



WISCONSIN STATE  
PUBLIC DEFENDERS

# Assigned Counsel Division Manual

July 2025

## Contents

Assigned Counsel Division .....	1
Contact Information.....	1
Certification.....	2
Certification Requirements .....	2
Certification Applications .....	2
Continuing Legal Education .....	3
Minimum Attorney Performance Standards .....	4
General .....	4
Appellate Performance Standards.....	7
Core Principles of Juvenile Defense Practice.....	9
Appointment.....	10
Process for Appointment .....	10
Scope of Appointment .....	10
Ancillary (related) Matters .....	11
Closing a Case .....	12
Withdrawing from a Case .....	13
Attorney Billing.....	14
ACD Billing Terms and Conditions .....	14
Hourly Rates .....	14
Companion Cases.....	14
Timekeeping.....	15
Invoice Submission .....	15
Invoice Auditing.....	16
Experts and Other Funding .....	17
Expert .....	17
Investigator .....	18
Paralegal or Legal Assistant .....	19
Interpreter or Translator .....	20
Court Reporter (In-Court Proceedings) .....	21
Transcription (Out-of-Court Proceedings and Depositions) .....	21
Court-Appointed Experts .....	22
Record Requests.....	23

Medical Records .....	23
Community Supervision Records .....	24
Other Records .....	25
Expense Reimbursement .....	26
Reimbursable Expenses .....	26
Non-Reimbursable Expenses .....	26
Expenses Attorneys Should Not Pay .....	27
Billable Case Expenses .....	28
Assigned Counsel Resources .....	30
Resources Available for Private Bar Attorneys .....	30
Forms and Documents .....	30
Quick Links .....	31

# Assigned Counsel Division

The Assigned Counsel Division (ACD) of Wisconsin State Public Defenders (SPD), located in the administrative office in Madison, is responsible for certifying outside counsel to represent eligible clients. ACD is committed to the continuous improvement of our partnership with the private bar.

Attorneys interested in public defender case assignments should review the [rules for certification](#), [billing](#), and the [Attorney Performance Standards](#).

## Contact Information

<a href="mailto:ACD@opd.wi.gov">ACD@opd.wi.gov</a>	Assigned Counsel Division	608.261.0632
<a href="#">Kathleen Pakes</a>	ACD Director	608.261.0632
<a href="#">Melissa Lamb</a>	ACD Program and Policy Supervisor	608.267.1771
<a href="#">Lawrence Judkins</a>	Financial Specialist Senior	608.261.8852
<a href="#">Katlyn Pollari</a>	Paralegal/Financial Specialist Senior	608.267.1767
<a href="#">Kim Salas</a>	Financial Specialist Senior	608.264.8562
<a href="#">Michelle Weihert</a>	Financial Specialist Senior	608.264.8561

# Certification

## Certification Requirements

Attorneys must be certified by the Wisconsin State Public Defenders (SPD) before they can receive case appointments. Pursuant to [Wis. Admin. Code § PD 1](#) there are several levels of trial and appellate certification. Certification levels are based on the case type and/or the need for specialized training. Attorneys who have not been previously certified will be provisionally certified for one year.

Attorneys may be certified in counties in which they reside or maintain their principal office per [Wis. Admin. Code § PD 1.035\(3\)\(a\)](#). Attorneys may also be assigned cases in counties where there is a shortage of attorneys, per [Wis. Admin Code § PD 1.035\(3\)\(b\)](#).

Attorneys are expected to represent clients ethically and competently. Although an attorney may meet the criteria for a case type certification, he or she may not be competent to represent every client whose case falls within that case type. Attorneys should not accept cases unless they are confident they have the experience and ability to provide appropriate representation in the case. All attorneys receiving case appointments are expected to meet [minimum performance standards](#).

## Certification Applications

Court	Level	Case Types	Application
All	General	Complete with all new certification applications	<a href="#">Form</a>
Trial	1	Misdemeanor and Paternity	<a href="#">Form</a>
	Special 1	Civil Commitments/Guardianships/Protective Placements	
	Special 2	Ch. 48 CHIPS and Ch. 938 Juvenile Delinquency (misdemeanors)	
	Special 4A	Revocation of Probation, Parole, or Extended Supervision (misdemeanors)	
	2	Class G, H and I Felonies	<a href="#">Form</a>
	3	Class D, E and F Felonies	
	3B	Class B and C Felonies, Chapter 980 Commitments	
	Special 2A	Ch. 938 Juvenile Delinquency (Class E, F, G, H, I Felonies)	
	Special 2B	Ch. 938 Juvenile Delinquency (Class B, C, D Felonies)	
	Special 3	Termination of Parental Rights	
	Special 4B	Revocation of Probation, Parole or Extended Supervision (felonies)	
	4	Class A Felony	<a href="#">Form</a>
Appellate	1	Misdemeanor cases, unclassified crimes, sentencing after revocation cases, paternity cases and class G to I felony cases	<a href="#">Form</a>
	2	Class A to F felony cases and Appellate 1 cases	
	Special 1	Appellate TPR	
	Special 2	Appellate Juvenile	
	Special 3	Appellate Civil Commitments	
	Special 4	Appellate 980	

Completed applications and any required supplemental materials may be submitted by email (preferred) to [acd@opd.wi.gov](mailto:acd@opd.wi.gov) or mail to:

Certifications  
Assigned Counsel Division  
17 South Fairchild Street, Fifth Floor  
Madison, WI 53707-7923

## Continuing Legal Education

[Wis. Admin. Code § PD 1.035\(4\)](#) requires all attorneys certified by SPD to complete six credits of continuing legal education pertinent to criminal defense each calendar year to maintain certification. Credits must be reported to the Assigned Counsel Division by December 31st of each calendar year. SPD will allow 6 credits to carry forward one calendar year. If an attorney does not have the required credits, they may be suspended from the appointment list. The ACD Director may allow an attorney who does not meet the requirement to submit a plan to become compliant. **CLE credits must be reported through the SPD online billing site in addition to required reporting to the Board of Bar Examiners.** The [SPD Training Division](#) offers live and online courses that meet SPD CLE requirements.

# Minimum Attorney Performance Standards

SPD-appointed attorneys are expected to follow minimum attorney performance standards. These standards reflect the SPD mission to provide high quality legal service and require an attorney to do more than merely comply with Supreme Court Rules (SCR) and stay above the threshold for ineffective assistance of counsel. These standards mirror the same expectation the SPD has for staff attorneys.

“Appointed attorney” refers to an attorney in private practice who the SPD has certified and appointed to represent its clients.

## General

1. An appointed attorney shall comply with all SCR, including both the Rules of Professional Conduct in [Wis. SCR § 20](#) and the Standards of Courtesy and Decorum in [Wis. SCR § 62](#).
2. An appointed attorney shall comply with local court rules in the counties in which s/he practices.
3. An appointed attorney shall comply with statutes, administrative code rules, and SPD policies and procedures related to public defender appointments, certification and billing.
4. In all cases, including, but not limited to, those under [Wis. Stats. § 48](#), [51](#) and [55](#), an appointed attorney shall function as adversary counsel.
5. An appointed attorney shall maintain an up-to-date client file, detailing all action taken on the case and including copies of all relevant court filings and other materials. The file is the property of the client and must be tendered to the client upon request at the close of the case unless the file is being forwarded to successor counsel. An attorney should print the electronic court record for the client file or should maintain electronic records in a format that allows the attorney to print documents for the client file after the case is closed. Attorneys lose access to the e-filing system once a case is closed; therefore, attorneys should not rely on the court system for record management. For recordings and other relevant materials not susceptible to printing, the attorney should take reasonable steps to ensure that the materials are available and accessible in a format that can be delivered to the client or successor counsel.
6. An appointed attorney shall retain all client files not turned over to the client or successor counsel for a minimum of six years and follow all SCR regarding the disposal of client files and property.
7. An appointed attorney shall cooperate fully with successor counsel. This includes promptly delivering the client file and answering questions about the earlier representation, consistent with ethical obligations.
8. An appointed attorney shall cooperate with inquiries from the SPD regarding: the status of appointed case(s); performance issue(s); or billing issue(s) for payment of legal services rendered.

