



## **Rules for Social Workers (eff. date 05/31/24)**

### **1. General Information**

- a) Attorneys and social workers are encouraged to consult with CAAP Managing Social Worker for clarification as needed on all rules outlined below.
- b) All social workers retained by attorneys to perform social work services (or other services stated herein) in court appointed cases have agreed to the Alameda County Bar Association's (ACBA) Court Appointed Attorneys Program (CAAP or The Program) rates for compensation. In order to ensure prompt processing of your invoices, you will be required to comply with the following guidelines and procedures.
- c) Social Workers are independent, expert contractors retained by CAAP attorneys and positioned as members of a criminal defense team. Attorneys are expected to oversee them and approve their work but may not dictate the content of their reports in ways that run counter to social worker ethics. Contracted social workers for CAAP attorneys must work under attorney client privilege and are not mandated reporters.
- d) Social workers' role in court appointed cases includes conducting client assessments, authoring mitigation materials, providing transitional re-entry support, providing court advocacy upon request by the attorney, and related social work services. Attorneys are not permitted to delegate to a social worker the tasks of reading or reviewing discovery, developing a theory of defense in a case, discussing case strategy and court outcomes with clients, and obtaining necessary documentation. Social workers may offer suggestions or input on strategy to attorneys but are not responsible for developing or determining it.

- e) Attorneys are required to obtain prior approval for any case related expense over \$75. Social Workers should ensure that the attorney has obtained prior approval from the Program before performing any work on a case or incurring any related expenses.
  - i. Practical tip: as part of the pre-authorization process, the Program provides CAAP attorneys with a document outlining the work and funds authorized. You may request a copy of this document.
- f) Generally, the Program will not pay for unauthorized services performed or expenses incurred by a social worker. Exceptions may be made where waiting for the Program to authorize the additional funds would be impractical.
- g) In the event the social worker's services exceeds the authorized amount, the attorney must submit the invoice and an explanation. In these circumstances, reimbursement for the difference between the invoice and the authorized amount will be decided on a case-by-case basis.
- h) Social workers should prevent this circumstance whenever possible by requesting additional funds on a case prior to reaching the full authorized amount. Such requests will require additional justification. Social work efforts exceeding the approved original request should be considered non-billable until a new contract is signed by both the attorney and the Program.
- i) Social workers are expected to use the most efficient and least costly means of communication with attorneys and third parties, etc. (e.g., email, video/phone call vs. driving to attorney's office).
- j) For clients incarcerated in a facility within Alameda County during the pendency of their case, in-person, contact visits at the facility where the defendant is being housed is, under most circumstances, considered best practice. Contact visits are confidential, attorney privileged visits in which the client and social worker share a visitation room without any barriers between them.
  - i. In the event that a contact visits with clients being housed in a facility within Alameda County is not possible, video visits should be conducted through a secured attorney video portals. Currently those are located at the Public Defender and Probation offices. Phone and video calls with clients are not confidential. Therefore, communicating with clients on their tablets should be limited to non-confidential communications.

- k) Social workers shall not provide any information or materials to in-custody clients without the express permission of the defense attorney.

**2. Social Work Invoices**

- a) The purpose of these guidelines is to promote uniformity in billing, to aid staff review and payment of billings, and to assist and educate panel attorneys and expert social workers in good billing practices. The guidelines are based on actual expert social worker billing patterns and on the guidelines of indigent defense panels in other counties and Bay Area Public Defender’s Offices. Discrete individual tasks must be delineated. Sufficient information must be provided to allow for meaningful review.

- b) Invoices must provide details of the work performed for the time billed. (For example: reviewing 100 pages of medical records dated 01/01/2021-01/01/2022; in person conference with client in jail for x hours; collateral interview with Jane, client’s mother; etc.). Below is an illustration of acceptable invoicing:

Sample Invoice				
Date	Activity	Time Spent (hours)	Hourly	Total
1/6/2024	Client interview, video	1.2	\$ 100.00	\$ 120.00
1/6/2024	Drive from (home address/county line) to PD Clay St in Oakland for clnt video	0.2	\$ 100.00	\$ 20.00
1/6/2024	Mileage round trip: (home address/county line) to Clay st Pub Def Office	7 miles	0.67 (2024 rate)	\$ 4.69
1/15/2024	Collateral phone interview with Jane P., client's mom	1.4	\$ 100.00	\$ 140.00
1/18/24, 1/19/24, 1/22/24	LVMs x3 for client's case manager	0.1	\$ 100.00	\$ 10.00
1/22/2024	Write report, 3 pages	4	\$ 100.00	\$ 400.00
1/26/2024	Attend court for hearing	2.8	\$ 100.00	\$ 280.00
<b>Total Invoiced January 2024</b>				<b>\$ 954.69</b>

- c) Invoicing for writing and editing reports must include the number of pages written in addition to the amount of time spent on the activity.

