

Criminal mid-level case management: Preliminary hearing assessment

This assessment will assist LAO's Case Manager in setting a budget that will provide counsel with the resources required to deliver a high-quality and cost-effective defence.

LAO will ensure:

1. Decisions on eligibility for case management and initial case management discussions occur early in the proceedings and in a timely way - within 21 days of submitting a case management assessment form
2. Requests for budget amendments made prior to incurring costs are fairly considered and exceptional factors outside of counsel's control inform decision-making on budget increases
3. Accounts submitted within budget and which comply with LAO's billing rules (eg. not late billed, no private retainer) will be paid within 21-25 days

Section 1: General information

Client information

Client name:

Certificate #:

Charges subject to this budget:

Date of the offence:

Location of town//city and court
where this case is proceeding:

Does this case involve any of these considerations?

- | | | | |
|---|-----|----|---------|
| • Does your client have any mental health issues? | Yes | No | Unknown |
| • Does your client have immigration issues? | Yes | No | Unknown |
| • Does your client require the use on an interpreter? | Yes | No | Unknown |
| • Does your client's case have broader public interest aspects? | Yes | No | Unknown |

If yes to any of the above, please provide details:

Counsel information

Name:

Solicitor #:

Tier level:

Contact:

Address:

Unit #:

Town/City:

Province:

Postal code:

Phone:

Email:

Was there a private retainer?

Yes

No

If yes, for what amount: \$

If yes, for what services?

Please provide the dates of service covered by the private retainer and attach private account when billing:

Co-accused information

Are there any co-accused? Yes No

If yes, enter the name(s) of co-accused and lawyer(s):

Adverse interest? Yes No

Has counsel or counsel's firm ever represented any of the co-accused or potential Crown / Defence witnesses? Yes No

Is yes, is this an issue? Yes No

Have all appropriate parties consented to ongoing representation? Yes No

Name(s) of assigned Crown attorney(s):

Project name (if any):

Status of proceeding

Has a judicial pre-trial or focus hearing been held? Yes No

If yes, please provide a copy of the Statement of Issues filed for the hearing if available.

Will any of the evidence be waived at the preliminary hearing pursuant to subsection 549.1?

Yes

No

If yes, please provide details and dates of the discovery hearing:

Have dates for the preliminary hearing been set by the court?

Yes

No

If yes, what are the dates?

Section 2: Judicial interim releases

Date of arrest or apprehension:

Date of incarceration in respect to offences alleged:

Has the accused been released from custody in respect to the offence(s) alleged in the information/indictment?	Yes	No
--	-----	----

If yes, what are the terms of release?

Is the accused detained in respect of any other matters?	Yes	No
--	-----	----

If yes, please provide details:

Section 3: Case details

Please provide the following:

- A copy of the police synopsis

Please provide clear, informative, and concise details of the allegations of the charge(s) against your client and include the following:

1. Facts leading to the client's arrest (synopsis)

2. The theory of the crown and the evidence in support of this theory:

3. The theory of the defence and the evidence in support of this theory:

4. Is fitness an issue? Will it be raised at the preliminary hearing? Yes No

If yes, please provide details:

5. Is defence or crown alleging that the client was Not Criminally Responsible? Yes No

If yes, please provide details:

Section 4: Hearing budget

Disclosure

Please provide concise details of the volume and type of disclosure materials received to date:

Audio recordings

- Length or recordings (hours/minutes):
- Transcribed? Yes No

Video recordings

- Number of recordings (tapes, DVDs, files):
- Length or recordings (hours/minutes):
- File size of recordings (MB / GB)
- Transcribed? Yes No

Crown expert reports

- Number of expert reports:
- Please provide some detail with respect to the findings of the reports

Hard copy pages

- Number of hard copy pages:

Other (please provide details)

Is further disclosure required? Yes No

If yes, please specify:

Has it been requested? Yes No

Have there been any challenges with disclosure? Yes No

If yes, please provide details (select all that apply):

Searchability

Availability

Transcription

Other

If other, please specify:

If there are any legal challenges with disclosure, please specify, including any application/motion that will be brought:

Evidence to be called

How many witnesses are expected to be called?

Please provide a brief summary of the witnesses (if possible):

Section 5: Preparation required

Is committal an issue?

Yes

No

If yes, please provide details:

If no, what is the defence strategy at the hearing? Please provide details:

Motions or legal issues

Please provide details of any motions or legal issues that you expect will be raised at the preliminary hearing? For example:

Hearsay

Respond to Crown motion(s) - Similar Fact Evidence

S.8 Charter / Dawson applications

Voluntariness (voir dire)

Other (please specify)

Tariff authorizations

Please ensure you have request all available Tariff Authorization (e.g.: bail review, *Gladue*). Case Management Authorization hourly can be added to your certificate only when your Tariff Authorizations are insufficient to complete the matter.

Total tariff hours:

Case Management (CM) authorizations

Please indicate the Case Management block of hours you require to complete the motion.

Motion

CM authorization
hours

Total CM hours requested:

Section 6: Other information and disbursements

Can a student, paralegal or junior associate perform any of the hearing preparation?

Yes

No

If yes, please provide details:

Expert witness(es)

Estimated cost of expert witness(es) in accordance with the Tariff and Billing handbook? \$

Reason expert required?

