

Policy Re: Requests for Funds for Experts and Investigations

1. PRESENTATION OF REQUEST FOR FUNDS

- a. The *Declaration/Request for Funds* shall be presented to the Supervising Criminal Judge. If the request is made pursuant to Penal Code §987.9, it shall be presented in a sealed envelope on which is placed the name and number of the case and the attorney's name and address; the envelope shall be marked "Confidential" "*Declaration/Request for Funds.*"

2. REVIEW PANEL AND PROCEDURE

- a. The Supervising Criminal Judge or his/her designee may act as a one-judge panel when he/she determines that a two-judge panel is not necessary for review.
- b. When a two-judge panel is needed to review *Requests for Funds* for experts and investigators, including Penal Code §987.9 requests, and *Requests for Funds* under Evidence Code §730 and §1017. The two-judge panel shall be composed of the Supervising Criminal Judge or his/her designee and one other judge from the Criminal Team selected by the Supervising Criminal Judge.
- c. No judge who considers a P.C. §987.9 request shall serve as trial judge in such case. Court file shall note which judges have reviewed fund requests so that no such judge will act as trial judge.
- d. All *Requests* will be ruled on in writing within seven (7) court days if acted upon by only the Supervising Criminal Judge, and within eight (8) court days if a panel review is deemed necessary.
- e. The approved or denied *Order Form* (Exhibit B) will be referred to the Court Supervisor/ Assistant Court Supervisor of the Criminal Division who will maintain the confidential file and distribute the approval or denial.
- f. All *Requests for Funds* will be considered without oral input from counsel/pro per defendant, except in those cases where the panel, within its discretion, deems it necessary to have a hearing with counsel/ pro per defendant present.
- g. If counsel objects to the ruling on a *Request for Funds*, he/she may request reconsideration by submitting supplemental written supporting declaration or requesting an In-Camera Hearing on the record. However an In-Camera Hearing will not be scheduled if the Court based its denial or modification on a need for more information. In such a case, the information must first be provided in writing or the Court must be provided with Points and Authorities supporting the applicant's position.

- h. Any *Request* that does not satisfy the guidelines set forth herein may be returned to counsel with or without instructions regarding corrections.

3. CONTENTS OF REQUEST FOR FUNDS

- a. The *Declaration/Request for Funds* shall be presented on a form pre-approved by the Court. The *Declaration* which shall contain the following information:
 - i. A factual statement of the case from which the panel can evaluate and determine the reasonableness and necessity for the fund request;
 - ii. A statement of the viable defenses that pertain to any requested funds;
 - iii. A detailed itemization of anticipated expenditures;
 - iv. The amount of prior funding authorized by the court, the purpose for which the funds were authorized with an itemization detailing how the funds were expended to date; and
 - v. A statement that the attorney is retained, appointed by the court, a public defender, or that the defendant is pro per and/or indigent.
 - vi. A statement whether there are co-defendant(s), and if so, the names of the co-defendant(s) and defense counsel.
- b. The *Declaration* must be candid and specific about the funds requested and the specific reasons therefore. The *Declaration* must include the name of the person sought, an hourly rate, the number of hours needed, and the specific function to be served.
- c. A sample *Declaration/Request for Funds* and *Order Form* is attached (see Exhibit A and B).

4. REQUEST FOR INVESTIGATORS AND FEES

- a. The *Declaration* must detail specifically what the investigator will do. General statements, such as "investigate the case" or "interview witnesses" are insufficient. If the investigator must travel, a detailed explanation of the reasons for the travel is required and why travel is preferable to hiring an investigator in the foreign area.
- b. Any in-court, during proceedings services must be specified and justified.
- c. Investigators are to perform only investigative services and are not to act as a legal runner, secretary or messenger.
- d. Fee for investigators shall not exceed \$50.00 per hour.

- e. Counsel shall direct and monitor the work of the investigator to see his/her investigative time is reasonably necessary.