- d) Block billing is the listing of multiple tasks in a summary under a single date/time entry. Block billing is permitted for time increments up to a half an hour (.50 hour).
- e) Block billing for activities totaling more than a half hour is not permitted. Invoices including block billing will be rejected and will require correction for payment.
- f) All collateral interviews must identify each interviewee by relationship to client and either by name or initials.
- g) The Program will not pay for time where the description is insufficient, such as: “organize file,” “computer search,” “research to verify & obtain information,” “read, annotate & digest,” etc. without further explanation.
- h) Social workers that bill at various intervals during the pendency of the case must submit separate and distinct invoices for each time period billed. Social workers must bill in tenths (.1) of an hour.

.05 – 3 min	.55 – 33 min
.10 – 6 min	.60 – 36 min
.15 – 9 min	.65 – 39 min
.20 – 12 min	.70 – 42 min
.25 – 15 min	.75 – 45 min
.30 – 18 min	.80 – 48 min
.35 – 21 min	.85 – 51 min
.40 – 24 min	.90 – 54 min
.45 – 27 min	.95 – 57 min
.50 – 30 min	1.0 – 60 min

- i) When billing travel expenses (time, mileage), list the starting location and the destination location for each trip. Use address block/or street intersection if confidentiality is necessary.
- j) Mileage is reimbursed at the federal mileage reimbursement rate.
- k) When working with clients who are in Alameda County, social workers may only bill for travel time and mileage within the County. Social workers who live outside of Alameda County must list the county line nearest their home as the starting point.
  - 1) If out of county travel is required for a case, the social worker shall use their home address for mileage reimbursement purposes.

- l) Social workers may bill for when clients fail to attend scheduled meetings. Social workers are encouraged to use their professional judgment and limit how long they wait for clients who fail to attend meetings and do not communicate. Typical wait times should not exceed fifteen minutes if clients have not been in communication with the social worker.
- m) Per Diems and hotel reimbursement are allowed when overnight travel is necessary for social workers and should be included in the initial budget proposal as such. See the Per Diem Guidelines section of the CAAP Fee Schedule for rules and current reimbursement limits.

**3. Social Worker Compensation & Billable Activities**

- a) CAAP pays for the following social worker tasks at various rates depending upon the maximum exposure of the case. The Program determines the maximum exposure of the case at the outset and then classifies the case using its classification standards as outlined in the CAAP Fee Guidelines. Current rates are kept up to date on the ACBA's CAAP website: <https://www.acbanet.org/build-your-practice/criminal-court-appointed-attorneys-program/>.
- b) Estimated number of hours by case type are listed below. Should a social worker require more than the expected range, additional justification will be expected.

<b>Case Type (Max Exposure)</b>	<b>Expected Hours Range*</b>
Special Circumstances	10 to 25
LWOP	10 to 25
1A (25 to life)	10 to 25
1B, (determinate over 25 yrs)	10 to 25
Class 2 (11 yrs to 24 yrs)	10 to 20
Franklin	30 to 50
Class 3 (Felonies < 11 years)	10 to 18
290 Eligible Misdemeanors	10 to 18
Class 4 (Misdemeanors > 6 months)	10 to 18
Class 5 (Misdemeanors =< 6 months)	10 to 18

\*Additional hours may be approved with justification.

