

**Criminal Justice Act
Panel Attorney
Manual**

**Western District of Washington
March 2018**

I.	Attorney Compensation and Recordkeeping.....	2
A.	General Expectations.....	2
1.	Fiscal Responsibility.....	2
2.	High Cost Cases.....	2
3.	Record Retention	2
4.	Confidentiality	3
B.	Compensation Maximums	3
C.	Staffing	3
1.	Court Appearances.....	4
2.	Associate Attorneys	4
3.	Contract Attorneys.....	4
4.	Co-Counsel	5
D.	CJA Billing and Voucher Process	5
1.	Attorney Hourly Rate.....	5
a.	Non-Capital CJA Form 20	5
b.	Capital CJA Form 30.....	5
2.	Billing Software	5
3.	Timekeeping	5
a.	Contemporaneous Timekeeping.....	5
b.	Detailed Time Entry	6
c.	Travel Time	6
d.	Multiple Cases	7
e.	Secretarial Tasks.....	7
f.	Original Work Product	7
g.	Time Spent on Voucher Process	7
h.	Ancillary Matters.....	7
4.	Timeline for Submission of Vouchers	7
5.	Complex or Extended Cases – Interim Payments.....	8
6.	Vouchers in Excess of Maximum.....	8
7.	Voucher Review, Approval, and Payment.....	8
8.	Voucher Reduction	9
9.	Supplemental Claims	9
10.	Case Budgeting	9
a.	Non-Capital Cases	9
b.	Federal Capital Prosecutions and Capital Post-Conviction Habeas Cases.....	10
II.	Attorney Expenses and Travel.....	10
A.	Criterion.....	10
B.	Reimbursable Out-of-Pocket Expenses.....	11
1.	In General.....	11

2.	Receipts Required	11
3.	Messengers, Couriers, and Express Delivery	11
4.	Photocopies	11
5.	Paralegals, Law Students, and Other Service Providers	11
6.	Transcripts	12
7.	Depositions	12
C.	Non-Reimbursable Expenses	12
1.	General Office Overhead	12
2.	Personal Items	12
3.	Filing Fees.....	12
4.	Printing.....	12
5.	Secretarial Help.....	13
6.	Taxes	13
7.	Expenses Related to Fact Witnesses	13
8.	Computer Hardware, Software, and Training.....	13
9.	Fees for Deeds of Trust to Secure Defendant’s Release.....	15
10.	Alcoholic Beverages	15
11.	Non-Essential Travel Expenses	15
12.	CLEs	15
13.	PACER.....	15
14.	Appeal-Related Tasks	15
D.	Travel.....	15
1.	Receipts Required	15
2.	Meals.....	16
3.	Private Vehicles	16
4.	Overnight Travel.....	16
a.	Air Travel	16
b.	Meals and Lodging.....	17
III.	Experts and Other Service Providers	17
A.	Statutory Maximums for Service Providers.....	17
B.	Pre-Authorization	18
C.	Expert and Service Provider Rates.....	18
D.	Interpreters	19
1.	Billing Rates.....	19
a.	Interpretation	19
b.	Translation.....	20
2.	Cancellation Policy	20
E.	Confidentiality.....	20
F.	Engaging Relatives.....	20
G.	Expert Voucher/Billing	20

The following guidelines are to inform CJA panel attorneys of the Court's expectations and provide an understanding of the voucher review process. Along with these guidelines, panel attorneys should familiarize themselves with the following:

- (1) The Criminal Justice Act, 18 U.S.C. § 3006A;
- (2) The Criminal Justice Act Plan for the Western District of Washington;
- (3) Guide to Judiciary Policy, Volume 7: Defender Services;
- (4) Ninth Circuit Criminal Justice Act Policies and Procedures, adopted October 20, 2016.

Should these references fail to provide the desired clarification or direction, counsel should address all questions to the CJA Administration at the Office of the Federal Public Defender at (206) 553-2510.

All funding requests and compensation claims for CJA appointments made in the Western District of Washington should be submitted through CJA eVoucher. To have an account set up, contact the following:

**CJA Administration
Office of the Federal Public Defender
1601 Fifth Avenue, Suite 700
Seattle, WA 98101**

Phone: (206) 553-2510

Fax: (206) 553-2334

Website: waw.fd.org

Email: zzzWAWml_CJA@fd.org

I. Attorney Compensation and Recordkeeping

A. General Expectations

1. Fiscal Responsibility

Consistent with this manual, the court expects appointed counsel to assist the court by using the least expensive, most reasonable method to provide high quality legal and other services to indigent defendants. Whenever appropriate, without compromising the quality of the work, services should be performed by the least expensive, competent staff member authorized by the court and capable of performing the work.