5. REQUEST FOR EXPERTS AND EXPERT FEES

- a. A complete description of the expert, his/her expertise, and his/her function shall be stated in the *Declaration*. There must be a rational justification for the type of expert based on the specific facts of the case. That justification must be set out in the *Declaration* and supported by Points and Authorities, if unusual. The *Declaration* shall include the hourly cost or other charge for the expert, and the number of hours contemplated for each specific service.
- b. The hourly rate paid for Medical and Psychological Forensic Evaluation and Consultation shall not exceed \$250.00 per hour. The request for the above shall specify how much time will be spent on:
 - consultation,
 - file review,
 - in-court observing or assisting,
 - research,
 - interviews (specify name, location, purpose and anticipated length), and
 - testifying. Be as specific as possible as to why each needs to be done.
- c. The hourly rate for Accident Reconstruction and all other experts shall not exceed \$200.00 per hour. The same specificity and justification indicated in "b" above shall be required for this section.
- d. The hourly rate for Pathology Experts shall not exceed \$250.00. The same specificity and justification indicated in "b" above shall be required for this section.
- e. Request for Interpreters Used Out of Court
 - i. The *Declaration/Request for Funds* must detail which persons need the use of an interpreter and the approximate length of time of the interview.
 - ii. Non-certified and non-registered interpreters will be used unless circumstances warrant the use of certified and registered interpreters. The need for certified or registered interpreters must be set forth in the declaration.
 - iii. Fees for interpreters shall be:
 - Non-certified and Non-registered per hour \$25.00
 - Certified and Registered per hour \$40.00
 - iv. Mileage will be paid for out of county interpreters only. Mileage will be computed using the current Internal Revenue Service rate. Use of an out-of-

county interpreters will be authorized only upon a showing that an in county resource was not available.

- v. Interpreters that are used during normal business hours (when accepting an appointment would deprive them of receiving the statutory per diem rate) will be paid as follows:

Certified and Registered \$286.82/full day or \$159.08/half day
Non-certified and Non-registered \$175/full day or \$92/half day

The *Declaration* shall state why the interview must take place during normal business hours and that the interpreter would be foregoing court work in accepting the assignment. Interpreters employed by the court (Court Interpreter Pro Tem) receiving a per diem from the court may not charge an additional per diem or hourly rate when accepting an assignment during normal business hours.

- f. Upon extraordinary good cause being shown an increased fee for "b", "c", and "d" will be considered.
- g. The Courts will not fund "out of state" or "out of county" experts unless justification is shown as to why an in-state or in-county expert is insufficient or unavailable.
- h. This policy **does not** replace the *Fee Schedule for Psychiatric & Other Examinations*.

6. MULTIPLE DEFENDANT CASES

In cases in which there are two or more indigent defendants represented by different counsel, all counsel shall confer and designate one attorney to be "Lead Counsel" for fund request purposes. All requests for investigation or expert witness funds shall be made by lead counsel unless:

- a. Lead counsel refuses to do so. A detailed declaration stating the circumstances why Lead Counsel refuses to make the request shall accompany the declaration in support of the fund request.
- b. The requesting counsel establishes good cause in a detailed declaration stating why he/she did not ask Lead Counsel to make the fund request. A conclusionary statement stating only that it is a conflict of interest to ask lead counsel to make such requests will not be deemed good cause. Specific facts will be required. This declaration shall accompany the request for funds.
- c. All declarations for funds shall include a statement of whether there are co-defendants, and if so, are they joined for trial or elsewhere in the litigation proceedings.

7. REQUESTS DURING TRIAL

- a. An attorney/pro per defendant may make a request for investigative or expert fee funds during a trial. The request should be made to the Supervising Criminal Judge. However, in a non-death penalty case, the request may be made to the trial judge only if the need for funding is considered to be an emergency and the request cannot be made to the Supervising Criminal Judge due to time constraints. The trial judge shall not grant funding previously denied unless good cause has been shown.
- b. In any request to a trial judge, the attorney shall fully justify the need and shall inform the trial judge of all funds previously approved and/or denied.
- c. If time is of the essence, the attorney/pro per defendant may make an oral declaration on the record in a closed proceeding and the court will immediately make its decision on the record. In such a case, the attorney/pro per defendant shall submit an Order within one week.

