NJOPD

NEW JERSEY OFFICE OF THE PUBLIC DEFENDER

POOL ATTORNEY GUIDELINES

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Dear Attorney,

Whether you are currently serving as a pool attorney, applying to become a pool attorney for the first time, or returning to the pool attorney list, we appreciate your interest and your service. Without pool attorneys, the New Jersey Office of the Public Defender (NJOPD) could not fulfill its statutory and constitutional duties to represent people charged with indictable offenses in criminal court, with delinquency offenses in family court, or handle representation in parole revocation defense, expungement, or Megan's Law matters. It also could not adequately cover all cases for parents and children in abuse, neglect, and termination of parental rights proceedings, or represent people in psychiatric commitment hearings. Finally, pool attorneys extend our resources so that the NJOPD can properly handle appeals before the Appellate Division and the Supreme Court of New Jersey. Simply put, pool attorneys are indispensable to the NJOPD's mission to protect the rights and liberties of people across New Jersey.

These Guidelines have been updated to streamline information related to NJOPD and pool attorney obligations and allow for more flexibility on interim billing. Effective June 2026, we are also launching an online pool attorney application and renewal process. These steps are designed to make things easier, more efficient, and more transparent for pool attorneys.

For more than five decades, NJOPD has served as a national model for the delivery of public defense services. Pool attorneys handle matters when the NJOPD cannot do so due to a conflict of interest or resource constraints. For this reason, you are vital to delivering legal services across New Jersey to people facing serious matters without the means to pay for representation.

Thank you for all you do,
Jennifer N. Sellitti

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A. APPLICATION AND GENERAL REQUIREMENTS

1. To become a pool attorney, applicants must be admitted to practice law in the State of New Jersey and must be in good standing. A resume, Certificate of Good Standing, and Certificate of Ethical Conduct from the Supreme Court must be submitted online at NJOPD Pool Attorney Application for your application to be considered.

   Applicants who seek to represent clients in Appeals or Conviction Integrity cases (post-conviction relief) must also provide a writing sample with their application.

2. The deputy or managing attorney will conduct an interview to determine if the applicant has the requisite skills and experience to represent NJOPD clients, and if so, what categories of cases may be assigned.

   An Assistant Public Defender will then review the application and approve or deny the request.

3. Being selected as a pool attorney does not guarantee the assignment of cases. Case assignments will differ by region and practice area.

4. Upon any significant changes to professional circumstances, including separation from a firm, pool attorneys shall provide an updated resume and contact information to the regional deputy or managing attorney. Such changes should be submitted online at NJOPD Pool Attorney Application

5. Pool attorneys cannot have both Office of Law Guardian (OLG) and Office of Parental Representation (OPR) clients in the same vicinage and therefore cannot be on the pool lists for both OLG and OPR in the same vicinage.

6. Pool attorneys must abide by the Rules Governing the Courts of the State of New Jersey and the Rules of Professional Conduct as set forth by the Office of Attorney Ethics and the New Jersey Supreme Court.

7. Pool attorneys must immediately notify the deputy or managing attorney and the NJOPD Ethics Liaison Officer, in writing, upon any arrest, any filing of a civil action relating to their conduct as an attorney, or any filing of a formal complaint or ethics grievance in any jurisdiction in which they are licensed.

8. Pool attorneys are strictly prohibited from representing the same client privately in any case assigned by NJOPD or collecting additional fees for their representation.

   Additionally, pool attorneys cannot represent the client in other matters during the pendency of the assigned case, unless approval is granted by a Deputy or an Assistant Public Defender.

9. Pool attorneys are required to stay current on developments in their practice areas and should have their own access to some form of legal research (e.g., Westlaw, Lexis or other resource).

10. NJOPD is not responsible for ensuring that pool attorneys meet their CLE requirements. However, training by NJOPD, with CLEs awarded, may be required as described below.

    a. Criminal defense pool attorneys may be required to attend orientation within their first year and/or training.
    b. As required by statute, pool attorneys handling Title 9 or Title 30 Division of Child Protection and Permanency (DCPP) cases for the Office of Parental Representation (OPR) and the Office of Law Guardian (OLG) must participate in training hosted by the NJOPD.
    c. All OLG pool attorneys must complete an OLG-specific orientation before accepting cases and must complete an OLG-specific training session annually.

    d. All Division of Mental Health Advocacy (DMHA) pool attorneys must complete a DMHA specific orientation with the Deputy, which includes observing a preparation of a calendar including client interviews with the Deputy or senior attorney and the representation of those clients at the subsequent hearings. In addition, all Alternate Commitment Unit (ACU) pool attorneys must complete a specific ACU orientation with the Deputy.

