Justice Administrative Commission
Policies and Procedures

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Executive Director

For Private Court-Appointed Counsel

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CHECKLISTS

Attorney Fees & Costs

For attorney fees and costs to be paid, JAC must have received the following documents:

=> Order of Appointment. See § I-D

=> Charging Document. See § I-E

=> Invoice/Voucher Cover. See § II-A

=> Dispositional Document. See § II-A

=> Itemized Hourly Statement (Hourly bills only). See § II-D

=> Progress docket (Hourly bills only). See § II-D

Due Process Services

For due process services to be paid, JAC must have received the following documents:

=> Order of Appointment. See § I-D

=> Charging Document. See § I-E

=> Invoice/Voucher Cover. See § III-A

=> Order authorizing specific due process services is generally required. See § III-C

Section I – Appointments/Opening a Case

A. General Practices and Procedures

Hierarchy of Appointment
JAC has no authority to pay for cases that have not been properly appointed to private counsel. Counsel has an obligation to verify that the Public Defender and Regional Counsel, as applicable, have been properly relieved or discharged from the case.

The court must first appoint the Public Defender for criminal cases and certain other civil cases where provision is made for appointed counsel and the Public Defender is authorized to provide representation. For other civil cases where provision is made for appointed counsel, the court must first appoint the Office of Criminal Conflict and Civil Regional Counsel (Regional Counsel) with a few exceptions.

In those instances where a provision is made for appointed counsel, and where the Public Defender is unable to provide representation due to a conflict of interest, the court shall then appoint Regional Counsel. If Regional Counsel is unable to provide representation due to a conflict of interest, only then shall the court appoint private counsel.

Thus, if the Public Defender is not authorized to provide representation or withdraws due to a conflict, and the Regional Counsel withdraws due to a conflict, only then may the court appoint private counsel from the registry. See generally §§ 27.5303 & 27.511, F.S. In particular, the order of appointment should reflect whether Regional Counsel had a conflict or was otherwise unable or unauthorized to provide representation. Absent such a finding, JAC is not authorized to pay private court-appointed counsel. See §§ 27.40 & 29.007, F.S. Except in limited circumstances, JAC's authority to pay is contingent upon a finding of conflict.

As a rule, Regional Counsel has primary responsibility for providing representation to indigents in civil cases. Two limited exceptions to this requirement are for guardianship proceedings under Chapter 744 where the court cannot determine indigency at the time of appointment and for parental notice of abortion proceedings under s. 390.01114, F.S. Another limited exception applies to attorneys appointed to represent children with certain special needs pursuant to s. 39.01305, F.S. In these instances, a finding of conflict is not necessary.

Registry
The court shall appoint private counsel from the circuit's applicable registry as compiled and approved by the chief judge and as maintained by the Clerk of Court. See § 27.40(3)(a), F.S. The court shall appoint private counsel in rotating order as the names appear on the registry, unless the court makes a finding of good cause on the record for appointing counsel out-of-order.

To be included on a circuit's applicable registry, private counsel shall certify that they meet any minimum requirements established in general law for court appointment,

are available to represent indigent defendants in cases requiring appointed counsel, and are willing to abide by the terms of the JAC's registry contract.

Pursuant to s. 27.40(3), F.S., the chief judge for each circuit is responsible for selecting those attorneys for inclusion in the circuit's registries for private court-appointed counsel. Each fiscal year, if an attorney is authorized for continued inclusion on a registry or is selected for a registry, the attorney will need to execute the registry contract for that fiscal year in order to receive compensation through JAC. The registry contract runs with the State fiscal year (commencing on July 1st and concluding on June 30th).

JAC does not select or otherwise recommend attorneys for inclusion in a private court- appointed registry. Attorneys seeking to be included on a court-appointed registry for a specific circuit must contact circuit registry personnel to obtain an application. Similarly, to be removed from a circuit registry, attorneys must also contact the circuit registry personnel. To assist attorneys, JAC has compiled a Circuit Registry Contact list:

https://www.justiceadmin.org/Reports/attorney_contract_by_circuit.aspx

Additional information regarding the process to become a registry attorney may be available on a judicial circuit's website. The JAC Help Desk cannot provide assistance in this regard.

Registry Contract for Services

Pursuant to ss. 27.40, 27.52, and 27.5304, F.S., to be included on a circuit's private court-appointed registry, private counsel must enter into the contract for services (registry contract) with JAC. A review copy of the registry contract is available on JAC's public website and an executable copy of the contract is available on *My JAC*, (JAC's secure website). The failure to execute a contract in a timely fashion may result in an attorney being removed from the registry. JAC provides regular reports to each circuit regarding the attorneys who have executed the contract for each fiscal year.

JAC's registry contracts have a term corresponding with the state's fiscal year commencing upon execution and ending on June 30th. The contract for the next fiscal year is typically posted on JAC's website in mid-June. Each fiscal year's contract terminates and supersedes any prior registry contract an attorney executes with JAC.

Staring with the 2006-2007 Fiscal Year Registry Contract, JAC has eliminated circuit-specific contracts. Once an attorney signs the statewide registry contract, the attorney would be eligible for compensation for all court appointments, including off-registry appointments, made during that fiscal year from any circuit. Attorneys will be able to execute a new contract each year immediately after it is posted, rather than wait for each circuit to approve its registry and provide it to JAC. An attorney will no longer need to execute multiple contracts. Attorneys will also be able to advise the local circuit that he or she has executed a current JAC contract.

Cases Involving Off-Registry Appointments
Once an attorney signs the statewide registry contract, the attorney is eligible for compensation for all court appointments, including off-registry appointments, from any circuit provided they are on the circuit's court-appointed registry or provide an appropriate off-registry order of appointment. To facilitate combining the registry and off-registry contracts, language was added to the registry contract requiring that off-registry orders of appointment include language finding there were no registry attorneys available for representation or other good cause for an off-registry appointment. This language is pursuant to s. 27.40(7)(a), F.S.

If an attorney receives a case involving an off-registry appointment, the attorney will be responsible for verifying there is language justifying the off-registry appointment in the order of appointment. In the event the order is insufficient to justify an off-registry appointment, payment will be delayed until the attorney provides JAC with an appropriate order. Cases involving off-registry appointments should be opened in *My JAC* in the same fashion as registry appointments.

Electronic Completion/Submission of Contracts
JAC no longer posts an executable copy of the registry contract on its public website. Instead, executable registry contracts will only be available on *My JAC* (JAC's secure website). Counsel who have not already set up an account will need do so before they can execute the registry contract. Information on how to set up an account is available at:
https://www.justiceadmin.org/login/login//Quick%20Reference%20Guide-Attorney%20Login.pdf

Once Counsel has logged onto *My JAC*, in order to view the contracts Counsel will click on the link for contracts. The website will list the registries for which Counsel has been approved. Please be aware that JAC receives the registry lists from each circuit on an ongoing basis so this information may change as JAC receives additional information from the circuit. Counsel will not be able to execute a contract for a circuit until JAC receives notice from the circuit that Counsel is approved, or remains approved, for a registry in that circuit.

Counsel will be directed to the webpage where Counsel can verify the information for the contract. If information needs to be updated, Counsel may do so at that time. Once Counsel has verified the information, Counsel will be able to generate a preview of the contract in PDF format. Once the review is complete, Counsel may electronically sign the contract and submit it to JAC on *My JAC*. Counsel will receive an email confirmation and an electronic copy of the contract electronically submitted to JAC. Under Florida law, an electronic signature is deemed equivalent to a physical signature. Counsel rather than an assistant must be the person who electronically signs the contract.

Alternatively, Counsel may print and execute the contract by signing it in blue ink and then mailing a single copy to JAC. Once JAC has completed its review and executed the contract, a copy will be emailed to you for your records.

Substitute Form W-9
Prior to executing the registry contract, a properly completed Substitute Form W -9 must be submitted to the Department of Financial Services. As part of completing the registry contract, attorneys are required to certify that they have submitted a Substitute Form W-9 to DFS. The form may be submitted electronically through DFS's vendor website:
https://flvendor.myfloridacfo.com/

If you have any questions regarding the Substitute Form W-9, you may contact DFS's Vendor Management Section at (850) 413-5519 or
FLW 9@myfloridacfo.com.

The JAC Help Desk cannot answer questions or otherwise provide assistance in the completion or submission of this form.

Due Diligence
Counsel is responsible for verifying that, as applicable, the Public Defender and/or Regional Counsel have properly withdrawn from the case. Per the registry contract, any payment for a criminal or civil case is contingent on the Public Defender and Regional Counsel being authorized to withdraw or to discharge from the case or a court *sua sponte* finding a conflict precluding representation when the respective offices are authorized to provide representation. If Counsel fails to verify that the Public Defender and Regional Counsel have been properly relieved or discharged from the case, Counsel may not receive any compensation for the case. Under the terms of the registry contract, Counsel waives the right to compensation under those circumstances.

The withdrawal of the Public Defender or Regional Counsel from an earlier proceeding shall not create any presumption that those offices continue to have a conflict for later proceedings including, but not limited to, appeals, violation of probation or community control proceedings, motions for post-conviction relief, and any other extraordinary remedies for which private court-appointed counsel is authorized under Florida law.

No Assignment
Counsel may not assign or subcontract work on a court- appointed case. Counsel is expected to perform all of the legal services on the case. Counsel may not bill or be paid for any legal services performed by another attorney. See § 27.5304(8), F.S. Counsel waives the right to seek compensation for any work done by a lawyer who is not appointed to the case. This includes partners and associates of Counsel's firm even if those attorneys are also on the registry.

In cases in which Counsel is seeking hourly compensation, Counsel is only authorized to bill for services personally performed by Counsel and is not permitted to seek hourly compensation for work done by any other attorney.
Reappointment
A re-opened matter requires a fresh order of appointment. If Counsel embarks upon

a new phase of representation which entitles Counsel to a new compensation structure, such as moving from the trial phase to appeal phase for the same case, then a new order of appointment is needed.

Appointment of Second-Chair Counsel

Where the State has not waived the death penalty, JAC generally does not object to the court's appointment of second-chair counsel where lead counsel is court-appointed. However, JAC lacks statutory authority to pay for appointment of second-chair counsel where lead counsel is privately retained. Therefore, JAC objects to any appointment of second-chair counsel where defendant is represented by privately retained lead counsel. Section 27.52(5)(h), F.S. specifically provides that a court "may not appoint an attorney paid by the state based on a finding that the defendant is indigent for costs if the defendant has privately retained and paid counsel."

If the State waives the death penalty, then appointed second-chair counsel should seek to withdraw from the case. If appointed second-chair counsel does not seek to withdraw, JAC will object to any hourly or extraordinary attorney fees incurred after the State waived the death penalty.

JAC will not process any attorney fees until the case either reaches final disposition and/or a billable point, at which point both appointed lead counsel and appointed second-chair counsel should appropriately complete and submit the applicable Invoice/Voucher Cover, as well as all necessary supporting documents. Per the registry contract, lead and co-counsel are responsible for coordinating the submission of their bills so that JAC can conduct a simultaneous review of both billings. The attorneys cannot file any motion for fees until JAC has received, reviewed and responded to billings by both of the attorneys.

If one of the attorneys seeks interim compensation and the other attorney does not, the attorney not seeking compensation must provide JAC with an hourly statement if the attorney intends to seek hourly compensation at the conclusion of the case.

Withdrawal / Full Performance (Flat Fee Only)

Counsel who is discharged, removed, or otherwise withdraws prior to final disposition is presumed not to be entitled to payment of the full flat fee set forth in the General Appropriations Act. See § 27.5304(11), F.S. If Counsel is permitted to withdraw and the court appoints subsequent private counsel, the combined total compensation for all private court-appointed counsel may not exceed the flat fee absent proceedings to declare the case unusual and extraordinary pursuant to s. 27.5304(12), F.S.

JAC will not process any intended billing for attorney fees until the case reaches final disposition (or a billable point in cases under Ch. 39, F.S.). Any bill received prior to final disposition will be held until the case reaches final disposition and all private court-appointed counsel have submitted their bills. All private court-appointed counsel having served on the case should appropriately complete and submit the applicable Invoice/Voucher Cover, as well as all necessary supporting documents. JAC will not commence its review of any intended billing until all private court-

appointed counsels have submitted their bills for that case or have elected to waive compensation for that case.

When an attorney is permitted to withdraw from a case and another private attorney is appointed to represent a client, the attorney must indicate on the JAC Invoice/Voucher that he or she was not the only appointed attorney on the case. Similarly, if an attorney is appointed to represent a client who was previously represented by another private court-appointed counsel, the attorney must indicate on the voucher cover that he or she was not the only appointed attorney on the case. If an attorney fails to accurately indicate he or she was the only appointed attorney on a case and JAC issues payment in error based upon that representation, then the attorney may be required to return the payment to JAC.

In those cases where more than one attorney is appointed to represent the same client, the trial court is required to apportion the flat fee among all the attorneys. Once all the attorneys have submitted their bills, JAC will issue an objection letter so that the attorneys can file the appropriate motion with the court.

If an attorney does not intend to seek compensation, the attorney may submit a fee waiver form in lieu of a billing. The fee waiver form is posted on JAC's website.

Limited Appointment

If private counsel is appointed by the court to a limited portion of an existing case, such as re-sentencing, restitution hearing, or shelter hearing, Counsel will only be paid that portion of the flat fee as determined by the court. If the case is still pending final disposition, then the case will be treated in the same fashion as other full performance cases.

Scope of Representation

Generally, the scope of representation is limited to state court proceedings. With the exception of a petition for writ of certiorari following affirmation of a death sentence by the Florida Supreme Court, JAC only has authority to pay for representation in state court proceedings pursuant to s. 29.007, F.S. JAC is not liable for payment of attorney fees, costs, or related expenses for other representation in federal court.

Death of Private Court-Appointed Counsel

Upon the death of private court-appointed counsel, the inventory attorney assigned pursuant to Rule 1-3.8 of the Rules Regulating the Florida Bar, or the personal representative or other administrator of the estate, shall provide JAC one copy of the death certificate. If the personal representative or other administrator of the estate is seeking payment due to counsel in a private court- appointed case, then that person shall also provide JAC with a copy of the letters of administration or other documents authorizing the person to administer the attorney's estate.

The following is required for each court-appointed case for which payment of attorney fees is sought posthumously:

1. Copy of the death certificate and letters of administration.
2. Copy of the docket sheet.
3. Copy of counsel's time report for any case payable on an hourly basis.
4. Appropriately completed and executed Invoice/Voucher Cover, as well as all necessary supporting documents.

The following is required for each court-appointed case for which due process services may have been ordered and not yet paid, and for which payment of due process services is sought posthumously:

1. Copy of documentation that indicates due process services were ordered.
2. Inventory attorney or the administrator of the estate may certify receipt of those due process services ordered and rendered prior to death.
3. Private counsel subsequently appointed by the court to any open case of deceased counsel may certify receipt of those due process services ordered prior to death regardless of when services were rendered.