## Competence and Diligence

1. An appointed attorney shall accept only those cases for which s/he can provide competent representation. Certification by the SPD for a particular case type or category is not the same as competency to provide services in any individual case.
2. An appointed attorney shall personally act as an advocate for the client and provide zealous, effective and high-quality representation to the client at all stages of proceedings.

An appointed attorney may arrange for another certified attorney to provide coverage of a routine appearance in the event a scheduling conflict that cannot be avoided.

3. An appointed attorney shall know to a reasonably proficient standard all relevant Wisconsin substantive law and procedure and keep abreast of developments in substantive and procedural law.
4. An appointed attorney shall meet all statutory and court-imposed deadlines.
5. An appointed attorney shall meet promptly with the client, in person, whether in custody or not. Ordinarily, the first meeting with the client should take place as soon as practicable after appointment. In appellate matters, an in-person meeting may be delayed until the attorney has had a chance to review the file and transcripts.

## Communication

1. An appointed attorney shall explain the role of attorney and attorney-client relationship, determine background information and solicit the defendant's version of the facts.
2. An appointed attorney shall consult with the client as often as necessary to elicit the information necessary to build a defense.
3. An appointed attorney shall keep the client reasonably informed about the status of his/her case, defense strategies, tactical choices, consequences of conviction, and explain the nature and purpose of court proceedings.
4. An appointed attorney shall promptly respond to the client's reasonable requests for information, including providing a copy of any motion or brief filed in the client's case upon request of the client.
5. An appointed attorney shall present and consult with the client about all plea negotiations and offers of settlement.
6. An appointed attorney shall explain matters to the extent reasonably necessary to allow the client to make an informed decision regarding the case.

## Practice Standards – Trial

1. An appointed attorney shall actively represent an in-custody client on the issue of release throughout the case.
2. An appointed attorney shall review and examine the complaint and accompanying papers, information or other charging document and determine the sufficiency of the same.
3. An appointed attorney shall obtain and review all discovery materials, including but not limited to police reports, all written or recorded statements of the defendant, names of witnesses to any written or recorded statements, a copy of the client's criminal record, if any, and statements of witnesses, a copy of the criminal record of prosecution witnesses; and examine physical evidence and/or reports of physical evidence.
4. An appointed attorney shall arrange for the client to review discovery materials in so far as it is necessary for the client to make informed decisions about his/her case. An attorney should provide the discovery necessary to properly inform the client.
5. An appointed attorney shall cause an investigation of the facts including attempting to interview appropriate defense or prosecution witnesses.
6. An appointed attorney shall analyze all legal issues presented in the case. In consultation with the client, an attorney shall decide which issues have merit and make strategic decisions about issues to be pursued. An appointed attorney shall then file and argue appropriate motions.
7. An appointed attorney shall utilize experts, investigators, paralegal/legal assistants, interpreters and other professional support where appropriate.
8. An appointed attorney shall consider all appropriate available diversion, treatment court,



and other alternatives to prosecution.

9. An appointed attorney shall prepare the case for trial or hearing, as appropriate, and advise the client of the procedures to be followed and his/her rights.
10. An appointed attorney shall prepare a plan or argument for sentencing for the client if the client is convicted, and advise the client of the sentencing procedures.
11. An appointed attorney shall inform the client of his/her right to appeal, file a notice of intent to pursue post-conviction relief if requested to do so by the client, and make a proper referral to the SPD appellate division.
12. An appointed attorney shall notify the local SPD office as soon as the attorney moves to withdraw. If in writing, the attorney shall provide the local SPD office with a copy of the written motion prior to the hearing on the motion to withdraw.
13. An appointed attorney assigned to handle cases involving the revocation of probation, extended supervision or parole, rescission of parole, and re-confinement shall do all of the following:
  - a. obtain and review all DOC documents relevant to the administrative or court hearing
  - b. where appropriate, review material held by the DOC including but not limited to the
  - c. client's file held by his/her agent
  - d. review information regarding the offense(s) underlying the supervision
  - e. coordinate representation with any attorney handling a new criminal matter for the same client
  - f. ensure that issues regarding sentence structure and sentence credit are properly resolved
  - g. represent the client through the administrative hearing
  - h. file an administrative appeal unless, after consultation with the client, the client consents to forgoing the administrative appeal
  - i. review the decision on the administrative appeal and determine if grounds exist for filing a Writ of Certiorari; advise the client whether viable grounds to file a Writ of Certiorari exist, and consult with the client regarding whether to pursue such a Writ if the attorney has determined there are viable grounds; pursue a Writ of Certiorari when appropriate.
  - j. represent the client in the related re-confinement hearing or sentencing after revocation, unless successor counsel is appointed.

## Professionalism and Ethics

1. An appointed attorney shall treat the client, the client's family, and other members of the public with courtesy and respect. An appointed attorney should be mindful of the rules related to confidentiality and loyalty to the client when speaking with family members and others.
2. An appointed attorney shall maintain civility and respect towards the courts, courthouse staff, prosecutors, law enforcement, local public defender office staff, and members of the public.
3. An appointed attorney shall maintain a system of conflict checks.
4. An appointed attorney shall maintain his/her skills and keep up with changes in the law and the practice of law. An appointed attorney shall report his/her relevant Continuing Legal Education (CLE) credits directly to the SPD using the online billing system.
5. An appointed attorney shall not appear in the workplace, including, but not limited to a courthouse, jail or other correctional facility, treatment or other placement facility, nor meet with a client, the client's family, or a witness in a case while impaired by drugs or alcohol or with a noticeable odor of intoxicants.
6. An appointed attorney shall not accept a case appointment for a client with whom s/he has

had a personal or sexual relationship. An appointed attorney shall not accept a case appointment for a client for whom s/he is or was the guardian or protective payee.

7. An appointed attorney shall promptly notify the ACD director if the attorney has been arrested or charged with a crime. This notification shall occur within 24 hours of arrest or charging.

## Appellate Performance Standards

Public Defender staff and appointed private bar attorneys are expected to meet the following minimum performance standards in postconviction and appellate cases.

The attorney shall:

