

The Committee for Public Counsel Services

Qualifications and Rates for:

Investigators, Social Service Providers, and Expert Witnesses

December 19, 2011

In Fiscal 2009, in response to the need for cost control measures to be implemented for that fiscal year, the Committee voted to reduce the maximum hourly rates of most Indigent Court Cost vendors by 5% effective with motions allowed on or after December 1, 2008.

This reduction did not apply to Court Reporters, Investigators, Summons Delivery Services, and Translators.

The reduction did apply to Investigators, Social Service Providers, and Expert Witnesses categories of vendors listed in this document

In Fiscal 2012, in response to the need to implement further cost control measures, the hourly rate for Psychologists and Psychiatrists is being reduced by an additional 5% effective with motions allowed December 26, 2011.

The additional reduction to the maximum hourly rate for Psychologists and Psychiatrists applies to all bills in cases in which the initial motion for funds for the vendor's services is allowed on or after December 26, 2011. The reduction does not apply when the initial motion for funds was allowed before December 26, 2011 – even if a supplemental motion for that vendor is allowed after that date. If the initial motion was allowed before December 26, 2011 and a supplemental motion is allowed on or after, December 26, 2011, the vendor must submit a copy of the initial allowed motion, in addition to a copy of the allowed supplemental motion, in order to receive compensation at the original, pre- December 26, 2011 maximum hourly rate.

*Failure to attach a copy of the original allowed motion **along with a copy of the allowed supplemental motion** will result in payment at the December 26, 2011 rate.*

Additional policies that went into effect in 2009:

- The Committee voted to limit the maximum hourly compensation for travel by Indigent Court Cost vendors to the hourly rate that would be paid to assigned private counsel handling a case of the type on which the vendor's services have been engaged, with the proviso that this restriction may be waived if required in an individual case with prior approval by the appropriate Deputy Chief Counsel or the Director of Mental Health Litigation.
- The Committee voted to require prior approval by the appropriate Deputy Chief Counsel or Director of Mental Health Litigation when counsel wishes to retain an expert or other Indigent Court Cost vendor whose one-way travel to the court in which the case is pending will exceed 100 miles.
- Experts now must detail their travel hours separately from their service hours and list the actual miles traveled. Modified payment vouchers will be provided for this purpose and a link to the

Any waiver of the travel restrictions for vendors must be approved in advance of the travel.

INTRODUCTION:

Section 9(i) of G.L. c.211D authorizes the Committee for Public Counsel Services (CPCS) to establish qualifications and rates for expert witnesses, investigators and social service providers who are paid as vendors in accordance with the Indigent Court Costs Act, G.L. c.261, §§ 27A-27G. Since Section 9(i) was adopted in 1996, CPCS has surveyed vendors regarding their rates and qualifications, surveyed attorneys regarding their use of vendors and Indigent Court Cost funds, and reviewed the policies and practices of other jurisdictions regarding the payment of expert witnesses.

This document identifies twenty-three categories of vendors that fall within section 9(i) of Chapter 211D, and lists both the qualifications and range of rates for each category of vendors.

This list of experts is neither exhaustive nor exclusive. Assigned counsel may determine a need for experts not included on this list. The Indigent Court Costs Act, G.L. c.261, §§ 27A-27G, applies to requests for funds for the experts listed in this packet and others deemed necessary by assigned counsel. **Similarly, the range of rates is neither exhaustive nor exclusive.** Rates paid to experts may fall above the rates listed herein, provided that no vendor may be compensated for a rate greater than the rates listed for the vendor's area of expertise, unless (1) the higher rate is previously approved by the appropriate Deputy Chief Counsel or Director of the Mental Health Litigation Unit of CPCS and (2) the total amount needed is approved by the Court in an allowed Motion for Funds. If the expert customarily charges a rate below the minimum amount in the applicable rate range herein, no special approval by the appropriate Deputy Chief Counsel or Director of the Mental Health Litigation Unit of CPCS is required. However, except as otherwise provided by law, a court may not supersede CPCS's statutory authority to implement its expert compensation rate structure by imposing lower rates of compensation or alternative compensation arrangements differing from those authorized by CPCS. See generally *Commonwealth v. Matranga* 455 Mass.45, 51 (2009).

