

United States District Court Central District of California



CJA Trial Attorney Panel Manual

Last Revised December 2022

CJA TRIAL ATTORNEY PANEL MANUAL

TABLE OF CONTENTS

1. Procedures for the CJA Trial Attorney Panel for the Central District of California (revised effective 6/21/2019)
2. Memo re Billing Requirements (8/29/2012)
3. Memo re Billing (1/23/2015)
4. Memo re Format of Contemporaneous Time and Attendance Records [attorneys] (10/2/2012)
5. Memo re Detailed Worksheet Descriptions (6/19/2013)
6. Memo re New Voucher Submission Policy (7/11/2014)
7. Memo re New Voucher Submission Process (1/26/2016)
8. Memo re Interim Voucher Review (5/10/2016)
9. Memo re Case Budgeting Overview (8/4/2016)
10. Order of the Chief Judge No. 15-021, In the Matter of Obtaining CJA Services Without Prior Authorization (9/2/2015)
11. Memo re Nunc Pro Tunc Requests on Behalf of Service Providers (1/14/2013)
12. Statement re Billings for Paralegals and Law Clerks on Capital Habeas Cases (not dated)
13. Memo re Format of Contemporaneous Time and Attendance Records [service providers](2/1/2013)
14. Memo re Travel Policies – Service Providers (7/10/2013)
15. Travel Guidelines for CJA Attorneys and Experts (10/20/1998)
16. Voucher Review Guidelines for Capital Habeas and Capital Prosecution Cases (not dated)
17. Voucher Review Guidelines for Non-Death Penalty Cases (not dated)
18. 2022 CJA New Panel Member Training Powerpoint Presentation

SECTION 1

Procedures for the CJA Trial
Attorney Panel for the Central
District of California
(revised effective 6/21/2019)

PROCEDURES FOR THE CJA TRIAL ATTORNEY PANEL FOR THE CENTRAL DISTRICT OF CALIFORNIA

Revised Effective June 21, 2019

I. INTRODUCTION

The United States District Court for the Central District of California has established a Criminal Justice Act Trial Attorney Panel to represent persons eligible for representation by appointed counsel, and who are not represented by the Federal Public Defender's Office. Attorneys may apply for membership in one or more of the Court's three divisions. The Panel is administered by the CJA Supervising Attorney under the supervision of the Chair of the Court's Criminal Justice Act Committee. The CJA Committee is comprised of judges of the Central District. The Federal Public Defender and his/her designee(s) and the Central District's CJA Panel Attorney National Representative(s) attend CJA Committee meetings, bring matters of concern to the Committee's attention, and are involved with issues concerning membership on the CJA Trial Attorney Panel as well as issues concerning the quality of representation of indigent defendants in the Central District.

The CJA Panel Attorney National Representative(s) are nominated by the Federal Public Defender and appointed by the Chief District Judge. The CJA Trial Attorney Panel Defense Advisory Committee consists of the Federal Public Defender or his/her designee, the Central District's CJA Panel Attorney National Representative(s), and additional skilled and experienced attorneys selected from the CJA Trial Attorney Panel in each of the three divisions. The Federal Public Defender recommends candidates for the Advisory Committee, who must be approved by the Chief District Judge.

II. QUALIFICATIONS

Members of the CJA Trial Attorney Panel are highly skilled criminal defense attorneys who are committed to defending the rights of persons charged with the commission of a federal crime.

Prospective members of the panel are evaluated by seeking input from their peers and the judicial officers before whom they appear. The selection process includes evaluation of the panel applicant's state and federal criminal trial experience, written work product, verbal advocacy skills, and demonstrated ability to represent indigent defendants.

Before a prospective member is recommended, the Advisory Committee seeks to confirm that an applicant has the following qualifications:

1. The applicant is in good standing with all relevant bar associations including the California State Bar, and is admitted to practice before the Central District of California and the Court of Appeals for the Ninth Circuit, or applications for admission are pending. Court or Bar charges or discipline,

including monetary sanctions, while not automatically disqualifying, must be explained to the satisfaction of the Advisory Committee and the Court.

2. The applicant possesses sufficient knowledge and experience in federal court criminal matters, with hands on experience in matters at the trial court level, including bail hearings, pre-trial motions, trial proceedings, and sentencing hearings.