- c) Billable Activities:
  - 1) Evaluation/Assessment

- 2) Communication with client
- 3) Communication with attorney
- 4) Court appearance (program advises contracts typically estimate three hours per appearance and bill for actual time spent)
- 5) Home assessment/home visit
- 6) Phone calls (includes emails, texts)
- 7) Parking for necessary case related activities (i.e. to attend court)
- 8) Prepare written report (when invoicing, include number of pages written/edited; typical expectation is one hour per page and no more than 3 hours per page.)
- 9) Records review (include type and number of pages)
- 10) Travel time (see above regarding social workers residing outside of Alameda County)
- 11) Other (You need to identify the service using a brief description. For example, “Research on juvenile brain development” or “Referral to substance abuse prgrm”)
- 12) Discharge/transition/re-entry planning (re-entry planning should be limited to clients on probation or parole and limited in scope to initial, one-time support activities & connecting clients to longer term support)

d) Non-Billable Activities:

Social Workers may not bill for overhead expenses, such as routine case related or office administrative/managerial tasks. Routine office or case administrative tasks include, *but are not limited to*, the following examples:

- 1) Time spent keeping time records, handling billing issues, or submitting bills.
- 2) Time spent performing secretarial and/or clerical functions.
- 3) The administrative task of opening and closing files.
- 4) Activities considered to be training, education, or clinical consultation, including consultations with CAAP staff.
- 5) Providing individual, family, or group therapy.
- 6) Record collection is the responsibility of the attorney and should not be tasked to the social worker. Investigators and paralegals may be hired for record collection.
- 7) Social workers should only get releases signed within the context of an otherwise scheduled client visit and may not bill for driving to Santa Rita Jail solely for the purposes of having a client sign a release.
- 8) Social workers may wish to hire writing coaches or professional editors for a report. Prior to doing so, they should get explicit permission from the attorney of record. Removing identifying client information prior to sharing a report with an editor is highly encouraged and may be required by the attorney of record. This is not a reimbursable expense.

e) The following are non-reimbursable costs or expenses:

- 1) Non “privileged” electronic correspondence e.g. text, phone call, or video communication related expenses when the method is not considered a confidential, attorney-client privileged form of communication.
- 2) Telephone charges – collect or otherwise.
- 3) Fax charges.
- 4) Office supplies including audiotapes, videotapes, DVDs, CDs, and USB flash drives. In extraordinary cases, prior approval may be obtained for reimbursement of DVDs, CDs and USB flash drives.
- 5) Please note that for many cases, voluminous records must be reviewed by the social worker. While the program is not presently providing a precise ratio of time spent to number of records reviewed in deference to social worker expertise and the variability of work, professional judgement should be applied. Prison records (e.g. C-Files), CPS, and medical records may contain hundreds of pages of information; however, the vast majority of those pages are typically useless for the purposes of mitigation. The Program expects the social worker to use their expertise to only review those records that are necessary to complete the authorized assignment/task.

#### **4. Rules Specific to Post Conviction Social Work**

- a) Social Work efforts for resentencing cases should be limited in scope and cater to the interests of the Alameda County District Attorneys working on the case. Typically, re-entry planning is the most significant portion of these reports.
- b) The California Parole Board is legally required to give great weight to youth offender factors when determining the outcome for a Youthful Offender Parole hearing. It is incumbent upon CAAP attorneys to provide that information to the parole board in advance of a Youthful Offender Parole Hearing. The parole board also weighs standard factors of parole suitability, as documented on the CDCR’s website (<https://www.cdcr.ca.gov/bph/parole-suitability-hearings-overview/information-considered-at-a-parole-suitability-hearing/>).
  - i. Note that the CDCR has staff psychologists who assess all incarcerated individuals going before the parole board approximately 90 days prior to their hearing for a risk of recidivism score. Ideally, social worker reports are submitted to those psychologists prior to the assessments in addition to submitting reports to the Parole Board itself.
- a) Attorneys should attempt to work with contract social workers located close to the prison in which their clients are incarcerated. Franklin reports should be

limited to 10 pages maximum (ideally seven to eight pages) excluding exhibits or appendix, or if there are exigent circumstances.