11. To ensure proper billing and efficient payment all pool attorneys **must**:

    a. comply with State of New Jersey vendor and contract requirements as set forth later in this document;
    b. establish an account and profile with the State of New Jersey at Create Your myNewJersey Account;
    c. submit timesheets on a monthly basis through the Pool Attorney Timekeeping System (PATS); and
    d. accept electronic payment from NJOPD via ACH transfer.

12. Pool attorneys are required to have sufficient technology, bandwidth, and storage available to download and review electronic discovery materials provided by the State in all cases assigned. This may include but is not limited to bodycam footage, video surveillance, and cellular data records. Materials may be transmitted to a pool attorney directly by the State or through NJOPD via secure link. NJOPD cannot provide administrative support, hardware, storage devices, or other equipment for this purpose.

13. The Public Defender of New Jersey is ultimately the attorney of record for defendants charged with indictable offenses who have been found to be indigent by the Court. For this reason, pool attorneys are expected to familiarize themselves with and strictly abide by NJOPD policies against discrimination, sexual harassment and workplace violence.

14. As assigned counsel, and subject to the policies and procedures of the NJ Office of the Attorney General, pool attorneys will be defended and indemnified in any civil actions arising out of the legal work that they perform, provided that work is within the scope of their authority as pool attorneys and the pool attorney does not engage in acts of intentional misconduct.

15. Pool attorneys are expected to act professionally in their dealings with clients, court personnel, and NJOPD staff. This includes treating all individuals with respect and courtesy and refraining from unprofessional, disrespectful, or hostile behavior toward staff. Pool attorneys must not disparage New Jersey Office of the Public Defender (NJOPD) attorneys or staff members, other pool attorneys, or the agency itself, whether on the record in court in-person or virtually, or in communications with clients.

16. Pool attorneys must familiarize themselves with and abide by the requirements and guidelines set forth above and below, and any subsequent versions of these requirements and guidelines that may be promulgated. Any violation of these requirements and guidelines may lead to the suspension or removal as a pool attorney, and / or referral to the Office of Attorney Ethics.

B. EXPECTATION OF HIGH-QUALITY REPRESENTATION

1. **Client-centered & collaborative representation:** Pool attorneys are expected, pursuant to their ethical obligations, to advocate for their clients with zeal, diligence, and client-centeredness always. Pursuant to the Rules of Professional Conduct and the constitutional right to counsel, pool attorneys must provide clients with effective legal representation in close consultation with their clients, keep clients informed about the status of their cases, promptly comply with their clients' reasonable requests for information and documents, and maintain client confidentiality and privilege.

   Pool attorneys should understand that the Public Defender is committed to collaborative representation for all clients. NJOPD specialists are available as a resource for consultations, especially for guidance on complicated or unique cases as described in the Collaborative Representation section below. In order to ensure the best possible outcome for each client, pool attorneys should not resolve a matter for a client without seeking consultation with available OPD experts.

2. **The child as client**: Pool attorneys representing children in child welfare cases (Title 9 and Title 30 cases), or children charged with acts of delinquency or indictable offenses, must meet and regularly communicate with clients in a manner that is developmentally appropriate and age appropriate.

   Note that a strong and productive attorney-client relationship with a child requires more frequent contact and simplified client counseling practices. Pool attorneys are expected to visit youth clients early and often.

3. **Experience and Types of Assignments:** Pool attorneys who were recently admitted to practice law, or who are not sufficiently experienced in a particular area of the law, will not immediately be assigned the most serious or most complex cases.

4. **Non-delegable and non-returnable case assignments:** NJOPD pool assignments are made to the individual pool attorney, not to a law firm or to associates. The pool attorney may not assign or delegate any portion of the legal work (other than perfunctory adjournment requests) to other attorneys without prior written approval from an Assistant Public Defender, regional deputy, or managing attorney.

    a. NOTE - If a case needs to be reassigned due to sickness or other emergency, pool attorneys must reach out to the regional deputy as soon as possible.

    Unless there is a legal conflict of interest, pool attorneys should represent a client through the completion of the court matter. It is not acceptable to return a case prior to completion due to reported difficulties with the client, and pool attorneys should avoid doing so. However, if a Deputy or managing attorney authorizes the return of a case prior to completion, NJOPD reserves the right to adjust any bills to reflect the reasonable value of services rendered, in light of the failure to complete the case.

5. **Client visitation:** Pool attorneys must visit clients who are in custody at the earliest opportunity. In-person meetings are strongly preferred and are required for child clients.

    Pool attorneys must meet with clients no later than 3-5 business days after receiving a case assignment and must meet and communicate with their clients regularly to discuss their cases and update them on the status of their case. The 3-5 business day requirement is relaxed only for pool attorneys working on appellate and CIU cases.

    For clients who are incarcerated in state prison, pool attorneys may meet with their clients via virtual video conferencing. However, in certain circumstances, especially when reviewing documents, virtual video conferencing may not be effective and in person visits are encouraged.