Private Court-Appointed Counsel Separates from Law Firm
If Counsel is named in the order of appointment and Counsel is the payee under the registry contract, then Counsel retains the case even if Counsel changes law firms absent further court order.

If Counsel is named in the order of appointment, but the payee under the registry contract is a law firm or other legal entity, then Counsel retains the case even if counsel changes law firms absent further court order. If Counsel desires to direct payment to a new legal entity, Counsel will have to execute a new registry contract. If a legal entity is named in the order of appointment, and the legal entity's assigned counsel handling the case leaves the firm, then the case remains with the legal entity absent further court order. If a new order of appointment is entered, the order shall be timely provided to JAC.

Private Court-Appointed Counsel Becomes Magistrate or Judge
When private court-appointed counsel becomes a magistrate or judge, the new magistrate or judge may be unable to conclude JAC's payment process after assuming his or her official duties. If a motion and court order are required for compensation, the new magistrate or judge may be prohibited from filing such a motion. Judicial Canon (5)(G) prohibits a judge from practicing law.

Another attorney may act on behalf of the new magistrate or judge to complete the payment process. The order to pay needs to reflect that payment will be made to the person or legal entity identified in the registry contract executed by the new magistrate or judge (former private court-appointed counsel).

Discharge for Malfeasance or Suspension
If Counsel is discharged from a case due to malfeasance, misfeasance, or nonfeasance, or due to a suspension or disbarment by the Florida Bar, JAC may object to payment of attorney fees and costs relating to Counsel's representation of

the client. JAC's liability for payment shall be limited to activities and services that will not have to be duplicated by successor counsel.

Additionally, for cases paid on a flat fee basis, successor counsel is presumed to be entitled to the full flat fee in those cases where prior counsel was discharged due to malfeasance, misfeasance, or nonfeasance, or due to a suspension or disbarment by the Florida Bar. Prior counsel has the burden to show that he or she provided services warranting compensation to receive a portion of the applicable flat fee for the case.

B. Definition of "Case"

Generally

In general, a "case" is each matter assigned a case number by the Clerk of the Court to an indigent person. However, assignment of a case number is not dispositive as to whether it constitutes a case for payment purposes. All cases which are consolidated, contain multiple counts, and are combined or collapsed into single case number shall be considered one case under that case number.

If cases are consolidated prior to the appointment of an attorney, the case shall be considered a single case for billing purposes even if separate informations or other documents were previously filed in the matter.

Criminal

If Counsel is representing a defendant charged with more than one offense in the same case, counsel shall be compensated at the rate provided for the most serious offense, even if the offenses arose from separate transactions. See § 27.5304(1), F.S. Payment is based on the offense charged in an information, indictment, or petition for delinquency. JAC does not determine payment based on the arrest affidavits, police report, order of appointment, or other document unless that document constitutes a charging document under Florida law. An offense severed for trial or any other purpose is not considered a separate case for billing purposes.

In misdemeanor cases, an information or indictment is not necessary for JAC to make flat fee payment. A notice to appear or other similar document is sufficient for JAC to process for payment of a flat fee billing.

In felony cases, an information or indictment must be provided. If the case is dismissed without the filing of an information or indictment, then the attorney may submit arrest affidavits, police reports, or other documentation to establish the existence of the case.

The applicable flat fee will be based on the highest charge set forth in the information or indictment at the time of the appointment or in a subsequently filed information or indictment if it was not filed at the time of the appointment. If the state reduces the charges prior to the time of appointment, the applicable flat fee will be based upon the highest charge still pending at the time of appointment. If an information or

indictment is filed increasing the charges following the date of appointment, the flat fee will be based upon the highest charge in the amended information or indictment.

Capital/Death Penalty
For appointments on or after July 1, 2007, the flat fee or hourly fees for capital (death) cases including capital appeals only applies to any offense for which the potential sentence is or remains death and the state has not waived seeking the death penalty at the time the Attorney is appointed to represent the Defendant. For cases appointed after the effective date of Chapter 2016-13, Laws of Florida, the state must also have filed notice listing the aggravating factors as a prerequisite to a case being defined as a capital death case for billing purposes. An attorney will need to provide this notice to JAC either along with the charging document or thereafter, if the attorney seeks the enhanced compensation authorized for a capital death case.

In order to receive the flat fee or hourly fees for a capital case, Counsel must be eligible and qualified to accept appointment to death penalty cases. If a capital case appointment does not meet these criteria, then the case is considered capital (non-death) appointment or felony appeal for billing purposes. If Counsel is not on the registry for death penalty cases, the appointment shall be deemed as a capital (non-death) appointment unless the order of appointment specifically indicates that Counsel is qualified to accept appointment to death penalty cases.

Violation of Probation (VOP) or Violation of Community Control (VOCC)
Each case for which the state petitions to revoke probation or community control constitutes a separate case for billing purposes.

Post Conviction Proceedings
Each case for which the attorney is appointed to provide representation to a defendant shall constitute a separate case for billing purposes as long as the motion contains allegations as to each case. Similarly, if an attorney is appointed only to certain counts of the motion, the attorney shall only be compensated for the cases related to those counts.

For example, if a motion for postconviction relief lists all of the case numbers for which a defendant is currently incarcerated but only contains allegations as to one of those case numbers, then the attorney is only entitled to payment of a single flat fee.

Additionally, when a court appoints an attorney only as to specific counts of a motion, Counsel acts beyond the scope of authorized representation by providing legal assistance as to any other counts until and unless the court appoints the attorney to represent the defendant on those counts. JAC may object to hourly or extraordinary compensation based upon work done in relation to any counts to which Counsel was not appointed.

Dependency/Termination of Parental Rights
Attorney fees shall be paid based upon representation of a parent irrespective of the number of case numbers that may be assigned or the number of children involved,

including any children born during the pendency of the proceeding. See § 27.5304(6)(a), F.S. If the mother and father is represented by the same private court-appointed counsel, the case shall be considered one case for billing purposes. If a case is closed for more than a year, and the trial court retained jurisdiction, upon reactivation of protective supervision, the case is considered a new case for billing purposes.

For billing purposes, once an attorney is appointed to represent a parent in relation to a petition to terminate parental rights, any ongoing dependency proceedings merge into the termination of parental rights case for billing purposes. The attorney's date of appointment to the termination of parental rights proceeding becomes the date of appointment to the case for future billing purposes. In essence, any dependency proceedings cease for billing purposes once an attorney is appointed to represent the parent in termination of parental rights proceedings. This continues to apply even if the termination of parental rights proceedings are later dismissed. For purpose of calculating future flat fee payments, the date of appointment to the termination of parental rights proceeding generally controls.

For example, if an attorney was appointed to a dependency case on July 1, 2007, was appointed to a termination of parental rights case on April 1, 2009, the termination of parental rights proceeding was dismissed on June 1, 2009, and the case closed on October 1, 2009; the attorney would receive the flat fee payment for the first year of the dependency case, the flat fee payment for the second year of the dependency case, and the flat fee payment for the termination of parental rights case. Because the attorney was appointed to the termination of parental rights case prior to the commencement of the third year of the dependency case, the attorney would not receive the third year payment. The appointment to the termination of parental rights proceeding superseded the prior appointment to the dependency proceeding.

Dependency – Children with Special Needs

Section 39.01305, F.S., allows for compensation of attorneys appointed to represent dependent children with certain special needs. Any right to compensation is limited to those appointments made pursuant to s. 39.01305, F.S. As a precondition to compensation, the order of appointment must contain findings which include a finding that the child qualifies as a child with certain special needs and a finding that there was no pro bono attorney available to take the appointment. The order also must reflect the type of special need that justifies the appointment under s. 39.01305, F.S. It is the appointed attorney's sole responsibility to verify that the perquisites for appointment are met before accepting appointment to one of these cases.

The representation will continue until the attorney is allowed to withdraw, is discharged, or the case is closed or dismissed. The General Appropriations Act sets the flat fee for these appointments at $1,000 per child per year. Billing may be submitted after the first judicial review following the date of appointment and then after the first judicial review in the second and subsequent years of representation in the same manner as other private court appointments in dependency cases.

C. Case Opening Documents

Mandatory Documentation
Upon appointment, Counsel must open the case in JAC's system. Counsel must either (1) use the Case Opening system on *My JAC* (JAC's secure website) or (2) email to compliancereview@justiceadmin.org in order to provide JAC with the following required case opening documents:

(1) order of appointment; and
(2) charging document in criminal cases or initial pleading (initial petition) in civil cases (other than dependency and termination of parental rights cases).

Timely Submission
Counsel must submit the required case opening documents **within 30 days of the date of appointment**. Pursuant to the registry contract, if Counsel fails to open the case and provide JAC with the order of appointment within 90 days of the date of appointment or prior to submitting any motion or billing on the case, the allowable attorney fees may be reduced by $25 as an administrative processing fee. This fee shall not apply if the attorney fees are subject to a penalty for untimely billing under the terms of the registry contract.

Submission of Documents
Unless an original is requested by JAC, legal pleadings such as motions or court orders should be submitted through email to pleadings@justiceadmin.org. Legal pleadings including orders will not be deemed served on JAC until an electronic copy has been provided.

Any response to a Billing Audit Deficiency that does not contain a legal pleading shall be sent to compliancereview@justiceadmin.org. Counsel shall not send more than one electronic copy of any legal pleading or other document to JAC. Prior to resubmitting any document, Counsel shall verify that JAC has not received the document. Absent exigent circumstances, Counsel shall not provide any legal pleading or other document to JAC via facsimile without prior consent.

Forms or documents requiring an original signature, such as Invoice/Voucher Covers, invoices, and travel reimbursement forms, must be mailed to JAC at:

Justice Administrative Commission
P.O. Box 1654
Tallahassee, Florida 32302

To distinguish originals from photocopies, all originals must be signed in Blue ink. Please be advised that many of these documents may now be submitted on *My JAC* (JAC's secure website) through the Case Opening and Online Billing Submission systems.

Responsibility
Counsel is responsible for verifying and ensuring that the required case opening documents are timely and properly submitted, that JAC has received the required case opening documents, and that JAC has entered the case into JAC's database. Counsel may verify that a case has been opened on *My JAC* (JAC's secure website).

Case Numbering Consistency
The case number that appears on the order of appointment provided by Counsel must be used on all further submissions by Counsel for that case. If the court consolidates the original case with any subsequent case, or the case receives a new case number when it enters a new stage, any case-related submissions should reference both the original case number and any subsequent case numbers.

For example, if the order of appointment in a chapter 744 guardianship case has an "MH" designation in the case number, but later converts into a guardianship "GA" case number, Counsel must continue to reference both the "GA" and "MH" numbers in all documents provided to JAC.

D. Order of Appointment

General Requirements
An order of appointment is required for every case in which Counsel is seeking attorney fees, due process costs, or related expenses from the State of Florida. The order of appointment must be dated and indicate the name of the judge, the style of the case, and the case number. It is Counsel's responsibility to ensure that his or her orders of appointment are provided to JAC in a timely fashion.

Please note that no payment for hourly billing can be processed which precedes the date of an order of appointment. However, an order appointing counsel *nunc pro tunc* to the date the court orally made the appointment is generally acceptable. **JAC will not accept a *nunc pro tunc* order authorizing an appointment prior to the date a court actually orally appointed counsel.**

Termination of Parental Rights (TPR) Requirements
In chapter 39 termination of parental rights (TPR) cases, Counsel should obtain an order of appointment for the TPR proceedings, even if counsel is already appointed to the dependency case. In the event that an attorney does not obtain a separate order of appointment, the date of appointment shall be presumed to be the date of the advisory hearing at which the parent first appeared.

For purposes of termination of parental rights cases, the parent must be present at the time of the appointment to the termination of parental rights proceeding. If the parent fails to appear at the advisory hearing and is deemed to have consented, then JAC has no authority to pay an attorney to represent the parent in the termination of parental rights proceeding even if the attorney previously represented the parent in relation to dependency proceedings. A parent who has defaulted does not have a

right to appointed counsel until and unless the parent appears before the court during the pendency of the termination of parental rights proceedings.

Similarly, JAC has no authority to pay compensation for a termination of parental rights proceeding initiated following the voluntary execution of surrenders by a parent. If the basis for the termination of parental rights proceedings is a parent's voluntary surrenders of parental rights, then the parent is not entitled to court- appointed counsel in a proceeding based upon those voluntary surrenders.

E. Charging Documents

Criminal Cases
An indictment or information is required for all criminal matters or cases where such a pleading is filed.

Where a "Notice of No Information" has been filed, Counsel shall supply the necessary supporting documentation to establish the existence of the case, such as the police report, the booking report, the face-sheet of the docket, or any other court document which delineates the charges against the defendant. If the state attorney does not file formal charges, then the flat fee for "no information" cases applies.

Juvenile Delinquency Cases
The petition for delinquency is required.

Where a "No Petition" has been filed, Counsel shall supply the necessary supporting documentation to establish the existence of the case, such as the police report, the booking report, the face-sheet of the docket, or any other court document which delineates the charges against the minor child. If the State elects to "Direct File," the direct file document must be submitted to JAC. If the state attorney does not file a petition then the flat fee for no information or direct file applies.

Compensation in direct file cases depends on whether the attorney continues to provide representation after the case is direct filed.

1. If the attorney continues to represent the defendant in the adult case, then the attorney will be compensated at the appropriate rate for the criminal case based upon the degree of the offense. The attorney will not be entitled to an additional flat fee in relation to the delinquency case. The delinquency case merges into the adult case for billing purposes.
2. If the attorney does not continue to represent the defendant in the adult case, then the attorney will receive the flat fee applicable to direct files.

If a delinquency petition is filed and then dismissed upon the filing of adult charges, then the attorney can bill the flat fee for the delinquency case based upon the dismissal. If the attorney continues to represent the defendant in the adult case, the attorney may also be compensated for the adult case.

Violation of Probation (VOP) or Violation of Community Control (VOCC)
The petition or affidavit seeking to revoke probation or community control is required for all criminal and delinquency VOP and VOCC cases.

Post Conviction Proceedings
Counsel is responsible for providing enough of the motion so that JAC can identify the type of motion and the issues presented therein. If the motion is less than 10 pages, then the entire motion should be provided.

Dependency Cases / Termination of Parental Rights Cases (TPR)
Unless specifically requested, a charging document is generally not required as long as the order of appointment is clear as to the nature of the appointment. However, in termination of parental rights proceedings, Counsel is required to provide sufficient documentation to establish that the case initiated as an involuntarily termination parental rights proceeding and that the parent appeared before the court during the pendency of those proceedings.

General Civil Cases
A copy of the initial pleading (initial petition) is required.

Appeals
A copy of the Notice to Appeal is required including the order(s) being appealed, as well as a copy of the charging document for the underlying case except for dependency and termination of parental rights cases.