2. High-Cost Cases¹

For cases with complex or voluminous discovery, counsel should confer with the CJA Administrator, the Circuit Case Managing Attorneys (CMAs), and or the National Litigation Support Team in the Defender Services Office for guidance.² Counsel should review Best Practices for Electronic Discovery in Criminal Cases, available at <http://www.wawd.uscourts.gov>.

In all multi-defendant cases involving more than one CJA appointed attorney, absent a conflict of interest, counsel should make all reasonable efforts to reduce costs by coordinating the hiring and use of interpreters, as well as joint applications for funding of paralegals and other service providers. The CJA Administration shall be contacted for assistance in coordination of cases with four or more defendants, including possible appointment of a discovery/case manager to assist the defense group.

Appointed counsel should anticipate the need to prepare a budget in a high-cost case. Budgets in high-cost cases help to ensure the defense receives the resources necessary to effectively represent the accused while also allowing for oversight of the expenditure of CJA funds.

3. Record Retention

Time and expense records for CJA representations may be subject to audit and must be retained by the appointed attorney and all service providers for three years after approval of the final voucher for an appointment. Appointed counsel should advise all expert and other service providers of this requirement.³

4. Confidentiality

Documents filed through CJA eVoucher in conjunction with CJA billings shall not be disclosed to the public except as provided by statute, by the Guide to Judiciary Policy, or by order of the court.⁴

B. Compensation Maximums⁵

Felonies (Non-Capital), Civil Forfeiture, Non-Capital Post-Conviction (2241, 2254, 2255) – \$10,900 trial-court level, \$7,800 appeal level.

Misdemeanors – \$3,100 trial-court level, \$7,800 appeal level.

Prisoner Transfers – \$3,100.

Paroled Prisoner Transfers – \$2,300 before Parole Commission.

Other: Probation Violation, Supervised Release Violation, Parole Violation, Material Witness (in custody), Mental Condition Hearings (with exceptions), Contempt (with possible loss of liberty), Witnesses (Grand Jury, court, Congress, etc.), International Extradition – \$2,300 trial-court level.

In representations where counsel anticipates the final compensation request will exceed the maximum, counsel must provide notice to the assigned judge by a letter sent to the CJA Administrator. See also Section I.D.10 below for mandatory notice in representations which are likely to substantially exceed the maximum and thus will require early development of a case budget.⁶

C. Staffing

Appointed counsel are encouraged to use associates, law clerks, paralegals, investigators, and other cost-effective service providers to reduce costs where appointed attorney's expertise is not required, such as for legal research and file or preliminary discovery review.

Counsel should develop a plan to divide responsibilities among defense team members so that each team member is performing duties effectively and efficiently, thereby avoiding unnecessary duplication of effort. While meetings are needed to effectively divide responsibilities among team members and to coordinate efforts, counsel should also avoid unnecessary conferences among multiple attorneys, and between counsel and defense team members. In-person team meetings are compensable if the frequency and time billed are reasonable

given the needs of a case, but counsel should always assess the need for a meeting in advance and consider whether the purpose of the meeting could be served equally by a team conference call.⁷

1. Court Appearances

Appointed counsel is expected to do all substantive work, including pre-trial and probation interviews, plea negotiations, and all in-court proceedings related to pleas, detentions, substantive motions, trials, and sentences.

Where appropriate, counsel should request the assistance of one or more support staff during trial or evidentiary hearings, but such assistance for attendance at court hearings will only be compensated if approved by the court in advance.⁸

2. Associate Attorneys⁹

Associates in the same firm may assist appointed counsel on a CJA representation. However, by accepting appointment pursuant to the CJA, appointed counsel is obligated to ensure the aggregate hours expended by appointed counsel and others working on the case are reasonable and not duplicative.

The CJA case compensation maximum applies to combined hours of the appointed attorney and the associate. If it is anticipated that the hours for both the associate and the appointed attorney will exceed the case compensation statutory maximum, appointed counsel shall seek pre-authorization from the court to use the associate.

Associate counsel, unless an existing panel member, should be billed at actual cost (hourly plus benefits, taxes, overhead, space, etc.), but not less than \$75 per hour and not to exceed \$115 per hour. A separate associate billing appointment will need to be made in CJA eVoucher, please contact the CJA Administration to have this generated. If multiple associates are working on a case, records should identify the attorney performing the task.¹⁰

3. Contract Attorneys

If appointed counsel wishes to use an attorney who is not a member of his or her firm, pre-authorization **must** be obtained. The pre-authorization request must identify the contract attorney that appointed counsel anticipates using as well as an explanation as to the need. Contract attorneys must be billed at cost not to

exceed the current CJA hourly rate unless used as an expert (*see* Section III.C, Expert and Other Service Providers). All the above policies and compensation limits for associate attorneys apply to such contract attorneys who are not appointed as co-counsel.¹¹

4. Co-Counsel

In a difficult case where the court finds it in the interests of justice, co-counsel may be appointed. If so, each attorney is eligible to receive the maximum compensation allowable under the Act.¹²

D. CJA Billing and Voucher Process

1. Attorney Hourly Rate

a. Non-Capital CJA Form 20

Attorneys appointed by the court pursuant to CJA for non-capital cases are compensated at the rates set forth in § 230.16(A) of the Judiciary Guide.

b. Capital CJA Form 30

The maximum hourly rate for attorneys appointed to federal capital prosecution cases and capital post-conviction proceedings are compensated at the rates set forth in § 630.10 of the Judiciary Guide.