6. **Discovery:** Pool attorneys must provide clients with all discovery promptly, subject to any statutory restrictions on distributing certain documents or any protective order. Where practicable, NJOPD will share electronic discovery on pooled cases online via a secure link. External hard drives and USBs will not be provided unless a client is in custody and the jail or facility requires USBs.

    Pool attorneys must provide a location for clients to review electronic discovery if a client does not have a means to do so independently.

    A pool attorney may seek the approval of a Deputy or managing attorney to allow a client to review discovery materials on a computer at an OPD office location. Such approval must be sought in advance, and the pool attorney must be in attendance while the client conducts their review.

7. **Press & Media:** A pool attorney must immediately advise the deputy or managing attorney of any questions regarding media or press coverage of an NJOPD-assigned case or client.

   In addition, the NJOPD Communications team must be advised of any press contacts via email to OPD.Communications@opd.nj.gov. Pool attorneys may not communicate with the media regarding an OPD client without the express permission from the Deputy and the OPD Communications team.

C. NJOPD FILE RIGHTS AND FILE CONFIDENTIALITY

1. **Right to request and audit files**: The Public Defender of New Jersey is ultimately the attorney of record for indigent defendants who are assigned pool attorneys by NJOPD. The NJOPD has the right to request and audit files in assigned cases at any time, including documents and notes kept by a pool attorney in an electronic format. The files of cases assigned to pool attorneys are the property of the NJOPD, and as applicable, its clients.

2. **Record Keeping, File Closure and File Return:** Pool attorneys are expected to maintain a complete record for each case, including all notes and discovery materials. Files, including any documents or notes kept by a pool attorney in an electronic format, must be printed and timely returned to OPD when a case is completed. For clients who have been accepted into Recovery Court, files must be returned at sentencing.

   The entire file includes all electronic and paper documents relating to the case and must be provided to NJOPD even if an actual physical file was not originally provided to the pool attorney. Failure to return files may result in delays of final payment and / or removal from the OPD pool list.

3. **Confidentiality of files**: The rules of attorney-client privilege and confidentiality apply to all case files and case types. Note that DCP&P documents, matters involving youth defendants, information related to domestic violence, and Megan's Law matters are confidential by statute, and disclosure of documents that pertain to a case to anyone in contravention of a statute is forbidden unless ordered by a court.

D. COLLABORATIVE REPRESENTATION

1. **NJOPD consultation:** Pool attorneys are expected to adopt a collaborative representation mindset and should consult with NJOPD specialists in the areas detailed below. A list of specific contact names and email addresses will be available in the Pool Attorney Resource section of PATS.

2. **Padilla advice to noncitizen clients:** Pool attorneys must abide by their constitutional obligations under Padilla v Kentucky, 559 U.S. 356 (2010) by understanding, factoring, and advising their noncitizen clients about the immigration consequences associated with a criminal case.

   NJOPD's Immigration Unit is available to assist pool attorneys with this advice. When assigned a noncitizen client, or a client whose immigration status is unclear, pool attorneys should complete the Non-Citizen Client Intake Form available in the Pool Attorney Resource section of PATS and send it to immigration@opd.nj.gov.

3. **Case specific mental health issues:** When a client presents with – or potentially presents with – mental health issues (e.g., diminished capacity, competency, insanity), pool attorneys should be aware that they can reach out to NJOPD for consultation, guidance, and resources by contacting the DMHA Director of Diversion and Competency at mentalhealthadvocacy@opd.nj.gov. Mental Health experts are also available, and expert requests should be made in accordance with the expert guidelines outlined in this manual.

4. **Case specific Brady-Giglio issues:** Pool attorneys are obligated to understand prosecutor obligations to disclose exculpatory evidence pursuant to Brady v. Maryland, 373 U.S. 83, 87 (1963) Giglio v. United States, 405 U.S. 150 (1972), and State v. Carter 91 N.J. 86 (1982).

   NJOPD's Police Accountability Unit is available to assist pool attorneys with Brady-Giglio issues and can be reached at PoliceAccountabilityTeam@opd.nj.gov.

5. **OPD Investigators:** Pool attorneys are expected to use the services of the NJOPD Investigation Team. The investigators bring a diverse range of skills that help ensure every person's story is heard, documented, and understood. Investigators can be used for a number of services including, but not limited to, locating and interviewing witnesses, serving subpoenas, performing home evaluations and assessments, conducting field investigations, including photographing crime scenes and examining evidence, and conducting Spanish-language interviews and interpretation.

   Pool attorneys can request the assistance of an investigator by submitting a Request for Investigator (RFI) to the Deputy or managing attorney.