Section II – Attorney Fees & Costs

A. General Practices and Procedures

Attorney Fees Online Billing Submission
JAC now accepts attorney fee billing electronically. When a case has reached a billable point, the attorney can submit the billing on *My JAC* (JAC's secure website). Prior to submitting the billing, the supporting documents will need to be scanned as electronic files. All files must be in PDF or TIFF format only. To submit a billing online, the case must have been previously opened. A case can be opened through the Case Opening system in *My JAC*.

To submit a billing, search for the opened case and follow the steps on *My JAC*. During the billing process, the JAC Invoice/Voucher cover will be generated and then electronically signed. All electronic document files submitted must be separate and unique (i.e. please do not scan the charging document with the dispositional document). Once the billing has been successfully submitted, a confirmation message will appear and a confirmation email will be sent which contains a unique tracking number that should be retained. Please DO NOT mail the billing packet to the JAC as duplicate submission may delay payment.

You may have multiple invoice submissions for the same case, i.e. separate invoices for two or more years in a dependency case. However, multiple invoices for different case numbers should not be submitted together, except for submission of an hourly attorney fee bill where the defendant has multiple case numbers. Each invoice should be submitted separately.

Obligation

Counsel billing for attorney fees and costs shall follow the requirements of Florida Law, the registry contract, and JAC's Policies and Procedures. Any forms and documents submitted to JAC should include Counsel's name and bar number.

Counsel shall be familiar with the statutory and contractual requirements for submission of billings to JAC. It is Counsel's responsibility to verify that all necessary documentation required for payment of a billing is submitted to JAC prior to or with the initial submission of a billing. Counsel is also responsible for verifying that the case has reached a billable stage and submitting the billing in an amount consistent with contractual and statutory requirements. Repeated failures to submit billings that comport with statutory and contractual requirements constitute good cause for JAC to terminate the registry contract.

Invoice/Voucher Cover

The Invoice/Voucher Cover is essential for the satisfactory submission of any request for attorney fees and costs. Counsel must appropriately complete and submit the applicable Invoice/Voucher Cover, as well as all necessary supporting documents. For attorney fee billings submitted through the Online Billing Submission system in *My JAC*, the JAC Invoice/Voucher cover will be generated and electronically signed as part of the billing process. Additionally, corresponding instructions are also available on the JAC website and on *My JAC*.

Certification of Time

If Counsel seeks to bill attorney fees on an hourly basis, counsel shall itemize legal services (itemized in tenths of an hour increments) and certify the time. By completing the applicable Invoice/Voucher Cover, Counsel is certifying under oath that counsel has completed the work listed in the itemized statement. The JAC Invoice/Voucher Cover is the functional equivalent of a verified pleading and should be read and reviewed with the same degree of diligence as such a pleading.

Certification of Costs

If Counsel seeks reimbursement for costs (i.e. reimbursable expenses), such costs are required to be certified. By completing the applicable Invoice/Voucher Covers, Counsel is certifying that counsel actually expended the funds for which counsel is seeking reimbursement. Reimbursable costs do not include office overhead expenses such as postage, courier services, internal or in-house copying, telephone charges including long distance and collect calls, and computerized research services such as Westlaw and Lexis/Nexis.

Disposition Documentation

Counsel must submit appropriate court documents indicating the case has reached final disposition, a billable point for Chapter 39 cases, or the court has discharged counsel from the case.

Appellate Disposition Documentation
Appointed counsel must supply a copy of the court's mandate except where billing is authorized prior to final disposition. Counsel shall also provide JAC with a copy of any appellate briefs filed by counsel when seeking hourly compensation. For flat fee billings, Counsel shall provide the first, contents, and signature pages. The brief may be provided in either electronic or paper format.

Withdrawal / Limited Appointment Disposition Documentation
If Counsel has not completed the case or reached final disposition prior to discharge, Counsel shall provide JAC a copy of the order discharging the attorney. However, if the order does not clearly reflect the reason for withdrawal, the motion must also be submitted to JAC. If Counsel is discharged due to the client's retention of privately retained counsel, then the order or the motion should reflect that this is the basis for discharge.

For those cases in which an attorney takes the case to final disposition, the attorney does not need to supply JAC with an order authorizing discharge. An order of discharge is only required where an attorney is discharged prior to the completion of the case.

Full Performance / Multiple Attorneys Appointed to Case
The flat fee under the General Appropriations Act constitutes full compensation for all attorneys appointed to a case absent a finding the case is unusual and extraordinary. See § 27.5304(11)-(12), F.S. Except for capital cases with co-counsel, where multiple attorneys were appointed to a case, any bill received prior to final disposition will be held until the case reaches final disposition and all private court-appointed counsel have submitted their bills. If an attorney does not intend to seek compensation, the attorney may submit a fee waiver form in lieu of a billing. The fee waiver form is posted on JAC's website. JAC only pays the full flat fee administratively to a single attorney. If more than one attorney is seeking compensation on a case, then the court will need to apportion the flat fee between the attorneys.

JAC will not commence its review of any intended billing until all private court-appointed counsel have submitted their bills for that case regardless of whether one or more attorneys asserts the case is unusual and extraordinary. Once JAC issues its responses to the intended billings, the attorneys appointed to case should schedule a single hearing for the court to determine how to apportion the flat fee among the attorneys.

When an attorney is permitted to withdraw from a case and another private attorney is appointed to represent a client, the attorney must indicate on the JAC Invoice/Voucher that he or she was not the only appointed attorney on the case.

Similarly, if an attorney is appointed to represent a client who was previously represented by another private court-appointed counsel, the attorney must indicate on the voucher cover that he or she was not the only appointed attorney on the case. If an attorney erroneously indicates he or she was the only appointed attorney on a case and JAC issues payment in error based upon that representation, then the attorney may be required to return the payment to JAC.

Motion to Withdraw Pleas (Criminal)

The applicable flat fee for motions to withdraw plea will depend on when the motion is filed and who previously represented the indigent defendant. Motions to withdraw plea filed prior to sentencing or within 30 days of sentencing and thereby pursuant to Florida Rule of Criminal Procedure 3.170 are compensated as part of the underlying case. If the defendant was previously represented by the public defender or regional counsel or by privately retained counsel, then private court-appointed counsel would receive the full flat fee once the matter reached final disposition assuming the attorney takes the matter to final disposition. Under these circumstances, final disposition would be either the denial of the motion or the resolution of the case if the court grants the motion. In other words, if the court grants the motion, then the attorney would be responsible for providing representation until the defendant was convicted or acquitted or the case was otherwise resolved. If another appointed attorney takes over the case, then the applicable fee would need to be apportioned between all private court-appointed attorneys.

If the defendant was previously represented by private court-appointed counsel and the motion was filed before sentencing or within 30 days of sentencing, then the flat fee for the underlying case would be apportioned between all private court-appointed attorneys who provided representation in the matter.

If the motion is filed more than 30 days after sentencing and thereby under Florida Rule of Criminal Procedure 3.850 or 3.800 then the applicable flat fee is the fee for representation in criminal postconviction matters.

Review and Response

Upon submission of an intended billing for attorney fees and costs, JAC shall review for completeness and compliance with contractual and statutory requirements. Upon review, depending on whether the intended billing was for payment of a flat fee, payment on an hourly basis, or payment in excess of the flat fee or statutory limitations, JAC will send Counsel an appropriate response including those set forth below.

Billing Audit Deficiency

When JAC receives an intended billing for attorney fees and costs which lack the applicable forms, necessary documentation or requisite information, JAC may send Counsel a Billing Audit Deficiency. The Billing Audit Deficiency will indicate the reason JAC is unable to process the intended billing and will request that Counsel provide the lacking materials.

JAC may, at its discretion, send a Billing Audit Deficiency in an effort to resolve a math error, a rate error, or any other error/issue pertaining to the intended billing. A Billing Audit Deficiency is not a Letter of Objection and cannot be relied upon as a basis to file a motion. Accordingly, Counsel may not file a motion for attorney fees and costs based upon a Billing Audit Deficiency.

Responses to Billing Audit Deficiencies should be submitted either by appending the response to the billing through the Online Billing Submission system on *My JAC* or via email to compliancereview@justiceadmin.org.

If counsel or a due process vendor fails to respond to a Billing Audit Deficiency or fails to provide necessary documentation within a reasonable period of time, then JAC may take appropriate action including, but not limited to, rejecting the bill for payment, issuing a Letter of Objection to payment, or paying the amount authorized under the established rates or applicable court order. If the Billing Audit Deficiency is not responded to within a year, then the billing is deemed abandoned without further notice.

Returned Bills

JAC will return any intended billing for which it lacks statutory authority to pay for the type of representation that is being billed. JAC will also return any intended billing that is duplicative of an intended billing previously received by JAC. JAC may also return an intended billing for other reasons.

If Counsel files a motion for attorney fees and costs, JAC is entitled to notice and an opportunity to be heard. JAC's return of an intended billing does not constitute a waiver of JAC's right to a hearing on the matter. Until and unless JAC specifically indicates its intent not to appear at a hearing or otherwise waives its right to a hearing, JAC is presumed to request a hearing on any matter relating to attorney fees, due process services, or related expenses when a bill is returned to an attorney or vendor.

Administrative Payment (Flat Fee Only)

In accordance with s. 27.5304, F.S., JAC may administratively approve, without the need for a court order or hearing, payment of a flat fee billing for attorney fees and costs that meets statutory and contractual requirements. However, if upon review JAC determines that a flat fee billing for attorney fees and costs cannot be administratively approved for payment, JAC will send counsel a Billing Audit Deficiency, a Letter of Objection, or a Letter of No Objection, or JAC will return the bill.

Payment by JAC shall be made in accordance with ss. 215.422 and 287.0585, F.S., which govern time limits for payment. Time limits do not begin until counsel has made a satisfactory submission, including the appropriately completed and executed applicable forms, as well as all necessary supporting documents, and when required, any motions and/or court orders associated with and/or directing payment.

Letter of Objection and No Objection

When JAC objects to any portion of an intended billing for attorney fees and costs, JAC will send counsel a Letter of Objection. The Letter of Objection will identify JAC's specific objection(s) and indicate JAC's corresponding reason for the objection(s).

The receipt of JAC's Letter of Objection is a mandatory condition precedent to Counsel's filing of a motion for attorney fees and costs. Upon receipt of the Letter of Objection, Counsel may file a motion for attorney fees and costs with service upon JAC a minimum of five days prior to any hearing on the motion. Pursuant to s. 27.5304, F.S., and the registry contract, Counsel shall not file or set for hearing a motion for attorney fees and costs until JAC issues a Letter of Objection or a Letter of No Objection. Any motion for attorney fees and costs must specify whether JAC objects to any portion thereof or the sufficiency of documentation. Counsel shall attach JAC's Letter of Objection to the motion. Counsel must serve a copy of the motion on JAC along with all attachments including JAC's Letter of Objection.

The filing of a motion for payment of attorney fees, due process services, or related expenses prior to receipt of JAC's Letter of Objection or No Objection constitutes a breach of the registry contract.

When an intended billing for attorney fees and costs is satisfactorily submitted, and JAC has no objection to any portion thereof, JAC will send counsel a Letter of No Objection in those instances where JAC lacks authority to pay the billing administratively. Upon receipt of JAC's Letter of No Objection, Counsel may file a motion for attorney fees and costs. Counsel shall attach JAC's Letter of No Objection to the motion.

If the Letter of Objection or No Objection is not responded to within a year, then the billing is deemed abandoned without further notice.

Additional Information

If Counsel, after having received an objection letter, wishes to provide additional information in an effort to remedy and/or satisfy the objections set forth in the JAC's Letter of Objection, Counsel may do so. However, any such additional information should be constructed in such a manner that permits for the additional information to be discernible and readily ascertainable. For example, an amended hourly statement should have the amended information bolded and/or underlined to assist the auditor with easily identifying the amendments. At its discretion, JAC may issue an amended letter based upon the additional information provided. If JAC issues an amended letter, Counsel is responsible for filing the letter with the court.

Changes / Alterations

As a general rule, JAC will not alter or change any intended billing for attorney fees and costs without the signed authorization of Counsel. If a due process vendor or attorney bills in excess of the rates established by law, JAC reserves the right to correct the billing to the established rates and process the billing for payment at the corrected amount.

Similarly, JAC reserves the right to correct attorney flat fee billings to the correct flat fee if Counsel has billed in excess of the flat fee (unless the attorney is seeking extraordinary compensation pursuant to s. 27.5304(12), F.S.) Any billing submitted on a flat fee voucher cover is presumed to be a flat fee billing. When JAC corrects a billing, JAC will provide the attorney or due process vendor with a notice advising him or her of the correction(s).

JAC can accept a corrected voucher cover reducing the amount of a billing through the Online Billing Submission system by email. However, to increase the amount of a billing, the corrected voucher cover must be an original. When increasing the amount, a new corrected voucher cover must be submitted to JAC. This should be done through the Online Billing Submission system on *My JAC* by appending an amended voucher cover into the existing billing.

Electronic Communications

Counsel must maintain sufficient internet capability, including an email account, to communicate with JAC. Counsel must be prepared to accept communications including Billing Audit Deficiencies and Letters of Objection~~s~~ or No Objection via email. Counsel must also be capable of accepting legal pleadings including but not limited to responses to motions for attorney fees, due process services, or related expenses by email.

Electronic Funds Transfer (E.F.T.)

Counsel and due process vendors seeking direct payment from JAC must participate in a direct-deposit program under which the attorney or due process vendor authorizes the transfer of funds electronically to an account in the attorney's or due process vendor's name at a federal-chartered or state-chartered financial institution.

The information and forms necessary to enroll in the E.F.T. Program is available on website for the Department of Financial Services:
http://www.myfloridacfo.com/aadir/direct_deposit_web/index.htm

The forms for enrollment in the E.F.T. program must be sent to the Department of Financial Services. **JAC does not process these forms.** The address and contact information for DFS are as follows:

Direct Deposit Section
Department of Financial Services
200 E. Gaines St.
Tallahassee, Florida 32399-0359
Telephone (850) 413-5517

These forms must be completed accurately in order for DFS to enroll a person into the E.F.T. program.

If an attorney or due process vendor seeks an exemption from this provision, the attorney or due process vendor must submit in writing a request for exemption

specifically delineating why the attorney or due process vendor cannot comply with this provision. The form for requesting an exemption is posted on JAC's website. JAC may exempt an attorney or due process vendor from compliance with this provision only if JAC determines that participation in a direct-deposit program creates a financial hardship for the attorney or due process vendor.