Generally, the applicant must have: 1. practiced primarily criminal law in federal court for five years; 2. been employed for the last three years in the criminal division of the USAO or FPDO; or 3. had primary responsibility as counsel of record in at least 40 criminal cases (state or federal), including serving as second chair in at least two federal felony trials, and have chaired or second-chaired at least four sentencing hearings where the USSG applied. The applicant must also have recently completed 20 hours of MCLE in criminal law, criminal procedure, or related topics with an emphasis on criminal law. Applicants who do not meet these criteria must explain their relevant qualifications and experiences and how those will be transferable to federal felony practice in the Central District of California.

3. The applicant has a professional history that demonstrates that zealous and skilled advocacy for defendants charged with a variety of federal criminal offenses.

4. The applicant has experience or demonstrated ability to be able to communicate with and advocate for the indigent defendant.

5. The applicant has the ability to research, prepare, and present written and oral arguments on behalf of defendants beyond the filing of generic or canned briefs and the making of routine arguments.

6. The applicant exhibits good moral and ethical character and has demonstrated professional demeanor with the Court and court staff. Criminal charges, or convictions, while not automatically disqualifying, must be explained to the satisfaction of the Advisory Committee and the Court.

7. The applicant has sufficient computer-related skills to e-file documents in accordance with the Court's rules and orders, submit vouchers and funding authorizations in eVoucher, and competently review electronic discovery.

III. SELECTION, RENEWAL, AND REMOVAL OF PANEL MEMBERS

A. Application for Initial Appointment

Applications must be received by the CJA Supervising Attorney on or before June 1 (or the next business day if June 1st falls on a weekend or holiday) to be considered for panel service starting January 1 of the following calendar year. At the present time, positions are available to all qualified candidates, and all such candidates are encouraged to apply. To apply, the candidate must complete an application, submit three representative writing samples, and provide the names of two or more references who are familiar with the applicant's work, professional competence and reputation, commitment to indigent defense, qualifications to handle the rigors of federal felony trial work, and time management skills.

The Advisory Committee will review the applications, contact the references, independently investigate prior casework, and decide which applicants will be recommended to the CJA Committee for addition to the panel. The CJA Committee will decide which applicants will be recommended to the Executive Committee. The Executive Committee's decision to add an applicant to the panel must be approved by the full Court. Members are added to the panel for an initial term of two years, on the condition that they attend an initial mandatory orientation session and any subsequent annual mandatory training seminars.

In the event new panel members are not available to accept assignments on January 1 of the year following the date of application, extensions may be granted by the Chair of the CJA Committee.

B. Applications for Renewal

After the initial two-year term, membership may be renewed for subsequent three-year terms. Early in the year in which a term expires, panel members will receive a letter advising that they must apply for renewal or they will be terminated from the panel at the end of the year. Each panel member seeking renewal must submit a renewal application which will require applicants to provide an updated summary of the trial level work performed over the preceding term.

Renewal is granted at the discretion of the CJA Committee, which considers, among other factors, the recommendations of the Advisory Committee, the quality of the panel member's work, complaints and evaluations received from the Court, clients, or other counsel, sanctions threatened or imposed, timeliness issues, the quality of other applications received, and whether the panel member's performance over the preceding term has conformed to applicable standards for the provision of services to indigent criminal defendants, including, but not limited to, the ABA Standards for Criminal Justice (4th ed. 2015) ("The Defense Function"), available at https://www.americanbar.org/groups/criminal_justice/standards/DefenseFunctionFourthEdition/. In some circumstances, the CJA Committee may determine that a member should be renewed for less than a three-year term.

C. Suspension, Removal, or Non-Renewal

Panel attorneys serve at the pleasure of the Court, as membership is a privilege, not a right. An attorney may be suspended or removed from the panel at any time at the discretion of the CJA Committee. The CJA Committee may also decide to do one or more of the following: renew an attorney for a term less than three years, place the attorney on probation, require training, or take any other action or impose any other conditions it deems appropriate. While the suspension or removal is considered final by the Court, an attorney may submit a new application for panel membership, if performance issues have been adequately addressed. A new application may not be submitted until at least one full year has passed from the date of non-renewal, suspension, or removal.

1. Summary Removal from the CJA Panel

Pursuant to the Court's responsibilities to assure compliance with the Sixth Amendment and notwithstanding Local Rule 83-3.2.1, in the event a panel attorney is disbarred from the practice of law by the California Supreme Court or by this Court, the CJA Committee shall summarily remove that

individual from the CJA Panel and that attorney shall not be appointed to represent future indigent defendants. The Chair of the CJA Committee or the Chair's designee shall immediately notify the panel attorney of the action taken and the reasons therefor. The attorney's representation of then-existing panel clients shall cease, and substitute counsel will be appointed.