8. TRAVEL EXPENSES

- a. The *Declaration* must detail the nature of the travel, why it is necessary, the number of persons making each trip, and the justification therefore. It shall include an explanation of why phone communications or someone in that locality cannot be utilized in lieu of a trip.
- b. Local mileage, defined as within Stanislaus County, is not reimbursable.
- c. Mileage outside Stanislaus County will be reimbursed at the current Internal Revenue Service rate for mileage.
- d. Alcohol or in-room movies or other incidentals will not be reimbursed.
- e. The County reimbursement rate for meals at the time the claim is submitted shall be the rate that will be used for meal reimbursement.

9. MISCELLANEOUS

Miscellaneous expenses will not be funded unless approved in advance.

10. COSTS NOT ALLOWED

- a. Attending conventions, seminars or workshops.
- b. Cleaning charges.
- c. Cash or personal items for defendant.

- d. Items intended to improve defendant's personal appearance (e.g., haircuts, dental plates, cosmetics).
- e. General office expenses such as typing, paper, photocopying and telephone.
- f. Any expenditure not previously approved by the Supervising Criminal Judge or his/her designee.
- g. Charges for alcoholic beverages or in room movies.

11. SUBSEQUENT REQUESTS WHEN ORIGINAL APPROVAL WAS NOT SUFFICIENT

When the original amount approved is insufficient, the subsequent *Declaration* must cover not only what is needed to be done, but what has been done previously.

12. SUBMISSION OF FEE CLAIM

- a. After the work is performed, the *Fee Claim*, also known as the "*Blue Claim*", (Exhibit D) must be submitted to assigned counsel for review, approval and initialing, then to the Public Defender's. The *Fee Claim* shall be submitted within 30 days following date of the last service rendered or termination of the case, whichever is later. Any late submissions may be denied. All *Fee Claims* must contain a detailed description of the work performed. Specifically, names of witnesses or contacts interviewed, as well as the location where and when the work was done, must be included. All billings must be sufficiently detailed to permit a reasonable audit on conclusion of the case.
- b. All *Fee Claims* for payment of court authorized experts/investigators shall be on a *Blue Claim Form* (Exhibit D) together with a declaration by counsel that he/she has reviewed the claim and that he/she approves or disapproves of the claim. Counsel shall specifically note any item in the claim of which he/she disapproves.
- c. A copy of the *Order Form* (Exhibit B) authorizing such expenditures shall be presented with the claim.
- d. Form copies of the *Declaration/Request for Funds* and *Order Form* (Exhibit A & B), the *Time Sheet* (Exhibit C), *Fee Claim* (Exhibit D), and the *Blue Claim Form* (Exhibit E) are attached.
- e. All *Fee Claims* for payment shall be delivered to the Public Defender's Office, 1021 I Street, Suite 201, Modesto, CA 95354.

13. CONFIDENTIALITY

The Court will treat all requests and bills as confidential until 60 days after the conclusion of the case. The County Auditor will only receive page 4 of the *Declaration/Request for Funds*

and *Order Form*, and the *Blue Claim*, not the detailed *Fee Claim* (Exhibit D), prior to conclusion of the case. During this time, all such records will be maintained in a locked file. Sixty (60) days after the conclusion of the case, all records will be subject to inspection or audit by anyone authorized by the Court or the County Auditor.

