

CPCS Qualifications and Rates for Investigators, Social Service Providers and Expert Witnesses

June, 2002
Revised December, 2005, June, 2007,
August, 2008, October 2008
And December 2008

PLEASE NOTE:

SPENDING REDUCTIONS FOR FY09 ADOPTED BY CPCS

Changes apply to Experts retained on or after December 1, 2008

1. In response to the cost control measures requested by the Patrick Administration to be implemented for this fiscal year, the Committee has voted to temporarily reduce the maximum hourly rates of most Indigent Court Cost vendors by 5%.
2. This reduction would not apply to court reporters, investigators, summons delivery services, and translators.
3. Therefore, this reduction applies to ALL of the categories of vendors listed in this document except for private investigators, whose rates are not reduced.
4. Please note that the rates listed in this document are the set rates prior to the 5% reduction. In calculating the reduced rates, the maximum figures in this document must be reduced by 5%, with the exception of private investigators, whose rates are not reduced.
5. *The reduction to the maximum hourly rate applies to all bills from those vendors in cases in which the initial motion for funds for the vendor's services was allowed on or after December 1, 2008. The reduction does not apply to vendors when the initial motion for funds was allowed before December 1, 2008 – even if a supplemental motion for that vendor is allowed after that date. If the initial motion was allowed before December 1 and a supplemental motion is allowed after December 1, 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 1st maximum hourly rate.*
6. *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 post-December 1st rate.*

Travel Reduction for Indigent Court Cost Vendors:

7. 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.
8. 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.

9. **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 new Expert Services payment voucher will be added to the Assigned Counsel Manual. 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 or below 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 higher rate is then approved by the Court in an allowed Motion for Funds.

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.

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For details, see cover page of this document.

EXPERTS & RATES

Table of Contents

EXPERT	RATE RANGE	PAGE
Accident Reconstruction		(1)
Without professional degree.....	60/hr - 100/hr	
With professional degree.....	100/hr - 150/hr	
Arson		(2)
Without professional degree.....	50/hr - 100/hr	
With professional degree.....	100/hr - 250/hr	
Ballistics	50/hr - 150/hr	(3)
Bloodstain Pattern Expert		(4)
Without professional degree.....	75/hr - 150/hr	

With professional degree.....	150/hr - 250/hr	
Crime Scene Reconstruction	150/hr - 225/hr	(5)
Document Examiner/Handwriting Expert	75/hr - 150/hr	(6)
DNA Consultants	60/hr - 100/hr	(7)
DNA Testing Laboratories	150/hr - 250/hr	(8)
Drug Analyst		(9)
Bachelor's Degree.....	75/hr - 100/hr	
Master's Degree.....	125/hr - 150/hr	
Graphics	45/hr - 75/hr	(10)
Investigator	25/hr - 50/hr	(11)
Medical Doctor	150/hr - 250/hr	(12)
Molecular Biologist	150/hr - 250/hr	(13)
Nurse		(14)
Registered Nurse	30/hr - 60/hr	
Master's Degree	60/hr - 100/hr	
Pathologist/Medical Examiner	200/hr - 300/hr	(15)
Pediatrician	150/hr - 250/hr	(16)

Table of Contents

EXPERT	RATE RANGE	PAGE
Pharmacologist	75/hr - 150/hr	(17)
Psychiatrist	150/hr - 250/hr	(18)
Psychologist	100/hr - 200/hr	(19)
Social Services Expert		(20)
Bachelor's Degree.....	50/hr - 75/hr	
Master's Degree.....	75/hr - 100/hr	
Doctorate Degree.....	100/hr - 200/hr	
Special Education Expert	50/hr - 75/hr	(21)
Statisticians/Geneticists	150/hr - 200/hr	(22)
Toxicology	125/hr - 225/hr	(23)

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EXPERT QUALIFICATIONS & RATES

Title: ACCIDENT RECONSTRUCTIONIST

Qualifications:

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-\$100/hr
With professional degree \$100/hr-\$150/hr

EXPERT QUALIFICATIONS & RATES

Title: **ARSON**

Qualifications:

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-\$100/hr
 With professional degree \$100/hr-\$250/hr

EXPERT QUALIFICATIONS & RATES

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-\$150/hr

EXPERT QUALIFICATIONS & RATES

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-\$150/hr
 With professional degree \$150/hr-\$250/hr

EXPERT QUALIFICATIONS & RATES

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-\$150/hr

EXPERT QUALIFICATIONS & RATES

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 or equivalent organizations.

Rates: \$60/hr - \$100/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.

EXPERT QUALIFICATIONS & RATES

Title: DNA TESTING LABORATORIES

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

Qualifications:

Required: ! ASCLD/LAB certified*

Rates: \$150/hr-\$250/hr or test fee at approved reasonable rates (see below)

*Notes regarding DNA service providers

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EXPERT QUALIFICATIONS & RATES

Title: **DRUG ANALYST**

Qualifications:

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 - \$100/hr
 Master's Degree \$125/hr - \$150/hr

EXPERT QUALIFICATIONS & RATES

Title: **GRAPHICS SPECIALIST**

Qualifications:

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

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

Rates: \$45/hr-\$75/hr

EXPERT QUALIFICATIONS & RATES

Title: INVESTIGATOR

Qualifications:

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

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

EXPERT QUALIFICATIONS & RATES

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 - \$250/hr

EXPERT QUALIFICATIONS & RATES

Title: **MOLECULAR BIOLOGIST**

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

Qualifications:

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 - \$250/hr

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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.

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EXPERT QUALIFICATIONS & RATES

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-\$300/hr

EXPERT QUALIFICATIONS & RATES

Title: PEDIATRICIAN

Qualification:

Required: ! Licensed M.D.

Preferred: ! Board Certified in Pediatrics

Rates: \$150/hr-\$250/hr

EXPERT QUALIFICATIONS & RATES

Title: **PHARMACOLOGIST**

Qualifications:

Required: ! Bachelor's Degree in pharmacology

Preferred: ! Significant relevant forensic experience

Rates: \$75/hr-\$150/hr

EXPERT QUALIFICATIONS & RATES

Title: PSYCHIATRIST

Qualifications:

Required: ! Licensed physician (state board of registration)
! Board certified or eligible in psychiatry

Preferred: ! Board certified or eligible in relevant subspecialty
(e.g., forensic psychiatry, child psychiatry)
! Designation by DMH as forensic psychiatrist
(pursuant to 104 CMR 33.04)

Rates: \$150/hr-\$250/hr

EXPERT QUALIFICATIONS & RATES

Title: **SPECIAL EDUCATION EXPERT**

Qualifications:

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-\$75/hr

EXPERT QUALIFICATIONS & RATES

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-\$200/hr

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EXPERT QUALIFICATIONS & RATES

Title: TOXICOLOGIST

Qualifications:

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

Preferred: ! Significant experience executing relevant testing procedures

Rates: \$125/hr-\$225/hr