B. Legal Challenges

Notice Requirement

Unless JAC has expressly waived its right to a hearing, JAC must be served with a copy of a written motion and notice of hearing prior to a court entering an order regarding any motion for attorney fees, costs, or related expenses. Counsel shall not seek to obtain a court order prior to obtaining a response from JAC. A copy of the motion must be served on JAC a **minimum of five business days** prior to the date of the hearing on the motion. Pursuant to the registry contract, to be considered served, an electronic copy of the pleading must be submitted via email to pleadings@justiceadmin.org

JAC's failure to respond to any motion shall not constitute a waiver of JAC's right to be heard regarding the matter. Similarly, JAC's returning of a bill does not constitute a waiver of its right to a hearing unless the notice of returned voucher specifically indicates JAC does not wish to participate in a hearing on the matter. If Counsel obtains an order in violation of this notice requirement, Counsel agrees not to contest any motion to vacate filed by JAC.

Orders

Any order directing JAC to pay attorney fees and costs must be served upon JAC no later than 72 hours after entry of the order. Counsel is responsible for ensuring JAC receives any such order in a timely and proper fashion. If Counsel does not provide an order to JAC in a timely and proper fashion, Counsel shall not contest any motion to vacate filed by JAC.

C. General Compensation

Compensation Rates

Private court-appointed counsel's compensation rates for attorney fees and costs are governed primarily by the General Appropriations Act, ss. 27.40 through 27.5305, 29.007, and 112.061, F.S. The applicable compensation rate will be determined by date of appointment. For dates of appointment prior to July 1, 2007, the rates established by the local Indigent Services Committee remain in effect. For dates of appointment on or after July 1, 2007, the rates set forth in the General Appropriations Act for the applicable year will apply.

Exclusive List

The categories in the General Appropriations Act are the only case types for which JAC has been appropriated funds for private court-appointed counsel. JAC has not been funded for any other case types and, therefore, lacks any statutory authority to

process payment for such case types. In the event a court appoints private counsel to a matter for which JAC is not authorized to process payment for private court-appointed counsel, JAC cannot pay attorney fees and costs.

Flat Fee Presumed Full Compensation
For cases appointed on or after July 1, 2007, all cases are subject to the applicable flat fee under the General Appropriations Act. The flat fee is intended to be full compensation regardless of the number of attorneys assigned to case. In extraordinary and unusual cases, Counsel may seek compensation in excess of the flat fee pursuant to s. 27.5304(12), F.S.

Flat Fee Rates under the General Appropriations Act
The flat rates for appointments on or after July 1, 2007 are set forth in the General Appropriations Act for each fiscal year. The state's fiscal year commences on July 1st and concludes on June 30th. The applicable flat fee is determined by the flat fee in effect on the date of appointment. The applicable flat fee rates are found at:
https://www.justiceadmin.org/court_app_counsel/formsandrates.aspx
Please note that the rate charts are divided by appointment date.

Applicable Flat Fee
The applicable flat fee is determined by the highest offense charged in the information, indictment, or petition for delinquency during the pendency of Counsel's representation of the defendant. If a superseding information, indictment, or petition for delinquency increases the level of the charge, the applicable flat fee shall be at the rate for the higher charge. If a superseding information, indictment, or petition for delinquency reduces the charge, the applicable flat fee shall be at the rate for the original charge.

When the state attorney (or the Department of Children and Families in dependency cases) does not file information, indictment, or petition, then the flat fee is applicable to those situations applies.

Statutory Limitations
The following table sets forth the statutory maximums for various types of cases.

Case Type	Limitation
Misdemeanors and juveniles represented at the trial level	$1,000
Non-capital, non-life felonies represented at the trial level	$6,000
Life felonies represented at the trial level	$9,000
Capital cases represented at the trial level	$25,000
Appeal	$9,000
Dependency proceedings (for first year following the date of appointment	$1,000
Dependency (for second year, and each year thereafter, while under protective supervision)	$200

Motion to reactivate protective supervision (for first year following date of appointment)	$200
Motion to reactivate protective supervision (for second year, and each year thereafter, while under protective supervision)	$200
Termination of parental rights (for the first year following the date of appointment)	$1,000
Termination of parental rights (for second year, and each year thereafter)	$200
Appeals from an adjudication of dependency	$1,000
Appeal from an adjudication of termination of parental rights	$2,000
Maximum hourly rate for non-capital cases that exceed statutory limitations or the flat fee under the GAA pursuant to s. 27.5304(12)	$75 Hour
Maximum hourly rate for capital cases that exceed statutory limitations or the flat fee under the GAA pursuant to s. 27.5304(12)	$100 Hour

D. Hourly Billing Practices

Procedural Requirement

Counsel seeking to bill hourly are required to file a motion for attorney fees and costs. Counsel is required to attach to the motion a copy of JAC's Letter of Objection or Letter of No Objection. Prior to filing a motion for fees and costs, counsel must comply with the requirements of s. 27.5304, F.S., other provisions of Florida law, the registry contract, and these Policies and Procedures. A motion filed prior to JAC's response is legally premature as set forth above in Section II-A. Accordingly, JAC may seek to vacate any resulting order.

Hourly Billing Records

If Counsel intends to seek hourly compensation on a case, counsel must maintain contemporaneous records for the time spent on the case. **Failure to keep such records constitutes a waiver of the opportunity to seek extraordinary or hourly compensation on a case.** See § 27.40(7) (b), F.S. JAC has no authority to pay hourly billing unless counsel has kept and maintained contemporaneous records. JAC's determination as to whether an attorney has waived the opportunity to seek extraordinary or hourly compensation in a case is entitled to deference and may only be overturned if a court concludes that JAC's determination is not supported by any competent substantial evidence.

Billing Must be in Tenths

When billing hourly, Counsel shall submit an itemized billing in tenths of an hour increments as demonstrated in the chart below. JAC will round down for any submitted hourly billing that is not billed in tenths.

0.1	1-6 minutes
0.2	7-12 minutes
0.3	13-18 minutes
0.4	19-24 minutes

0.5	25-30 minutes
0.6	31-36 minutes
0.7	37-42 minutes
0.8	43-48 minutes
0.9	49-54 minutes
1.0	55-60 minutes

Total Time Billed
The total time billed for any particular work session on a case cannot exceed the amount of actual time expended during that work session on the particular case. For example, if counsel reviewed three separate pleadings during a particular work session for a total of five minutes, then counsel should bill .10 hours for that totality of that activity of reviewing all three pleadings. Counsel should not individually bill .10 hours three separate times for review of each separate pleading.

Similarly, the time billed across court-appointed cases cannot exceed the actual amount of time worked. For example, if attorney worked for an hour on three court-appointed cases, the total amount of time billed for those three cases could not exceed the one hour actually worked. As discussed below, the time must be apportioned even if the attorney bills some of the cases flat and some hourly.

Block Billing and "On or About" Language Prohibited
A billing may not contain entries in which Counsel bills for services across multiple dates in a single entry. Each billing entry must indicate the precise date that the service was rendered and cannot contain any language suggesting ambivalence regarding the date the activity was performed. Pursuant to s. 27.40(7) (b), F.S., an attorney is required to maintain detailed contemporaneous records of his or her time spent on court-appointed cases. A billing containing block billing entries or "on or about" type language may result in JAC finding that the attorney has failed to maintain detailed contemporaneous records as required by s. 27.5304, F.S.

Page Amounts
Any time Counsel bills for the reviewing of documents, counsel must indicate a reasonable estimate of the number of pages reviewed. Counsel shall bill the actual time spent reviewing the documents. As a general rule, JAC anticipates that counsel will spend no more than 2 minutes per page (30 pages an hour) reviewing documents. This allotment includes time for outlining and taking appropriate notes. If at any time counsel believes that more than 2 minutes per page was warranted, counsel should provide a brief explanation (i.e., handwritten police report). Subsequent review of documents should take significantly less time.

Requirements for Hourly Statements
Florida law requires Counsel to maintain appropriate documentation, including a contemporaneous and detailed hourly accounting of time spent providing representation. Counsel must maintain records with sufficient detail to enable JAC to determine the activities performed by Counsel and assess the reasonableness thereof. Generic descriptions are insufficient (i.e. "trial preparation – 8.0 hours").

Documented case activity must be descriptive and include identifying details. Counsel must specifically identify on the billing the following information:

- names of persons deposed/interviewed
- names of pleadings
- types of motions
- discovery documents reviewed
- number of pages reviewed
- type of hearing and hearing's purpose if appropriate
- identify legal issue researched

For other activities, Counsel shall provide enough detail for a meaningful audit.

Example Acceptable/Unacceptable Hourly Descriptions

Civil/Dependency/TPR	
Acceptable	**Unacceptable**
Attended shelter hearing	Attended hearing
Attended trial/adjudicatory	Attended court
Attended dependency disposition	Dependency hearing
Attended Case Plan Conference	Meeting
Attended Judicial Review	Conference with attorney
Telephone call from client	Telephone call
Reviewed letter from DCF [4 pgs.]	Reviewed letter
Examined client's psychological evaluation [22 pgs.]	File Review
Drafted visitation motion	Drafted motion
Reviewed deposition of J. Smith [25 pgs.] for adjudicatory hearing	Reviewed deposition
Attended deposition of J. Doe	Attended deposition
Prepared letter to DCF	Prepared letter
Trial prep-prepare opening – 1.0 hr, review depos [32 pgs.] - .5 hr. /, prepare questions for cross-exams of S. Jones and B. Hunter 1.5 hr.	Trial Prep
Reviewed case worker's notes and police report [20 pgs.]	Reviewed discovery
Reviewed depositions for cross-examination [124 pgs.]	Prepared for hearing
Researched child hearsay issue	Legal Research
Reviewed report for Jud. Rev. [20 pgs.]	Reviewed Judicial Review
Prepared witness/exhibit list	Prepared pleading
Reviewed fax from father's attorney [2 pgs.]	Reviewed fax
Drafted memo of law on paternity issue	Drafted memo to file

Criminal	
Acceptable	**Unacceptable**
Attended hearing on motion to Suppress; to Continue; in limine	Attended hearing
Review depositions of Halm and Brown-.5 hr. / 50 pgs.; police reports 2.0 hr. /75 pgs.	Receive and Review discovery
Draft Motion to suppress/motion to continue	Draft Motion/pleading
Research issue on abandonment/ hearsay exception/prior testimony	Research
Interview witness - .4 hr. /review witness statements – 50 pgs. - 1.2 hr.	Investigation
Telephone call to/from client/conf. with State Attorney	Telephone call
Reviewed letter from State Attorney [2 pgs.]	Reviewed letter
Read depositions 100 pgs. - 3.2 hr. /witness statements 50 pgs. - 1.1 hr.	File Review
Drafted letter to Expert/Client	Drafted Letter
Reviewed deposition of J. Smith for suppression hearing 65 pgs.	Reviewed deposition
Attended deposition of J. Doe	Attended deposition
Prepared questions/reviewed witness statement	Prepared for deposition
Drafted memo of law on probable cause	Draft memo to file
Trial prep – prepare opening 1.0 hr.; prepare proposed voir dire questions .5 hrs.; prepare questions for John Doe 1.5 hrs.; review jury questions -.8 hr.; examine exhibits 25 docs - 2.1 hr.	Trial Prep

The above examples are illustrative and not intended to be a complete list. The examples are minimum descriptions. Counsel is encouraged to provide greater detail. When multiple services are reported on one line, time for each service should be listed individually.

Non-Billable Items

Non-billable items include, but are not limited to, the following:

1. Services performed by:
   a.) support staff
   b.) paralegals
   c.) law clerks
   d.) secretaries
2. Time related to or in furtherance of billing, or time related to defending a

disputed bill.

3. Time spent reviewing invoices of due process vendors.

4. Time spent preparing motions for attorney fees and costs, due process services, and/or related expenses and time spent in hearing on said motions.

5. Time spent on activities not reasonably related to the merits of the underlying case including time spent preparing and reviewing routine pleadings and documents such as notices of hearings and depositions, notices of unavailability, subpoenas, and returns of service; calendaring hearings and setting depositions; and providing instructions to staff.

6. Time spent on office or administrative functions including secretarial and administrative work performed by any person, including the appointed attorney.

7. Time spent defending against a bar complaint, 3.850 motion, or other grievance filed by the client.

8. Time spent on any other activity not reasonably related to the defense of the case

9. Time spent on correspondence with JAC and conversations with JAC Personnel.

Apportionment of Time between Cases

When Counsel performs activities attributable to more than one case, the time must be apportioned between all the cases even if some of the cases are billed on an hourly basis and other cases are billed flat. If Counsel provides services related to more than one case, Counsel shall apportion the time spent among all the cases to which the services related regardless of how the cases are billed. If Counsel is in court on multiple cases, the time spent shall be apportioned among all the cases regardless of the manner in which the cases are billed. Counsel shall not bill all the time to a single case on an hourly basis and then seek flat fee compensation on the other cases.

If there is a hearing or other proceeding that can be attributed to more than one case, then Counsel shall divide the time spent between those cases in such a manner that the total amount of time divided among the cases is the actual time spent in the hearing or other proceeding. Counsel seeking to bill hourly may not charge more than the actual time spent on a matter. For example, counsel may not bill two hours for a one hour hearing simply because the defendant has two cases being heard at the same time (a/k/a stacked-billing or double-billing).

Hourly Billing for Same Defendant with Multiple Cases

For criminal cases in which the defendant has multiple related cases, and Counsel is seeking to bill hourly, Counsel shall submit a single hourly billing covering the cases utilizing the JAC multi-case attachment to hourly voucher cover. Counsel shall not seek to bill one or more of the cases on a flat fee basis while seeking hourly compensation as to other cases appointed to the same defendant. Counsel must either bill all cases on a flat fee basis or submit a single intended billing for all cases seeking unusual and extraordinary compensation.

If Counsel previously received flat fee payment(s) as to one or more of the cases,

Counsel must offset that amount against the amount later sought on an hourly basis. For example, if the defendant entered a plea to several of the cases early in the process and Counsel was paid the applicable flat fees for those cases, Counsel would need to deduct those payments from a later hourly billing submitted in relation to that defendant.

Interim Hourly Billing

Without judicial override, JAC may pay interim billings only for cases that have dates of appointment prior to July 1, 2007. Interim billing is authorized only for cases billed hourly. Interim billing does not apply to any case billed on a flat fee basis. Counsel has two options for interim billing. Under either option, the remaining balance is not payable until the case reaches final disposition.

First, for an applicable case that has been open for more than a year, Counsel may submit an 80% interim bill for attorney fees. Counsel may bill the full amount of reimbursable costs that Counsel has incurred.

Second, for an applicable criminal case that has been open for more than six months, and the total bill is at least $500, including all costs and expenses paid by counsel, Counsel may submit a 50% interim bill for attorney fees. Counsel may bill the full amount of reimbursable costs that Counsel has incurred.

Any order approving an interim billing that applies to an amount in excess of the statutory limitation must comply with the requirements of s. 27.5304, F.S., and Chief Financial Officer Memorandum No. 04 (2003-04). The Order to pay should include the following language:

The total amount of attorney fees approved by the court is $_____; this is an interim bill and counsel is entitled to 80% (50%) at this time for payment in the amount of $_____ plus costs of $_____; and the remaining 20% (50%) in the amount of $_____ shall be carried forward until the final billing in the case.