6. **Case specific forensic science issues:** Pool attorneys are obligated to understand and respond to forensic science issues in their assigned cases. The law, science, and the investigative techniques around forensic issues are constantly evolving. NJOPD's Forensic Science Unit (FSU) is available to assist pool attorneys with these issues, at Forensics@opd.nj.gov. Forensic issues that FSU can be helpful with include, but are not limited to, the following:
   a. DNA (including STRmix)
   b. Pattern Matching Disciplines
      i. Bitemarks
      ii. Bloodstain pattern analysis
      iii. Firearms and other tool marks
      iv. Fingerprints and palm prints

c. Digital
    i. Authentication of media (text messages, videos, etc.)
    ii. Automatic License Plate Readers
    iii. Cell tower dumps
    iv. Data extraction techniques, challenges, and procedures
    v. Drones
    vi. Facial recognition
    vii. Geofences
    viii. Location evidence (e.g., cell site, Google)
    ix. ShotSpotter
    x. Video enhancement and alteration
d. Psychology and social science issues
    i. Experience-based or law enforcement expert testimony (e.g., gangs, drugs)
    ii. Reliability of an identification (both eyewitness and from video)
    iii. Reliability of statements (e.g., confession, cooperator, child witness)
e. Other Miscellaneous Forensic Techniques and Issues
    i. Arson
    ii. Canine
    iii. Forensic anthropology
    iv. Gunshot residue
    v. Pathology
    vi. Serology
    vii. Shaken Baby Syndrome

E. STATE PROCUREMENT AND CONTRACT REQUIREMENTS

NJOPD cannot hire or make payment to a pool attorney unless State of New Jersey Treasury requirements are met. The NJOPD Vendor Contract Compliance Unit is available to assist approved pool attorneys through this process at opd.vendor.compliance@opd.nj.gov.

1. **Vendor compliance and registration:** For payments to be issued by the State of New Jersey for services rendered to the NJOPD, each prospective pool attorney must complete and submit the requisite vendor contract compliance documents and must register as a vendor with the Department of the Treasury's NJSTART. These include an active Business Registration Certificate (BRC), and an active Certificate of Employee Information Report Certificate (CEIR),

2. **Contract compliance:** The vendor contract compliance documents must be submitted upon approval of a pool attorney's application and must be resubmitted every 5 years thereafter.

   The Vendor Contract Compliance requirements can be found at: http://www.state.nj.us/defender/vendor/index.shtml

In addition, pool attorneys are required to submit a Vendor Contract Compliance Recertification Form to NJOPD on an annual basis. NJOPD Vendor Recertification Form

3. **Separation from a firm:** All pool attorneys who have earnings sent to their firm's business account must do the following within 15 business days of separation from their firm:

    a. Enter into the Pool Attorney Timekeeping System (PATS), all billable hours for work up to and including the last day at the firm.

    b. Notify each deputy or managing attorney that has assigned them cases as to their separation from the firm.

    c. Submit an updated resume and updated tax ID number, if changed, to the regional deputy or managing attorney and the NJOPD Vendor Contract Compliance Unit online at NJOPD Pool Attorney Application

F. REQUIREMENTS FOR BILLING AND PAYMENT

1. **MyNewJersey and PATS:** Pool attorneys shall record their hours in the Pool Attorney Timekeeping System (PATS) through their MyNewJersey account. Instructions for establishing a MyNewJersey account and the PATS User Guide can be found at PATS Setup Manual.pdf

    Pool attorneys requiring assistance with PATS should contact the NJOPD Vendor Contract Compliance Unit opd.vendor.compliance@opd.nj.gov

2. **Pool Attorney rates:** The rate for billable work when taking on a client and **an OPD case in its entirety** is $100 per hour. This rate was increased in 2023 to contemplate covering all costs and expenses incurred by pool counsel.

    The rate for a matter listed on the Criminal Sentencing Oral Argument Calendar is $200 flat fee for each matter listed.

    The newly established rate for a pool attorney assigned to a special project, rather than a case in its entirety, is $50 per hour. All special project pool attorneys must be approved by the First Assistant Public Defender before assignments are made. Examples of special projects include but are not limited to regularly / routinely covering a court calendar, providing temporary coverage of a case or list during an OPD staff attorney leave of absence, or work for the OPD Special Litigation Unit.

    As of September 1, 2026, the hourly rates for pool attorneys are intended to include incidental costs such as postage, tolls, parking, etc. Accordingly, no separate invoicing for additional expenses incurred after September 1, 2026, will be allowed. This policy does not, however, apply to reimbursement for transcript fees as discussed in Section J below.