1. Provide zealous, effective and high-quality representation to the client at all stages of the appointed case.
2. Know to a reasonably proficient standard all relevant Wisconsin substantive law and procedure, be familiar with federal law and procedure, and keep abreast of developments in substantive and procedural law.
3. Comply with the Rules of Appellate Procedure; [Wis. Admin. Code § PD 1-8](#), the Rules of Professional Conduct for Attorneys and SPD Policies & Procedures and other rules, laws, and statutes relevant to the case.
4. Interview the client to determine the client's position or goals in the appeal and to detect and explore issues or concerns not reflected in the record. The attorney is expected to speak personally with the client. The attorney shall be available for written and telephone consultation with the client.
5. Provide the client with general information regarding the process and procedures which will be undertaken. Keep the client informed of all significant developments in the client's case. Provide the client with a copy of each substantive document filed in the case by all parties (prosecution, defense, guardian, amicus, etc.), except when not permitted by confidentiality or court rules.
6. Address issues of bail (especially for the client with a short sentence) or release pending appeal (especially in [Wis. Stats. § 48](#), [51](#), [55](#) and [938](#) cases), jail credit and restitution, and refer such matters to the trial attorney when appropriate.
7. Thoroughly review the complete circuit court record, all relevant transcripts and the presentence investigation report to identify issues of arguable merit. When warranted, counsel shall also thoroughly review the trial attorney's file, exhibits, discovery materials or other records; consult with the trial attorney; and investigate alleged facts or potential issues outside the record.
8. Request and, if approved, utilize experts, investigators, paralegal/legal assistants and interpreters when appropriate.
9. Discuss with the client the merits and the strategy considerations - which include both the potential risks and benefits - of pursuing all identified issues. While it is the client's decision to decide whether to appeal and what remedy to seek, it is counsel's obligation to determine which issues have merit and the manner in which they will be pursued. Counsel, consistent with [Jones v. Barnes, 463 U.S. 745 \(1983\)](#), need not raise every non-frivolous argument and may sift and winnow out weaker issues for strategic advocacy purposes. Counsel must also consider that counsel's failure to raise an issue on direct appeal may prevent the client from raising the issue in a subsequent Wis. Stat. § [974.06](#) collateral review proceeding, absent sufficient reason, consistent with [State v. Escalona-Naranjo, 185 Wis. 2d 168, 517 N.W.2d 157 \(1994\)](#). If the client insists on pursuing a meritless issue or one that the attorney has winnowed out consistent with Jones v. Barnes, the attorney shall fully inform the client of the options (to proceed as counsel recommends, pro se, or with privately retained counsel) and

the consequences of each option.

10. If the attorney is of the opinion that a case contains no issue of arguable merit, communicate that decision to the client before filing a no-merit notice of appeal or no-merit brief. The attorney must inform the client of any right to a no-merit report under the statutes and laws of this state. The attorney must inform the client of the client's rights and attorney's obligations under Wis. Stats. § [809.107 \(5m\)](#) or [809.32](#). The attorney must inform the client, consistent [with State ex rel. Flores v. State, 183 Wis. 2d 587, 516 N.W.2d 362 \(1994\)](#), of the client's options (to have counsel file the no-merit report, to discharge counsel and proceed pro se or with privately retained counsel, or to have counsel close the case with no court action) and the possible consequences of each option, including the disadvantages of proceeding without counsel. The attorney must document this exchange and send a letter to the client confirming the client's choice.
11. When filing any motion, conform to the applicable local court rules and practice procedures. Postconviction or post-judgment motions should contain carefully drafted nonconclusory factual allegations and appropriate citations to the record and law warranting relief. It is the attorney's responsibility to seek extensions for the circuit court to decide motions where appropriate. The attorney shall ensure entry of a written order disposing of the motion.
12. When filing a brief, conform to the applicable rules of the court in which the brief is being filed. All briefs shall have a professional, neat appearance free of typographical errors or misspellings. Briefs must adequately and accurately state the facts of the case and contain complete and accurate record citations. Briefs shall make appropriate use of legal authority referenced by a consistent method of citation that conforms to court rules or, where no rule exists, the Harvard Citator. Briefs shall utilize federal and foreign jurisdiction cases and non-case reference materials such as law reviews, treatises, and scientific works where appropriate.
13. Inform the client of his or her rights and the attorney's obligations in regard to proceeding to the next appellate court level and take steps to ensure that such rights as fall within the scope of the attorney's appointment are not procedurally defaulted.
14. Respond in a prompt and forthright manner to all inquiries and requests for information from the client, the parties, opposing counsel, the SPD, the court, the clerk of court, and any successor attorney.
15. Maintain a complete up-to-date case file for every case. The file shall contain, at minimum, all correspondence, including a closing letter or memo; copies of all documents filed; proof of service for all transcripts, court records or other papers that trigger a time limit; copies of all court orders or decisions; notations in summary form as to all action taken, advice given, and telephone and in-person communications; a record of documents provided to the client; and a case activity log or voucher that documents the attorney's time spent on the case.
16. At the termination of representation, inform the client in writing of the reason for closing the file and any options for further action the client may have on direct appeal. If counsel cannot contact the client via mail, the closing information and the reason why the closing letter was not sent should be recorded in a memo to the file.
17. When requested at the termination of representation, promptly deliver to the client or the client's successor attorney the full contents of the client's case file. Note that, pursuant to Wis. Stats. § [972.15 \(4\)](#) and [\(4m\)](#), the attorney may forward the attorney's copy of the presentence investigation report to a successor attorney, but may not forward it to the client without prior authorization from the circuit court.
18. Promptly close the file upon completion of representation and submit case closing documents. Retain the client file consistent with the Rules of Professional Conduct for

19. Cooperate with any successor attorney in the case.

## Core Principles of Juvenile Defense Practice

1. Juvenile defense is a specialized practice area in the law that requires working knowledge with the Wisconsin Juvenile Justice Code, principals of adolescent development, relevant case law, familiarity with local resources and rules and basic proficiency in criminal defense.
2. The child is the client and a juvenile defense attorney is obligated to represent the client's expressed interest. A juvenile defense attorney never acts as guardian ad litem.
3. Juvenile defense attorneys are expected to promptly interview clients in person and to identify client goals and objectives of the representation, to counsel juvenile clients about options and must keep them informed during the course of the representation. Interviewing children requires age appropriate communication methods and skills.
4. If a client is in custody, a juvenile defense attorney must work promptly and persistently for release of the child to the least-restrictive community consistent with the client's expressed interest.
5. Juvenile defense attorneys must consider the legal competency of all juvenile clients to proceed. A juvenile defense attorney must review all relevant records and obtain an evaluation of the juvenile when appropriate.
6. Juvenile defense attorneys cannot skip the basics duties of effective criminal defense practice which include: Interview all prospective witnesses, investigate legal and factual defenses, litigate legal motions and issues before trial that are consistent with the theory of defense and prepare for contested trials and dispositions.
7. Juvenile defense attorneys must consider all possible alternatives to a delinquency adjudication.
8. Juvenile defense attorneys must recognize the seriousness of waiver to adult court and take reasonable steps to keep juvenile clients within the jurisdiction of the juvenile court. Attorneys must know the legal standards and procedure governing waiver as well as the legal circumstances that subject a juvenile to original adult court jurisdiction.
9. Juvenile defense attorneys must be familiar with all dispositional options under the law and with the resources available in the jurisdiction handling the case. Attorneys should seek the least-restrictive option available for each juvenile client, consistent with the client's expressed interest.
10. Juvenile defense attorneys must understand the collateral consequences of adjudication for a delinquency, particularly sex offender registration. Advise clients of the potential consequences throughout the representation, especially before an admission is entered in a judicial proceeding.
11. Juvenile defense attorneys must be prepared to represent juvenile clients in post-disposition proceedings for changes of placement, revisions, extensions, and sanctions.
12. Juvenile defense attorneys must advise juvenile clients about post disposition relief and recommend appeal of any unfavorable outcome.

# Appointment

## Process for Appointment

Attorneys certified to take SPD appointments are contacted by SPD appointment staff per Wis. Stat. § 977.08(3). Attorneys may accept or decline cases when they are contacted. There is no minimum number of cases an attorney must take. Case availability varies greatly by county. Attorneys should contact the local SPD office to discuss how many cases they might expect to be offered.

The local SPD office will file an Order Appointing Counsel (OAC) with the Wisconsin Courts e-Filing system once an attorney has agreed to an appointment.

After the OAC is filed and accepted by the court, the appointed attorney has to “opt-in” to the case. Please note, the court will need time to accept the OAC through the e-Filing system, so opting-in to a case may not be immediately available.