For dates of appointment on or after May 24, 2007, JAC is no longer authorized to pay attorney fees and costs on an interim basis without judicial override.

If an attorney seeks to interim bill for a case appointed on or after May 24, 2007, the attorney must still comply with the requirements of s. 27.5304, F.S., the registry contract and these Policies and Procedures prior to filing a motion for attorney fees. In particular, the attorney must submit an intended billing and await JAC's response thereto prior to filing a motion for attorney fees with the court. <u>In criminal cases, an attorney should submit an interim billing if the attorney has accrued more than $25,000 on a particular case, unless the attorney believes the case will reach final disposition within six months.</u>

When JAC receives an interim billing, JAC may issue an objection letter objecting to interim billing. Counsel will have the burden to establish to the court a basis to allow interim billing notwithstanding the statutory requirement that an attorney wait until

final disposition before receiving compensation on a court-appointed case. If a court authorizes interim billing, the methodology should be comparable to the billing methodology used in cases appointed prior to July 1,2007.

In-Circuit/Out-of-Circuit Travel Hourly Billing

For cases with dates of appointment prior to July 1, 2007, Counsel seeking to bill hourly may not bill for time spent traveling on a case unless the local Indigent Services Committee has expressly provided that counsel may bill for travel time. An Indigent Services Committee's general authorization for travel expenses is not considered authorization for time spent traveling.

For cases with dates of appointment on or after July 1, 2007, counsel seeking to bill hourly may not bill for time spent traveling on a case.

Maintenance and Inspection of Billing-Related Records

Pursuant to s. 27.40(7)(b), F.S., and the registry contract, Counsel is required to keep contemporaneous detailed records to enable JAC to verify all costs, expenses, and time expended in representation of court-appointed clients. The records shall include supporting documentation necessary to adequately evaluate and substantiate payments made to Counsel. The attorney shall maintain appropriate documentation, including original contemporaneous and detailed hourly accounting of time spent representing the client. If the attorney fails to maintain such contemporaneous and detailed hourly records, the attorney waives the right to seek compensation in excess of the flat fee established in s.27.5304, F.S., and the General Appropriations Act.

These records and documents are subject to review by JAC, subject to the attorney-client privilege and work-product privilege. Counsel may redact information from the records and documents only to the extent necessary to comply with the privilege. Counsel must maintain the records and documents in a manner that enables the attorney to redact information subject to a privilege in order to facilitate and not impede JAC's review of the records and documents.

Upon JAC's issuance of a notice of inspection of records and documents as to a particular case, Counsel must deliver to JAC copies of any and all original contemporaneous billing records related to that case within a reasonable period of time. This time period shall not exceed 30 days unless an extension is granted by JAC in writing. Counsel's failure to provide the contemporaneous billing records within a reasonable period of time shall be deemed a refusal to allow JAC to inspect the contemporaneous billing records.

Counsel must retain and make available for inspection and audit at counsel's place of business, upon reasonable notice, all books, statements, ledgers and other financial records relating to services in court-appointed cases for a period of five (5) years from the date of each payment, or until all Federal or State audits that may relate to each payment are complete for the applicable fiscal year, whichever is later, unless ordered sealed by the Court. For purposes of this inspection, 14 days notice shall be deemed reasonable notice. The failure to allow JAC to inspect such records

upon reasonable notice shall be deemed a refusal to allow JAC to inspect those records as to any unpaid case that was pending as of the date of the inspection.

If Counsel fails, refuses, or declines to permit JAC to review documentation for a case, Counsel waives the right to seek, and JAC shall not process for payment, compensation in excess of the flat fee established in s. 27.5304, F.S., and the General Appropriations Act for that case.

E. Compensation in Excess of Flat Fees or Statutory Limitations

Unusual and Extraordinary Cases
On rare occasions, counsel may be appointed to a case that requires extraordinary and unusual effort. To obtain compensation in excess of the flat fee or statutory limitations, Counsel must comply with all requirements of s. 27.5304(12), F.S. The chief judge or designee must render a written order finding that the case is unusual and extraordinary under that section.

Contemporaneous Records
To seek compensation in excess of the flat fee or statutory limitations, Counsel must maintain appropriate documentation, including a contemporaneous and detailed accounting for the time spent on the case. Counsel must record with sufficient detail all the activity performed during the same general period of time as the occurrence of those activities. Failure to keep such records shall constitute counsels waiver of the opportunity to seek hourly compensation in excess of the flat fee or statutory limitation. See § 27.40(7)(b), F.S. These records and documentation are subject to review by JAC, subject to the attorney-client privilege and work product privilege.

Procedural Compliance
Prior to filing a motion for compensation in excess of the flat fee or statutory limitations, counsel must submit the appropriately completed and executed Invoice/Voucher Cover for attorney fees and costs, as well as all other necessary supporting documents, including supporting affidavits.

Counsel shall provide detailed descriptions for each activity listed, including but not limited to, the increment of time associated with the rendered activity, the identification of documents and materials, the number of pages, and the names of deponents and witnesses interviewed, as applicable. Failure to provide such records shall constitute counsel's waiver of the opportunity to seek compensation in excess of the flat fee or statutory limitations.

The attorney must identify in a separate explanatory statement the factual and legal issues that render the case extraordinary and unusual. The statement should include, but is not limited to, the number of witnesses, the number of days of trial, and the complexity of factual and legal issues presented to the court. The fact that a trial was conducted in a case does not, by itself, support a finding of extraordinary and unusual effort. See § 27.5304(12)(b)1., F.S. The statement is subject to the Affidavit Verifying Attorney fees, Costs or Related Expenses included as part of counsel's

intended billing for attorney fees and costs.

Supporting Documentation
Counsel must provide JAC with any and all documentation that counsel intends to provide to the court in support of a motion for compensation in excess of the flat fee or statutory limitations. Counsel shall also provide a written report from any expert that counsel intends to use as a witness at the evidentiary hearing on the motion. All documentation must be included with the Invoice/Voucher Cover except for recommendations from a fee review committee. Failure to provide JAC with any such documentation or written report shall be deemed as a waiver of the right to present any such documentation or expert at the evidentiary hearing on the motion.

Evidentiary Hearing Required
Section 27.5304(12), F.S., requires any motion for compensation in excess of the flat fee or statutory cap to be filed with the chief judge. Under s. 27.5304(12), F.S., the chief judge or designee must hold an evidentiary hearing and must make specific factual findings based upon the evidentiary hearing in order to find the case unusual and extraordinary. Counsel seeking additional compensation must prove by competent and substantial evidence that the case required extraordinary and unusual efforts. The chief judge or designee shall consider criteria such as the number of witnesses, the complexity of the factual and legal issues, and the length of trial. The fact that a trial was conducted in a case does not, by itself, constitute competent substantial evidence of an extraordinary and unusual effort. In a criminal case, relief under this section may not be granted if the number of work hours does not exceed 75 or the number of the state's witnesses deposed does not exceed 20.

Calculation of Compensation in Excess of Flat Fee or Statutory Limitations
Upon appropriate findings, the chief judge or designee shall order that compensation be paid at a percentage above the flat fee rate, depending on the extent of the unusual and extraordinary effort required. The percentage shall be only the rate necessary to ensure that the fees paid are not confiscatory. Total compensation may not exceed 200 percent of the established flat fee absent a specific finding this amount of compensation would be confiscatory.

If the chief judge or designee determines that double the flat fee would be confiscatory, the judge shall order the amount of compensation using an hourly rate not to exceed $75 per hour for a non-capital case and $100 per hour for a capital case. A capital case is any offense for which the potential sentence is death, the state has filed a notice listing the aggravating factors, and the state has not waived seeking the death penalty and the appointed attorney is on the capital death registry or is otherwise death-qualifed. Compensation calculated by using the hourly rate shall be only that amount necessary to ensure that the total fees paid are not confiscatory.

Section III – Due Process Services

A. General Practices and Procedures

Obligation
Counsel billing for due process services shall follow the requirements of Florida Law, the registry contract, and JAC's Policies and Procedures.

Any forms and documents submitted to JAC should include Counsel's name and bar number.

Due Process Vendor Contracts
Pursuant to ss. 27.40 and 27.425, F.S., those due process vendors who desire direct payment from JAC must enter into a due process contract with JAC to facilitate direct payment. JAC only makes direct payment to those due process vendors who have executed a due process contract with JAC. Although a contract is generally not required for other state entities, a Florida state entity must be willing to bill JAC directly in order for JAC to make direct payment to the due process vendor.

If a due process vendor or other entity providing services to the defense does not have a due process contract with JAC or is unwilling to bill JAC directly, then Counsel pays the due process vendor or other entity and then seeks reimbursement from JAC. To the extent that Counsel pays in excess of the established rates or in excess of the amounts authorized by the court, JAC shall reimburse Counsel for the amounts reimbursable under Florida law or court order.

JAC has established three types of vendor contracts.

- The Type 1 Due Process Contract will be used for those vendors providing ordinary due process services in private court-appointed cases such as court reporters, interpreters, videographers, private investigators, mitigation specialists, and private process servers. This contract provides that all services will be provided at the rates established by the legislature or by JAC where the legislature has not established a rate. If a due process vendor bills in excess of the established rates, JAC will be authorized to correct the billing to the correct rates and then process the billing for payment.
- The Type 2 Due Process Contract is generally used for vendors providing extraordinary services such as psychologists, psychiatrists, medical doctors, and experts. Although these services should be at the established rates, the contract provides a mechanism to exceed those rates where the expertise of the due process vendor or other factors warrants compensation at a rate higher than the established rates. Except in exceptional circumstances, the Type 2 contract will not be executed with vendors of ordinary due process services such as court reporters and private investigators.
- The Non-Standard Due Process Contract is case specific. It will only authorize due process services in relation to a particular case. It otherwise mirrors the Type 2 Due Process Contract. This contract is generally used with out-of-state

vendors and in other instances where JAC is unwilling to enter a Type 1 or Type 2 Contract with a vendor.

The JAC Due Process contracts are posted on JAC's website.

Methods of Paying Due Process Services
JAC will reimburse for due process services in one of two ways: JAC pays vendor after counsel certifies due process services; or counsel pays and is subsequently reimbursed by JAC.

Invoice/Voucher Cover
The Invoice/Voucher Cover is essential for the satisfactory billing for due process services. Counsel and the due process vendor must appropriately complete and submit the applicable Invoice/Voucher Cover, as well as all necessary supporting documents.

Invoice/Voucher Covers for due process services and corresponding instructions are available on JAC's website.

An intended billing for due process services is not considered submitted to JAC until and unless JAC receives an original Invoice/Voucher Cover signed by Counsel and the due process vendor, along with all necessary supporting documents.

The Voucher Cover may not be signed prior to the receipt of the services requested. For example, the attorney may not sign a Voucher Cover for a transcript until after the attorney has actually received the transcript. Any voucher cover signed prior to the receipt of the service will be returned.

An attorney should keep a copy of any voucher covers that he or she signs in relation to a court-appointed case. Under the registry and due process contracts, the attorney and vendor are required to maintain copies of all records and these records are subject to inspection by JAC.

Certification of Due Process Services Costs
Generally, intended billings for due process services shall be certified by Counsel (and the vendor when the vendor is billing JAC directly). Certification is provided on the applicable Invoice/Voucher Covers available on the JAC website. Additionally, corresponding instructions are also available on the JAC website.

Counsel cannot execute the certification on the JAC Invoice/Voucher cover until the work is actually completed. **If JAC receives an Invoice/Voucher cover that was executed prior to the date the vendor completed the service, then JAC will return the intended billing.**

Original Invoice
All intended billings for due process services must be submitted using the applicable JAC Invoice/Voucher Cover. Due process vendors may use their own original

invoices as support for the intended billing as long as the invoice contains sufficient detail to support the intended billing.

Prompt Review of Invoices
Any direct payment to a due process vendor is contingent upon Counsel providing any and all necessary documentation in support of a billing to JAC in an expeditious fashion. Counsel shall promptly review any billing for direct payment to a due process vendor for accuracy and completeness and must certify that the work was satisfactorily performed. In the event JAC issues a Billing Audit Deficiency regarding any billing, counsel or the due process vendor shall promptly resolve the deficiency so that JAC can process the billing for payment. Counsel must comply with all JAC policies and procedures in the submission of billings in order for JAC to make direct payment to a due process vendor.

Prohibited Practices
Counsel is prohibited from obtaining due process services for his or her court-appointed clients from a due process vendor or other business entity of which counsel or counsel's spouse or child is an officer, partner, director, or proprietor or in which counsel or counsel's spouse or child, or any combination of them, has a material interest in any form whatsoever.

Counsel is prohibited from soliciting or accepting anything of value to counsel, including a gift, loan, and reward, promise of future employment, favor, or service, from a due process vendor or other business entity who provides due process services to counsel's court-appointed clients other than the services rendered on behalf of the indigent client.

A due process vendor is prohibited from paying, offering or giving anything of value to Counsel including a gift, loan, reward, promise of future employment, favor, or service, as consideration or other remuneration for providing services in court-appointed or indigent for costs cases other than the services rendered on behalf of the indigent client.

Counsel and due process vendors waive compensation for due process services in any form whatsoever where either Counsel or the due process vendor has engaged in these aforementioned prohibited practices.

B. Service and Notice

Standing of JAC
JAC shall only pay for due process services, as set forth in s. 29.007, F. S., reasonably required for the defense of the case. JAC has standing to contest the authorization for any due process services and the amount of said due process services. Counsel shall have the burden to establish that the due process services are reasonable and necessary to the defense of the case.

If Counsel obtains services without prior court approval, then Counsel may be

personally liable to reimburse the due process vendors. JAC is not privy to any contract or agreement between Counsel and due process vendors and in no way accepts responsibility or liability for quality of service, terms and conditions, or any other aspects of any contract or agreement between Counsel and due process vendors.

Notice

Counsel must serve JAC with a copy of the motion for due process services prior to a court entering an order regarding due process services. A court order is always required for any due process services in excess of rates established by law. The existence of an administrative order or local rules authorizing costs without prior court approval does not relieve an attorney from filing a motion seeking prior approval or authorization for due process services. Absent express waiver from JAC, all due process services must be approved by a specific court order.

A written motion for due process service services must specify the type of due process services requested, the rate requested, and an estimated maximum amount of costs required. **The motion shall be properly served on JAC a minimum of five (5) business days prior to the date of the hearing on the motion.** Pursuant to the registry and due process contracts, to be considered served, an electronic copy of the pleading must be submitted via email to pleadings@justiceadmin.org. JAC's failure to respond to such a motion shall not constitute a waiver of JAC's right to be heard regarding the matter. JAC will not pay for due process vendors that are obtained in violation of these requirements. Counsel is solely responsible for compensating a due process vendor obtained in violation of these requirements.