2. Billing Software

The United States District Court for the Western District of Washington requires that CJA appointed attorneys use a web-based billing program, CJA eVoucher, for all funding and billing submissions. To be issued a username and password for the system, please contact the CJA Administration.

3. Timekeeping

a. Contemporaneous Timekeeping¹³

Attorneys must maintain **contemporaneous** time and attendance records for all work performed on a case, including work performed by associates, partners, and support staff, as well as expense records. Information entered into CJA eVoucher timesheets satisfies counsel's recordkeeping requirement, provided the information is entered as soon as is feasible after performing the work described or is entered based upon contemporaneous notes. Written records may be subject

to audit and should be retained for at least three years after approval/payment of the final voucher for any appointment.

b. Detailed Time Entry¹⁴

Actual time billing must be in tenths of an hour. Each entry in counsel's CJA eVoucher timesheet must reflect discrete individual tasks and should not be bundled, especially tasks billable to different voucher categories. For example, if in one day counsel spent two hours conducting research, three hours reviewing discovery, 30 minutes on phone calls, and one hour drafting correspondence, counsel must create four separate entries in CJA eVoucher for that day, with each task corresponding to its appropriate category. This requirement also applies to service providers.

Information must be provided in detail sufficient to permit meaningful review, without violation of the canons of ethics or disclosure of attorney work product. Details should include, but are not limited to: identification of persons involved in telephone conversations, conferences or interviews and general topic of discussion (names of individuals present may be shortened to a descriptive, e.g., AUSA, witness 1, etc.); general description of topics researched and, if necessary for an understanding of the task, explaining its relevance to the federal proceedings; identification by name or ECF number of documents reviewed or prepared; bates range or total number of pages reviewed for all record or discovery review. See Appendix 6 of the Ninth Circuit CJA Policies and Procedures for examples of specificity required in timesheet entries.

Multiple tasks in one day of less than 0.1 hour (six minutes) each (e.g., reviewing ECF documents, reviewing and sending brief emails, leaving phone messages) must be quantified together at no more than the total actual time expended on all tasks.

If billing more than 12 hours in a single day when not in trial, counsel must ensure that sufficient justification is provided to explain the necessity for the excessive time.

c. Travel Time¹⁵

Compensation shall be approved for time spent in necessary and reasonable travel. Ordinary allowable time for travel includes only those hours actually spent in or awaiting transit.¹⁶ Counsel not in close proximity to client should coordinate client visits with court hearings whenever feasible.

d. Multiple Cases

Time spent on multiple cases that require overlapping services (e.g., research, attendance in court, travel to visit clients, etc.) should not be billed in full to each case, but should be appropriately allocated among the cases with reference to each case where time is apportioned.

e. Secretarial Tasks

Attorneys should not bill for secretarial tasks (see also Section II.C.5 Non-Reimbursable).¹⁷

f. Original Work Product

Attorneys may only claim compensation for work that is originally prepared for the case in which the voucher is submitted. By submitting a voucher through the CJA eVoucher billing system, the attorney certifies that the bill contains hours claimed for original work prepared in the current case and does not claim hours for previously prepared “boiler plate” documents from this case or another case.

g. Time Spent on Voucher Process

Attorneys, or anyone else, should not bill for time involved in accepting a CJA appointment or for time taken to prepare their CJA billing, including time spent preparing a declaration in support of a voucher where the fees requested exceed the statutory maximum. Time spent reviewing and certifying expert and service providers’ vouchers, and time spent preparing expert funding authorizations or a budget for the court, is compensable.¹⁸

h. Ancillary Matters

Pre-authorization from the court must ordinarily be obtained prior to appointed counsel working on any related state court proceedings, forfeiture, or other ancillary matters.

4. Timeline for Submission of Vouchers

Final vouchers must be submitted to the CJA Administration no later than 45 days after the final disposition of the case, unless good cause is shown.¹⁹ Failure to do so may result in a voucher reduction or non-payment. To the extent possible, appointed counsel should submit vouchers for fees and vouchers for expert and other services at the same time.