### *Additional Cases*

An appointed attorney is expected to accept an appointment to additional cases their client is charged with after the initial appointment. If the attorney is not certified for those case types, the attorney should contact ACD. It is often in the best interest of the client and the agency to have the same attorney represent a client with multiple cases. Refusal to accept an appointment on additional cases may lead to adverse certification action. See [Wis. Admin. Code § PD 1.03\(5\)](#).

## Scope of Appointment

Trial appointments cover all proceedings at the trial court level through dismissal, sentencing, or other disposition. Appellate appointments cover post-conviction, post-commitment, or post-dispositional representation.

An SPD certified attorney may, with the client’s consent, substitute with an SPD certified attorney at a routine appearance (i.e. no evidence taken, no testimony, no significant legal argument, and no disposition, including plea bargaining).

Attorneys must receive prior approval before any ancillary representation or work which is not squarely within the scope of appointment. The SPD will not pay for work done outside the scope of appointment without prior approval.

The following proceedings may be included in the scope of appointment.

### Motion and Hearing on Return of a Client's Property

This motion may be filed as part of the underlying criminal case as long as the attorney is bringing the motion prior to final adjudication or judgment. The best practice is for the attorney to identify before disposition whether there is any property belonging to the client that is being held by law enforcement. If there is such property, the attorney and the client may wish to make an informal request for return initially. If the agency declines to release the property and fails to respond promptly, the attorney and client should consider whether a motion is appropriate. Consideration should be given to the nature and value of the property, as well as any risk that additional examination or testing of the property could result in additional prosecution of the client.

## Restitution Hearing

If the court orders restitution as part of sentencing, but does not determine the amount at the time, the attorney is ordinarily required to represent the client at the restitution hearing as part of the original case.

## Writ of Certiorari in a Revocation Proceeding

This writ is a means of challenging an adverse decision from the administrative appeal of a revocation proceeding. There is no constitutional right to counsel in seeking certiorari or for an appeal from the order of the circuit court denying certiorari and upholding the revocation.

There are limited grounds for challenging a revocation decision to the circuit court: Certiorari review of a revocation decision consists of four inquiries:

1. whether the division kept within its jurisdiction;
2. whether it acted according to law;
3. whether its actions were arbitrary, oppressive, or unreasonable; and
4. whether the evidence permitted the division to reasonably make the order or determination in question.

[State v. Horn, 226 Wis.2d 637, 652, 594 N.W.2d 772 \(1999\) \(citing State ex rel. Warren v. Schwarz, 211 Wis.2d 710, 717, 566 N.W.2d 173 \(1997\)\).](#)

[State ex rel. Griffin v. Smith 2004 WI 36, 270 Wis. 2d 235, 240, 677 N.W.2d 259, 262](#)

If the appointed attorney is not convinced there is a reasonable chance of success, the attorney should decline to file the writ but should advise the client on the applicable process and time limit. Click [here](#) for a sample client letter.

The Frank J. Remington Center, a program of the University of WI-Law School, has compiled a prose inmate guide to challenging revocation by certiorari:  
[http://law.wisc.edu/fjr/laip/prose\\_packets.html](http://law.wisc.edu/fjr/laip/prose_packets.html)

Attorneys should contact ACD if they have questions.

## Ancillary (related) Matters

Ancillary representation in a separate proceeding is permitted if related to representing the client in the primary case (a pending case in which SPD has appointed an attorney). The following are examples of ancillary representation.

### Civil property forfeitures

The attorney may represent a client in a civil property forfeiture action only if it arises from another case in which the attorney has been appointed to represent the client. The attorney may not represent third parties (such as a relative or friend of the client), and the attorney may not litigate civil forfeitures after a final adjudication of the primary case, unless representation is necessary to safeguard the client's Fifth Amendment rights.

### Administrative hearings about revocation of driving privileges

The attorney may represent clients in such hearings only if the attorney is already representing the client on an underlying criminal charge and revocation of driving privileges is relevant to the

charges for which the attorney is appointed.

## "Fine-only" misdemeanors and forfeiture offenses

If the only penalty for a misdemeanor charge is a fine, SPD representation is not affirmatively authorized. See [Wis. Stat. § 977.05\(4\)\(i\)\(3\)](#). Similarly, SPD lacks authority to represent for offenses punishable only with monetary forfeiture. Ancillary representation may be appropriate, however, when a criminal case (with potential imprisonment) is joined with a "fine-only" misdemeanor or a forfeiture offense.

For example, it is appropriate to negotiate a resolution of a criminal case that includes disposition of related non-criminal citations. An attorney representing a person charged with a felony possession of a firearm and DNR forfeiture violations arising out of the same incident would be able to represent on all charges.

## Extraordinary writs

- Habeas corpus to obtain the presence of a client or witness at a court proceeding or to obtain a client's release from custody.
- Writ of Prohibition to obtain an order enjoining a court or party from taking specified action.
- Mandamus to compel production of records or to compel other specified action.
- Coram nobis to correct factual errors or omissions in the transcripts or other records of a proceeding.

## Closing a Case

### Adult Criminal and Juvenile

An attorney is expected to represent an adult client from charging through sentencing, and a juvenile client from charging or detention through disposition. Sentencing or disposition includes the following:

- Notifying the client of Appellate rights
- Filing the Notice of Intent to Pursue Post-Conviction/Disposition Relief
- Obtaining credit for jail time served
- Representing the client at a review hearing scheduled within 60 days of the sentencing or disposition
- If a review hearing, for which no right to SPD representation exists, is scheduled for more than 60 days from sentencing or disposition, the review hearing is not considered part of the underlying case for which SPD appointed an attorney and the case should be closed by the attorney.

The court often adjourns proceedings pursuant to a settlement agreement or because of another occurrence that results in a delay of further proceedings. In all cases, an attorney must remain aware of ethical responsibilities to both the client and the court for hearing scheduled after cases are administratively closed.

## Appellate

See the [Appellate Handbook](#) for information on closing appellate cases.



The policies for keeping cases open in these situations are as follows:

**Mental disease or defect:** In cases in which the client is adjudicated not-guilty by reason of mental disease or defect, the attorney's responsibility ends with the entry of a commitment order under Wis. Stat. § 971.17(3) (and appropriate consultation about appellate rights), unless a review hearing is scheduled to take place within 1 year.

**Competency:** When a client's competency is in question, the attorney continues until the case is completed or until a court determines that the client is incompetent and unlikely to regain competency. The expectation is that the attorney will continue to represent the client at hearings set within one year of a finding of incompetency.

**Juvenile:** A juvenile case remains open for 60 days after the court approves a consent decree. If the case is reopened after 60 days because of an alleged breach of the consent decree, the case is treated as a new case, with a new appointment of an attorney.

**Deferred Prosecution:** When a deferred prosecution agreement or deferred adjudication agreement is entered into, the case remains open for up to one year from the date of the agreement. The attorney can interim bill after the agreement is entered into. Attorneys should request prior approval from the program manager or ACD Director to submit an interim bill.

**Chapter 51/55:** If a civil commitment case is settled with a hold-open agreement, the case remains open for up to one year after the agreement is entered into (unless the case is finalized at an earlier date). If the case is reopened because of alleged noncompliance with the "hold open" agreement, a new case may be opened and new counsel appointed. The attorney can interim bill after the agreement is entered into. Attorneys should request prior approval from the program manager or ACD Director to submit an interim bill.

**Bench Warrant:** If a bench warrant or capias is issued for a client for failure to appear in court and the client has no further contact with the attorney within 60 days of the issuance of the bench warrant, the case may be closed. If the client later appears, a new case is opened and new counsel will be appointed.

**Restitution:** If the court orders restitution as part of sentencing, but does not determine the amount at the time, the attorney is ordinarily required to represent the client at the restitution hearing as part of the original case. However, if no restitution hearing is held or scheduled within one year after sentencing, the attorney may close the file. The attorney can interim bill after sentencing, but before restitution is determined. Attorneys should request prior approval from the program manager or ACD Director to submit an interim bill.

