

STANDARD FOR PROVIDING AND COMPENSATING EXPERTS,  
INVESTIGATORS, AND OTHER PERSONS WHO PROVIDE SERVICES  
NECESSARY FOR THE EFFECTIVE REPRESENTATION OF INDIGENT PERSONS  
Standard #6

NON-DEATH PENALTY CASES

- (a) Expert, investigator, and other costs of up to \$500.00 or such other amount as may be specified by the Standards Council may be approved by a circuit public defender without prior authorization from Standards Council staff.
- (b) Except as specified in (a) above, expert, investigator, and other expense requests shall be made in advance of expenditure and as far in advance as is practical.
- (c) The director shall designate a staff person in the central office to approve or disapprove requests. Such requests shall be approved if determined by the designee to be reasonable in accordance with prevailing statutory and case law, e.g., *Ake v. Oklahoma*, 470 U.S.68 (1985) and its progeny, standards of zealous representation, and due process requirements.
- (d) There shall be created by the Standards Council a four-person panel comprised of three circuit public defenders and one non-voting designee of the director. The three circuit public defenders all serve one-year terms and shall be appointed by the Georgia Association of Circuit Public Defenders in accordance with the bylaws of that organization. The panel shall be appointed within thirty days of the date of the final approval of this standard by the Standards Council. This panel's decisions shall be made by majority vote of the three circuit public defenders. The Standards Council shall establish procedures for the operation of the panel.
- (e) If a request is disapproved by the director's designee, the requesting attorney may submit the request in writing to the four-person panel described in (d). The panel may

authorize the expenditure of funds according to availability and in accordance with the standards stated in (c).

(f) Compensation for an expert, investigator, and other expense request shall be paid in accordance with usual and customary rates for the relevant geographic area.

(g) The Standards Council shall promulgate policies in furtherance of this standard.

Payment of any approved request shall be made in accordance with available funds. Any decisions made by the panel shall be subject to review by the Standards Council. All decisions of the Standards Council are final.

#### DEATH PENALTY CASES

The Standards Council recognizes that in cases in which the State of Georgia announces its intention to seek the death penalty there is a heightened standard of preparation and performance expected of counsel for the defendant to insure that every defendant is represented by competent and zealous counsel who is provided sufficient financial resources to insure that he/she can provide a vigorous defense within the bounds of due process. The Georgia Supreme Court's Unified Appeal procedures set forth in Uniform Superior Court Rule 34, as well as Georgia Supreme Court and United States Supreme Court precedent require that counsel conduct an exhaustive examination of all issues in the guilty/not guilty phase of the trial as well as in the sentencing phase of the trial, including a detailed checklist of items to be examined by counsel. Many of these issues require expert witnesses and investigation that would not be expected in a non-death penalty case. Those charged with interpreting and applying this standard should be mindful of the increased responsibility and duty of defense counsel when approving or

disapproving requests for experts, investigators, and other persons who provide services in death penalty prosecutions.

(a) Where the Office of the Georgia Capital Defender serves as lead counsel in a death penalty case, expenses shall be approved at the discretion of the Director of the Capital Defender office, subject to the availability of funds in the Office of the Georgia Capital Defender budget.

(b) In all other cases, lead counsel shall submit a proposed budget for the completion of the case within thirty (30) business days of being appointed to the case. Such budget shall include all fees associated with completion including attorneys' fees, expert fees, and investigative fees.

(c) Unanticipated expenses shall be submitted in an amended budget in accordance with policies to be promulgated by the Standards Council.

(d) The Standards Council shall designate a person or persons in the central office to approve or disapprove requests. Requests shall be approved if determined to be reasonable in accordance with the objectives of this standard.

(e) There shall be created by the Standards Council a four-person panel comprised of three death penalty-qualified circuit public defenders and one non-voting designee of the director. The three circuit public defenders shall all serve one-year terms and shall be appointed by the Georgia Association of Circuit Public Defenders in accordance with the bylaws of that organization. The panel shall be appointed within thirty days of the date of the final approval of this standard by the Standards Council. This panel's decisions shall be made by majority vote of the three circuit public defenders. The Standards Council shall establish procedures for the operation of the panel.

(f) If a request for funds is disapproved, the requesting attorney may submit the request in writing to the four-person panel. The panel may authorize the expenditure of funds according to availability and in accordance with the objectives of this standard.

(g) Compensation for experts, investigators, and other expenses shall be paid in accordance with usual and customary rates for the relevant geographic area.

(h) The Standards Council shall promulgate policies in furtherance of this standard. Payment of any approved request shall be made in accordance with available funds. Any decisions made by the panel shall be subject to review by the Standards Council. All decisions of the Standards Council are final.