5. Complex or Extended Cases – Interim Payments

For non-capital cases that are complex or extended, the attorney may request interim payments. The appointed attorney must initiate the request for interim payments by submitting a voucher labeled interim #1 in CJA eVoucher and by attaching a declaration detailing why the case is extended and/or complex causing an anticipated financial hardship should reimbursement occur only after a disposition is reached in the case. The CJA Administration will prepare the interim agreement²⁰ outlining the standard interim practice. Approval of that first interim voucher by both the presiding judge and the Ninth Circuit Chief Judge (or delegate) will constitute approval to bill on an interim basis. All interim vouchers will receive both the district court judge approval as well as approval of payment by the Ninth Circuit Chief Judge (or delegate).

In federal capital prosecutions and capital habeas cases, the judge may approve interim payments at the time of appointment. The CJA Administration will ensure that an interim payment order is generated and signed by the judge. All interim vouchers will receive both the district court judge approval as well as approval of payment by the Ninth Circuit Chief Judge (or delegate).

6. Vouchers in Excess of Maximum

CJA counsel must notify the court that they expect the fee claims for the case to exceed the statutory maximum. Notification, in the form of a letter to the court, should be submitted to the CJA Administration as soon as counsel becomes aware that fees are likely to exceed the maximum. Counsel should include an explanation as to why the maximum allowance is not adequate and provide an estimate of anticipated fee totals.

In addition to the above requirement, final vouchers submitted for compensation amounts that exceed the statutory maximum must be accompanied by a detailed declaration addressing the complexities and/or extended nature of the case.

7. Voucher Review, Approval, and Payment

CJA vouchers for the Western District of Washington are processed and reviewed for technical compliance by the CJA Administration in the Office of the Federal Public Defender. The audit process includes a review of the time and expense records associated with a CJA representation to verify that services rendered and expenses incurred are in accordance with the local guidelines as well as the policies and procedures of the Ninth Circuit and the Judiciary.

Voucher review by the presiding judge, and, if the voucher exceeds the statutory maximum, the Ninth Circuit Chief Judge (or delegate), includes an assessment of whether or not the fees and expenses are reasonable for the activity or task involved.

Once a voucher has been approved by the court(s), payment will be mailed from the Administrative Office of the U.S. Courts.

Absent extraordinary circumstances, every effort is made by the CJA Administration to have vouchers submitted for payment paid within 30 days.

8. Voucher Reduction²¹

If a judge has a question or concern regarding the amount of compensation claimed or has reduced a voucher, counsel will be notified. Counsel will be given an opportunity to provide information or documentation relevant to the voucher and the judge's question or concern on the claim, except in cases involving mathematical or technical corrections. In the event that the matter cannot be resolved, the voucher may be referred to the CJA Standing Committee for review and comment. (Please refer to the CJA Plan for the Western District of Washington for additional information on the formation and function of the CJA Standing Committee.) The Standing Committee will make a non-binding recommendation for the judge to consider.²²

Counsel will not receive notice if a voucher reduction is based on simple computational errors or failure to comply with requirements outlined in this CJA manual.

9. Supplemental Claims

If counsel needs to submit a supplemental claim for services rendered after the case is completed, counsel may do so by submitting an additional voucher which should be designated as a "Supplemental" to the final voucher.

10. Case Budgeting

a. Non-Capital Cases

The court **requires** early development of a case budget in representations where the claims for compensation on behalf of an individual CJA defendant will exceed 300 attorney hours or total costs (attorney plus service provider fees) will

exceed 300 times the prevailing CJA panel attorney non-capital hourly rate, rounded up to the nearest thousand.²³

Counsel should contact the CJA Administration for assistance in developing and submitting a proposed litigation budget for the court's approval. To make this process more manageable, budgeting may be done in stages and counsel may wish to seek early on the authorization of a limited amount of "seed money" to allow the defense to become familiar with the case, develop a strategy, and file a budget for attorneys and service providers. This seed money would be part of the overall budget and should cover counsel and experts through approval of the first budget stage. Counsel is responsible for keeping track of attorney hours and all CJA-funded service provider hours. Absent good cause (such as when a task not previously contemplated required immediate action), supplemental budget requests should be made **before** funding is exhausted and far enough in advance to give the court sufficient time to review and rule on the request.²⁴

b. Federal Capital Prosecutions and Capital Post-Conviction Habeas Cases

Case budgeting is required in all capital prosecutions, including cases in which CJA counsel are co-counsel with the FPD.²⁵ As soon as counsel is informed that the death penalty will be sought in connection with the prosecution of a criminal case, appointed counsel should contact the CJA Administrator to discuss budgeting procedures in such cases.²⁶

It is the intent of this court to work with counsel in an effort to manage the costs of capital habeas litigation. In furtherance of this objective, counsel is expected to prepare a budget for tasks to be performed by attorneys and paralegals and expenses to be incurred for investigators, expert witnesses, and other costs. The judge assigned to the case will oversee the budgeting procedure in conjunction with the CJA Administration and the Circuit CMAs.