3. **Invoices subject to scrutiny**: For purposes of accountability and accurate timekeeping, and to facilitate the review and approval of invoices, out-of-court and in-court time is separately delineated in PATS. The number of hours worked and the ratio of in-court to out- of-court time must be

reasonable and will be scrutinized according to the complexity of the case type and disposition. The NJOPD will evaluate cases closely and require justification for hours that appear excessive, disproportionate, or outside normal ranges.

a. In-court refers to the time an attorney is on the record in the courtroom or on a virtual platform representing NJOPD pool clients or before a judge in chambers discussing a particular case.
b. Out-of-court refers to time spent interviewing clients or potential witnesses, reviewing discovery, drafting motions and other legal documents, and all other billable work on the case that is not in court.
c. Time spent traveling to a courthouse or waiting for a case to be called is not billable.
d. The NJOPD considers various factors when determining whether a pool attorney invoice is reasonable, including, but not limited to, the nature and complexity of the case, the volume and complexity of electronic and forensic discovery, the duration of the case, the number of court appearances, the ratio of in-court and out-of-court time, the extent to which the attorney filed papers in court, the amount of time billed relative to the nature of the specific task, the amount billed for similar tasks by other pool attorneys, any disparities in billing practices between pool attorneys representing similarly situated defendants; and/or the general guidelines for hours spent on a criminal case, as described and recommended by the National Public Defense Workload Study.

4. **Care, diligence, and accuracy:** Pool attorneys must exercise care and diligence when submitting invoices, and abide by the following:

a. Invoices must accurately reflect the date, the number of hours, and services rendered for each case.
b. Pool attorneys must bill to the day that they actually worked on the case and not, for instance, bill all hours for the case on the date that the court rendered a decision.
c. Invoices must clearly provide the date and year when legal services were rendered and not simply indicate a range of dates.
d. In-court and out-of-court hours must be clearly delineated.
e. For clients who have multiple cases, court appearances and client meetings may be billed under a main file number, but time spent reviewing discovery or working on a specific case should be broken down in detail on a case by case basis.
f. Only attorney time can be billed. Billing for secretarial, paralegal, law clerk, or others' time is not permitted.
g. Billing time must accurately reflect work performed for each client in fractions of tenths of an hour worked, e.g., .1 = 6 minutes, .2 =12 minutes, etc.
h. Unless approved by a Deputy or managing attorney, billing associated with opening a file shall reflect the actual time spent up to a maximum of .5 hours, and billing associated with closing a file shall reflect the actual time spent up to a maximum of 1 hour.
i. Pool attorneys should explain in detail any work performed in entries of 2.0 hours or more so that the Deputy or managing attorney can better assess these charges.

j. Any invoices exceeding $5,000 will be subjected to a secondary OPD Management review. Pool attorneys are therefore required to provide a brief explanation of the nature and circumstances of the case so that management can better assess these charges.
k. Failure to accurately record billing time may result in removal as a pool attorney and a referral to the Office of Attorney Ethics.

5. **Nine hours per day:** Pool attorneys may invoice a maximum of nine hours of billable time per day.

6. **1500 hours per year:** Pool attorneys may invoice for up to 1500 hours per year. Pool attorneys are expected to monitor their own workload so that they have enough hours remaining to complete all required work.

   Under limited circumstances, pool attorneys may request to exceed the 1500-hour cap. That request must be made **in advance**, with justification, through regional deputies and will only be permitted at NJOPD's discretion.

7. **Thirty-day requirement to record hours:** Pool attorneys must record their hours in PATS within 30 days of services rendered. Failure to record hours within 30 days of service can result in delay in payment and might require additional processing from the pool attorney. Repeated failure to timely record hours risks removal as a pool attorney.

8. **Interim billing:** Interim billing is defined as processing payment before the conclusion of a case. This type of billing may be permitted pursuant to the parameters below. Note that, in all circumstances, interim bills that are improperly submitted will be rejected and returned to the pool attorney without processing payment.

   a. For criminal cases and CIU – Interim billing may be granted in complex cases that remain pending for inordinate periods of time. Review and written approval for interim billing must be granted by the regional deputy or managing attorney as well as the Assistant Public Defender of that region.

   b. For appellate cases - Interim billing will generally be granted based on brief filing schedule and as approved by the Deputy.

   c. For Title 9 cases - Pool attorneys are permitted to submit one interim invoice and one final invoice. The interim invoice can be submitted seven months after case assignment. The final bill must be submitted at the conclusion of the case.
      i. OPR and OLG regional deputies and managing attorneys will have discretion to permit submission of a second interim invoice if warranted by special circumstances, such as cases expected to continue significantly beyond eight months after an interim invoice or 15 months from the outset of the case.

   d. For Title 30 cases - Interim billing is generally not permissible unless, in the discretion of the regional deputy or managing attorneys, it is warranted by special circumstances.

9. **Thirty-day deadline to provide client file and final bill; statute of limitations:** Once a case is completed, a pool attorney must return the entire client file to NJOPD and submit a final bill in PATS within 30 days of receiving the final judgment or order. If, however, a client has indicated a desire to appeal, the timeline is expedited, and all file content must be returned within 15 days.