Client's defence

Sentencing - Client has been found guilty OR has pled guilty

How will the expert enhance the defence?

Services to be provided by the expert:

Estimate of cost including the number of hours and hourly rate:

Note: Specific authorization is required in all cases for expert to attend court and give evidence.

Other expert expenses (court attendance, travel/mileage, hotel, airfare, etc.). Please provide details and an estimated cost:

Travel and mileage

Estimate costs of travel and mileage (i.e.: cost of summons to witness and witness travel) \$

Note: Travel for solicitor will not be granted unless specifically authorized in advance.

Other costs (please specify):

Total estimated costs of disbursements:

Billing requirements

Before submitting an account, please familiarize yourself with our revised Tariff and Billing Handbook and the Disbursements Handbook which is located in the Information for Lawyers section of the Legal Aid Ontario website.

Entering your Account Online

As of October 2009, it is mandatory for you to submit your account in electronic format through our Online billing system, attach your dockets and disbursement invoices. Should you have any questions regarding the appropriate way to enter your account online, please do not hesitate to contact our Lawyer Service Centre at Telephone: (416) 979-9934 Toll free: 1-866-979-9934. The Lawyer Service Centre Staff are here to assist you in entering your online accounts accurately.

Accurate Court Time

A budget on a Mid-Level Case authorizes preparation hours in addition to the tariff. Generally the tariff also allocates some hours of preparation for every day in court. Court time/attendance time means time spent in court on contested proceeding/trial. Please see the Tariff and Billing Handbook to determine what appearances are considered court time. At a minimum, we would ask you to provide, in your dockets, the proceeding, the level of Court, the address of the Court, the Courtroom Number, and the name of the Judge before whom the matter is heard. It is helpful to provide a description of the evidence heard or the legal argument made on the Court day. We also ask you to summarize the total preparation hours and the total court hours at the end of the detailed account.

Detailed Preparation Time

With respect to preparation time, we would ask you to provide us with a description of work billed. Simply indicating that your hours were used for "Preparation" or "Research" is not adequate. Your dockets must contain sufficient detail to allow LAO to ascertain what work was done on the date docketed. Detailed dockets are necessary for fiscal accountability and statistical purposes, to allow comparison between work done on case managed files and files where counsel is requesting discretion. This information assists in future budget setting.

Random Audit

Case managed accounts submitted within budget will be matched by the system and paid within 25 days provided none of the billing rules are breached. These accounts maybe subject to random or targeted audit by LAO's Audit and Compliance Group. LAO may request court information or other means of verification from the lawyer.

Terms and conditions for counsel

LAO requests that counsel agree to the following terms:

1. To complete and submit all case management assessment forms and supporting materials in a timely manner.
2. To request a budget in accordance with the standard of a reasonable client of modest means.
3. To provide the Case Manager with a comprehensive assessment that sets out the relevant facts and legal issues of the trial and a budget.
4. To manage the authorized budget efficiently and effectively, including the allocation(s) of the budget to retained associates and/or agents.
5. To use LAO LAW services and general memoranda whenever possible.
6. To make reasonable efforts to ensure the following:
 - a. All foreseeable conflicts of interest that could result in an order removing counsel as a solicitor of record are avoided (e.g.: representation of co-accused or a crown/defence witness)
 - b. Information is provided to the Case Manager in a timely manner of any new or unanticipated issues and events that will likely result in the case costing more than the allocated budget.
 - c. Information is provided to the Case Manager in a timely way of any anticipated requests for a change of solicitor by the client or any application by counsel to be removed as solicitor of record
 - d. A meaningful and usable work product is transferred to counsel in the event of an approved change of solicitor application.
7. To submit accounts in compliance with LAO's Tariff & Billing Handbook and Disbursements Handbook.

I have read and agree to abide by the Terms and Conditions.

I agree that I will not bill LAO for any removal application for conflict brought by the crown or the court or counsel for another co-accused as a result of my previous representation of a co-accused. I agree that I will indemnify LAO for the cost of my trial (or preliminary inquire) preparation time should I be removed from the record for conflict as a result of my previous representation of a co-accused.

A breach of any of these terms and conditions may result in the non payment of an account, or delay in payments of an account.

Submitting the form

Please submit the completed Case Management Assessment Form to Legal Aid Ontario using any of the following options:

- Attach the completed form online by using *Legal Aid Online*.
- Fax the completed form to 1-877-750-2009 (toll free outside the GTA) or 647-260-0550 (within the GTA)

For support regarding these options, contact the Lawyer Service Centre at 416-979-9934 or toll free 1-866-979-9934.

I certify that the information included in this form is complete, true, and accurate

Name:

Date:

Signature:

Please submit the completed form through *Legal Aid Online* using electronic document submission or LAOfax process.

--	--	--

Personal information contained on this form is collected under the authority of the *Legal Aid Services Act, 2020* and will be used for the purpose of delivering legal aid services under the *Legal Aid Services Act*.

Questions about this collection should be directed to the Privacy and Access to Information Officer at fippa@lao.on.ca or 1-800-668-8258.



LEGAL AID ONTARIO
AIDE JURIDIQUE ONTARIO