II. Attorney Expenses and Travel

A. Criterion

Reimbursable out-of-pocket expenses incurred in connection with a CJA representation may be claimed on the CJA Form 20 or 30 vouchers. Necessary and reasonable expenses will be compensated over and above case statutory maximums.²⁷

B. Reimbursable Out-of-Pocket Expenses

1. In General

In general, all expenses should be thoroughly itemized and documented. Any required receipts (see II.B.2 below) should be scanned and attached as documents within the CJA eVoucher billing system.

Billing submissions may be rejected and payment delayed for failure to itemize or supply sufficient documentation of expenses.

2. Receipts Required

Receipts are required for:

- Individual expenses over \$50
- Computer-aided legal research (CALR); if over \$500, counsel should also provide a brief justification for the expense²⁸
- Phone charges over \$50 per month²⁹
- Postage over \$50 per incident.³⁰

3. Messengers, Couriers, and Express Delivery

The use of messengers, couriers, and express delivery services (e.g., Federal Express, Airborne Express) is discouraged unless there is a genuine necessity for this service.

4. Photocopies

In-house photocopies should be billed at actual costs, not to exceed 10 cents per page. If using a copy service, counsel should negotiate the lowest possible rate or utilize the special rates made available to the U.S. Courts by contract, currently available at FedEx locations (contact Jose Zelaya, National Account Manager, at (214) 767-0451, ext. 6).

5. Paralegals, Law Students, and Other Service Providers

Paralegals and law students, whether in-house or independent, must be billed on a separate CJA Form 21/31, not on the attorney's voucher, even if the payee is the attorney or law firm. Other expert service providers also must be billed using a CJA Form 21/31. For additional information, see Section III. Expert and Other Service Providers.³¹

6. Transcripts

The cost of transcripts for any matter other than fact witness depositions (see Section III.B.7. Depositions) should be billed on a CJA Form 24. The preferred method is to have CJA pay the court reporter or transcriber directly. However, the payee can be the attorney or law firm if they have incurred the expense “out-of-pocket.”³²

7. Depositions

In any case where depositions are required, counsel should contact the CJA Administration for specific information regarding funding.³³

C. Non-Reimbursable Expenses

1. General Office Overhead

General office overhead, such as rent, office supplies, or equipment, books and publications, telephone lines, or service, is not reimbursable except in extraordinary circumstances.³⁴ See also Appendix 7 of the Ninth Circuit CJA Policies and Procedures.

2. Personal Items

Personal items and services for the client, such as clothing, cleaning or pickup/delivery of clothing or personal items, haircuts, cigarettes, meals, the costs of assisting the defendant in the disposition of his or her personal property, arranging for placement of minor children of the defendant, assisting the defendant in executing the conditions of probation, providing legal assistance in matters unrelated to the litigation of the case, although incidental to the defendant’s arrest, will not be reimbursed.³⁵

3. Filing Fees

The fees are waived for persons proceeding under the CJA.³⁶

4. Printing

The cost of printing briefs is not reimbursable, although the cost of photocopying is reimbursable.³⁷

5. Secretarial Help

Secretarial help (whether regularly or specially employed) and secretarial duties include but are not limited to the following:³⁸

- Filing court documents (CM/ECF)
- Downloading, reviewing, renaming, saving, printing, or forwarding a Notice of Electronic Filing (NEF) unless the NEF is a text-only entry unaccompanied by an ECF document
- mailing, faxing, copying
- preparing correspondence by either drafting from general instructions or typing in prescribed format
- transcribing dictation, editing and proofreading initial drafts, general word processing
- receiving, screening, and referring telephone and in-person callers
- answering/obtaining general inquiries/information about attorney office
- setting up meetings and conferences and informing participants of dates, times, locations, etc., and maintaining office calendar
- setting up and booking travel arrangements for counsel, clients, or expert service providers
- notifying clients of dates and times of court appearances and appointments with counsel, interpreters, and other experts
- opening and closing case files
- preparing attorney or expert billing

6. Taxes

Taxes paid on attorney compensation received pursuant to CJA whether based on income, sales, or gross receipts are not reimbursable expenses.³⁹

7. Expenses Related to Fact Witnesses

Expenses related to fact witnesses including service of subpoenas, witness fees, and travel costs are not payable from the CJA appropriations. Contact the CJA Administration for information on having this paid by the government.⁴⁰

8. Computer Hardware, Software, and Training

The Federal Court for the Western District of Washington has the mission that each lawyer in this district maintain competence with technology relevant to their practice. This includes working to keep abreast of changes in technology as it

relates to case management, discovery, investigation, and in-court advocacy. It also includes understanding the benefits and risks associated with current and emerging technology.

