$150 respectively.

**The rate paid for jury trial in these cases will be the higher rate described for all jury trials in the fee schedule – e.g. \$150 an hour.

NOTE: You should be aware that some changes in the status of a case will likely result in a change of the applicable rate. For example, if the District Attorney's Office declares that they will no longer seek the death penalty in a special circumstance murder prosecution, the rate would change from \$180/hour rate to \$150/hour. Similarly, if a simple kidnapping charge becomes a kidnapping for robbery case after the Preliminary Hearing, the case would go from a general non-special fee felony to a special fee case payable at the \$150/hour rate from that point forward. You should alert a Staff Attorney of such a change in status at the first available opportunity.

SECTION V - JUVENILE COURT**1. DELINQUENCY (602 Cases)**

A. CASE FEE	\$540
1. Additional Petition: Unconsolidated	\$355
2. Additional Petition: Consolidated (with case or other PV)	\$145
3. Client conference fee	\$100

NOTE: Client conference fees are billable only one time per case. This fee is payable after an in-person conference with client, before the first court appearance. Where client is unable to meet, a substantive call or detailed e-mail exchange will suffice. Where client has multiple cases pending on the same calendar or a consolidated probation violation, the fee should only be billed on one of those cases.

B. CONTESTED HEARING FEE	
1. Per Hour	\$125

NOTE: Hourly fees commence from the scheduled calendar time (e.g. 9:00 am or 2:00 pm) ONLY if evidence was presented or if the court ruled on a disputed issue. Hourly fees are thereafter payable only for hours in court and in chamber discussions.

2. Preparation Fee- per day	\$250
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NOTE: Preparation fee is payable for each day of contested hearing, once the hearing has begun.

C. DISPOSITION FEE (for each separate appearance)	\$160
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D. PETITIONS FOR REDUCTION AND DISMISSAL PURSUANT TO PROP 47 AND PROP 64

1. Filing Petition for Reduction or Dismissal	\$50
2. Mandatory Court Appearance for resolution of Petition	\$80
3. Writing and Arguing Motion for resolution of Petition are billed according to Section 1:7:A-D of the fee schedule	

E. CALENDARS

1. Placement Review Calendar	\$160
2. Glenwood Review Calendar	\$400
3. Girls Program Calendar	\$400

2. DEPENDENCY: (300 Cases)

A. CASE FEE	
1. Child Representation (1 or more children by the same attorney)	\$970
2. Parent Representation (1 or both)	\$970

NOTE: Case fee is billable after the disposition hearing and includes all uncontested hearings through disposition and all future non-appearance reviews. Contested hearing fees are additional.

B. CONTESTED HEARING FEE

1. Per Hour \$100

NOTE: Hourly Fees Commence from the scheduled calendar time (e.g. 9:00 am or 2:00 pm) ONLY if evidence was presented, or if the court ruled on a disputed issue. Hourly fees are thereafter payable only for hours in court and in chamber discussions.

2. Preparation Fee – per day ½ day \$120

C. MANDATORY POST DISPOSITION REVIEW – by assigned attorney (for each appearance made by assigned attorney. Must select a specific Review)

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|--|-------|
| 1. Family Maintenance Review | \$160 |
| 2. 6 Months Family Reunification Review | \$160 |
| 3. 12 Months Family Reunification Review | \$160 |
| 4. 18 Months Family Reunification Review | \$160 |
| 5. 24 Months Family Reunification Review | \$160 |
| 6. Interim Review Family Reunification | \$160 |

3. WELFARE AND INSTITUTIONS CODE SECTION 366.26 CASES

- A. CASE FEE \$970

B. CONTESTED HEARING FEE

1. Per hour \$100

NOTE: Hourly Fees commence from the scheduled calendar time (e.g. 9:00 am or 2:00 pm) ONLY if evidence was presented, or if the court ruled on a disputed issue. Hourly fees are thereafter payable only for hours in court and in chamber discussions.

2. Preparation Fee – per ½ day \$120

NOTE: Preparation fee is payable for each ½ day of contested hearing once the hearing has begun.

C. MANDATORY POST DISPOSITION REVIEW – by assigned attorney (for each appearance made by assigned attorney)

1. WIC 366.3 Review \$160

4. AB12 CASE FEE:

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|--|-------|
| A. When originates from 602 | \$970 |
| B. When originates from 300 and is a new case | \$970 |
| C. When continues from established 300 case there is no new case fee | \$0 |
| D. Non-Minor Dependent (NMD) Review – Dependency | \$160 |

5. TITLE IV-E FUNDED SERVICES- DEPENDENCY (300 CASES):

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| A. DUAL STATUS REVIEW HEARING WIC 241.1
(for each 241.1 review hearing made by the assigned Dependency Attorney) | \$160 |
| B. Home Visits -Children:
Child visits as required by California Rules of Court, Rule 5.660, up to 2.5 hours
per visit | \$105/hour |

For visits that may take more than 2.5 hours, prior approval from the Managing Attorney is required.