1 SUPERIOR COURT OF THE STATE OF CALIFORNIA

2 IN AND FOR THE COUNTY OF STANISLAUS

3

4 THE PEOPLE OF THE STATE OF) Case No.: _____

5 CALIFORNIA,)

6 Plaintiff,) DECLARATION/REQUEST FOR FUNDS

7 vs.) and ORDER FORM

8 Defendant.)

9) **C O N F I D E N T I A L**

9) Hearing: _____

10 I, _____, declare that:

11 1. I am an attorney at law appointed by the Court to
12 represent the above named defendant.

13 2. This application is made pursuant to: _____
14 (specify code section or case law).

15 3. The defendant is charged with: _____.

16 4. The matter is presently set for (**preliminary hearing/jury**
17 **trial**) on: _____, 20__.

18 5. There (have/have not) been any affidavits of prejudice
19 from the defense or the prosecution or any judicial recusals on
20 this case. (For this reason, Judge _____
21 cannot act on this request.)

22 6. It is necessary for the complete and full defense that
23 the Court appoint an (**expert/investigator**) to assist counsel in
24 the preparation of this case for trial for the following
25 reasons:
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DECLARATION/REQUEST FOR FUNDS and
ORDER FORM

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7. The person or entity that the Court has requested to appoint is: _____
_____ (name and address).

8. The specific work to be done, the reasons why it is necessary, and the estimated time (in hours) to perform each task is as follows:

9. The person or entity to perform the work requested in this declaration is billing at an hourly rate of \$ _____, for work performed, and an hourly rate of \$ _____, for travel/waiting time, and an hourly rate of \$ _____, for actual testimony, should testimony be necessary.

10. The person or entity requested is qualified to perform the described work. If a local (i.e., Stanislaus County, San Joaquin County or Merced County) person or entity is not requested in paragraph six, I have diligently investigated local and other non-local persons or entities and he/she/they were

1 unacceptable or not qualified because: (**specify**)_____

2 _____
3 _____
4 _____
5 11. No additional amounts will be used beyond the amount
6 authorized by this order without prior approval by the review
7 panel and without good cause shown.

8 12. The amount of requesting the court to authorize is
9 \$_____.

10 13. I (have/have not) previously used and
11 (expert/investigator) on this case. (That person or entity was
12 _____ and was paid \$_____
13 for the following services that I found necessary: (**specify or**
14 **(attach bill)**)_____

15 _____
16 _____
17 _____
18 14. To the best of my knowledge, no other order
19 authorizing(expert/investigator) fees, except paragraph 12, has
20 been made in the case for this purpose.

21 15. I agree to provide the appointed person or entity with
22 a billing form approved by the court which will be submitted to
23 the court for fee payment. The bill will contain a detailed
24 description of the work performed, including the names of
25 witnesses and contacts interviewed as well as a location where
26 the work took place. I agree to direct and monitor the work to
27 be able to assure the court that it was reasonably necessary.
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DECLARATION/REQUEST FOR FUNDS and
ORDER FORM

1 I declare under penalty of perjury that the foregoing is
2 true and correct.

3 DATED: _____
4 _____
5 Signature of Declarant

6 Attachment - Order Form
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1 STANISLAUS COUNTY SUPERIOR COURT
2 INDIGENT DEFENSE - REQUEST FOR FUNDS
3 **ORDER FORM**

4 D.A. No. _____ Case No. _____

5 Defendant(s) Name(s) _____

6 Defense Counsel _____

7 Offense(s) Charged _____

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9

AUTHORIZATION FOR THE FOLLOWING APPOINTED INDIVIDUAL

10 Name: _____

11 Phone: _____

12 Address: _____

13 Total number of hours authorized: _____

14 Amount authorized: _____

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DENIED. Reason: _____

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22 Date: _____

JUDGE

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24 **A DETAILED BILLING MUST BE SUBMITTED WITH THE REQUEST FOR FEE
PAYMENT.**