   To receive payment a pool attorney must both submit a final bill and return the entire client file, including any documents and notes that have been kept by a pool attorney electronically. The entire file includes all electronic and paper documents relating to the case and must be provided to NJOPD even if an actual physical file was not originally provided to the pool attorney. Any bills submitted past 30 days of receiving the final judgment or order risks substantial delay.

   Any bills submitted past the two-year statute of limitations will not be paid absent exceptional circumstances, in the discretion of the NJOPD. The limitations period begins to run on the date when the Court enters a final judgment or other order that concludes the matter. Moreover, any bills submitted later than six years after the entry of the final judgment or order will not be paid, regardless of the circumstances.

10. **Required documents:** For the NJOPD to process the final bill for payment, every client file returned to NJOPD must include the following documents:

    a. A PATS-generated Attorney Case Time Sheet;
    b. A PATS-generated Disposition and Billing Information Form or a Judgment of Conviction or Final Order (signed and stamped "Filed");
    c. A copy of the signed Initial Letter to Client from Pool Attorney, if applicable;
    d. A signed Notice of Right to Appeal form;
    e. A completed and signed Appeal Transmittal form, if applicable; and
    f. A disposition form, if applicable.

G. ADDITIONAL BILLING GUIDELINES

1. **Bill only for clients approved by the Court:** Before a pool attorney begins representing a client in a criminal trial case, Special Litigation Unit case, or OPR case, the attorney must ensure that a 5A form (i.e., Uniform Defendant Intake Form) has been approved by the Court for that client, and that the case has been assigned.

2. **Bill only for assigned and open cases:** Pool attorneys cannot bill for a case before the date they are assigned the case by NJOPD, nor can they bill for time spent on a case after the case is closed.

3. **Pool payment from NJOPD only:** Pool attorneys may not charge clients for expenses associated with a case assigned through the NJOPD. The only fees that a pool attorney shall receive are the hourly fees paid by the NJOPD.

Pool attorneys are strictly prohibited from charging clients a retainer fee (or any other fee) for services rendered as a pool attorney. Further, pool attorneys shall not accept nor solicit funds from the client's family, friends, or associates for legal work performed as a pool attorney for NJOPD.

4. **Guidelines in criminal trial cases:**
    a. Hours that exceed the following limits will require detailed justification:
        i. High-level, especially complex, murder cases 250 hours
        ii. High-level, especially complex, sex cases 167 hours
        iii. Other high-level / high-complexity indictable offense cases 99 hours
        iv. Medium-level / medium-complexity indictable offense cases 57 hours
        v. Low-level / low-complexity indictable offense cases 35 hours

    b. Limits outlined above are merely guidance. Often, cases will require fewer hours than these approximations. Sometimes, these limits will be good estimates. Other times, due to case complexity or when a case goes to trial, these limits might be exceeded.

    c. When clients with an open criminal case receive a new criminal charge, the NJOPD Regional Office (RO) will open a new case file with a separate RO number. Pool attorneys must prorate their hours between the separate files to reflect accurately the time provided on the consolidated case.

       For example, if an attorney spends four hours in court on a consolidated case, the total hours billed between the two cases must be four hours and not eight. Pool attorneys should not consolidate time and billing records for multiple ROs on a single client.

5. **Guidelines in OLG / OPR Title 9 and Title 30 cases:**
    a. Pool attorneys in OLG or OPR cases must clearly indicate on their time sheets if their case is a Title 9 or a Title 30 case and whether their bill is an interim or final bill. In addition, pool attorneys must be mindful of the following:
        i. A new 5A application must be completed and approved by the Court for additional dockets/complaints.
        ii. Title 9 cases and Title 30 cases must be billed separately.
    b. For OLG cases, when an FN case is closed out in favor of an FG case or an FG case is closed out in favor of an FC case, the pool attorney must notify the regional office to update the case management and process a new pool attorney form for the respective case designation.
       Attorneys should forward a copy of the dismissal order from the prior matter to the regional office as soon as possible.

    c. Limitation on OPR pool attorney assignments under Title 9 and Title 30 - The NJOPD is authorized by statute to provide legal representation to indigent parents in child neglect and abuse cases and in termination of parental rights proceedings. Neither NJOPD staff attorneys nor pool attorneys are permitted to undertake any work for a client that is not

related to or collateral to a child welfare proceeding. NJOPD will not compensate an attorney for any work that is not related or collateral to a child welfare action.

For example, although parents may be entitled by statute or constitutional requirement to receive other services, and a court may wish to assign other work to an attorney, pool attorneys must explain that they are not permitted to undertake any work for a client that is not related or collateral to a child welfare proceeding. If the court nonetheless assigns additional work to counsel that is not permitted by this section, the attorney shall put on the record that the assignment is not authorized and must immediately notify the OPR office from which the original assignment was received.