2. Other Grounds for Suspension, Removal, or Non-Renewal

Suspension, removal, or non-renewal may result if the CJA Committee determines that a panel attorney has failed to fulfill the obligations of panel membership or has engaged in other conduct warranting such action. The procedures governing such measures are set forth below. In addition to the grounds for summary removal mentioned in the preceding paragraph, grounds for suspension, removal, or non-renewal may include, but are not limited to, suspension or disbarment from the practice of law in any jurisdiction; conviction of a felony or any misdemeanor involving moral turpitude; inclusion of false or misleading information in CJA vouchers; unjustified or frequent failure to comply with the obligation to accept appointments; failure to comply with the eligibility requirements for membership; failure to comply with the applicable CLE requirements; violation of applicable Rules of Professional Conduct; violation of the rulings or orders of a judicial officer; failure to provide assistance of counsel within the standards of the Sixth Amendment of the United States Constitution; general lack of professional competence; and mental or emotional instability affecting professional responsibilities.

3. Representation of Existing Clients Following Suspension, Removal, or Non-Renewal

(a) The Chair of the CJA Committee or the CJA Supervising Attorney shall notify the judges of the Court regarding any panel attorney who has been suspended, removed, or whose application for renewed membership is denied, or who has voluntarily withdrawn from the panel.

(b) Each judge assigned to a case in which a panel attorney has been suspended, removed, or whose application for renewed membership is denied, has the discretion to appoint substitute counsel, or to permit the attorney to remain counsel of record provided that the attorney remains eligible to practice law. The panel attorney must continue representing the client unless and until the assigned judge approves a substitution of counsel. The grounds for removal will be provided to the judges of this Court to assist in their determination, and may be provided to other courts or agencies if the chairperson of the CJA Committee and Chief Judge of the Court determine it is in the best interest of the public to do so.

4. Complaints

Judicial officers and attorneys may communicate a complaint about a panel attorney to the Chair of the CJA Committee, or the Chair's designee, in writing, telephonically, via email or in person. Other persons, including client-defendants, shall set forth any complaint in writing, and submit it to either the assigned judge or the Chair of the CJA Committee. The complaint should describe with particularity the matter(s), conduct, and circumstances triggering the complaint. Documents, transcripts, or other materials may be submitted in support of the complaint. The CJA Committee will not suspend, remove, or decline to renew a panel attorney from the panel in response to a complaint by

a client, unless the panel attorney was provided with a reasonable opportunity to respond to the complaint.

5. Investigations

The CJA Committee shall determine whether it will investigate a complaint and what manner to investigate a complaint. Where warranted, the panel attorney will be given a reasonable opportunity to respond to the complaint.

6. Determinations

The CJA Committee has discretion to determine what, if any, action shall be taken in response to a complaint or other notice of a panel attorney's failure or inability to adhere to the requirements of panel membership. The decision of the CJA Committee shall be final.

7. Confidentiality

Except as otherwise provided above, all proceedings involving suspension, removal, or non-renewal shall be confidential, other than the outcome.

D. No Right to Review

There is no right to review the CJA Committee's decisions concerning panel membership, including selection, non-renewal, suspension, and removal.

IV. ASSIGNMENT OF CASES

It is the responsibility of each panel member to manage his or her caseload in accordance with the appropriate standards of practice under the California Rules of Professional Responsibility as well as other standards for insuring high quality representation of indigent defendants. It is the responsibility of each panel member to notify the Court if the panel member is unable to accept appointment on a case as a result of caseload, calendar, or personal issues. Each panel member must ensure that the panel member's duty days are properly covered by other panel members in the event the panel member on duty is unavailable for any reason.

Repeated requests to continue trials or sentencings based on heavy caseloads, or excessive hours, may be considered grounds to place panel members on inactive status temporarily or take other action.

The Court expects that each panel member will accept appointment in cases regardless of the nature of the case consistent with the panel member's ethical duties and obligations under the standards of practice of the California Rules of Professional Responsibility.

V. OTHER REQUIREMENTS

Panel members must notify the CJA Supervising Attorney **within seven days** of any changes in the panel member's phone number, email address, or office address.

