

Standard 3 – Investigation and Experts

General Requirements

This standard requires counsel to conduct an independent investigation. When appropriate, counsel shall request funds to retain an investigator to assist with the client’s defense. Counsel shall request the assistance of experts where it is reasonably necessary to prepare the defense and rebut the prosecution’s case. Counsel has a continuing duty to evaluate a case for appropriate defense investigations or expert assistance.

Funding units may seek grant funds to employ licensed investigators as needed to comply with Standard 3, and/or seek grant funds to contract with investigators or any expert witness identified as necessary to assist with the defense of an indigent client.

Non-assigned (i.e., retained, *pro bono*) counsel representing adult clients who become indigent during the course of the representation and who are in need of expert or investigative services may seek use of indigent defense funding for these resources from the system pursuant to case law⁹ and/or the local system’s policy.

Permissible Costs

Expenses for investigators will be considered at hourly rates not to exceed \$75. Expenses for expert witnesses will follow a tiered level of compensation based on education level and type of expert¹⁰ not to exceed these amounts:

- High School or Equivalent \$30/hr
- Associate’s Degree \$50/hr
- Bachelor’s Degree \$70/hr
- Master’s Degree \$85/hr
- Crime Scene and Related Experts \$100/hr
- CPA/Financial Expert \$100/hr

⁹ See, e.g., *People v. Kennedy*, 502 Mich. 206 (2018).

¹⁰The table of expert hourly rates is adopted from the guidelines published by the North Carolina Indigent Defense Services Commission. Variations will be considered on a case-by-case basis.

- Pharmacy/PharmD \$125/hr
- Information Technology Experts \$150/hr
- Ph.D./Licensed Doctor \$200/hr
- Medical Doctor \$250/hr
- MD with Specialty (e.g., Psychiatrist, Pathologist) \$300/hr

Unless there is a demonstrated need, each indigent defense system will be limited to a capped amount of funds for investigators and experts based on the total new circuit adult criminal filings within the jurisdiction in the most recent calendar year, as reported and certified with the State Court Administrative Office. Systems within district courts of the 3rd class are considered in Tier I unless special circumstances are presented.

- 0 - 499 cases/year = Tier I - \$10,000
- 500 - 999 cases/year = Tier II - \$25,000
- 1,000 - 9,999 cases/year = Tier III - \$50,000
- Over 10,000 cases/year = Tier IV - To be determined bases on further discussion and review of records of the system(s)

All funding units must have an approved line item for using experts and investigators in the local court system. The funding unit should reimburse these service providers directly based upon a proper accounting of time spent during the grant reporting period. Systems should report whether an expert or investigator was requested, approved, or denied in a particular case to ensure compliance with the standard. The MIDC rates should be used unless a higher rate is specifically authorized by a system for the case. Experts and investigators should be reimbursed for travel related to their work on a case.