6. **Guidelines in Criminal Appellate and PCR cases:**
    a. Absent unusual circumstances, appellate attorneys are expected to bill in accordance with the following parameters:
        i. Transcript reading: 40 pages per hour for direct appeals and 60 pages per hour for PCR appeals. This includes time spent reading transcripts and taking notes.
        ii. Opening and Closing Files: Billing associated with opening a file shall reflect the actual time spent up to a maximum of .5 hours. Billing associated with closing a file shall reflect the actual time spent up to a maximum of 1 hour.
        iii. Corrections: Time spent implementing a brief reviewer's corrections is not billable, except that the pool attorney may bill for time spent when required by the brief reviewer to add a new legal point to the brief.
        iv. Legal research: Written justification is required for cases in which the pool attorney bills for more than twelve hours of legal research. Pool attorneys are not reimbursed for the cost of electronic research but are expected to conduct legal research as necessary.

    b. Supporting explanation for appellate and PCR billing: When billing for preparation of the plenary brief, pool attorneys are required to provide supporting information in the "other" box of the PATS time sheet. Information required includes the number of transcript pages read, number of issues briefed, and number of pages in the brief. Attorneys should also include any other information, not already included on the timesheet, that justifies the bill (e.g. explanation why the legal issues were particularly complex).

    c. Sentencing oral argument calendar: Pool attorneys will be paid a flat fee of $200 per case for cases argued on the Sentencing Oral Argument Calendar. If a case is removed from the sentencing calendar for briefing, the pool attorney may bill at an hourly rate for the additional time spent on the case.

7. **Extraordinary hours:** To ensure payment and to assist with future processing, pool attorneys shall seek **pre-approval** from the regional deputy or managing attorney when they believe that a case will require an unusually large number of hours.

When the time billed for a case is extraordinary, above average, or unusually large the billing must be supported with a detailed justification in the "other" box of the PATS time sheet. The deputy or managing attorney may also require that the pool attorney submit a memorandum justifying extraordinary hours.

8. **Overbilling:** The NJOPD will not accept overbilling of any kind and may act in response to overbilling. Such action may include, but is not limited to, correcting or reducing any excessive billing entries or the total bill; temporarily or permanently suspending the pool attorney from receiving new cases, either due to a pattern or practice of overbilling or even to an overbilling violation in a particular case; or, in the event of egregious intentional overbilling, the filing of a complaint, a referral to the New Jersey Office of Attorney Ethics, and/or a referral to the Office of the Attorney General.

9. **Continuity of representation in Title 9 and Title 30 cases:** Continuity of representation is critical, especially in Title 9 and Title 30 cases, and these cases have unique timelines and logistical requirements. Please take special note of the following:

    a. Every pool attorney accepting a Title 9 or Title 30 case must handle the case until its conclusion, including the completion of the Title 30 litigation if a Title 30 action is filed. A pool attorney representing a child or parent in a Title 9 matter is expected to continue representing the client in all subsequent related litigation. For example, a pool attorney representing a child in a child welfare case should continue to represent the client until the client achieves permanency either through reunification with a parent, placement with a relative through Kinship Legal Guardianship, or adoption.

    b. Pool attorneys who represent children in Title 30 matters (i.e., termination of parental rights cases) are expected to continue to represent the client in post-termination review hearings designed to monitor DCP&P's efforts to achieve permanency.

    c. On the parent side, once a Title 30 action is filed, the pool attorney representing the parent must direct the client to obtain and complete a new Uniform Intake Defendant Form (5A form) from the Court Clerk. This is required to determine the client's eligibility for NJOPD services, even if the client had pool or public defender representation in the Title 9 action. The pool attorney may continue to represent the client while the 5A form is being processed, however the NJOPD cannot pay for any Title 30 legal services until the NJOPD receives the approved 5A form for the Title 30 matter.

    d. Title 30 cases will be "re-pooled" to the pool attorney under the new Public Defender/RO file number. Once the Title 30 action has commenced, the pool attorney must separately bill for the Title 30 work using a new time sheet that designates the matter as Title 30 work. The client must sign a new Reimbursement Agreement for the Title 30 case and must complete additional authorizations to release information as needed.

H. APPELLATE SECTION ASSIGNMENTS

1. **Deadlines:** Pool attorneys are expected to monitor and abide by all scheduling orders and due dates. In the event a pool attorney needs an extension of time in criminal cases, the pool attorney must contact the Criminal Appellate section for permission. In the event a pool attorney needs an extension of time in OLG and OPR cases, the pool attorney must contact the appropriate Deputy or managing attorney. Repeated extensions should be avoided.