In accordance with the above mission, those attorneys and their staff appointed under the CJA should be proficient in the use of email programs, word processing, spreadsheets, ECF filing, the searching of electronic data, or any other software programs that may be used in any federal criminal case.

The following are minimum technology equipment requirements for CJA counsel:

- PC or Mac computer, including a DVD/CD writer, speakers, and USB ports to utilize external hard drives and thumb drives
- Printer
- Scanner with ability to convert paper documents to PDF/A format
- Secure high-speed Internet connection
- Web browser - Windows Internet Explorer preferred
- Multi-media player such as Windows Media Player
- Word processing program - Microsoft Word preferred
- Presentation, database, and spreadsheet software, similar to what is available in the Microsoft Office Suite
- A PDF program with writing and reading capability, plus the ability to create searchable PDF documents
- Individual email address for the attorney that is private
- Anti-virus software configured to automatically run security updates
- Zip file application such as 7-zip

Regardless of whether CJA counsel use Apple or Windows-based computers, their computer hardware should support the minimum requirements for currently supported releases of the Windows operating system and Microsoft Office applications. Since some litigation support programs do not work with Apple operating systems, CJA counsel who primarily use Apple-based computers should have access to a computer that uses a Windows operating system.

Attorneys should anticipate the need to upgrade their computer and peripheral equipment a minimum of every five years. Upgrade decisions should be based on what hardware and software will provide the best functionality and compatibility with future versions of CM/ECF.

Computer equipment, software, and training are a part of each lawyer's overhead expenses and are not expenses that will be paid by the court.

9. Fees for Deeds of Trust to Secure Defendant's Release

These fees are paid by the person(s) securing the collateral.⁴¹

10. Alcoholic Beverages⁴²

11. Non-Essential Travel Expenses

In-room movies and other non-essential travel expenses.⁴³

12. CLEs

Costs related to educational seminars, including travel, attendance, registration, or materials.⁴⁴

13. PACER

Appointed attorneys can apply for a no-fee account for CJA work and should contact the PACER Service Center in San Antonio at (800) 676-6856 for more information.⁴⁵

14. Appeal-Related Tasks

Time and expenses involved in the preparation of an appeal (whether from interlocutory orders or final judgments) or work related to the review of proceedings before the court are considered applicable to the case before the United States Court of Appeals and should be included on the voucher for services performed in that court.⁴⁶

D. Travel

1. Receipts Required

All travel-related expenses (parking, lodging, taxis, ferry fares, meals) **MUST HAVE RECEIPTS FOR REIMBURSEMENT**. In the event of air travel, boarding passes should be retained and submitted with the travel authorization and travel itinerary when the attorney or expert submits the CJA voucher for payment.⁴⁷

2. Meals

An overnight stay is required for the reimbursement of any meals. Meal receipts must show an itemization of actual food/beverages purchased; a credit card slip or statement is insufficient.

3. Private Vehicles

Travel by a privately owned vehicle does not require prior authorization and should be claimed at the rate currently prescribed for federal employees who use a vehicle for the conduct of official business.⁴⁸ Voucher documentation should include the date, destination, and the number of miles traveled, and, if the travel should be allocated across more than one case, reference to each case where the expense is apportioned. CJA eVoucher will access and assign by the date of travel the correct mileage rate.

4. Overnight Travel

All overnight travel and travel by air must be approved in advance by the court. A declaration detailing the purpose, itinerary, duration, and estimated expenses for the travel should be submitted through CJA eVoucher (TRAVEL: authorization for payment of travel).⁴⁹

a. Air Travel

When feasible, counsel are expected to perform case-related work while traveling.⁵⁰

(1) Government rates

Panel attorneys and experts are allowed and encouraged to take advantage of government rates for travel. If air travel expenditures cannot be made at government rates, reimbursement to the attorney or expert for the travel costs may be limited to the amount of the government rate.

Travelers must travel in coach class; any other arrangement must be detailed and specifically approved.

(2) National travel

Air Travel

National Travel Services (herein referred to as NTS) is the current contract government travel agency. NTS may be contacted at any time at (800) 445-0668 to obtain travel cost quotes. If approved for air travel, CJA travelers may book airfare through NTS using the 800 number or online at www.nationaltravel.com, which will be paid directly by the CJA Administration.

Other Travel Arrangements

Travel arrangements can be made through NTS for items other than airfare (car rental, hotels, etc.); however, the attorney or expert will need to provide their personal or business credit card to secure the reservation.

b. Meals and Lodging

CJA counsel and experts are only reimbursed for ACTUAL expenses incurred for meals and lodging while on overnight travel outside the city or county of residence in the course of a CJA representation.