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| C. Attorney attending Child and Family Team (CFT) Meeting | \$200 |
| D. Attorney attending Multi-Disciplinary Team Meeting (MDT) | \$200 |
| E. Attorney attending CSEC MDT | \$200 |

6. MOTIONS- a copy of the motion must be attached to the bill for review.

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| A. COMPLEX MOTIONS | |
| 1. 602 Complex Motions | \$400 |
| 2. 300 Complex Motions | \$350 |

A complex motion is one that includes complex issues, original research, original writing, or a combination of these things. Extensive details and facts regarding the client could also make a motion fall into this category. (e.g. – difficult presumed father or relative placement motions, or complex 700.1 motions) In this type of motions, facts are detailed and the attorney has attempted to analyze and distinguish the case, or goes beyond addressing simple issues that have been previously briefed.

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| B. STANDARD MOTIONS | |
| 1. 602 Standard Motions | \$250 |
| 2. 300 Standard Motions | \$125 |

A standard motion is one that uses material that has been previously briefed, but still requires some original material that analyzes the applicability of the case's facts to the cited law and a statement of facts. The motion should include unique application to your client and argument applicable to your case.

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| C. MOTION USING STANDARD "JV" FORMS – 300 AND 602 | \$80 |
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This motion simply requires the filling in of a form after finding out information from or about your client and his or her circumstances. (e.g – WIC 778,388)

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| D. BOILERPLATE MOTIONS | \$50 |
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A Boilerplate motion is one that has no original research, writing, argument or thought about the case and the only original work is the caption and possibly a brief statement of facts. These are basic motions to continue, motions to join in someone else's motion, *in limine* motions for not using certain terms like "victim", federalizing all objections, and the like.

Note on Motion Levels: If you feel that your motion does not fit into a specific level – Administrative Fees may be requested with a detailed explanation of why your work is beyond the level generally applicable. (See section IV: 1)

E. HEARINGS AND ARGUMENT ON MOTIONS (602 only) \$125/hour

7. OTHER JUVENILE RELATED ASSIGNMENTS

A. Managing Attorney Special Assignments – per hour	\$125
B. Adoption/Guardianship-per hour	\$125
C. DEJ Violations	\$160
D. EMP Violations	\$160
E. Guardian Ad Litem #1	\$970

As client representative in court when client has mental health issues, bill case fee and reviews just like any other dependency case.

F. Guardian Ad Litem #2 – per hour Representation of minor where the client/minor has a potential civil claim.	\$100
G. Juvenile Court Adoption – per hour	\$125
H. Writs – Dependency (300 cases only) Managing Attorney determines which is the appropriate hourly rate.	\$105/\$120/hr.
I. Line-up	\$295
J. Officer of the Day – half day/full day	\$325/\$650
K. Sealing Fee is per Petition. A copy of the sealing forms/orders for each petition should be attached. An attorney may request an Administrative Fee with explanation as to why extra fee is warranted.	\$250
L. Witness Representation – Case Fee plus Hourly Rate	\$325 \$125/hour
M. Miranda advice to in-custody 17 y.o. or younger minor On-call 24 hours for consultation – non holiday 24 hours On-call 24 hours for consultation – holiday 24 hours Consultation with 17 y.o. or younger minor	\$250 \$500 \$135/hour

This fee covers travel to/from location of minor to be questioned and time spent doing the consultation.

N. Miranda advice to minors requested by Juvenile Probation. This fee covers travel to/from location of minor to be questioned and time spent doing the consultation.	\$135/hour
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8. RE-ASSIGNMENT OF CASES

When re-assignment of a case is made, the Chief Defender, Assistant Chief Defender or Managing Attorney of the Juvenile Office will determine the fee to be paid. The factors considered in making the fee determination will be the type of case reassigned, the complexity of that case, as well as the status of the case on the court calendar.

SECTION VI - JUVENILE EXTRAORDINARY FEE REQUESTS

1. ADMINISTRATIVE FEE CASES– Reviewed by Managing Attorney (for requests up to \$3,500 additional to fee schedule for 602 cases and \$2,500 for 300 cases).

Cases that do not meet the criteria for treatment as a Special Fee Case (see below), and yet require extraordinary effort and time, may be considered for additional compensation. The standard case fee already includes compensation for things that would normally come up in a case including working with a PI, expert, mental health expert, motions to continue, etc. When you have a case that is particularly complex or difficult you may apply for an Administrative Fee.