Panel members must also notify the CJA Supervising Attorney **within seven days** of learning of any new information that would have been responsive to the questions on the initial application relating to the following: (1) felony or misdemeanor arrests, charges, or convictions; (2) removal or voluntary resignation from any indigent defense panel (except for reasons of relocation or rotation as part of the panel's regular procedures) or removal from eligibility to receive appointments by any state, county, federal district, or circuit court; (3) discharge, disbarment, suspension, disqualification, discipline, or failure to permit renewal of any license by any federal or state government, court, administrative agency, or bar association; (4) citation for contempt by any court or other body having the power of contempt; (5) any written inquiry by any court, administrative agency, or bar association concerning the attorney's professional conduct or professional ethics (including billing practices); (6) any admonishment or sanction by any court or agency; (7) any removal or request for removal from representation of a client (unless it was due to substitution by private counsel or due to a conflict with another client); and (8) any finding by any court, or any assertion by the attorney to a court, that the attorney has provided ineffective assistance of counsel. Panel members are required to forward to the CJA Supervising Attorney all relevant information and documents concerning such matters.

A panel member's failure to comply with court orders, rules, regulations, or these policies and procedures may lead to discipline, including non-renewal or removal from the panel.

VI. TRAINING

Panel members are required to complete eight hours of continuing legal education in the area of criminal law each year. The Office of Defender Services and the Federal Public Defender's Office provide a wide variety of training programs that are available to panel members at no cost. Many of the training programs offered by the Office of Defender Services qualify for California's MCLE requirements. The Federal Public Defender for the Central District of California is an approved MCLE provider for the State Bar of California.

In addition, panel members are required to attend one annual meeting of the entire CJA Trial Attorney Panel. This meeting addresses issues concerning the administration of the panel, and provides training for panel members.

VII. MISCELLANEOUS

Applicants must be familiar with, and comply with, all Federal Rules of Criminal Procedure, all relevant Federal Rules of Civil Procedure, this Court's General Orders and Local Rules, the ethical and other requirements of the State Bar of California and California law relating to representation of criminal defendants, and the Guide to Judiciary Policy, Vol.7A.

Revised Version
Approved by
CJA Committee – 05/23/2019
Executive Committee – 06/06/2019

SECTION 2

Memo re: Billing Requirements
(8/29/2012)



Chambers of
DALE S. FISCHER
United States District Judge

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MEMORANDUM

TO: CJA TRIAL PANEL ATTORNEYS

FROM: HON. DALE S. FISCHER, CHAIR
CRIMINAL JUSTICE ACT COMMITTEE

RE: BILLING REQUIREMENTS

DATE: AUGUST 29, 2012

As you may know, the Ninth Circuit has continued concerns with the extraordinary number of hours billed by some attorneys, the majority of whom are in our district. The CJA Committee has taken a number of proactive steps to address the issue of high billing, including random audits, training programs, and focused efforts on equitable distribution of cases. As part of the Court's continued effort and obligation to insure accurate and appropriate billing practices, and in light of identified inaccuracies, the CJA Committee has prepared the attached "Central District of California CJA Billing Requirements." This document describes the most important requirements of the applicable statute, guidelines, and CACD policy. It highlights the billing issues you will likely be applying on a regular basis, but is no substitute for thorough and complete review of these sources. All vouchers must comply with these billing requirements, and the other requirements described in the statute, guidelines, and CACD policy. Please be sure to review the document, and contact me with any questions.

CENTRAL DISTRICT OF CALIFORNIA CJA BILLING REQUIREMENTS

(Criminal Justice Act, 18 U.S.C. § 3006A; CJA Guidelines, Volume 7, Part A, Chapters 2 and 3)

1. Per § 230.53.10, co-counsel or associate attorneys may not be compensated in the absence of a specific court order (not CJA Supervising Attorney authorization), which requires a specific showing (and finding by the Court) that the appointment of an attorney in a “difficult” case was “necessary and in the interests of justice.” In CACD, you may not bill for services performed by another attorney - or any other person - on the voucher submitted in your name, even if the attorney is your partner or associate, or the person is employed or paid by you.
2. Per 18 U.S.C. § 3006A(d), you may bill only for the amount of time reasonably spent on a particular matter, even if you actually spent more time. See also, § 230.23.40. Similarly, you must use paralegals, law clerks, investigators, etc. for tasks for which an attorney’s expertise is not required. Alternatively, you may charge for your time spent on such tasks only what a paralegal, law clerk, investigator, etc. would charge. Per CACD policy, these services must be separately billed via a CJA Form 21 or 31, even if the paralegal, law clerk, investigator, etc. is your employee or an employee of your firm. See also, § 310.40.
3. Per § 230.50(d), you must prorate any time spent in common on two or more cases, and must cross-reference all cases on the supporting materials to the vouchers. Time spent exclusively on one case must properly be charged for that case. Similarly, time spent researching and drafting “boilerplate” (such as portions of sentencing papers discussing Booker, § 3553(a) factors, etc.) can only be billed to one client. Future use of the same language is not a billable event. Time spent updating the language and tailoring it to a later matter may, of course, be billed to the later client’s matter.
4. Per § 230.50(e) and (f), (and unlike the proration requirement for time set forth in § 230.50(d)), you must bill expenses spent in common (expenses incurred for more than one representation - such as travel on behalf of more than one client) to only one representation. In other words, you may neither “double-bill” for expenses nor prorate the expenses among the representations. The supporting materials for the voucher must cross-reference the other CJA representations.
5. Per § 230.50(g), if you bill for time or expenses, including travel, that was spent