Prior to filing a motion for funds to retain the services of an expert whose qualifications do not meet the CPCS Guidelines, or whose rates exceed the CPCS-approved rates (see the following list of Expert Qualifications & Rates), counsel shall receive written approval from the appropriate Deputy Chief Counsel or Director of the Mental Health Litigation Unit. Counsel shall provide the expert with a copy of the written approval of the appropriate Deputy Chief Counsel or Director of the Mental Health Litigation Unit, as well as a copy of the motion for funds allowed by the court. When submitting a bill to CPCS, the expert shall include copies of both the written approval of the appropriate Deputy Chief Counsel or Director of the Mental Health Litigation Unit and the allowed motion for funds. Bills submitted without prior approval from the appropriate Deputy Chief Counsel or Director of the Mental Health Litigation Unit may be denied or reduced to approved rates. Bills submitted without a complete copy of the allowed motion from the court will be denied.

Please note that the rates listed in this document are the current rates (with motions allowed on 12/26/11 and after), and include any mandatory reductions. This document supersedes all previously published rates.

Expert Type	Rate Range	Page
Accident Reconstruction		6
Without Professional Degree	\$60/hr-\$95/hr	
With Professional Degree	\$100/hr-\$142.50/hr	
Arson		6
Without Professional Degree	\$50/hr-\$95/hr	
With Professional Degree	\$100/hr-\$237.50/hr	
Ballistics	\$50/hr-\$142.50/hr	7
Bloodstain Pattern Expert		7
Without Professional Degree	\$75/hr-\$142.50/hr	
With Professional Degree	\$150/hr-\$237.50/hr	
Crime Scene Reconstruction	\$150/hr-\$213.75/hr	8
Document Examiner/Handwriting Expert	\$75/hr-\$142.50/hr	8
DNA Consultants	\$60/hr-\$95.00/hr	9
DNA Testing Laboratories	\$150/hr-\$237.50/hr	10
Drug Analyst		11
Bachelor's Degree	\$75/hr-\$95.00/hr	
Master's Degree	\$125/hr-\$142.50/hr	
Graphics	\$45/hr-\$71.25/hr	11
Investigator	\$25/hr-\$50/hr	12
Medical Doctor	\$150/hr-\$237.50/hr	12
Molecular Biologist	\$150/hr-\$237.50/hr	13

Expert Type	Rate Range	Page
Nurse		14
Registered Nurse	\$30/hr-\$57/hr	
Master's Degree	\$60/hr-\$95/hr	
Pathologist/Medical Examiner	\$200/hr-\$285/hr	14
Pediatrician	\$150/hr-\$237.50/hr	15
Pharmacologist	\$75/hr-\$142.50/hr	15
Psychiatrist	\$150/hr-\$225.65/hr	16
Psychologist	\$100/hr-\$180.50/hr	16
Social Services Expert		17
Bachelor's Degree	\$50/hr-\$71.25/hr	
Master's Degree	\$75/hr-\$95/hr	
Doctorate Degree	\$100/hr-\$190/hr	
Special Education Expert	\$50/hr-\$71.25/hr	17
Statisticians/Geneticists	\$150/hr-\$190/hr	18
Toxicology	\$125/hr-\$213.75/hr	19

Title: ACCIDENT RECONSTRUCTIONISTQualifications:

Required: ! Training in collision analysis (e.g., state police training)

Preferred: ! Bachelor's Degree in engineering
! Professional engineering certification (state board of registration)

Rates: Without professional degree \$ 60/hr-\$95/hr
With professional degree \$100/hr-\$142.50/hr

Title: ARSONQualifications:

Required: ! Significant experience as firefighter (minimum 5 years) including assignment to department's arson squad

Preferred: ! Training as arson investigator (A.T.F., F.B.I., state police)

Rates: Without professional degree \$ 50/hr-\$95/hr
With professional degree \$100/hr-\$237.50/hr

Title: BALLISTICS EXPERT

Qualifications:

Required: ! Significant firearms training and experience including investigative techniques and laboratory analysis (e.g., police, military) of firearms

