



Cochise County Indigent Defense Coordinator

Public Programs...Personal Service
www.cochise.az.gov

Indigent Defense Coordinator Office

IDC PROCEDURES FOR COURT-APPOINTED ATTORNEYS

IDC assigns counsel in all cases in which the court has made a determination of indigence and ordered that counsel be appointed. A defendant requesting court-appointed counsel must submit a written request to the court. If the request is granted, the court will send IDC a referral for assignment of counsel. Attorneys may not be compensated by IDC for cases not assigned by Cochise County IDC. Attorneys should be mindful of Rule 6.4 of the Arizona Rules of Criminal Procedure regarding indigency and make appropriate requests to the Court for re-determination of indigence for clients.

Assigned attorneys represent that they are qualified to act as counsel in the cases they agree to accept and that they meet the minimum qualifications for such cases as set out in Exhibit A. Attorneys will provide competent, effective, and timely legal assistance and representation and will perform the work to the best of the attorney's ability. Attorneys will maintain contact with clients and keep them informed until the case is completed. Attorneys will use reasonable diligence in notifying clients of necessary court appearances, as well as court action resulting from their clients' non-appearance. Attorney shall comply with the Arizona Supreme Court Rules of Professional Conduct, the Arizona Supreme Court rulings on the standards for effective assistance of counsel as set forth in *State v. Smith*, 140 Ariz. 355 (1984) and *Zarabia v. Bradshaw*, 185 Ariz. 1 (1996), state and local court rules, all applicable local, state and federal laws, statutes, ordinances, rules and regulations and the written administrative policies and procedures established by the Court or the IDC.

Assigned attorneys will represent clients from the date of assignment, through trial and sentencing, or other resolution of the case, including, but not limited to, a plea agreement and sentencing pursuant to such agreement, restitution hearing post-sentencing, dismissal, and deferred prosecution or through fulfillment of terms of a cooperation/witness agreement with the State. If a criminal case proceeds to trial and results in a conviction, the attorney is responsible for preparing and filing a Notice of Appeal. In appropriate circumstances, the attorney may also file a Notice of Post-Conviction Relief or provide clients with the forms to file it.

RETAINED CASES

IDC attorneys are not permitted to concurrently represent an IDC client in a privately retained case.

LIABILITY INSURANCE

Court-appointed attorneys must maintain current liability insurance. When the insurance policy is renewed, a new certificate must be provided to IDC.

FELONY ARRAIGNMENT COVERAGE

A designee of the Public Defender or Legal Defender will appear at arraignment for all court-appointed felony cases. The appointed attorney can always appear at arraignment if they believe it will advance their client's interest on any particular case.

CLOSED CASES

Attorneys will not be compensated for work performed on a closed case unless the case has been re-assigned by IDC. If a probation revocation or motion to resume prosecution is filed after a case has been resolved, the attorney must be reappointed to the case.

DISMISSALS/WITHDRAWALS

When a case is dismissed the court-appointed attorney is relieved of further responsibility in the case.

Court-appointed attorneys may file a motion to withdraw and order when a client has absconded and a bench warrant is issued. The order should not refer the case to IDC for reassignment of counsel. The court will refer the case to IDC for reassignment of counsel if and when the defendant is apprehended.

If an attorney must withdraw from a case due to a conflict of interest, a motion to withdraw and order referring the case to IDC for reassignment must be filed with the court. The withdrawing attorney must send a copy of the motion to withdraw and conformed order to IDC. It is the responsibility of the withdrawing attorney to provide the entire case file to the new attorney as soon as possible.

APPEALS AND RULE 32 POST-CONVICTION RELIEF CASES

Each Appeal and Post-Conviction Relief case is considered a new assignment and must be referred to IDC for assignment of counsel after the Notice of Appeal or Post-Conviction Relief is filed.

JUVENILE DELINQUENCY CASES

Each new petition or petition to revoke probation is considered a separate case. The attorney will represent the Client from the date of assignment through disposition. Attorneys assigned to represent a juvenile as a Guardian Ad Litem should withdraw when their representation is completed.

DEPENDENCY CASES

For dependency cases, the assigned attorney will represent the client(s) until a final order is entered. Attorneys will represent the client(s) in any supplemental dependency petitions and motions to terminate parental rights filed under the original case number.

DIVERSION OR RESUMED/SUSPENDED PROSECUTION CASES

A case that is resolved through a deferred prosecution agreement will be deemed concluded and the attorney should withdraw when the agreement is entered. If prosecution is resumed for failure to comply, the resumed prosecution will be treated as a separate case.