in common for a purpose other than a CJA representation, you must report that to the Court (through the CJA Supervising Attorney) at the time of submission of the relevant voucher, along with information sufficient for the Court to determine, in fairness to counsel, how the time or expenses should be apportioned and compensation should be authorized for the time or expenses reasonably attributed to the CJA representation. The specific rationale for billing under the CJA must be provided. (Time and expenses that actually were compensated by private clients or in connection with furthering other purposes, or which benefitted the attorney personally (other than in some minimal way) should not be billed to the CJA representation.)

6. Per § 230.50(f), you must not prorate time in such a way that you have billed a larger amount than you would have billed if all the time was assigned to one representation. You must not bill for more time in any day than you actually spent performing CJA services for that day - even if the addition of the time billed to each individual category exceeds the time actually billed on that day. See also, GO 97-07. Time spent must be billed to the nearest tenth of an hour.

7. Per §230.60, you may bill for “necessary and reasonable travel,” which means only time actually spent in travel or awaiting transit. (For example, if your travel requires overnight lodging, you may charge only for actual travel time from your office to the hotel, and from the hotel (or other departure location such as witness interview, meeting, etc.) to your office.) You may not bill for travel to the courthouse or elsewhere simply to file or deliver documents, etc. If filing or delivery is performed during a trip for a client-related purpose, the actual time spent filing or delivering the documents should be charged to the relevant client (so long as it is equal to or less than the cost of a messenger service), while the travel and other related service is charged to the client for whom the travel was “necessary and reasonable.”

8. Per § 230.66.10, you may not bill for secretarial services - whether performed by you or other personnel.

9. You may not bill for preparation of your CJA 20 or CJA 30 voucher, i.e., no billing for billing. See CACD Voucher Review Guidelines for Non-Death Penalty Cases.

10. Per § 230.76, you must maintain contemporaneous time and attendance records

and expense records for all work performed. These records are subject to audit and must be maintained for three years after approval of the final voucher for an appointment.

11. Per § 210.10.30, you must advise the Court whenever you obtain information that a client is financially able to make a payment in whole or in part, for legal or other services in connection with the client's representation, if the information is not protected as a privileged communication. Per 18 U.S.C. §3006A and § 230.40, you may not accept payment from a represented person without court authorization, and any amounts received must be deducted from the fee to be approved by the Court.

For further information and guidance, see the National CJA Voucher Reference Tool, accessible at <http://www.uscourts.gov/uscourts/cjaort/index.html> or http://fd.org/odstb_CJAPanelInfo.htm .

SECTION 3

Memo re: Billing

(1/23/2015)



**UNITED STATES DISTRICT COURT
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MEMORANDUM

To: CJA Trial Panel Attorneys

From: Criminal Justice Act Committee

Re: Billing

Date: January 23, 2015

I. Introduction

Members of the CJA Trial Attorney Panel have recently raised questions and concerns – both general and specific – about voucher review and processing procedures. The purposes of this memorandum are to provide basic information concerning the statutory obligations of both the district court and the circuit court when reviewing and approving requests for compensation under the Criminal Justice Act (CJA), and to make suggestions about how to expedite the processing of attorney vouchers.

In general, CJA counsel are entitled to compensation for only “hours reasonably expended completing work necessary for adequate representation.” A “meaningful review” of the hours expended and compensation requested can be accomplished only after the final voucher has been submitted. Circuit approval (as discussed below) is required in all cases exceeding the statutory maximums. Therefore, preliminary approval by the district court and payment of an interim voucher by the Administrative Office of the Court (AO), does not establish entitlement to the amount paid.