- b) Standard post-conviction contracts should be between 30 and 50 hours of work, barring extreme circumstances.
- c) Travel for contact visits in prisons should be limited to six hours per visit, round trip.
- d) Clients incarcerated farther than three-hour drive should be met with over video and/or phone, utilizing a court order as necessary.
- e) When working with clients farther than six hours roundtrip drive time, video and phone calls should be utilized instead of in person visits. Attorneys are encouraged to get court orders for longer videos and phone calls as needed. Exceptions will be made for exigent circumstances.
- f) If multiple contact visits are required due to limited electronic access to clients within the CDCR, mileage may be included on top of the 50-hour limit.
- g) Parole boards reviewing *Franklin* reports are most acutely interested in a client's perspectives on how their childhood impacts their choices and how the client has addressed those specific concerns since the sentencing hearing. Therefore, the bulk of social work efforts should center around working with the clients themselves and writing the report. Collateral contacts should be considered supplemental to this effort and should take considerably less resource than direct client work. Travel for collateral interviews will not be approved without justification.
- h) The parole board will conduct its own, independent review of a client's C-file. *Franklin* reports therefore may include some brief, summary discussion of clinically significant pieces of the c-file. An extensive discussion of a client's conduct since the client's incarceration for the crime is not a reasonable use of resources for a *Franklin* report without justification. Reflections on how a client has addressed the factors leading to the crime they were convicted of (e.g. lack of employment, substance abuse, criminal/gang thinking) can be appropriate and valuable.
- i) Reimbursement for books purchased to support clients preparing for parole will only be reimbursed with prior approval by CAAP. CAAP staff will approve books under the following conditions, which must be stated in the request:



- i. The book is listed on UNCommon Law's Suggested Book List (though being on the list alone is insufficient for approval):  
<https://static1.squarespace.com/static/5b5f9d4be7494070b92d76f3/t/64b084ee4797a65da627779f/1689289967615/22.04.06+Book+Report+Guide+Suggested+Book+List.pdf>
  - ii. The book directly relates to the client's criminal history.
  - iii. The client is within two years of their parole hearing but has not yet been seen by the CDCR psychologist conducting the risk assessment.
  - iv. The client cannot access the book through the prison library, nor does the client have family or friends who can purchase the book for the client.
  - v. Correspondence course fees may be reimbursed for clients in class IV prisons if requested prior to purchase. Such a request will be evaluated by criteria similar to what is outlined above.
- j) Pending Charges & Youthful Offender Parole (YOP):
- i. Reports written prior to a plea deal or jury trial will be paid at the standard rate.
  - ii. Reports or addenda to reports written for *Franklin* YOP purposes only and submitted at sentencing hearings will be paid at the post-conviction rate.
  - iii. YOP Franklin reports started pre-plea/pre-jury trial that are produced solely for the purposes of parole will be paid at the post-conviction rate.
  - iv. Mitigation reports written whose primary audience is the District Attorney or Court shall be reimbursed at the standard rate.
  - v. Attorneys may request an initial report for mitigation purposes, which would be paid at the standard felony rate and an addenda to the report for YOP purposes only, which would be paid at the post-conviction rate.
  - vi. Addenda reports for YOP purposes only should be limited to 10 hours or less of social worker time without justification.
  - vii. Attorneys and social workers should consult with the Managing Social Worker regarding all cases in which there is confusion regarding which category a case should be placed.

## **5. Rules Specific to Juvenile Social Work**

- a) CAAP typically provides social work services to juveniles with staff social workers. Should a juvenile case require a private contractor, the case will generally follow the rules outlined above. The Program, however, recognizes that juvenile cases can require a considerable amount of case management, including for its most serious cases.

Requests for funding that exceed the guidelines set out above will take this into consideration.

- b) Juvenile cases in which a juvenile is charged with a 707b transfer hearing eligible petition may reimburse mitigation efforts at the adult Class 1 reimbursement rate. Case management activities will be reimbursed at the adult Class 5 reimbursement rate.
- c) Juvenile cases in which a juvenile has a Secure Track eligible petition may reimburse social workers at the adult Class 2 reimbursement rate. Case management activities will be reimbursed at the adult Class 5 reimbursement rate.
- d) Definitions:
  - i. Mitigation work is limited to client, attorney, and collateral interviews and related social work efforts necessary for the writing of memos or letters to the court and verbal court presentations to impact the case outcome, including the development of re-entry plans specifically required by the District Attorney and/or Court to resolve a case.
  - ii. Case management would include client, collateral, programmatic interviews necessary for the promotion of the client's well-being more broadly, including programming and placement planning, re-entry support, and client support while in the custody of the juvenile probation department. Attorneys and social workers are encouraged to consult with CAAP Managing Social Worker for clarification as needed.