BILLING PROCEDURES

Billing must be submitted to IDC in accordance with these procedures and any current Contract agreements. Billing for court-appointed cases must be submitted to IDC monthly, no later than the 2nd Wednesday of the month following the provision of the service. If the 2nd Wednesday of the month falls on a holiday, billing is due on the next business day. Billing submitted after the 2nd Wednesday of the month will be processed with the following month's billing. Pursuant to A.R.S. § 11-622(C), requests for payment made six months after the last item of the account accrues will not be paid.

IDC will be responsible for reviewing and verifying all billing and may consult with the Court and/or request that the attorney provide additional back-up documentation or explanation.

With prior IDC approval, the County will pay the attorney extraordinary expenses including, but not limited to, the costs of expert witnesses, investigators, extraordinary travel, transcripts for trial court purposes, including interview and deposition transcripts, translation and/or interpretation expenses, clothing for defendant at trial, subpoena fees, process service fees, and any other costs associated with representation in court-appointed cases pursuant to A.R.S. § 13-4013 and within County guidelines and rates. **The attorney shall obtain prior written approval of the IDC before incurring any such extraordinary expenses.** All requests for extraordinary expenses must include an explanation of the need for the request, the hourly rate required, and the estimated number of hours and/or the total fee required to complete the work. Any determination made by the IDC, if disputed by the attorney, will be subject to review by the Presiding Judge of Superior Court or a person designated by the Presiding Judge. If there is a dispute, the attorney shall file a motion for the requested expense and shall include a copy of IDC's denial of the request. A copy of the motion must be provided to IDC at the time of filing.

All subcontractors for extraordinary expenses shall submit their bills to the attorney, who shall review the bills, certify that they are reasonable and were incurred in the course of representation for an assigned case, and then forward them to the IDC for payment. Payments for authorized expenses incurred by a subcontractor may be made directly to the subcontractor.

INVESTIGATORS AND EXPERTS

Attorneys must obtain written IDC approval before employing the services of an investigator or expert witness. Investigators and experts shall submit their bills to the attorney, who shall review the bills, certify that they are reasonable and were incurred in the course of representation for an assigned case, and then forward them to IDC for payment.

The request for an investigator must specify the total number of hours to be approved. Investigators will be paid \$25.00 per hour for investigative work performed prior to or during trial and \$15.00 per hour for assistance in court. IDC will not reimburse out-of-county investigators for travel time or expenses incurred traveling to Cochise County.

Expert witness fees vary depending on the field of expertise. The request must specify the expert's hourly rate and total estimated cost.

PROCESS SERVICE

IDC will not compensate attorneys for employing a private process server. The Cochise County Sheriff's Office Civil Division and the Sierra Vista Constable's Office will serve documents at no charge for court-appointed cases. If the attorney believes that extraordinary circumstances exist and it is necessary to employ a private process server, prior written approval must be obtained from IDC.

COURT FEES

Fees for most services provided by the courts (filing fees, certified copies, issuance of subpoenas, etc.) are waived for court-appointed cases. Prior written approval from IDC must be obtained for reimbursement of any fee paid to a court for services provided in a court-appointed case.

COURT INTERPRETERS

Court Interpreter services are provided at no charge for in-court proceedings and out-of-court interviews/meetings for court-appointed cases; however, there is a fee for written translations. Prior written approval from IDC is required for payment of translation expenses.

TRANSCRIPTION SERVICES

Transcription services will be paid at the following rates with prior written approval from IDC.

Standard Rate: \$2.00/page (English)
\$4.50/page (Spanish)

Rush Rate: \$3.50/page (English)
\$6.00/page (Spanish)

MISCELLANEOUS EXPENSES

When applicable, and with prior IDC approval as required by contract, expenses will be reimbursed as follows:

Copy Expenses: Not to exceed \$0.10/page

Mileage Reimbursement: In-County mileage reimbursement will be paid at the current IRS rate. IDC will not reimburse out-of-county attorneys for travel time or expenses incurred traveling to Cochise County.

Facsimile and Cell Phone Charges: No reimbursement

CASE CLOSING REPORTS

A Case Closing Report must be submitted for each case within 60 days of the date the case is completed. Case Closing Report forms are located on the IDC website, www.cochise.az.gov/IDC, under the "Attorney Billing Forms" link. Select the appropriate form, complete the requested information and select "Submit". You will receive an email confirmation for each Case Closing Report submitted.

Date Fields When completing the date fields, click on the calendar and select the date. Although the day does not appear in the form, it will be submitted with the day selected. This can be verified in the email received after the form is submitted.