Contents of Motion Seeking Authorization for Due Process Services

A motion seeking authorization for due process services must establish the basis for the requested services. The motion must indicate how the requested services are necessary for the defense of the case. A motion seeking authorization or additional funds for a private investigator, mitigation specialist, or an expert shall set forth the particularized need for the requested services based on the circumstances of the case.

The defense has the burden to establish that the requested services are reasonable and necessary for the defense of the case. For experts and mitigation specialists, the defense also has the burden to establish the particularized need for the services. Due process services are those services necessary to ensure a defendant's meaningful access to the courts.

C. General Compensation

Rates and Vendors for Due Process Services

JAC reviews due process service invoices to verify compliance with the established rates and amount authorized as established pursuant to Florida law. The rates are established annually in the General Appropriations Act. The current rates will be posted on the JAC's website. If the rate for a particular due process service has not

been established, JAC may establish a rate. In establishing rates, JAC will rely upon its experience since July 1, 2004, as well as the recommendations of the Article V Indigent Services Advisory Board (ISAB), in determining the appropriateness of a rate charged and the total amount of compensation. The ISAB's recommendations are as follows:

Expert Witness Categories	**Average**	**Sugg. Ranges**
Expert Witness Fees - Per Hour	$154.17	$150 - $200
Expert Witness Fees - In Court - Per Hour	$147.17	$125 - $150
Expert Witness Fees - Out of Court- Per Hour	$111.20	$50 - $150
Exp. W it. Fee - Waiting to Testify - Court - Per Hour	$71.33	$50 - $75
Exp. W it. Fee - Waiting to Testify - Depo.- Per Hour	$66.83	$50 - $75
Expert Witness Fee - Travel - Per Hour	$63.50	$50 - $75
Expert Witness Fees - Per Case	$1,580.00	$1,500-$2,000
Psychological Exam - Per Exam	$246.88	$150 - $400
Psychologist - In Court/Testify - Per Hour	$136.60	$125 - $150
Psychologist - Waiting to Testify - Per Hour	$84.80	$50 - $75
Medical Doctors - In Court or Depo. - Per Hour	$156.43	$150 - $200
Medical Doctors - Out of Court - Per Hour	$128.33	$100 - $125
Other Pre-Trial Expert - In Court - Per Hour	$102.67	$75 - $100
Other Pre-Trial Expert - Out of Court - Per Hour	$77.00	$50 -$75

Investigators

Any private investigator providing services in Florida must be licensed pursuant to Florida law. JAC is not authorized to pay for any private investigator services provided in Florida by a person not properly licensed pursuant to Florida law. An investigator must provide all applicable licenses upon request from JAC.

The role of a private investigator is limited to providing investigative services such as locating and interviewing witnesses; locating and securing documents and other evidence relevant to the case; performing background checks; and researching any other factual issues relevant to the case such as credibility and character of witnesses. Where private service of process is authorized, an investigator can also serve subpoenas on ordinary non-law enforcement witnesses; however, the investigator can only bill the flat rates applicable for private service of process regardless of the amount of time spent serving the subpoena. An investigator is not a substitute for a paralegal or secretary and cannot be used to perform administrative tasks including, but not limited to, retrieving discovery from the state attorney; copying documents from a court file; delivering materials to the defendant; or any other tasks of a paralegal or secretarial nature.

When multiple investigators are assigned to the same case, only one investigator will be compensated for completing a single task. If multiple investigators attend the same meeting, only one investigator will be compensated for that time. If an investigation firm decides to divide up the work, any extra time spent as a result of

using multiple investigators will be non-billable. Also, JAC will not pay for time associated with training investigators or investigator interns.

Absent specific court authorization, an investigator from another circuit will not be reimbursed for travel time or travel expenses for an investigator to travel to the circuit of the case. If an investigator makes a business decision to accept cases outside the investigator's home circuit, the investigator will generally not be compensated for time and expenses related to travel to the circuit of the case. Generally, such travel time and expenses is only permissible when an investigator is traveling to a rural county where investigator services are unavailable.

The due process contracts limit the submission of investigator billings by requiring either a billing represent an unpaid amount of at least $500 (12.5 hours of work) or billing at the conclusion of investigator services on a case. If an investigator submits a billing for less than $500 prior to completion of services on a case, the billing may be returned.

Service of Process

Service of process upon witnesses should be through the sheriff unless the sheriff is unable or unavailable to provide service of process. Under s. 57.081, F.S., the sheriff is available to provide service of process without prepayment in cases involving indigent persons. The sheriff must be used to serve in-county law enforcement absent exceptional circumstances. In order to use a private process server to serve in-county law enforcement officers, Counsel must file with service upon JAC a motion setting forth the exceptional circumstances requiring use of a private process server.

If there is adequate time for the sheriff to perfect service on non-law enforcement, the sheriff should be used absent exceptional circumstances. JAC may object to reimbursement of private process server fees on non-law enforcement if there appears to have been adequate time for the sheriff to handle service.

Mitigation Specialists

Mitigation specialists are only authorized in capital death cases. In other cases, an investigator should be employed to handle the development of mitigating evidence. The mitigation specialist is a specialty unique to capital cases in which the state is seeking a potential sentence of death. (With the exception of capital death cases, the rate for mitigation specialists cannot exceed the rate for investigators.)

Prior to the authorization of a mitigation specialist, the attorney should file a motion setting forth the specialized expertise, skills and education of the mitigation specialist that warrants compensation in excess of the rate normally authorized for a private investigator. The motion should also indicate the hourly rate requested for the mitigation specialist. **This hourly rate cannot exceed the hourly rate set forth in the General Appropriations Act (currently $75 per hour).** If the motion is granted, the order will need to reflect the hourly rate and the maximum amount authorized for the mitigation specialist. Absent an order authorizing a higher hourly rate, a mitigation specialist will be compensated at the rate authorized for a private investigator.

Forensic Social Worker for a Defendant Subject to a Sentence of Life Who Was a Juvenile at the Time of Offense

Although the trial court may not appoint a mitigation specialist in these cases, the court may appoint a forensic social worker or similar expert for purposes of conducting a forensic social evaluation pursuant to s. 921.1401, F.S. The rate for the service cannot exceed $75 per hour. Under these circumstances, an investigator will also need to be appointed (at the rate of $40 per hour) for purposes of conducting the investigatory portion of the evaluation such as gathering records and obtaining pertinent information. The scope of the expert's services will be limited to performing the forensic social work up of the defendant.

Detailed Invoices/Hourly Statements

For due process vendors billing on an hourly basis, such as investigators, mitigation specialists, and experts, the hourly statement must contain sufficient detail for JAC to review the reasonableness of that invoice. Generally, the same requirements for attorney hourly statements as set forth herein apply to hourly statements from due process vendors.

Diligent Efforts

If Counsel intends to procure due process services at a rate higher than the established rates, Counsel must make a showing that the particular due process service is necessary to the defense of the case and that Counsel has made a diligent effort to find the service within the established rates. Diligent effort includes, but is not limited to, evidence that Counsel sought the services of at least three due process vendors willing to work on the case but none were willing to work at the established rates. If a court authorizes due process services in excess of the established rates, the order should contain findings as to the diligent efforts Counsel made to obtain services within the rates established by law.

Out-of-State Due Process Vendors

Counsel shall not seek authorization from the court for out-of-state experts or mitigation specialists, absent a showing that there are no such due process vendors with appropriate skills or expertise available, first, in the county in which the case was filed and, second, in any other county in the State of Florida. <u>If Counsel obtains an out-of-state due process vendor without making such a showing, Counsel agrees not to request reimbursement for any travel expenses, including compensation for travel time, on behalf of the due process vendor.</u> An order authorizing the employment must be in writing and contain specific findings regarding the unavailability of a qualified in-state expert or mitigation specialist. Counsel shall submit a copy of the order to JAC.

If a due process vendor has a Florida address and enters into a Type 1 or Type 2 Due Process contract with JAC, the vendor will not be reimbursed for travel expenses for travel to Florida in most instances. In particular, an expert who lists a Florida address, but who resides out-of-state, cannot seek travel expenses to travel to Florida in the event the expert is called to testify at trial.

Transcripts
JAC may pay for the cost of preparing a transcript of a deposition only if Counsel secures an order from the court finding that preparation of the transcript is necessary, in which case JAC may pay for one original and one copy only. The order should reflect the name of the witness and the date of the deposition to be transcribed. Counsel shall not obtain judicial preapproval of transcripts absent exigent circumstances.

A generic order authorizing transcripts prior to the taking of depositions will not suffice for payment purposes as a general rule. For example, language in the order of appointment authorizing Counsel to order "necessary" transcripts does not suffice for payment purposes.

JAC may pay for the cost of one original transcript of any deposition, hearing, or other proceeding. Any other payment for a transcript of that same deposition, hearing, or other proceeding, regardless of whether the transcript is an additional original transcript or a copy, shall be at the rate paid for a copy of a transcript. JAC does not pay original rates for transcripts when an original transcript has been previously created, regardless of the source of payment for the original.

Transcripts should not be ordered as a matter of course. It is anticipated that Counsel will be taking notes during any depositions. Except in complicated cases involving numerous witnesses, deposition transcripts should not be ordered merely to prepare for trial except where the attorney was not physically present at the deposition. Instead, deposition transcripts should only be ordered where the transcript is necessary for use at trial such as to impeach state witnesses or for use in support of a motion such as a verified motion to dismiss.

The court order authorizing transcripts must be attached to the intended billing for the transcripts. Counsel must provide the court reporter with a copy of the order of appointment and the order authorizing the transcript. For any intended billing in which JAC will directly pay the court reporter, upon receipt of a completed invoice from a court reporter, Counsel shall promptly review and sign the invoice.

In determining the number of pages to be billed, JAC pays for the following: a title page; index, appearance and/or contents page(s); the transcription of the testimony of the proceeding or deposition; one errata sheet for a deponent or witness; and necessary court reporter certification page(s) at the conclusion of the transcript. JAC does not pay for pages containing word indexes, summaries, or similar information unless specifically required by court rule. All transcripts must meet the formatting requirements set forth in Fla. R. Jud. Admin. 2.535(f).

Appearance Fees
Once JAC pays an appearance fee for a deposition, Counsel is entitled to a copy of any recordings, stenographic notes, computer files, or other documents related to transcribing the deposition in the event a court reporter or court reporting firm is

unable or unwilling to prepare a transcript of the deposition. The costs of providing a copy of any recordings, stenographic notes, computer files, or other documents related to transcribing the deposition is incorporated into the appearance fees paid to the court reporter or court reporting firm. No additional fees will be paid to provide these records.

If a court reporter or court reporting firm is unable or unwilling to prepare a transcript for a deposition for which JAC has paid an appearance fee, then the court reporter shall turn over a copy of any and all recordings, stenographic notes, computer files, or other documents related to transcribing the deposition to the attorney representing the indigent client or another court reporter or court reporting firm able and willing to perform the work as designated by the attorney. In particular, if a court reporter or court reporting firm is unwilling to transcribe or prepare a transcript within the established rates under Florida law and any applicable due process contract and there is another approved or qualified court reporter or court reporting firm within the State of Florida willing to transcribe the deposition within the aforementioned established rates, then the transcript must be prepared by a firm willing to work within the established rates.

For purposes of calculating the amount of an appearance fee for depositions involving multiple witnesses conducted by a court reporter, the amount is calculated per session, not per witness. The first hour is compensated at a rate of $75.00 per hour and each hour thereafter is compensated at a rate of $25.00 per hour. Unless there is a break exceeding an hour, the $25.00 per hour rate continues to apply to any depositions taken in a case.

For example, the defense has depositions for a case from 8:00 a.m. to 12:00 p.m. The court reporter would bill a total of $150 for this session ($75 for the first hour and $75 for the second, third, and fourth hours).

If there is a break of one hour or more, and the same court reporter returns following the break, the court reporter may bill the $75 per hour for the first hour following the break. For example, if the defense has depositions from 8:00 a.m. to 11:00 a.m. and then from 1:30 p.m. to 4:30 p.m., then the court reporter could bill $125 for the first session and $125 for the second session.

When a break is less than an hour, then the session is considered ongoing. It is important to note that break time must be unbilled to be considered break time. Any wait time billed to JAC is not considered break time. For example, if one hour depositions are scheduled for 8:00 a.m., 9:00 a.m., 10:00 a.m., and 11:00 a.m., and the witnesses for 9:00 a.m. and 11:00 a.m. do not show but the court reporter remains onsite during the deposition session, then the court reporter would bill $150 for the session ($75 for the first hour and $75 for the second, third, and fourth hours.) Because the court reporter is being paid for the wait time, the court reporter cannot bill $75 for the fourth hour even though there was a break of 2 hours.

Certificates of Non-Appearance
The appearance fee paid by JAC includes payment for any certificates of non-appearance issued for witnesses that failed to appear during the deposition session. No additional fees beyond the appearance fee for a deposition session will be paid for a court reporter to prepare any certificate of non-appearance in relation to a witness's failure to appear during a deposition session.

Interpreters
JAC's role is to provide costs for foreign and sign language interpreting services ***outside*** of the courtroom (or other judicial proceedings) such as deposition or witness interviews. Insofar as the Type 1 Due Process contract, JAC has included language authorizing an attorney to seek rates of up to ***$50 per hour for Spanish and Creole interpreting services*** and ***$65 per hour for other languages*** for certified and language-skilled interpreters. Normally, a vendor who signs a Type 1 Due Process contract is limited to payment at the established rates. This provision addresses recent changes adopted by the Florida Supreme Court in relation to foreign language interpreting services.

Prepayment/Retainers
JAC does not prepay or provide a retainer for due process services. Counsel shall not seek to have JAC prepay or provide a retainer for due process services. If a due process vendor requires prepayment or a retainer, Counsel shall pay the amount and seek reimbursement only after the due process vendor has completed the services for which the prepayment or retainer was paid. Counsel shall only be reimbursed the amount necessary to compensate the due process vendor at the appropriate hourly rate, irrespective of the amount of the retainer.

Budget for Capital Cases
For capital cases in which the State has not waived the death penalty, as soon as practicable after appointment, Counsel shall set a hearing for the trial court to determine a reasonable budget for due process services. Timely and proper notice of the hearing shall be provided to JAC. This budget shall be based on the circumstances of the case, the amount needed to provide the defendant with the basic tools of defense as mandated by due process concerns under the state and federal constitutions, the amount appropriated for due process services in the General Appropriations Act, and the amount the Office of Public Defender for the applicable circuit expends for similar capital cases. Counsel shall make diligent efforts to remain within this budget. Prior to authorizing expenditures in excess of this budget, Counsel will set the matter for hearing, with timely notice to JAC.