**P-CHIPS:** In a Parental CHIPS case, the case remains open, and the attorney provides representation, during periodic permanency plan review hearings. Attorneys should request prior approval from the program manager or ACD Director to submit an interim bill.

When closing a case, the attorney must submit a [Notice of Completion of Representation](#) to the clerk of court for each case they are closing.

## Withdrawing from a Case

If an attorney must withdraw, they shall notify the local SPD office as soon as the attorney moves to withdraw. If the attorney does not notify SPD of the withdrawal, SPD will not be aware that new counsel needs to be appointed. (The courts do not notify SPD when motions to withdraw are filed.)



# Attorney Billing

## ACD Billing Terms and Conditions

Acceptance of an SPD appointment completes an agreement between the attorney and SPD. SPD will pay an attorney for reasonable hours of professional legal services.

Reasonable hours are those required by an experienced, prudent, and competent practitioner to provide effective legal assistance. When auditing a bill for “reasonableness”, ACD considers several factors, including:

- experience of the attorney
- common charges
- whether the attorney withdrew
- extent and novelty of motion practice
- seriousness of the charges and case type
- complexity of the fact pattern and legal issues
- whether the case resolved with a plea or trial

## Hourly Rates

The hourly rate an SPD-appointed attorney is paid is set by [Wis. Stat. § 977.08\(4m\)](#). The current hourly rates are:

- \$100 for legal work
- \$50 for travel, plus mileage (at the state rate)

## Companion Cases

Attorneys should bill their time and expenses for all companion cases on one invoice and submit \$0 invoices for the other cases. Companion cases are two or more cases that meet the following criteria:

- an attorney is appointed to represent the same client
- proceed during roughly the same time frame
- belong to the same case type group (see table below)
- billed at the same hourly rate

Cases that do not meet all the criteria above should be billed separately

Case type groups:

Case Type Group	Case Type Code Designation (See Above)
Adult Trial Cases	B, E, F, H, I, M, N, X, Y, and Z
Juvenile Trial Cases	D, I, J, O, Q, and W
Appellate Cases	L, A, and V
Mental Commitment Cases	C and G
TPR Cases	T (Can be combined with sibling cases)
Revocation Cases	R (Bill only with other revocation cases)
Intake, Paternity and Special	K, P, and S

**How to find the case type:** SPD File #: 21P-13-**F**-S0####

## Timekeeping

**Contemporaneous time records, and receipts, must be maintained.** Contemporaneous time records should include the date the work was performed, a description of the work completed, and the amount of time it took to complete the work. Timeslips must contain sufficient information to allow SPD to perform its auditing and review responsibilities. The description should be detailed enough to allow the auditors to determine if the time is reimbursable and reasonable.

Attorneys may bill only for the time actually spent providing professional legal services on an SPD case.

If court is conducted via audio or video conference, the **wait time** is not reimbursable. The expectation is that attorneys are able to perform other work while waiting for hearings.

**In-court and out-of-court time must be separated** on the timeslip. For example: In-court time would include an evidentiary hearing. Out-of-court time would include meeting with a client before or after the court hearing.

Time records and timeslip entries should be supported by work product in the client's file. Work product may include notes, correspondence, phone message slips, pleadings, etc.

Time records need not be submitted to our office with billings, but must support the timeslip and be provided to ACD upon request. Attorneys must keep time records and receipts for at least three years after submitting the invoice to resolve questions SPD may have about an invoice. Failure to maintain these records may result in non-payment or removal from SPD certification lists. See Wis. Admin. Code § [PD 1.03\(5\)\(e\) & \(f\)](#).

By submitting a timeslip, **an attorney is certifying that the entries are accurate.**

## Invoice Submission

An invoice is submitted electronically using the attorney's password protected billing page. An invoice will not be processed unless it is complete and includes all required receipts and documentation. By submitting an invoice, an attorney certifies that the invoice is accurate, the invoice complies with billing rules, and that the attorney provided representation in compliance with SPD [minimum attorney performance standards](#). The attorney is responsible for the accuracy of bills and compliance with billing rules even if the billing is prepared and submitted by another at the attorney's request.

Attorneys should submit final invoices within 60 days of the conclusion of their cases. An invoice received more than six years after the conclusion of the case cannot be paid. See [Wisconsin Constitution Article 8, Section 2](#).

## Trial Level Appointments

Attorneys should submit invoices at the conclusion of their representation. Representation is not complete until the attorney has completed the steps listed in the [Duties of Trial Counsel](#) memo.

## Appellate Level Appointments

Representation in a direct appeal begins at the date of appointment and continues through review, or denial of a petition for review, in the Wisconsin Supreme Court. An attorney may submit a final invoice every time a case passes from one court to another. (i.e. from the post-conviction phase to

the direct appeal phase.) If an attorney chooses to submit a final invoice when the case passes to the next court, the attorney should notify the Appellate Office for reappointment. If an attorney files a no-merit report, he or she may get approval from ACD to submit an interim invoice while waiting for the court to affirm or reject the report.

## Interim Invoice Requests

An attorney may seek approval to submit an interim bill for payment of expert fees, investigator fees, or attorney time before the case concludes. Interim bills for experts and investigators will be approved in most instances if the expert/investigator has performed a significant amount of work, or if the expert or investigator's work is completed. Approval of an interim bill for attorney time will be considered when the attorney has performed a substantial amount of work on the case, the case is more than six months old, and the case is unlikely to be completed within the next 60 days.

## Invoice Auditing

All invoices are audited for required documentation and approvals to ensure that non-reimbursable time or expenses have not been billed and that time totals and expense totals are reasonable and accurate. Pursuant to [Wis. Stat. § 977.08\(4\)](#), SPD may approve or reject a bill in whole or in part. Attorneys dissatisfied with the decision of SPD regarding their bill have the right to appeal the decision to the Public Defender Board. See [Wis. Stat. § 977.08\(4\)](#). The appeal must be filed in writing with SPD at PO Box 7923, Madison, WI 53707-7923 within 30 days of receipt of payment. The appeal must include a statement explaining why the attorney believes the adjustment to the bill was inappropriate.

Attorney bills are subject to cumulative audits. Audits to check for duplicate travel and other time are routine. Audits of invoices may occur when an attorney has a pattern of high billing, unit billing (e.g. always billing 1.7 hours to draft opening documents, always billing .5 hour to review CCAP, etc.), or other irregular billing practices. In some instances, SPD is obligated to report improper billing to the Office of Lawyer Regulation, local prosecutors, or the Department of Justice.

SPD will not pay for more than 15 hours in a single day and may question any day in which an attorney bills more than 8 hours. Consideration will be given on a case-by-case basis for exceptional circumstances which may justify payment of more than 15 hours in a single day. Attorneys with days of more than 15 hours will be contacted before any adjustments to payments are made.

Attorneys should be prepared to produce contemporaneous time records for the dates in question. SPD will not pay for more than 2080 hours worked in a calendar year. See [Wis. Admin. Code § PD 4.06](#). Attorneys who bill more than 2080 hours worked in a calendar year will be contacted before any recoupment is made.

# Experts and Other Funding

Providing an effective defense often requires the services of an expert, investigator, or other service providers. Attorneys should obtain pre-approval for funding of these expenses.