25 Hours Approved:

26 Description: _____ No. of Hours: _____

27 Description: _____ No. of Hours: _____

28 Description: _____ No. of Hours: _____

INDIGENT DEFENSE - REQUEST FOR FUNDS

ORDER FORM

- 1 -

STANISLAUS COUNTY SUPERIOR COURT
 DAILY TIME SHEET / TIME RECAPITULATION

People vs. _____ Case No. _____ Attorney: _____

DESCRIPTION OF ACTIVITY	DATE	TIME IN/OUT	TIME IN 1/10 (.1)	DAILY TOTAL

TOTAL TIME EXPENDED: _____

COUNTY OF STANISLAUS BLUE CLAIM

INSTRUCTIONS TO CLAIMANT: BOARD RESOLUTION #91-1449 STATES THAT "THE AUDITOR SHOULD NOT PAY COUNTY WARRANTS OR RELEASE COUNTY FUNDS UNLESS THE AUDITORS OFFICE HAS A SIGNED AGREEMENT OR DOCUMENT AUTHORIZING SUCH ACTION AND A BOARD OF SUPERVISORS RESOLUTION OR RECORD SHOWING THE MATTER WAS APPROVED BY THE ENTIRE BOARD OF SUPERVISORS." DEPARTMENTS MUST CERTIFY/APPROVE ALL CLAIMS PRIOR TO SUBMITTING TO COUNTY AUDITOR FOR PAYMENT. ALL CLAIMS MUST BE ITEMIZED WITH DATE OF SERVICE RENDERED, QUANTITIES, UNIT PRICE AND DESCRIPTION OF ARTICLES FURNISHED OR DELIVERED.

ORACLE ACCOUNT CODING STRIP

BATCH NAME	PREPARED BY:	DEPT/OFFICE:
AUDITED BY:	DATE	PHONE:
DATE	KEYED BY:	PHONE:

SUPPLIER _____	DATE _____	INVOICE # _____	(Invoice must be attached)
SITE/ADDRESS _____	TOTAL _____	TERMS _____	PAY ALONE Y/N _____
PHONE: _____	SUPPLIER #:		

LINE	PO#	AMOUNT	FUND	ORG.	ACCT.	G/L PROJ.	LOCATION	MISC.	OTHER	DESCRIPTION

EXPLANATION:	Court Order Amount: \$ _____	Court Order Date: _____	(Copy of Court Order must be attached)
	Amount Previously Used: \$ _____	Harris Motion Appt. _____	"Y" or "N" (Yes or No)
	Remaining Balance on Court Order: \$ _____	AUTHORIZED ATTORNEY'S SIGNATURE:	

I hereby certify this claim to be a correct and legal County charge, that I have reviewed the contract (which has been approved in accordance with the provisions of the Govt. Code, Stanislaus County Code, and IRS Revenue Ruling 87-41) concerning these services (if applicable) and that the services identified on this claim comply with the terms of the contract, that an appropriation for this expenditure was approved during the budget process or by a specific Board Resolution which is on file in my office. I also certify the funds needed to pay this are available in my department budget. Government Code Section #24054 establish personal liability for illegal allowances of claims.

 AUTHORIZED DEPARTMENTAL SIGNATURE DATE

The undersigned approves this claim for any of the following reasons:
 1) Department Head of authorized management representative staff must also approve any transaction exceeding \$75,000. 2) Auditor's Office administrative staff must also approve any transaction exceeding \$75,000. 3) The Auditor Controller or administrative staff must approve expense reimbursement claims for Dept. Heads. 4) The CEO or the Board of Supervisors must approve expense reimbursement claims for the Auditor Controller. 5) Any claim questioned by the Auditor Controller regarding legal property will be sent to the County Counsel's office for review and approval prior to being paid.

 AUDITOR APPROVING SIGNATURE DATE

The undersigned, under penalty of perjury, states that the above claim and the items, amounts and statements as set out are true and correct, that no part has been previously paid, and that the amount claimed is justly due and is presented within one year since the last item accrued.

 CLAIMANT DATE

REPORTABLE: Y or N	BOX #:	SITE NAME:
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