Administrative Fee requests must seek a **specific amount of compensation.** (Specific dollar amount.) A request describing the case and specific factors that made it extraordinary should be attached to the bill. Additionally, you should include a detailed itemization of the time spent, which will be compensated @ \$125/hour up to \$3,500 for 602 cases, and @ \$105/hour up to \$2,500 for 300 cases. A cursory statement simply asking for the additional fee without details is insufficient. Insufficiently documented requests will be returned for documentation and may not be paid.

Your bill should reflect your understanding that the Fee Schedule was designed to cover most cases and is intended to compensate all attorneys on the panel equally for their work. While the Administrative Fee process is available to compensate lawyers for truly extraordinary cases, the evaluators will be mindful of the fact that panel attorneys are never asked to return money on cases assigned to them that settle quickly with little time or effort.

Management reserves the right to review and modify the amount awarded as an admin fee.

2. JUVENILE SPECIAL FEE CASES– Special Fee cases are assigned by the Managing Attorney. These cases are billed hourly; no other part of the fee schedule is used in billing these cases. In determining whether a case is appropriate for special fee status, the Managing Attorney will evaluate the case in light of the realities of indigent criminal/juvenile defense representation, including our inability to pay the true market value of attorney services.

A. DETERMINATION OF SPECIAL FEE CASES:

Determination regarding if a juvenile case is a special fee case may be made in advance of assignment or at the request of an attorney, but the special fee status can only be designated by the Managing Attorney. The specific hourly rate is determined by the type of case and/or by the Managing Attorney. (See section B below.)

Factors that are considered in determining whether a case merits Special Fee treatment include:

1. Difficult Client – serious mental issues, personality, contrariness, etc.
2. Nature of charges – seriousness of the offenses charged, potential serious dispositional consequences
3. Extra Hours – unusual legal issues, complex cases, quantity of documentary evidence to review, difficult witnesses to interview, etc.
4. Motions – unusual in scope or number (attach copy to billings)

B. JUVENILE SPECIAL FEE HOURLY RATES

When a case is a special fee case, the billing consists only of hourly billing. You should not bill a case fee, disposition fees, motion fees, or any other set type of fee.

1. \$140/hour* Applies to murder, and attempted pre-meditated murder
2. \$125/hour* Applies to extremely serious felony 707(b) offenses or sexual assault cases as defined In Penal Code section 290.008, gang cases and non-premeditated attempted murder cases.
3. \$120/hour Applies to complex 300 cases (i.e. shaken baby cases, etc.). Managing Attorney determines which cases are appropriately set at this level
4. \$105/hour* Applies to serious 602 cases including those involving strike offense, complex 300 cases, 300 cases involving extremely difficult clients. Managing Attorney determines which cases are appropriately set at this level.

****The rate paid for Contested Hearings in these cases will be the higher rate of either the Contested Hearing Rate of \$100 per hour or the approved Special Fee rate.***

C. Special Fee Request Format

The majority of Special Fee cases will be predetermined by the Managing Attorney. If you have a case that was not already marked as a Special Fee case that you think should have been, you should contact the Managing Attorney.

If you have a case that you would like to have considered as a special fee case that is not one by definition by its charge or sentence, then you **MUST** get approval from the Managing Attorney **BEFORE** you submit **ANY** special fee billing. Any such vouchers will be returned if you do not get approval **prior** to submitting hourly billing.

Without violating the attorney client privilege or compromising either the rights of the client or the attorney's ethical or legal duties, each Special Fee request **must** include the following:

1. An email to the Managing Attorney explaining the charges against the client and why you believe the case is or should be a special fee case.
2. Special Fee billing must be specific and detailed and done MONTHLY. Specific examples of how this billing must be done are as follows:
 - a. Attorneys shall identify each major issue researched and the time spent on them.
 - b. The bill shall indicate the nature of the work performed, i.e. Jurisdictional Hearing, Contested Hearing, Contested Dispositional Hearing, review of discovery, etc.
 - c. Identify the documents reviewed
 - d. Identify any motion researched or drafted
 - e. State the nature of the court appearance and the time involved
 - f. All time spent must be itemized in 1/10 hour increments

3. BILLING NOTES FOR ALL CASE TYPES

- A. In ANY CASE – when the client fails to appear at any point in the proceedings and the PDP is relieved, the case may be submitted for payment. If the client returns to court within sixty (60) days of the FTA, then the previously assigned attorney will be expected to resume representation of the client, and no additional case fee may be billed. (See Policy and Procedure Manual) If a client fails to appear for the third time with the same attorney, then the attorney can bill for a new case fee.
- B. ALL 602 vouchers must be submitted within 90 days of completion of the case or they may not be paid.
- C. All 300 vouchers must be submitted within 30 days of the completion of the billable activity or they may not be paid.
- D. All Special Fee/Hourly Cases must be billed MONTHLY, or the vouchers may not be paid.