2. **Filing:** Pool attorneys are required to submit all documents for filing to the NJOPD Appellate Section. Unless granted specific permission from the Appellate Section, pool attorneys are not permitted to file anything directly with the Appellate Division.

3. **Supreme Court cases**: Pool attorneys are expected to file petitions for certification where appropriate. In the event a petition for certification is granted, the Appellate Section Deputy of the applicable practice area will determine whether to reassign the case for representation in the Supreme Court.

4. **Scope of representation**: Pool attorneys are expected to draft all documents necessary to the client's appeal, including but not limited to the plenary brief, a reply brief (where appropriate), a 2:6-11(d) letter, and all necessary motions.

5. **Oral argument:** Oral argument is an integral part of appellate representation and often leads to better client outcomes. Pool attorneys are expected to request oral argument except in cases where argument would not be advantageous (e.g., legal issues in the case are very weak). Pool attorneys may bill for reasonable time spent preparing for oral argument and for time at oral argument. Time spent traveling to and from oral argument is not billable.

6. **Staying up to date:** Pool attorneys are required to stay up to date on the law and are expected to read the daily court opinions that are released on the New Jersey Judiciary website. Pool attorneys must have access to some form of legal research (e.g., Westlaw or Lexis) and should conduct additional federal and out-of-state research in appropriate cases.

7. **Incorporation of guidelines**: All other relevant sections of these guidelines are applicable to Appellate pool attorneys, except that where there is a conflict between this section and the rest of the guidelines, this section governs.

   Pool attorneys should especially note Section D, "NJOPD IS A RESOURCE, ESPECIALLY FOR NONCITIZEN CLIENTS, YOUTH CASES, MENTAL HEALTH ISSUES, AND FORENSICS," and should consult where appropriate.

8. **Contact**: For questions about Criminal Appellate Section assignments, please contact Pool.Appellate@opd.nj.gov

I. USE OF EXPERTS

1. **Expert approval**: No expert or other service provider may be retained or begin work on a case without prior approval from public defender management through a regional Deputy or managing attorney. Requests for an expert must be made through PATS, and only State of New Jersey vendor compliant experts can be utilized.

2. **Identifying experts for a case**. NJOPD is available to assist pool attorneys who need assistance identifying an expert for a case. For mental health experts, please contact mentalhealthadvocacy@opd.nj.gov. For forensic experts, please contact Forensics@opd.nj.gov. For other experts, please contact the regional deputy or managing attorney who assigned the case. For experts in OPR matters, please reach out to the regional deputy.

3. **Detailed request**: The original cost estimate of an expert's work on the case should contain sufficient detail to allow the NJOPD to determine the reasonableness of the request. Hourly rate, travel time rate, and travel reimbursements must be discussed with the expert before an expert request is submitted via PATS.

4. **Approval for additional costs:** Pool attorneys must advise retained experts to alert the pool attorney if the need arises to exceed the estimated cost of that expert's services. Before the expert can exceed the original cost estimate, the retaining pool attorney must obtain advance written approval from public defender management through the regional Deputy or managing attorney by submitting a supplemental request through PATS.

   Failure to receive prior approval to exceed the original agreed upon cost will be cause for the NJOPD to deny payment of the excess amount.

J. TRANSCRIPTS AND FEES

1. **Ordering transcripts:** Pool attorneys should be diligent about ordering original transcripts sufficiently in advance of when the transcript will be needed.

   Expedited and daily rate transcripts are costly and must be avoided whenever possible. Prior written approval from a deputy or managing attorney is required, and any invoices submitted without such will be rejected and returned to the pool attorney. The Transcript Request Form (daily and expedited only) will be available in the Pool Attorney Resource section of PATS.

For appellate cases, transcripts must be ordered through the appropriate Appellate office in OPD. If additional transcripts are required, the pool attorney must first get approval from the deputy or managing attorney.

2. **No postage costs for transcripts:** NJOPD does not pay court reporters, transcribers, or others assisting with transcripts for postage and handling.

3. **Reduced rates for NJOPD clients:** When requesting discovery, a transcript, or filing court documents, pool attorneys must make clear that they are NJOPD pool counsel and therefore entitled to public defender rates.

   Pool attorneys are entitled to a waiver of any court filing fees and entitled to discounted rates for discovery, including discovery from prosecutors and medical records from hospitals and physicians. Therefore, reimbursement of these fees at a non-public defender rate is not permitted, and invoices reflecting such rates will be rejected.

4. **Reduced rate through NJOPD for records:** NJOPD investigators can secure records from hospitals and other medical facilities at a reduced rate. Pool attorneys can request such assistance by submitting a Request for Investigator (RFI) to the Deputy or managing attorney. Pool attorneys who do not utilize NJOPD investigators in securing records will not be reimbursed.