Rates: \$50/hr-\$142.50/hr

Title: BLOODSTAIN PATTERN EXPERT

Qualifications:

Required: ! Forty hours training in bloodstain pattern interpretation with instructor recognized by the International Association of Bloodstain Pattern Analysts

Preferred: ! Bachelor's Degree in relevant science/including course work in mathematics, biology, chemistry and related sciences
! Membership in International Association of Bloodstain Pattern Analysts

Rates: Without professional degree \$ 75/hr-\$142.50/hr
With professional degree \$150/hr-\$237.50/hr

Title: CRIME SCENE RECONSTRUCTIONIST**Qualifications:**

Required: ! Bachelor of Science degree in engineering, chemistry, biology, physics or related sciences

Preferred: ! Extensive relevant laboratory and actual crime scene experience

Rates: \$150/hr-\$213.75/hr

Title: DOCUMENT EXAMINER/HANDWRITING EXPERT**Qualifications:**

Required: ! Significant training (and/or an apprenticeship) as a document examiner or handwriting expert

Preferred: ! Membership in a national association in the field, e.g., National Association of Document Examiners, Association of Forensic Document Examiners, etc.

Rates: \$75/hr-\$142.50/hr

Title: DNA CONSULTANTS

Function: Review and analyze records and testing data. Consult regarding reliability of data and test results, advisability of further testing and related services.*

Qualifications:

Required: ! BS or higher in chemistry, biology, biochemistry, molecular biology, forensic chemistry or related sciences. Experience performing or observing forensic DNA analysis.

OR

Required: ! Extensive expertise with or training in forensic DNA analysis which includes considerable knowledge of forensics, DNA test kits, lab procedures, test procedures and protocols as well as experience with or knowledge of biology, chemistry, molecular biology, biochemistry or related sciences.

Required: ! Membership in professional associations such as The New England Association of Forensic Scientists, American Academy of Forensic Scientists of equivalent organizations.

Rates: \$60/hr - \$95/hr

*Notes regarding DNA service providers

In this area of constantly advancing science, attorneys may wish to engage a vendor to provide services that do not fall within one of the enumerated service-types or whose experience falls outside the required qualifications. In such event, counsel should investigate the vendor's experience, training, and qualifications, including whether the vendor has testified as an expert and must obtain prior permission from the Chief Counsel or his designee before hiring the vendor.

Some, but not all, labs require payment of an "observation fee" which is an additional charge levied when a defendant's expert observes the Commonwealth's testing. Counsel should determine if the lab chosen by the Commonwealth charges an "observation fee", and if so, advocate that the fee be paid in full or in part by the Commonwealth.

Attorneys are encouraged to obtain a copy of the lab or expert's fee schedule. Some labs/experts charge a "daily flat fee" for travel outside the lab or state. Please note that CPCS prohibits flat fee billing except upon the approval of the Chief Counsel based on extraordinary circumstances which render payment on an hourly basis unfeasible or uneconomical.

Title: DNA TESTING LABORATORIES
Function: DNA testing, observation, report writing, consultation and related services.

Qualifications:

Required: ! ASCLD/LAB certified*

Rates: \$150/hr-\$237.50/hr report writing, consultation and related services

Testing fee at approved reasonable rates (see below)

*Notes regarding DNA service providers

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Title: DRUG ANALYSTQualifications:

Required: ! Bachelor's Degree in biology, chemistry or related science

Preferred: ! Master's Degree
! Significant experience executing relevant testing procedures

Rates: Bachelor's Degree \$ 75/hr - \$95/hr
Master's Degree \$125/hr - \$142.50/hr

Title: GRAPHICS SPECIALISTQualifications:

Required: ! Significant training in computer graphics or comparable graphics experience

Preferred: ! Bachelor's Degree in graphic arts, architecture, industrial design, etc.

Rates: \$45/hr-\$71.25/hr

Title: INVESTIGATOR

Qualifications:

Required: ! Compliance with the provisions of G.L. c.147,
§§22-26

Rates: \$25/hr - \$50/hr

Title: MEDICAL DOCTOR

Qualifications:

Required: ! Licensed M.D.
! Board certified in medicine

Preferred: ! Board certified in area at issue in individual case

Rates: \$150/hr - \$237.50/hr

Title: MOLECULAR BIOLOGIST

Function: Observing DNA testing, consultation, and related services.