After submitting a Case Closing Report, you will see the message, "Thank you, your submission has been received. Go back to the form". To complete another closing report/payment request, select "**Go back to the form**". **DO NOT USE THE BACK BUTTON (←) TO COMPLETE THE FORM FOR ANOTHER CASE.** Using the back button does not clear the form and may cause information from the previous form to be incorrectly submitted.

HOURLY BILLING

The standard non-contract hourly rate is \$50 per hour. The attorney may apply to IDC for additional fees if the attorney believes an assigned case is of a complex or protracted nature.

A separate itemized invoice for each case paid at an hourly rate must be submitted monthly by email to IDC at IDCBilling@cochise.az.gov. Invoices must include the following information:

1. Attorney's Name
2. Client Name
3. IDC Number
4. Case Number
5. Date, brief description, amount of time or expense billed for each service provided
6. The total hours, fees, expenses and the total amount due

When requesting payment for hourly cases, each service or charge must be sufficiently detailed to enable IDC to assess the reasonableness of the time incurred. Hours must be reflected in tenths of an hour. Back-up documentation (receipts, invoices for reimbursable expenses, IDC approval, etc.) must be submitted to IDC with the billing.

Only actual time for any service may be billed. Billing is to be apportioned for travel, mileage, court time, or any other services provided for multiple cases at one time. Apportioned billing may not exceed the actual time expended.

Attorneys will not be compensated for any work performed by attorneys of a non-legal nature that would ordinarily be performed by support personnel, including secretarial and clerical support work involved in preparing and transmitting documents, copying, organizing, filing or similar functions. All overhead expenses, secretarial expenses, expenses for stationery or supplies, computer time, preparation and review of billing, clerical time for photocopying, opening files and calendaring dates, and other items that are a cost of doing business are not compensable.

FLAT FEE CASES

Payment of flat fee felony, misdemeanor, probation revocation and delinquency cases will be made upon receipt of a Case Closing Report. The flat fee payment request is incorporated into the Case Closing Report.

Flat Fee Misdemeanor, Felony, Probation Revocation (PTR), Juvenile Delinquency Cases

Payment is made upon completion of the case and upon receipt of a Case Closing Report. An itemized statement for mileage reimbursement for felony cases must be emailed to IDCBilling@cochise.az.gov. The statement must include the date(s) of travel, the destination, the number of miles traveled, and the total miles.

Flat Fee Felony Cases Exceeding 25 Hours of Attorney Time

When 25 hours have been spent on a flat fee felony case, an itemized invoice shall be submitted to IDC for payment of the \$900 flat fee. All services provided thereafter will be billed at \$60 per hour, with invoices submitted monthly as set out in the Hourly Billing section. ***Do not submit a Case Closing Report until the case is closed.*** When the Case Closing Report is submitted, the payment amount should be left blank.

Flat Fee Dependency and Severance Cases

Payment is made at the time of assignment, upon receipt of a Dependency and Severance Case Payment Request. If a severance motion is filed in a dependency case, a payment request form and a copy of the severance motion must be submitted to IDC for payment of the additional severance flat fee. The severance motion can be uploaded through the payment request form, emailed to IDCBilling@cochise.az.gov, or faxed to 520-432-8461.

EXHIBIT A
MINIMUM QUALIFICATIONS

Attorney shall be an active member in good standing of the State Bar Association of Arizona. Attorney shall meet the following qualifications for each case type assigned:

Serious Offenses or Violent or Aggravated Felonies as Listed in A.R.S. § 13-706 – experienced and active in criminal law with not less than five (5) years criminal litigation experience; at least five (5) jury trials of serious complex cases tried to completion

Felony Cases – experienced and active in criminal law with not less than three (3) years criminal litigation experience; and lead or co-counsel in at least three (3) jury trials to verdict of any class of felony

Appeals and Rule 32 Cases – experienced in criminal law with not less than three (3) years criminal litigation or criminal appellate/post-conviction experience

Misdemeanor Cases – experienced and active in criminal law with not less than one (1) year criminal experience

Delinquency Cases – not less than three (3) years' experience in criminal law and/or juvenile law, familiar with dispositional alternatives, services available through the Court, DCS and community agencies

Dependency and Severance Cases – some experience with child welfare system, family law, mental health and/or guardianships, familiar with services available in the areas of mental health, substance abuse, domestic violence, education, job/vocation training; attorneys representing children must meet the requirements set out in Rule 40.1, Juvenile Court Rules of Procedure