## Retainer Fees

*State Statute does not authorize ACD to pay retainer fees. ACD can provide a letter to the third party documenting the approval and the amount the Agency has agreed to pay for the described services.*

## Expert

### Locating Services

- Consult with colleagues via Listservs
  - Defendernet (criminal defense listserv hosted by the State Bar, contact [ACD](#) to join)
  - [WACDL](#) (Wisconsin Association of Criminal Defense Lawyers)
- Contact ACD
  - ACD may be able to provide suggestions; however, ACD has no firsthand experience with individual experts and cannot guarantee the contact information is up to date.
  - Attorneys are encouraged to consult with their colleagues or perform their own research prior to contacting ACD for assistance.

### Rates for Services

- Varies
  - Depends on type of work and location
  - SPD rarely approves experts at their private pay rates
  - ACD staff can provide information about the typical costs associated with various types of expert services.

### How to Request Funding for Services

- Submit a Case Expense Request ([instructions](#))
- ACD will review the Request
  - The attorney will receive an email from “opdsmt@opd.wi.gov” after it has been reviewed. Please read the email to see if the Request has been approved, modified to a different amount, or denied.
- Once ACD approves the request, the attorney should inform the expert of the approved amount, scope of work, and any deadlines.
- Additional Funding
  - If an expert says they will need more time to complete the work, or there is new/additional work, the attorney should submit another Case Expense Request.

*ACD’s approval must be obtained before allowing the expert to proceed further. Any work done without prior approval is not guaranteed to be paid by SPD.*

## Payment for Services

- Upon completion of services, the expert must send a copy of their itemized invoice and required receipts to the attorney.
  - If the case is *not* expected to close within 60 days, the attorney may submit an interim bill with just the expert's cost included on it as a case expense.
  - If the case *is* expected to close within 60 days, the attorney should include the expert's cost on their final bill as a case expense.
- The expert's invoice and receipts should be sent to ACD via email: [ACD@opd.wi.gov](mailto:ACD@opd.wi.gov)
- ACD will review the expert's invoice and authorize payment to the attorney. **(ACD does not pay the expert directly.)**
- Upon receipt of payment for the expert's expenses, attorneys are required to promptly pay experts. See [Wi. SCR § 20:1.15\(d\)](#).

## Investigator

### Locating Services

- Consult with criminal defense colleagues
- Contact PAWLI (Professional Association of Wisconsin Licensed Investigators)
  - <https://pawli.com/>
- Contact ACD for suggestions
  - ACD may be able to provide suggestions; however, ACD has no firsthand experience with individual experts and cannot guarantee the contact information is up to date.
  - Attorneys are encouraged to consult with their colleagues or perform their own research prior to contacting ACD for assistance.

### Rates for Services

- \$50/hour plus mileage (state rate of \$0.51/mile) and other expenses

### How to Request Funding for Services

- Submit a Case Expense Request ([instructions](#))
- ACD will review the Request
  - The attorney will receive an email from "opdsmt@opd.wi.gov" after it has been reviewed. Please read the email to see if the Request has been approved, modified to a different amount, or denied.
- Once ACD approves the request, the attorney should inform the investigator of the approved amount, scope of work, and any deadlines.
- Additional Funding
  - If an investigator says they will need more time to complete the work, or there is new/additional work, the attorney should submit another Case Expense Request.
  - ACD's approval must be obtained before allowing the investigator to proceed further. *Any work done without prior approval is not guaranteed to be paid by SPD.*

## Payment for Services

- Upon completion of services, the investigator must send a copy of their itemized invoice and required receipts to the attorney.
- Attorney submits an invoice to ACD
  - If the case is *not* expected to close within 60 days, the attorney may submit an interim bill with just the investigator's cost included on it as a case expense.
  - If the case *is* expected to close within 60 days, the attorney should include the investigator's cost on their final bill as a case expense.
- Send the investigator's invoice and receipts to ACD via email: [ACD@opd.wi.gov](mailto:ACD@opd.wi.gov)
- ACD will review the investigator's invoice and authorize payment to the attorney for the expense. **(ACD does not pay the investigator directly.)**
- Attorneys are required to promptly pay investigators. See [Wi. SCR § 20:1.15\(d\)](#).

## Paralegal or Legal Assistant

ACD provides funding for administrative support services.

### Locating Services

- Consult with criminal defense colleagues
- Visit State Bar of Wisconsin webpage "[Find a Certified Paralegal](#)"
- Visit PAW ([Paralegal Association of Wisconsin](#)) if looking to hire a paralegal
- Local [Technical Colleges](#) with paralegal programs are a good source of freelance help.

### Rates for Services

- \$35/hour plus mileage (state rate of \$0.51/mile) and other expenses

### How to Request Funding for Services

- Submit a Case Expense Request ([instructions](#))
- ACD will review the Request
  - The attorney will receive an email from "opdsmt@opd.wi.gov" after it has been reviewed. Please read the email to see if the Request has been approved, modified to a different amount, or denied.
- Once ACD approves the request, the attorney should inform the paralegal or legal assistant of the approved amount, scope of work, and any deadlines.
- Additional Funding
  - If a paralegal or legal assistant says they will need more time to complete the work, or there is new/additional work, the attorney will need to submit another Case Expense Request.
  - ACD's approval must be obtained before allowing the paralegal or legal assistant to proceed further. *Any work done without prior approval is not guaranteed to be paid by SPD.*

## Payment for Services

- Upon completion of services, the paralegal or legal assistant must send a copy of their itemized invoice and required receipts to the attorney.
- Attorney submits an invoice to ACD
  - If the case is *not* expected to close within 60 days, the attorney may submit an interim bill with just the paralegal's cost included on it as a case expense.
  - If the case *is* expected to close within 60 days, the attorney should include the paralegal's cost on their final bill as a case expense.
- Send the paralegal/legal assistant's invoice and receipts to ACD via email: [ACD@opd.wi.gov](mailto:ACD@opd.wi.gov)
- ACD will review the paralegal/legal assistant's invoice and authorize payment to the attorney for the expense. **(ACD does not pay the paralegal directly.)**  
Attorneys are required to promptly pay paralegals/legal assistants. See [Wi. SCR § 20:1.15\(d\)](#).

## Interpreter or Translator

### Locating Services

- State Vendors – Use the resources on the Google Form linked below
  - [SPD Interpretation Resources for Private Bar](#)
  - SPD Fiscal has already established accounts with all the listed vendors
  - [nothing will be “submitted” - this form is a tool to determine the needed resource and provide approved option(s)]
- If additional options or resources not listed on the form are needed, please reach out to the ACD program supervisor

### Rates for Services

- State Vendors - rates have been pre-negotiated with the approved vendors, and no additional fiscal or division approval is required.
- Other vendors - rates vary depending on the language
  - \$50/hour for travel more than 30 miles one way from interpreter's principal place of business

### How to Request Funding & Services

- State Vendors - no Case Expense Request needed
- If the non-State vendor cost will be more than \$500
  - Submit a Case Expense Request ([instructions](#))
  - ACD will review the Request
    - The attorney will receive an email from “opdsmt@opd.wi.gov” after it has been reviewed. Please read the email to see if the Request has been approved, modified to a different amount, or denied.
- Attorneys no longer need to complete or submit the SPD Interpreter Request form or send it on to the service provider.

## Payment for Services

The attorney should inform the vendor they are appointed by SPD, and the vendor will send their invoice directly to Fiscal. Please forward any invoices received to [SPDFiscalUnit@opd.wi.gov](mailto:SPDFiscalUnit@opd.wi.gov).

## Court Reporter (In-Court Proceedings)

### Rates for Services

- Court reporter transcript fees are set by [Wis. Stat. § 814.69](#)

### How to Request Funding & Services

- Submit a Case Expense Request ([instructions](#))
- ACD will review the request
  - The attorney will receive an email from “opdsmt@opd.wi.gov” after it has been reviewed. Please read the email to see if the Request has been approved, modified to a different amount, or denied.
- If the request is approved, the attorney must complete the [In-Court Transcript Request Form](#) and submit it to the court reporter

### Payment for Services

- **The Attorney does not pay the court reporter.**
- Court reporters must [submit](#) their invoice and the completed request form online and SPD will pay them directly.