Qualif

Required:	!	BS in biology, biochemistry, chemistry or related sciences.*
	!	Extensive experience in DNA analysis which includes forensic DNA testing, DNA test kits as well as test procedures and protocols.
Preferred:	!	MS or Ph. D. in molecular biology, biochemistry or related sciences.

Rates: \$150/hr - \$237.50/hr

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investigate the vendor's experience, training, and qualifications, including whether the vendor has testified as an expert and must obtain prior permission from the Chief Counsel or his designee before hiring the vendor.

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Title: **NURSE** Qualifications:

Required: ! Registered Nurse

Preferred: ! Board certified in subspecialty (e.g., pediatrics,
psychiatry, etc)

Rates: Registered Nurse \$30/hr - \$ 57/hr
Master's Degree \$60/hr - \$95/hr

Title: **PATHOLOGIST/MEDICAL EXAMINER**

Qualifications:

Required: ! Licensed physician (state board of registration)
 ! Board certified in pathology

Preferred: ! Board certified in forensic pathology
 ! Board certified in anatomic pathology

Rates: \$200/hr-\$285/hr

Title: PEDIATRICIAN

Qualification:

Required: ! Licensed M.D.

Preferred: ! Board Certified in Pediatrics

Rates: \$150/hr-\$237.50/hr

Title: PHARMACOLOGIST

Qualifications:

Required: ! Bachelor's Degree in pharmacology

Preferred: ! Significant relevant forensic experience

Rates: \$75/hr-\$142.50/hr

Title: PSYCHIATRISTQualifications:

- Required: ! Licensed physician (state board of registration)
! Board certified or eligible in psychiatry
- Preferred: ! Board certified or eligible in relevant subspecialty
! Designation by DMH as forensic psychiatrist (e.g., forensic psychiatry, child psychiatry)
! (Pursuant to 104 CMR 33.04)

Rates: \$150/hr-\$237.50 motions allowed before XXXXXX
\$150/hr-\$225.65 motions allowed on or after XXXX

Title: PSYCHOLOGISTQualifications:

- Required: ! Doctoral Degree in related discipline (Ed. D, Psy.D., etc.)
- Preferred: ! Licensed clinical psychologist (state board of registration)
! Designation by DMH as forensic psychologist (pursuant to 104 CMR 33.04)

Rates: \$100/hr-\$190.00 motions allowed before XXXX
\$100/hr-\$180.50 motions allowed on or after XXXX

Title: SOCIAL SERVICES EXPERTQualifications:

- Required: ! Bachelor's Degree in social work or related field, e.g.,
counseling and/or training in forensic social services
- Preferred: ! Master's or Doctorate Degree in social work,
education or related field
! L.I.C.S.W. or L.C.S.W.
! Licensed marriage and family therapist or licensed
mental health counselor

Rates:	Bachelor's Degree	\$ 50/hr - \$ 71.25/hr
	Master's Degree	\$ 75/hr - \$95/hr
	Doctorate Degree	\$100/hr - \$190/hr

Title: SPECIAL EDUCATION EXPERTQualifications:

- Required: ! Master's Degree in special education, psychology or
related field and significant experience in the field of
special education (either as educator, administrator,
evaluator or advocate)

Rates: \$50/hr-\$71.25/hr

Title: STATISTICIANS / GENETICISTS
Function: Statistics, population genetics and related services.

Qualifications:

Required: ! MS in mathematics or related math sciences.
 Experience in statistics and population genetics as it applies to forensic DNA analysis*.

Preferred: ! Ph. D. in statistics or related math sciences.

Rates: \$150/hr-\$190/hr

*Notes regarding DNA service providers

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Title: TOXICOLOGIST

Qualifications:

Required: ! Doctorate Degree in biology, chemistry
or related science

Preferred: ! Significant experience executing
relevant testing procedures

Rates: \$125/hr-\$213.75/hr
