**Office of Conflicts Counsel (OCC)**

**Policies and Procedures Governing Investigative Services**

**Effective June 1, 2017**

**1. Pre-Authorization**

All investigative work must be pre-authorized. The attorney must submit a request to OCC and have approval before expenses are incurred.

Attorneys are responsible for reviewing relevant discovery and developing a theory of the case and investigative plan. The pre-authorization request must include information from the attorney that is case specific and describes the tasks to be performed by the investigator. This information serves as the justification for funding and should also be clearly communicated to the investigator. Requests with general, non-specific descriptions will be denied and OCC will request more information from the attorney.

Claims for amounts in excess of authorized funds will not be paid.

The attorney and investigator are responsible for keeping track of time expended so that if additional investigation is necessary, funds can be sought in a timely manner.

**2. Compensation - Rates**

Effective June 1, 2017, OCC’s maximum investigator rates are as listed below. These rates apply for all cases accepted by the investigator on or after June 1, 2017.

1. Investigator - $75/hour
2. Investigator Assistant/Paralegal - $40/hour
3. Transcription - $30/hour (including transcription by paralegals)
4. Process Service – Investigators shall charge a flat fee of $35 for service of process. Additional costs for time, mileage and other expenses will not be reimbursed absent extraordinary circumstances.

**3. Billable Services**

Investigators may be used for and bill for the following types of services:

1. Review pertinent discovery, police reports, documents, transcripts, as required to complete assigned investigative tasks
2. Meet and discuss case with attorney
3. Meet and discuss case with defendant
4. Locate and interview witnesses
5. View crime scene and take photographs and make diagrams
6. Perform background and record searches on defendant and potential witnesses
7. Locate witnesses and serve subpoenas
8. Coordinate witnesses for court appearances
9. Prepare reports of witness interviews
10. Testify as a witness
11. Transport witnesses
12. Travel to and from investigative tasks

* Travel time may only be billed if it takes the investigator outside the county in which the investigator accepted the assignment.
* Mileage may be billed at the State of Delaware rate of $.40/mile for both in and out of county investigative tasks.

**4. Non-billable Services**

Investigators may not bill for the following types of services:

1. Routine administrative tasks (for example: time spent keeping time records, filling out billing forms, submitting bills)
2. Investigative tasks that were not requested by the attorney
3. OCC will not pay for two investigators working simultaneously on the same task. (For example, if photos of a crime scene or surveillance are needed, OCC will pay for only one investigator to go to the scene and take photos or conduct the surveillance.)
4. OCC will not pay investigator rates for performing paralegal tasks such as summarizing discovery, police reports, and statement transcripts. These tasks must be billed at paralegal rates.
5. OCC will not pay for an investigator or paralegal to observe a trial and prepare notes based on trial observations. An attorney already present at trial should take any necessary notes. Attendance at trials or other court hearings is authorized only for attending those portions of the trial when the investigator’s presence is necessary. Attendance for an entire trial will not be compensated unless extraordinary circumstances exist and the attorney obtains the prior approval of OCC.

**5. Reimbursement Requests**

For any reimbursement request, you must include proof of payment such as a receipt, a cancelled check or copy of a credit card statement.

Normal overhead costs of maintaining an office are not allowable expenses for reimbursement.

**6. Billing – Time Increments**

Time should be billed in 1/10 (0.1) of an hour (6 minute increments).

Bills should reflect the total actual time spent on cases each day. You may not automatically round each separate task up to the next 1/10 of an hour, but you can summarize activities for the day and combine activities as long as your bill accurately reflects the actual time spent on investigative tasks.

**7. Billing – Information Required**

1. Bills must be typed and legible
2. All bills should be submitted to the attorney for review. The attorney will submit the bill to OCC for payment.
3. Amounts exceeding the pre-authorization amount will not be paid.
4. Time spent on each activity should be described in detail. Each activity should be listed separately.
5. If you are working on several cases at once when you are performing investigative services, you are required to pro-rate your time in direct relation to the time spent on that actual case.
6. If work is performed by your assistant or employee, their time must be listed separately in your bill along with the rate charged.
7. Clarity - The clearer your bill, the more easily (and quickly) OCC can process it. When OCC does not have all of the information needed, it delays payment of your bill. Having to do research or request additional information about a bill also places a strain on limited OCC staff resources.
8. Time records must minimally include the following:
9. Case name
10. Case number
11. Date of the activity
12. Amount of time expended
13. Description of each task performed (Descriptions of tasks and services must be sufficiently specific and detailed to enable one to understand the nature and extent of the service performed.

**8. Submission of Bills – Timing and Frequency**

1. For standard cases, it is preferred that investigators submit bills at the conclusion of their work on the case.
2. For cases that require extensive investigative services and/or are likely to span a long period of time, it is preferred that investigators submit interim bills.
3. The same case should not be billed more than one time per month. More frequent billing places a strain on limited OCC staff resources.
4. Final bills should be submitted within 90 days of a case closing. If a case closing bill is submitted more than 180 days after a case closing, it will not be paid absent a finding by Chief Conflicts Counsel that the delay was due to extraordinary circumstances beyond the control of the investigator.

**9.** **Expenses – Allowed and Excluded**

1. Office Expenses

OCC will not reimburse for routine office expenses such as standard online research, internet service, or phone service.

1. Photocopying

OCC will pay for reasonably necessary, properly documented photocopying provided by outside services such as Parcels, Kinkos, Staples, etc. For large photocopying projects done in-house, OCC will reimburse at the rate of ten cents ($.10) per copy.

1. Postage

OCC will reimburse for reasonably necessary, properly documented postage.

1. Telephone Calls

OCC will not reimburse for routine telephone calls.

1. Parking Expenses

OCC will not reimburse routine parking costs such as courthouse parking.

1. Travel – Automobile

Travel time may only be billed if it takes the investigator outside the county in which the investigator accepted the assignment.

Mileage may be billed at the State of Delaware rate of $.40/mile for both in and out of county investigative tasks.

1. Travel – Air and Hotel

For unusual travel expenses, such as the need to fly or stay overnight in a distant location, attorneys must seek the prior approval of Chief Conflicts Counsel to incur travel expenses.