## Transcription (Out-of-Court Proceedings and Depositions)

### Locating Services

- [VendorNet](#)

### Rates for Services

- The cost of transcriptions varies greatly depending on the criteria in the request.

### How to Request Funding & Services

- Submit a Case Expense Request ([instructions](#))
- ACD will review the request
  - The attorney will receive an email from “opdsmt@opd.wi.gov” after it has been reviewed. Please read the email to see if the Request has been approved, modified to a different amount, or denied.
- If the request is approved, the attorney must complete the correct form and submit it to the service provider
  - [Out-of-Court Form](#)
  - [Deposition Form](#)
- SPD will not approve a request for a court reporter to be present at a revocation hearing.



- To request revocation hearing recordings from the Division of Hearings and Appeals (DHA), please submit a written request to [DHAmail@wisconsin.gov](mailto:DHAmail@wisconsin.gov). The request should include the client's name, DOC inmate#, date of hearing, a copy of the Order Appointing Counsel and attorney name and address.

## Payment for Services

- The attorney does not pay the transcriber.
- The transcriptionist must [submit](#) the completed request form, and SPD pays them directly.

## Court-Appointed Experts

SPD will not pay for any expert appointed by the court. Court-appointed experts are paid by the county. Some examples are:

- Competency – under [Wis. Stat. § 971.14](#)
- Certain NGI proceedings – under [Wis. Stat. § 971.17](#)
- Sexually Violent Person Commitments and petitions – under [Wis. Stats §. 980.031\(3\)](#), [980.07\(1\)](#), [980.08\(3\)](#), [980.09\(1m\)](#)
- Initial and follow-up involuntary commitment examinations – under [Wis. Stats. § 51.20\(9\)](#), [51.20\(16\)](#)
- Initial and annual protective placement evaluations – under [Wis. Stats. § 55.11\(1\)](#), [55.11\(2\)](#), [55.18\(1\)](#), [55.18\(3\)\(bm\)](#)

If the court appointed an expert to evaluate competency or NGI, the attorney may request SPD approval for a second opinion. The request should explain why a second opinion is necessary. Independent medical examinations for indigent individuals under Chapters 51, 55, and 980 are funded by the county, per statute.

# Record Requests

## Medical Records

### Non-Department of Corrections

- Prior approval is required BEFORE requesting medical records.
  - Submit a Case Expense Request ([instructions](#))
  - ACD will review the Request
    - The attorney will receive an email from “opdsmt@opd.wi.gov” after it has been reviewed. Please read the email to see if the Request has been approved, modified to a different amount, or denied.
- **Do not pay for medical records out of pocket.**
  - Attorneys may be overcharged by the records provider. SPD will only reimburse attorneys for the statutory amount. The rates for copies of medical records of SPD clients are set forth in [Wis. Stat. § 146.83\(3f\)](#).
- Requesting records
  - Per [Wis. Stat. § 146.83\(1b\)](#), an attorney appointed by SPD is a "person authorized by the patient" to request medical records.
  - Complete [SPD Health Records Release](#).
  - Complete service provider records release form.
  - Include a copy of the OAC with the request.
  - Send SPD health records release, service provider records release form, a copy of the OAC, and a copy of the Health Care Provider [letter](#) to the health care facility.
  - Notify service provider to submit billing to:  
State Public Defender  
Attention: Fiscal Unit  
PO Box 7923  
Madison, WI 53707-7923

Health Care Provider Letter 2013 WI ACT 342

Health Care Records Q and A Medical Records Rates

SPD Health Records Release

### Department of Corrections

#### *Adult Institutions and Juvenile Facilities (In-Custody/Treatment)*

- What records are available?
  - SPD has created a [checklist](#) for requesting DOC health care records. This checklist can help make requests more specific.
- Where are my client's records?
  - A client's entire health care record moves with the client among DOC institutions.
  - DOC health care records do not follow a client to a DHS facility, except the Wisconsin Resource Center.

- DOC started maintaining medical records in electronic format in 2018. Some inmates may have both an electronic and a paper file. Ask for both formats when sending in the request to DOC.

Adult Institutions (In Custody/Treatment) - Health Care Records [flowchart](#)

Juvenile Facilities - Health Care Records [flowchart](#)

- How do I request records?
  - Complete the SPD checklist and form [DOC 1163A](#) (note: form DOC 1163A authorizes disclosure only, the SPD checklist serves as the records request). Below is a link to contact information for all DOC facilities. Contact DOC to confirm where to send the checklist, form [DOC 1163A](#), and a copy of the SPD Order Appointing Counsel.

[Adult Facilities](#)

[Juvenile Facilities](#)

- Do I pay for DOC records?
  - **No. DOC provides the records of SPD clients to SPD appointed attorneys at no cost.**

#### *Department of Corrections – Client Out of Custody*

- What records are available?
  - SPD has created a [checklist](#) for DOC health care records.
- Where are my client's records?
  - Health care records for males who are no longer in custody or under supervision are stored at [Dodge Correctional Central Health Care Records](#).
  - Health care records for females who are no longer in custody or under supervision are stored at [Taycheedah Correctional Inactive Women's Medical Records](#).
- How do I request records?
  - Complete the SPD checklist and form [DOC 1163A](#) (note: form DOC 1163A authorizes disclosure only, the SPD checklist serves as the records request). Below is a link to the DOC homepage, which includes Quick Links to contact information for all DOC facilities. Contact DOC to confirm where to send the checklist, form [DOC 1163A](#), and a copy of the SPD Order Appointing Counsel.

[Adult Facilities](#)

[Juvenile Facilities](#)

[Community Corrections](#)

Adult Out-of-Custody Health Care Records [flowchart](#)

- Do I pay for DOC records?
  - **No. DOC provides records of SPD clients to SPD appointed attorneys at no cost.**

## Community Supervision Records

- Contact the client's probation/parole officer  
[DOC-Division of Community Corrections](#)

## Other Records

- [DMV](#), Public Records, School, Employment, etc.
- If the cost is expected to be over \$100
  - Submit a Case Expense Request (instructions)
  - ACD will review the Request
    - The attorney will receive an email from “opdsmt@opd.wi.gov” after it has been reviewed. Please read the email to see if the Request has been approved, modified to a different amount, or denied.
- **Costs for other records will be paid by the attorney, then reimbursed by ACD.** To be reimbursed, the attorney should include the cost on the invoice in the “Other” Expenses box and provide a note that the cost is for records (specify type) in the “Comments” section.

# Expense Reimbursement

SPD provides funding for reasonable expenses. Expense rules also apply to expenses incurred by experts, investigators and paralegal/legal assistants. Questions about expenses should be directed to [ACD](#) prior to incurring the expense.

## Reimbursable Expenses

Prior approval is required for:

- All expenses for transcripts and medical records
- All expenses for expert, paralegal, and investigator services
- Any expense expected to be \$100 or more

Prior approval is obtained by submitting a case expense authorization request through the ACD [online billing](#) page.

At the time of billing, receipts are not required for most expenses totaling less than \$100. However, attorneys should retain receipts for all expenses to support their billing (including receipts less than \$100). SPD may request receipts at any time for auditing purposes.