Actual itemized receipts (not credit card slips) are REQUIRED for reimbursement. Travel expenses must conform to the prevailing limitations governing travel and subsistence expenses of federal judiciary employees. Since the amount allowable is dependent upon the place of travel, please consult the CJA Administration for current per diem rates. Meals and lodging are included in per diem rates; other expenses such as taxi fares, rental car charges, etc. are not included in the per diem rate and may be claimed separately if receipts are provided. Meals are reimbursable only when overnight travel is authorized.⁵¹

III. Experts and Other Service Providers

A. Statutory Maximums for Service Providers

The CJA compensation statutory maximum to any person providing expert services is \$2,500 in non-death penalty cases or \$7,500 (aggregate) in death penalty matters.⁵²

B. Pre-Authorization

Engaging expert service providers **requires** ADVANCE AUTHORIZATION from the court with the exception of the following:

- 1) Interpreter services where attorney-client meetings require them: no prior authorization is needed up to the statutory maximum of \$2,500.
- 2) Paralegal services, whether independent or employed in the same firm as appointed counsel: no prior authorization is required for the first \$800, but pre-authorization is required for services obtained beyond that initial \$800. See also General Order 01-17.
- 3) Investigative services: no prior authorization is required for the first \$800, but pre-authorization is required for services obtained beyond that initial \$800.⁵³ See also General Order 01-17.

A request for the authorization of funds to engage an expert service provider shall be submitted through CJA eVoucher (AUTH: Authorization for Expert and Other Services). Counsel should attach to the CJA eVoucher AUTH a declaration in support of the request detailing the need for the service, the cost involved (hourly rate as well as number of hours, etc.), and information on the expert counsel wishes to engage, if known.

Note: Appointed counsel is responsible for communicating in writing the pre-authorized amount to the expert and ensuring the expert understands any limitations placed by the court on the expert's appointment. It is strongly recommended counsel use an engagement letter that includes a warning that fees and costs may not exceed the contracted amount absent court approval for the additional amount. See Appendix 3 to Ninth Circuit CJA Policies and Procedures for a sample letter.

Payment requests for experts where prior authorization was not obtained should be submitted with a declaration detailing why, in the interests of justice, the services were necessary and could not await prior authorization.

C. Expert and Service Provider Rates

Appointed counsel is expected to negotiate the lowest reasonable compensation rate and total time required with the expert. (For maximum expert rates, see the

Ninth Circuit CJA Policies and Procedures, Appendix 2). A service provider's rate may not exceed these maximum rates unless authorized by the Ninth Circuit Chief Judge (or delegate).⁵⁴

Payments to service providers will only be authorized at the appropriate rate for the type of task performed. For example, a paralegal or investigator could gather and organize records to be provided to an expert rather than paying the expert to perform that function. The expert may perform the function but charge the appropriate lower rate. See the Ninth Circuit CJA Policies and Procedures, Appendix 2, for established service provider rates.

To minimize travel costs, counsel must make a reasonable effort to retain qualified experts, investigators, or other service providers from the locale where the proposed services are to be performed, if such providers are available.⁵⁵

In-house paraprofessionals, law clerks, and law students should be billed "at cost" but not to exceed the maximum rates established by the Ninth Circuit. "At cost" includes the regular hourly rate, plus any relevant costs, e.g., office expenses, payroll taxes, workers compensation insurance, and actual cost of benefits provided.⁵⁶

D. Interpreters

1. Billing Rates

a. Interpretation

The Western District of Washington CJA pays interpreters on a half-day/whole-day basis. Federally certified interpreters can bill at a rate of \$226 for half-day (up to 4 hours), and \$418 for full-day (from 4 to 8 hours). For work over 8 hours, the overtime rate for federally certified interpreters is \$59 per hour. The alternate interpreter rate for interpreters who have not been federally certified is \$111 for a half-day, \$202 for full-day, and an overtime rate of \$35 per hour. The interpreter, certified or not, also is entitled to travel expenses. **Counsel should when certifying the services provided by the interpreter indicate the actual time spent using the interpreter before signing off on the interpreter's bill.**

b. Translation

Counsel should seek pre-authorization from the court for translation projects that are expected to exceed \$800. Rates should be negotiated in advance of a larger translation project where the preferred method of payment to the interpreter is using the above half-day/whole-day fee schedule. For small translation projects interpreters should bill by the word at not more than 16.5 cents per word.

2. Cancellation Policy

If an interpreter appointment is cancelled on short notice and the interpreter is unable to fill the cancelled time slot, the interpreter may bill the CJA the half-day rate provided a reasonable explanation is submitted by the appointed attorney or canceling party.