Deposition of State Attorney's Expert
If Counsel seeks to depose the State Attorney's expert witness, Counsel must obtain a court order authorizing any compensation for the expert. The expert will bill Counsel just like any other expert. Counsel will then appropriately complete and execute the applicable forms for due process services, as well as submit all necessary supporting documents, for payment of the expert. The expert cannot be paid rates beyond those established by law without a court order which details the reason for deviating from

rate established by law. If there is no rate set, then a court order must contain detailed justification for the rate. JAC will not pay any more than the compensation rate paid by the State Attorney for the expert.

Travel Time for Due Process Vendors

Other than investigators, due process vendors that bill at hourly rates may not bill for time spent traveling on a case unless a rate has been established by law or court order for travel time.

Statutory Exemption/Waiver of Prepayment

Pursuant to s. 28.345, F.S., private court-appointed attorneys are exempt from all court-related fees and charges assessed by the clerks of the circuit courts. As delineated in s. 57.081, F.S., an indigent shall receive the services of the courts, sheriffs, and clerks, with respect to pending proceedings, despite his or her present inability to pay for these services including filing fees; service of process; certified copies of orders or final judgments; a single photocopy of any court pleading, record, or instrument filed with the clerk; examining fees; mediation services and fees; subpoena fees and services; service charges for collecting and disbursing funds; and any other cost or service arising out of pending litigation. Counsel is responsible for ensuring compliance with the terms of ss. 28.345 and 57.081, F.S. including but not limited to (1) providing necessary documentation to the clerk of court or sheriff and (2) filing appropriate motions with the trial court to obtain such services pursuant to the exemption or without prepayment. JAC shall not reimburse Counsel, either directly or indirectly through a due process vendor, for charges paid to the court, the sheriff or the clerk or court, in relation to services for which Counsel was statutorily exempt pursuant to s. 28.345, F.S., or the indigent client was entitled to receive without prepayment pursuant to s. 57.081, F.S.

Non-reimbursable Expenses

Counsel shall not bill for any purchase of office equipment, electronic equipment, office supplies, legal materials, books, clothing except as provided herein, personal items, haircuts, manicures, dry cleaning, or other such personal services for counsel, the client, or a due process vendor. Counsel shall not bill for any purchase of computer equipment including portable flash and hard drives and other portable devices such as MP3 players.

Clothing in Criminal Cases Involving Jury Trials

Under limited circumstances in criminal cases involving jury trial, JAC may reimburse for clothing purchased for trial purposes. As a precondition to such purchases, the attorney will need to contact the defendant's family and the Office of the Public Defender (or other local entity) to inquire if clothing is available for the defendant. If not, the defense may seek clothing through a motion (with service on JAC). Any clothing purchased must be the most economical, while being appropriate for court. Also, once the case concludes, any clothing purchased with state funds must be turned over to the Office of the Public Defender (or other local entity) for potential use by other defendants.

D. Methods of Paying Due Process Services

JAC Pays Due Process Vendor after Counsel Certifies
Upon receiving a bill or invoice from the due process vendor, after completion of the service, Counsel must certify the bill or invoice. Both Counsel and the due process vendor must sign the applicable JAC Invoice/Voucher cover. The attorney or the due process vendor can then submit the completed Invoice/Voucher Cover and the supporting documentation. Counsel must have submitted the case opening documents before a due process vendor may be paid. JAC may then pay the due process vendor directly. Copies of court orders authorizing such costs must be provided with the intended billing except when no court order is required. Counsel may not certify the work is completed until the work has actually been completed. If all procedures are not followed, or appropriate documentation is not provided, Counsel remains personally liable to pay the due process vendor. **Any Voucher Cover received by JAC that certifies the work was done prior to completion of the work will be returned.**

Counsel Pays and is Subsequently Reimbursed
Counsel may pay the due process vendor directly and then seek reimbursement from JAC. Reimbursement for s. 29.007, F.S., due process services may be at the time counsel seeks attorney fees, or after counsel has accrued at least $500 in out-of-pocket due process services. After certifying the bill or invoice, Counsel must submit the original bill or invoice with a completed applicable Invoice/Voucher Cover. Counsel must also provide proof of payment. Copies of court orders authorizing such costs must be provided with the billing except when no court order is required. Counsel is entitled to reimbursement only if all procedures have been followed and appropriate documentation has been provided to JAC. Absent express court approval, Counsel may not be reimbursed to the extent the costs exceed the rates or limitations established by law or court order.

Online Billing Submission System
Due process billings may be submitted online on *My JAC* (JAC's secure website). Vendors and attorneys who have registered an account with *My JAC* may submit invoices to cases already open in the JAC system. (To open a new court-appointed case, an attorney may use the Online Case Opening system in *My JAC* to submit the order of appointment and required documentation.). The system allows either the due process vendor or the attorney to submit the billing on *My JAC*. Prior to beginning an online invoice submission, please have the JAC Invoice/Voucher cover completed and signed by both the attorney and due process vendor, and scanned to an electronic file. Vendor invoices should be scanned together with the corresponding JAC Invoice/Voucher cover. Supporting documentation files must also be scanned to electronic files. All files must be in PDF or TIFF format only. During the online billing process, the attorney or vendor will be prompted to upload these files. The appropriate voucher cover can be obtained from the "Forms and Rates" section of JAC's public website. Please make sure the scans of all documents are legible.

Once the billing packet has been submitted, a confirmation message will appear and

the attorney or due process vendor will receive a confirmation email with a Tracking Number. To assist in submitting billings through this new system, additional instructions and tutorials are available on *My JAC*.

E. Signing the JAC Invoice/Voucher Cover

When an attorney signs the JAC Invoice/Voucher cover, the attorney is certifying the validity of the services listed on the voucher cover. Signing a JAC Invoice/Voucher Cover prepared by a due process vendor is much more than a ministerial task. The attorney signing the voucher cover is certifying that the services were satisfactorily performed and necessary for the representation. For transcripts, the attorney is further certifying the number of pages billed. If an attorney has any concerns regarding the accuracy of a billing, the attorney should resolve those concerns prior to signing the voucher cover. Pursuant to the registry contract, an attorney may be liable for overpayments made to a due process provider when **the attorney knew, or should have known, that the Invoice/Voucher cover was inaccurate at the time the attorney executed it.**

Section IV – Miscellaneous Expenses

A. General Practices and Procedures

Miscellaneous Expenses

When authorized, miscellaneous expenses must be directly related to the representation of the client in the case for which counsel is court-appointed. Expenses which are incidental to counsel's business operations are not reimbursable. For example, "photocopies of JAC intended billings" are not permitted expenses.

For cases with dates of appointment prior to July 1, 2007, in those circuits where the Indigent Services Committee has authorized reimbursement of various miscellaneous expenses without the need for prior court approval, JAC will pay up to the amount authorized. Otherwise, if counsel is including any additional expenses, such as photocopies, postage, mileage and fax or telephone charges, counsel must file a motion and obtain an order for those additional expenses before the expenses can be paid.

For dates of appointments on or after July 1, 2007, miscellaneous expenses are no longer permitted, except for mileage reimbursement as provided below. Thus, JAC will not pay for ordinary miscellaneous expenses including, but not limited to, postage, courier services, telephone calls, photocopying, and online research costs. Those costs are incorporated into attorney fees paid pursuant to Florida law and are not compensated separately from the applicable fee whether compensated on a flat fee or hourly basis. Counsel seeking any miscellaneous expense reimbursement must submit detailed logs for any such reimbursement (i.e. mileage, telephone calls, postage, courier service, photocopies, etc.).

B. General Compensation

Mileage
Where authorized, mileage reimbursement will be at the established rate of $0.445 per mile for travel after July 1, 2006. Counsel seeking reimbursement for mileage must submit a properly completed travel voucher issued by the Florida Department of Financial Services. JAC no longer accepts mileage logs instead of a DFS travel voucher. Any request for mileage must be supported by documentation. Counsel may only bill for mileage or other travel expenses when the destination is in excess of 50 miles (one-way) from counsel's office. In-state, city-to-city mileage calculations can be found at http://www.dot.state.fl.us/planning/statistics/hwydata/intercity.shtm.

If Counsel is approved for a registry outside of the circuit in which Counsel's office is located, JAC reserves the right to object to mileage to travel to the circuit of the case. JAC may object to mileage in such circumstances absent a showing it was necessary for Counsel to be included on the registry because there were insufficient local attorneys available. Generally, Counsel will not be paid for mileage, travel time, or other travel expenses to travel to the circuit of a case because Counsel made a business decision to participate in that registry. Mileage may be appropriate where Counsel is traveling to a rural county where no or limited registry attorneys are available to accept court appointments.

If an in-state travel destination is not included or available on this website, or if the travel is out-of-state, mileage may be calculated using an internet map website (i.e. www.mapquest.com). Alternative sources may only be used when there is no entry on the DOT website.

Photocopies
For dates of appointment prior to July 1, 2007, photocopy reimbursement will be as authorized by the local Indigent Services Committee.

When authorized, photocopies made within counsel's office necessary for the defense of the case are reimbursable at the rate of $0.15 per page. With prior court approval, bills or invoices for out-sourced photocopy services may be reimbursed for the reasonable amount of the bill or invoice as a due process services cost. Copies made for administrative purposes are not reimbursable. Additionally, photocopies pertaining to the court-appointed case obtained from Clerks of the Courts' offices are free to private court-appointed counsel, and thus, are not reimbursable. See §28.345, F.S.

For dates of appointment on or after July 1, 2007, photocopying expenses are not reimbursable.

Legal Research
On-line legal research constitutes an office expense and is not reimbursable. It is considered part of office overhead similar to subscriptions to legal periodicals.

Portable Flash and Hard Drives
The registry contract requires that Counsel have access to portable drives or other storage media capable of receiving electronic discovery. In many circuits, the current practice is to provide documents and discovery in electronic formats particularly in complex cases involving substantial discovery. The types of hard drives Counsel should have access to will largely depend on the type of cases Counsel is accepting appointments. In particular, Counsel providing representation in complex cases such as RICO or capital death cases should possess one or more portable drives with substantial storage capacity.

Conference Rooms
Generally, reimbursement for conference rooms is not permitted. In those circumstances where depositions or interviews are conducted outside the county, Counsel should check with the local court or public defender's office for that county, or other appropriate entity, for available free space. If no other free space is available, Counsel is required to obtain court approval prior to renting such space.

Section V – Timely Billing and Procedural Requirements

Timely Submission
Counsel (or due process vendors billing JAC directly) shall submit an intended billing for all attorney fees, due process services, and other related expenses **within 90 days after final disposition of the case**. Failure to submit a properly completed intended billing within 90 days will result in a mandatory contractual penalty on any attorney fees, due process services, and other related expenses. See § 27.5304(4), F.S.

An intended billing will not be considered satisfactorily submitted with JAC until all applicable forms and necessary documentation required under the registry and due process contracts, and JAC's Policies and Procedures have been appropriately completed and submitted.

The statute of limitations to initiate an action seeking payment of attorney fees, due process services, or related expenses commences once the case reaches final disposition.

Timely Submission with an Appeal Anticipated
Filing of an appeal does not stay the time for submitting an intended billing relating to representation at the trial court level, even if counsel is appointed to represent the client on appeal.

For example, if a case reaches final disposition at the trial level, but is appealed, Counsel must submit for attorney fees, due process services, and other related expenses pertaining to representation at the lower court level within 90 days after final disposition of the case at trial level.

Timely Submission for Appellate Cases
Counsel for appellate cases may submit for attorney fees, due process services, and other related expenses pertaining to representation at the appellate level at the filing of an appellate brief (including, but not limited to, a reply brief), and/or when the opinion of the appellate court is finalized through issuance of the appellate mandate. For purposes of the penalty, the date of final disposition is the date of the issue of the appellate mandate.

Timely Submission for Dependency Cases
A dependency case does not reach final disposition until the Court dismisses the petition as to a party or terminates protective supervision (with or without retaining jurisdiction) or the Court enters an order terminating the parent's rights.

Hourly Compensation Final for Billing Interval
When Counsel seeks interim billing on a case for which interim billing is authorized, once payment has been made by JAC and accepted by Counsel, Counsel cannot seek to bill additional time for work done prior to the last date of service in the hourly billing. Acceptance of payment by JAC constitutes a final resolution of the amount payable under principles of accord and satisfaction.

Similarly, when a due process vendor submits an hourly billing to JAC, once payment has been made by JAC and accepted by the due process vendor, the due process vendor cannot seek to bill for additional time for work done prior to the last date of service in the hourly billing. Acceptance of payment by JAC constitutes a final resolution of the amount payable under principles of accord and satisfaction.

Exceptions to Requirement for Final Disposition (Criminal Only)
Under limited circumstances, Counsel may submit for attorney fees, due process services, and other related expenses prior to final disposition. Counsel may submit intended billings in criminal cases prior to final disposition where the defendant has failed to appear, has been declared incompetent to stand trial, or has entered a pre-trial diversion program.

Where applicable, Counsel may submit 180 days after the failure to appear occurred if the defendant has not been rearrested. By accepting payment, counsel agrees to complete the case for no additional compensation should the client later reappear.

Where applicable, Counsel may submit 180 days after the finding of incompetency if the defendant remains incompetent. By accepting payment, counsel agrees to complete the case for no additional compensation should the client later become competent to proceed.

Where applicable, Counsel may submit 180 days after the defendant's placement in a pre-trial diversion program if the defendant remains in the program or has completed pre-trial diversion, and the state attorney has not filed a voluntary dismissal or *nolle pros*. By accepting payment, counsel agrees to complete the case

for no additional compensation should the client later fail to complete the program and go back before the court.

Additionally, upon the state attorney's filing of a notice of voluntary dismissal or *nolle pros*, Counsel may submit for attorney fees, due process services, and other related expenses.

If Counsel submits an intended billing prior to expiration of the 180 days, the intended billing will be placed on hold pending the passage of 180 days. If the situation continues to persist, then JAC will process the billing for payment.

Exceptions to Requirement for Final Disposition (Dependency Only)
Counsel may only submit for attorney fees, due process services, and other related expenses at the designated events set forth in the s. 27.5304(6), F.S. Counsel may submit a billing upon entry of an order of disposition, or the date of first judicial review or other billable point in the second year and each calendar year thereafter, as long as the dependency proceedings are still ongoing.

Submission of Documents
Unless an original is required or requested by JAC, documents such as motions or court orders should be submitted through email to:

pleadings@justiceadmin.org

Forms or documents requiring an original signature such as Invoice/Voucher Covers, invoices, and travel reimbursement forms, **may not be faxed or emailed**. Accordingly, such documents should either be submitted through the Case Opening or Online Billing Submission systems available on *My JAC* (JAC's secure website) or be mailed to JAC at:

Justice Administrative Commission
P.O. Box 1654
Tallahassee, Florida 32302

To distinguish originals from photocopies, all originals must be signed in Blue ink.