## Non-Reimbursable Expenses

SPD will not compensate or reimburse attorneys for certain tasks and expenses, such as:

1. Attorney Time
  - a. Contact with SPD office on case appointment and other administrative issues
  - b. Work done prior to the date of appointment
  - c. Work done which is primarily administrative in nature such as:
    - Copying/Printing/Scanning/Faxing/Mailing
    - Reviewing OAC
    - Receiving Documents
    - Notice of Appearance/Retainer (OAC tells the court who the attorney is)
  - d. Completion of all SPD forms (including all billing forms, expense requests, etc.)
  - e. Work done by an attorney other than the appointed attorney. \*Except that an SPD certified attorney may, with the client's consent, substitute at a routine appearance (i.e., no evidence taken, no testimony, no significant legal argument, and no disposition, including plea bargaining). To be reimbursed for the substitute attorney time, the timeslip entry for the routine appearance must include the name of the attorney appearing as a substitute.
  - f. Uncompleted phone calls
  - g. Time spent appealing payment decisions
2. Expenses
  - a. Office Overhead, such as:
    - In-office photocopying (except as noted in [Billable Case Expenses](#), section 4)

- Administrative or Paralegal time (except when pre-approved by SPD through the online billing system)
- Basic phone service
- Faxing
- Duplication of the case file
- Bar dues
- Malpractice insurance
- Legal Research/Subscriptions
- Jury Instructions – Free online – [click here](#)
- CLE fees
- b. Transcript preparation fees which are payable by the state or county (e.g. state appeals)
- c. Process service fees without prior approval
- d. Client transportation and costs to purchase clothing for clients
- e. Costs associated with an appeal of our payment decisions
- f. Costs associated with late payment to an expert or investigator

## Expenses Attorneys Should Not Pay

SPD is exempt from paying the following expenses and will not reimburse attorneys for paying:

- Department of Corrections records fees
- Subpoena service
  - See [Wis. Stat. § 814.29\(1\)\(d\)2.](#)
- Witness fees
  - Witness fees are paid by the county in which the action or proceeding is held. See [Wis. Stats. § 885.08](#) and [885.10](#)
- E-filing fees
  - The electronic filing fee shall not be charged to Wisconsin state and local government units. See [Wis. Stat. § 801.18\(7\)\(c\)](#)
- Wisconsin Supreme Court filing fees
  - Exempt per [Wis. Stat. § 814.29](#)

**The following expenses should be billed directly to SPD by the service provider:**

- [Interpreter Fees](#)
- [Discovery Payments](#)
- [Medical Records](#)
- [Transcripts](#) and [Transcription Services](#)

# Billable Case Expenses

1. Reasonable attorney hours
2. Travel and mileage - [instructions](#)
  - SPD only pays for travel time associated with SPD clients.
  - Travel time is reimbursed if any portion of the trip is outside the county in which the attorney's principal office is located or if the trip requires traveling more than 30 miles, one way, from the attorney's principal office.
    - For travel time to be reimbursed, the travel timeslip entry must include:
      - departure or court/meeting time
      - departure city
      - other cities (if multi-stop trip)
      - destination city
      - return city (if round trip)
  - Mileage (in-county & out-of-county) is paid at the [rate](#) set by the State of Wisconsin at the time the case was appointed.
    - For mileage to be reimbursed it must be included
      - on the timeslip entry, AND
      - in the "Mileage" box under expenses
  - Examples:
    - Timeslip entry for travel time and mileage:  
"Travel To/From-Explain – 8:30 Madison to Milwaukee 160 mi RT – 3.0"
    - Timeslip entry for just mileage:  
"Pre-Trial Court Appearance – bail hearing 5 mi - 0.1"
3. Parking (receipts need only be produced upon request)
4. Reasonable photocopying, printing, and postage expenses
  - While a case is pending it may be helpful for a client to have access to information in the client file. A client who is incarcerated may not be able to access electronic material. If a client cannot access electronic material, an attorney may copy/print and provide the client with those documents helpful for the client to review. If the expense is expected to exceed \$100, the attorney must first submit a case expense request.
  - SPD will reimburse reasonable duplication expenses that are required to discharge counsel's duties or obligations at a rate of \$0.12/page for **in- office** copying/printing and up to \$0.24/page plus fees for compiling, stapling or other binding for all **out-of-office** copying/printing. A receipt that includes the number of pages and the price per page must be submitted along with any out-of- office copy/print service.
  - Necessary case-related postage/shipping expenses will be reimbursed. Receipts are required for postage or shipping fees over \$25.
5. Photos

Photos are generally provided as part of electronic discovery. SPD will not pay for color copies of photos to be made from electronic images. If an attorney would like photographs for court exhibits, the attorney should submit a case expense authorization prior to incurring the expense.

6. Phone calls and video contacts

SPD will reimburse collect calls from the client. Long-distance calls and video client contacts will be reimbursed only if they result in a separate and additional charge to the standard bill for maintaining communication service.

7. Text messages

ACD will reimburse attorneys .01 hour (36 seconds) per text message. If an attorney is claiming more than .01 hour per text message, the attorney should identify the professional legal services being conducted via text messaging. Attorneys should itemize the number of text messages for which they are requesting reimbursement. ACD may also request copies of the text messages for auditing purposes.

8. Lodging

- Lodging 60+ miles from home may be reimbursable. A hotel's standard rate may be higher than the [state rate](#), but some hotels honor the state rate when informed that the stay relates to official state business and when shown a copy of the Order Appointing Counsel. **Prior expense approval and receipts are always required.**
- Meals are reimbursed only when associated with an approved overnight stay. When a meal is included in the cost of lodging, such as a continental breakfast, an expense related to dining out for that meal is not reimbursable. Meals are reimbursed according to State of Wisconsin [Travel Guidelines](#)

9. Client file

The file is property of the client. SPD does not pay for the attorney to retain a duplicate copy of the file. Attorneys may copy documents for their files at the attorney's expense. If the attorney must provide the client file to the client or to successor counsel, see #4 above regarding copying and postage.



# Assigned Counsel Resources

## Resources Available for Private Bar Attorneys

### Specialty Practice Resources

SPD operates several [specialty practice groups](#) with attorneys that specialize in Race and Ethnic Diversity, Mental Health, Family Defense, Forensic Science & Forensic Medicine, Youth Defense, Pretrial Motions, Immigration, and Chapter 980 (Civil Commitments).

Specialty practice groups are led by practice coordinators who track the latest developments in their topic areas and share their expertise with SPD staff attorneys and private bar attorneys. Each coordinator collects practice materials, including motions, briefs, transcripts, case outlines, and research to share with practitioners.

### On-Point

[Searchable](#) case summaries by topic or keyword.

### Funding for Professional Services

With pre-approval, SPD-ACD provides funding for professional resources such as experts, investigators, paralegals/legal assistants, and interpreters.

### Defendernet and NAPD Listservs

ACD registers private bar attorneys to the State Bar's criminal defense ([Defendernet](#)) and National Association for Public Defense ([NAPD](#)) listservs at no cost.

Attorneys are also encouraged to join the Wisconsin Association of Criminal Defense Lawyers ([WACDL](#))

### Axon's Evidence.com

Evidence.com is a digital evidence management system that can be used to store, view, and share discovery. Features include:

- Unlimited cloud storage
- Ability to share discovery and other files with 3rd parties such as investigators
- Video and audio auto-transcription (searchable & editable)
- Video editing

### Westlaw

Limited licenses are available for private bar attorneys who meet certain criteria.

## Forms and Documents

Forms and documents are available on the [ACD Website](#)

## Quick Links

[Administrative Code PD](#)

[Chapter 977](#)

[E-filing](#)

[CCAP](#)

[Wisconsin State Law Library](#)

[Jury Instructions](#)

[FastCase](#)

[CaseLaw Express](#)

[State Bar of Wisconsin](#)

[WACDL](#)

[PAWLI](#)

[Appellate Handbook](#)

[SPD Appellate Division](#)