E. Confidentiality

Documents filed through CJA eVoucher in conjunction with CJA billings shall not be disclosed to the public except as provided by statute, by the Guide to Judiciary Policy, or by order of the court.⁵⁷

F. Engaging Relatives

Counsel must first provide notification of the relationship and potential services to the court prior to engaging any relative to perform CJA compensable services, other than an associate counsel or paralegal in the same law firm.⁵⁸

G. Expert Voucher/Billing

All claims for services other than counsel should be submitted through CJA eVoucher on a CJA Form 21 for non-death penalty cases and CJA Form 31 in Capital matters.⁵⁹

As with attorney vouchers, information as to the services provided should be detailed enough to permit meaningful review. Details should include, but are not limited to the type of service, date and general description of task performed and time expended for the services provided. An itemized statement and receipts for any expenses incurred should be submitted to the appointed attorney if the expert is not a CJA eVoucher user. A copy of the engagement letter, if used, should be attached.⁶⁰

Appointed counsel, with limited exception, are responsible for submitting their experts' invoices through CJA eVoucher. Appointed counsel should review an expert's invoice to ensure the invoice is sufficiently detailed to permit review in a manner similar to that described for appointed counsel.

The information provided in the Attorney Expenses and Travel section of this manual (Section II) also applies to expert service providers.

Submission of the bill by appointed counsel through CJA eVoucher certifies that the bill accurately reflects the services rendered.

ENDNOTES

- ¹ 9th Cir. Policies and Procedures, Appendix 9 (examples)
- ² 9th Cir. Policies and Procedures IV.D.5.
- ³ Guide 230.76, 320.90; 9th Cir. Policies and Procedures VI.E.6.
- ⁴ Guide 510 through 540
- ⁵ Guide 230.23.20
- ⁶ 9th Cir. Policies and Procedures III.D.
- ⁷ 9th Cir. Policies and Procedures IV.F.
- ⁸ 9th Cir. Policies and Procedures. IV.E.4 and IV.F.
- ⁹ Guide 230.53.10; 9th Cir. Policies and Procedures IV.E.1.
- ¹⁰ 9th Cir. Policies and Procedures, Appendix 1, p. 32
- ¹¹ Guide 230.53.10
- ¹² Guide 230.53.20
- ¹³ Guide 230.76; 9th Cir. Policies and Procedures VI.E.6.
- ¹⁴ 9th Cir. Policies and Procedures VI.E.1, Appendix 6 (examples)
- ¹⁵ Guide 230.60
- ¹⁶ Guide 230.60
- ¹⁷ Guide 230.66.10
- ¹⁸ 9th Cir. Policies and Procedures IV.D.1.
- ¹⁹ Guide 230.13
- ²⁰ Guide 230.73.10
- ²¹ Plan VIII.D.; Plan Appendix A; Guide 230.36, 230.23.40
- ²² Plan IX.D.
- ²³ Guide 230.26.10; 9th Cir. Policies and Procedures III.C., III.E.
- ²⁴ Guide 230.26; 9th Cir. Policies and Procedures III.G.
- ²⁵ Guide 640; 9th Cir. Policies and Procedures III.A., III.B.
- ²⁶ *Ibid.*
- ²⁷ Guide 230.63.10
- ²⁸ Guide 230.63.30
- ²⁹ Guide Appendix A-8; CJA 20 Form Instructions
- ³⁰ *Ibid.*
- ³¹ Guide 320.70, 310.20
- ³² Guide 230.63.20
- ³³ Guide 320.40
- ³⁴ Guide 230.66; 9th Cir. Policies and Procedures IV.D.
- ³⁵ *Ibid.*
- ³⁶ *Ibid.*
- ³⁷ *Ibid.*
- ³⁸ *Ibid.*
- ³⁹ *Ibid.*
- ⁴⁰ *Ibid.*
- ⁴¹ *Ibid.*
- ⁴² *Ibid.*
- ⁴³ *Ibid.*
- ⁴⁴ *Ibid.*
- ⁴⁵ *Ibid.*
- ⁴⁶ *Ibid.*
- ⁴⁷ *Ibid.*
- ⁴⁸ Guide 230.63.40
- ⁴⁹ Guide 230.46
- ⁵⁰ 9th Cir. Policies and Procedures IV.D.3.
- ⁵¹ Guide Appendix. A, # 17
- ⁵² Guide 310.20
- ⁵³ Guide 310.20.10, 310.20.30; General Order ____; 9th Cir. Policies and Procedures V.A.

⁵⁴ 9th Cir. Policies and Procedures V.A.2.

⁵⁵ 9th Cir. Policies and Procedures V.C.

⁵⁶ Guide 320.70

⁵⁷ Chapter V

⁵⁸ 9th Cir. Policies and Procedures V.B.

⁵⁹ Guide 310.50

⁶⁰ Guide 310.40