Penalty for Untimely Billing
In accordance with s. 27.5304, F.S., for any intended billing for attorney fees, due process services, and related expenses that does not occur within 90 days after final disposition, or that is not satisfactorily submitted within 90 days after final disposition, the allowable fees, costs and expenses shall be reduced by fifteen percent (15%). The fifteen percent (15%) reduction is a penalty for failing to submit in a timely fashion. As required by s. 27.5304(4), F.S., JAC will enforce the penalty by reducing the amount payable by fifteen percent (15%).

For cases that reach final disposition on or after July 1, 2010, for any intended billing for attorney fees, due process services, and related expenses that is not submitted

or is not satisfactorily submitted on or within a year after final disposition, the allowable fees, costs and expenses shall be reduced by fifty percent (50%). The fifty percent (50%) reduction is a penalty for failing to submit in a timely fashion. As required by s. 27.5304(4), F.S., JAC will enforce the penalty by reducing the amount payable by fifty percent (50%).

For cases that reach final disposition on or after July 1, 2010, for any intended billing for attorney fees, due process services, and related expenses that is not submitted or is not satisfactorily submitted on or within two years after final disposition, the allowable fees, costs and expenses shall be reduced by seventy- five percent (75%). The seventy five percent (75%) reduction is a penalty for failing to submit in a timely fashion. As required by s. 27.5304(4), F.S., JAC will enforce the penalty by reducing the amount payable by seventy-five percent (75%).

In the event a due process vendor's bill is subject to a penalty, Counsel may be legally responsible for reimbursing the due process vendor in the event the failure to timely submit the intended billing was the fault of counsel.

Legibility & Intelligibility

Any documentation submitted to JAC must be legible and intelligible. Any documentation submitted to JAC which is illegible or unintelligible will be returned and will not be considered satisfactorily submitted with JAC.

Sufficient Postage

Proper postage for letters and other packages sent to the Justice Administrative Commission (JAC) is the responsibility of the sender. JAC will not accept delivery of letters and other packages with insufficient postage or postage due.

Careful attention has to be paid to the size and dimensions of the package to insure proper postage is applied. Information regarding the US Postal Service's postage requirements and postage rate structure may be found on their website: http://www.usps.gov. Once again, it is each sender's responsibility to ensure proper postage is applied to letters and other packages being sent to JAC. Information describing the additional shape-based method for calculating proper postage is available on the website of the US Postal Service:
http://pe.usps.com/text/dmm100/intro.htm

Late Fees/Interest/Cancellation Fees

Counsel shall reimburse JAC for any due process services, such as an interest charge, loss of prompt payment discount, or other cost or expense incurred by JAC due to delay in payment of a due process service bill or invoice attributable to counsel's error, omission, or untimely submission. JAC has no responsibility for and will not pay for any cancellation fees or loss of business charges. Counsel shall attempt to resolve any dispute between counsel and a due process vendor without JAC intervention.

Section VI – Necessary and Applicable Forms

Online Case Opening
Attorney may open new court appointments through the Case Opening system *My JAC* (JAC's secure web site).

Online Billing Submission
Attorney and due process vendors should submit billings through the Online Billing Submission systems available on *My JAC* (JAC's secure website).

Guidelines and Tips for Submitting Files on *My JAC*

- JavaScript should be enabled in your web browser.
- Disable pop-up blockers in your web browser for invoice billing submission.
- Prepare all invoice billing packet document files for invoice billing submission. Billing packet documents must be either PDF or TIFF file format. For Apple/Mac users, TIFF format is preferable.
- Total size for invoice billing submission packets must be less than 20 MB for all electronic files combined.
- When submitting documents online, please submit them as separate files, i.e., the travel voucher document should be submitted separately from the charging document. Do not create separate files for each page of the document. Please submit each document file in the appropriately named upload field textbox, or payment may be delayed.
- All documents submitted online should be legible and scanned right side up. Each page should consist of a full-sized single page of the original document. Documents should be scanned in black and white, with a resolution no greater than 300 DPI.
- For online billings, save your Invoice Billing Submission Tracking Number for future reference. This will allow you to amend or add to an electronic billing submission or submit a response to a Billing Audit Deficiency through the online billing system.
- Once documents are submitted online, please do not mail, fax, or email paper backups or courtesy copies to JAC. This will help avoid duplication, confusion, and delay in payment.
- Please retain original signed copies of all documentation for your records.

Attorney Fees & Costs
All necessary and applicable Invoices/Voucher Covers for attorney fees and costs are available on the JAC website. Corresponding instructions for each form are also available on the JAC website.

Direct Pay of Due Process Services
All necessary and applicable Invoices/Voucher Covers for direct pay of due process services are available on the JAC website. Corresponding instructions for each form are also available on the JAC website.

Counsel Reimbursement of Due Process Services
All necessary and applicable Invoices/Voucher Covers for reimbursement of due process services are available on the JAC website. Corresponding instructions for each form are also available on the JAC website.

Travel Prepayment / Reimbursement
All necessary and applicable Invoices/Voucher Covers for travel prepayment or reimbursement are available on the JAC website. Corresponding instructions for each form and a State of Florida Travel Tips guide are also available on the JAC website.

Witness Reimbursement
All necessary and applicable Invoices/Voucher Covers for witness payment are available on the JAC website. Corresponding instructions for each form are also available on the JAC website.

Section VII – Confidentiality and Public Records

Public Records
Forms, bills, invoices, documents, correspondence and contracts submitted to JAC are public records. In limited circumstances, the court can order records to be kept confidential and under seal at JAC.

> In considering any issue of access to government records, it must be recognized that in Florida reports generated by a public agency are public records subject to disclosure, unless specifically made confidential or exempt by the Legislature.[1] Any exemptions to the Florida Public Records Law are to be narrowly construed.[2] Where a public record contains information that is exempt or confidential, that portion of the record which falls within the exemption may be redacted, while the remainder of the record must be produced for examination.

Fla. Att'y Gen. Op. 2001-54. The procedures for seeking sealing of court pleadings are available at Florida Rule of Judicial Administration 2.420. Absent an order in conformance with the rule, any documents provided to JAC will be subject to public records requests.

As a contractor with a state agency, some of the records possessed by attorneys and due process vendors may constitute public records pursuant Ch. 119, F.S. The failure to comply with a public records request could result in legal action by the requesting party. Under Florida, the failure to comply with a public records request may result in award of attorney fees and costs. Attorneys and due process vendors should be aware of this possibility. Attorneys should be familiar with Kight v. Dugger, 574 So. 2d 1066 (Fla. 1990), which concluded that files held in furtherance of representation of an indigent client are not public records. Due process vendors should contact the attorney who retained the vendor's services if the vendor receives a public records request. JAC is not liable for any attorney fees or costs arising from a public records lawsuit involving an attorney or vendor.

Confidential Information Should be Redacted
JAC does not require confidential information in order to process payment of submittals. To assist with auditing, JAC has been given the statutory authority to inspect court dockets under Ch. 39, F.S., and the authority to inspect and copy records under Ch. 985, F.S. Accordingly, counsel does not have to reveal confidential information when providing a submittal to JAC. The case number and name of the person represented by Counsel are usually enough to allow JAC to set the case up in the JAC database and process payment of the submittal. With parental notice of abortion cases, the name of the person represented should be redacted. Counsel should redact any confidential information from documents submitted to JAC. However, documents must not be redacted to the point where the document is meaningless.

Section VIII – Counsel and Witness Travel

A. General Practices and Procedures

Travel
All travel must be pursuant to Florida law, particularly the requirements of s. 112.061, F.S. Travel reimbursement is limited to witnesses or private court- appointed counsel for which reimbursement will be claimed on a uniform travel voucher as promulgated by the Department of Financial Services. Travel expenses are compensable to the extent authorized by law.

Traveler's Requirements:
- Include a valid court order identifying approved traveler with each travel request.
- Adhere to guidelines set forth in s. 112.061, F.S., Department of Financial Services Regulations, and the policies and procedures of the JAC.
- Review information regarding travel at http://www.justiceadmin.org.
- All travelers should maintain all original receipts (exception is where state standards for breakfast, lunch and dinner allowances apply).
- Bill only for authorized travel costs. Time spent making travel arrangements is considered clerical and is not reimbursable.

Court Order Required
For private court-appointed counsel, indigent for costs and *pro se* defense cases, JAC requires a court order approving travel. This order must be obtained prior to the travel. No commitment of state funds for such travel pursuant to s. 112.061, F.S., will be made without a court order.

B. Travel Reimbursement

Travel Voucher
Any request for reimbursement of travel expenses, including mileage, must be submitted using the travel voucher form issued by the Florida Department of Financial

Services. JAC will not accept or consider any request for travel expenses except through the DFS travel voucher. Failure to submit a properly completed travel voucher constitutes a waiver of any right to obtain travel expenses.

Mileage

When authorized, mileage reimbursement will only be authorized for trips in excess of 50 miles one way. Effective July 1, 2011, JAC will no longer be accepting mileage logs. Instead, any request for mileage must be submitted using the travel voucher form approved by the Florida Department of Financial Services pursuant to s. 112.061, F.S. Information on how to complete the travel voucher is posted on the JAC's website.

Reimbursement for mileage is limited to actual mileage traveled using a personal vehicle. JAC reimburses for the actual mileage incurred during a trip. When a traveler travels on multiple cases, the total amount of mileage billed across those cases cannot exceed the actual distance traveled. A traveler cannot seek reimbursement for the same mileage traveled in more than one case. Mileage must be apportioned appropriately so that the traveler receives compensation for the actual mileage traveled using a personal vehicle.

Travel must be via a usually traveled route from point-of-origin to point-of destination. In state, city-to-city mileage calculations can be found at http://www.dot.state.fl.us/planning/statistics/hwydata/intercity.shtm. If an in-state travel destination is not included or available on this website, or if your travel is out-of- state, calculate your mileage using an internet map website that shows such mileage (i.e. www.mapquest.com).

If an attorney is approved for a registry outside of the circuit in which the attorney's office is located, JAC reserves the right to object to mileage to travel to the circuit of the case. JAC may object to mileage in such circumstances absent a showing it was necessary for the attorney to be included on the registry because there were insufficient local attorneys available.

Reimbursement

All original receipts are required. In most circumstances for court-appointed cases, when travel is necessary and court-ordered, the individual (i.e. Counsel, investigator, mitigation specialist, expert witness, etc.) should arrange the travel, pay for any related travel expenses, and upon completion of the travel, submit to JAC for processing of reimbursement payment.

All necessary and applicable Invoice/Voucher covers for travel reimbursement are available on the JAC website. Additionally, corresponding instructions for each form and a State of Florida Travel Tips guide are also available on the JAC website.

Hotels

Hotel accommodations exceeding $150 per night require written justification. JAC requires Counsel to include three (3) internet or travel agency quotes for prices of

nearby hotels if billing for more than $150 per night. For additional information, please refer to the JAC website.

Competitive Carriers
Counsel is responsible for researching flight, lodging, and/or rental car rates, to obtain the most economical method of travel for each trip. When competitive carriers do not exist, documentation indicating that the reserved carrier is the sole provider for the area must be provided.

C. Travel Prepayment

Prepayment of Limited Travel Expenses
JAC receives numerous inquiries and requests related to travel for private court-appointed counsel, investigators, expert witnesses, and mitigation witnesses. In an effort to assist appointed counsel with travel cost for multiple witnesses, particularly in capital cases, JAC has paid in advance for such costs, such as air fare and lodging for ordinary witnesses. Counsel wishing to have JAC pay for travel is solely responsible for coordinating any necessary travel itinerary for witnesses and themselves. JAC will not act as an intermediary between witnesses and counsel.

All necessary information required by JAC, such as the hotel and flight information, is required to be provided in writing and submitted by appointed counsel. Because airline policy requires third-party purchase of tickets at a minimum of five (5) days prior to the flight, JAC requires that all necessary information required to buy the ticket be provided in writing and submitted by counsel at least ten (10) business days in advance of the flight.

Any attorney or due process vendor who fails to complete timely the DFS travel voucher and supply all necessary documentation will be barred from having JAC prepay travel expenses including hotel or airline bills. All subsequent travel will need to be paid by the attorney or the vendor and processed for reimbursement only after the travel has occurred

Applicable Procedure for Any Travel Prepayment Request:
- Obtain a valid court order authorizing travel and submit a copy to JAC.

Research flight, lodging, and/or rental car rates, as necessary (When competitive carriers do not exist, please provide documentation indicating that the reserved carrier is the sole provider for the area. Hotel accommodations exceeding $150 per night require written justification. JAC requires counsel to include three (3) internet or travel agency quotes for prices of nearby hotels if billing for more than $150 per night.).

- When possible, request that each vendor hold the intended travel arrangements until JAC processes the travel request and formally reserves the arrangements via payment. (JAC requires at least 24 hours from receipt of all necessary information and documentation to provide payment).
- Promptly submit to JAC, via email, all intended reservations and at least two additional comparative rate quotes for each type of reservation (i.e., common air

carriers, lodging facilities, car rental companies, etc.).

- Appropriately complete, execute, and submit the necessary and applicable Invoice/Voucher Cover for travel prepayment (i.e. Travel Expense Request Form; Court-Appointed Attorney Program Travel Related Purchasing Request Form; Court-Appointed Counsel Authorization for Agent to Arrange Travel), as well as all necessary supporting documentation. All necessary and applicable Invoice/Voucher Covers for travel prepayment are available on the JAC website.
- Upon satisfactory submission, JAC shall review for completeness and compliance with contractual and statutory requirement, whereby JAC will contact and process payment to the designated vendor.

JAC realizes that some travel providers will not hold travel arrangements without prepayment or credit card. Please do not use your own credit card to hold a reservation in which you will seek prepayment. Instead, please help us better assist you in arranging your travel plans by providing JAC with detailed information as expediently as possible. As time is an essential element, JAC cannot guarantee specific accommodations.

If, after a reservation has been acquired, an intended traveler does not travel, counsel who requested the travel should provide JAC with an explanation for the cancellation including, but not limited to:

- The full name of the intended traveler and whether a subpoena was issued to this person.
- Facts related to the nonappearance (i.e. Did traveler fail to appear? Was traveler's testimony no longer required? Was there a sudden travel inability due to weather, illness, death, etc.?).

Upon Completion of Travel:

- Counsel should submit all receipts for any incidental expenses to JAC (i.e. cab fares, parking, tolls, etc.)
- JAC staff will prepare a State of Florida travel voucher.
- If the travel voucher is for a vendor of services (i.e. investigator, mitigation specialist, expert witness, etc.), the completed voucher will first be mailed to the vendor for signature. It is then the responsibility of the vendor to forward the signed travel voucher to counsel for his or her signature, thereby certifying the travel expenditures.
- If the travel voucher is for counsel, the completed voucher will be mailed directly to counsel for signature as both traveler and supervisor, thereby certifying the travel expenditures.
- Counsel is responsible for mailing the signed/executed voucher back to the appropriate JAC staff.
- JAC staff will submit the signed/executed travel voucher for process of payment to the traveler of any expenses not prepaid (i.e. incidental expenses).