The vast majority of vouchers are approved at both the district and circuit levels without question or reduction. There is no presumption that vouchers are unreasonable or that the time billed was not actually worked.

Submitting vouchers that comply with the suggestions below will increase the likelihood that your vouchers will be processed and approved expeditiously, and without reduction.

II. The Criminal Justice Act and The “Guide”

The Criminal Justice Act (CJA), 18 U.S.C. § 3006A, provides the statutory framework for the appointment and compensation of indigent defense counsel.

Section 3006A(d)(5), “Filing claims,” states in part:

A separate claim for compensation and reimbursement shall be made to the district court for representation before the United States magistrate judge and the court, and to each appellate court before which the attorney provided representation to the person involved. Each claim shall be supported by a sworn written statement specifying the time expended, services rendered, and expenses incurred while the case was pending before the United States magistrate judge and the court, and the compensation and reimbursement applied for or received in the same case from any other source. The court shall fix the compensation and reimbursement to be paid to the attorney or to the bar association or legal aid agency or community defender organization which provided the appointed attorney.

As long as the total amount claimed in a case falls within certain statutory maximums (for example, as of January 1, 2015, \$9,900 per attorney and \$2,400 for outside service providers for a felony case in the district court), the district court determines the amount of compensation. Id.

Although the CJA permits payment in excess of statutory maximums for “extended or complex” representation, it imposes two requirements on these payments. Id. § 3006A(d)(3). First, the district court “[must] certif[y] that the amount of the excess payment is necessary to provide fair compensation.” Id.

Second, “the payment [must be] approved by the chief judge of the circuit,” or a circuit judge delegated by the chief judge. Id. Thus, approval by the district court in such cases is only preliminary; it does not establish entitlement to the requested fees.

Attorneys generally submit CJA vouchers after the final disposition of the case. See Judicial Conference of the United States, Guide to Judiciary Policy, Vol. 7: Defender Services, Part A: Guidelines for Administering the CJA and Related Services § 230.13 (Revised Dec. 18, 2014) (Guide). “Where it is considered necessary and appropriate in a specific case, the presiding trial judge may arrange for periodic or interim payments to counsel.” Id. § 230.73.10(a). In such cases, the Guide provides for two alternative payment options. See id. at App. 2C. The payment options “are designed to strike a balance between the interest in relieving court-appointed attorneys of financial hardships in extended and complex cases, and the practical application of the statutorily imposed responsibility of the chief judge of the circuit to provide a meaningful review of claims for excess compensation.” Id. § 230.73.10(c). Pursuant to the Guide, in most districts 20% of the approved interim payment is withheld, and is payable either on an interim basis or at the end of the representation. Due to the number of interim vouchers processed, the Central District does not presently withhold any portion of the preliminarily approved amount.

III. District Court Review

The Central District has a “CJA Supervising Attorney” – a staff attorney in the Legal Services Unit of the clerk’s office with the authority to review and approve vouchers.¹

CJA panel members are currently required to submit their vouchers quarterly in all cases in which accrued fees exceed \$500, and – in all cases – within 45 days of the final disposition. Guidance concerning billing requirements, etc. is provided in the “CJA Trial Attorney Panel Manual.” United States District Court Central District of California, CJA Trial Attorney Panel Manual (updated 2014),

¹ A few other courts have staff attorneys who perform similar functions. Other courts delegate responsibility for voucher review to other kinds of non-judicial officers, such as the Federal Public Defender.

(<http://www.cacd.uscourts.gov/sites/default/files/documents/CJA-Trial-Attorney-Panel-Manual.pdf>).

All vouchers are reviewed by CJA staff for mathematical and technical accuracy. The mathematical review includes a re-calculation of all hours submitted by the panel attorney and a verification that all hours were submitted in tenths of an hour. The technical review includes verification of required receipts, correct mileage rates, and required prior authorization for travel. Staff may advise counsel of the need for more detailed descriptions of services rendered. Improper submission of hours, calculation mistakes, inadequate descriptions, and failure to submit supporting documentation delays the processing of the individual attorney's vouchers and the processing of all other panel members' vouchers. In order not to penalize those attorneys whose vouchers are submitted properly, vouchers that must be resubmitted due to attorney errors do not get priority. Once a voucher passes the mathematical and technical review, staff submits it to the CJA Supervising Attorney with comments regarding any irregularities found in the first stage of review.

The CJA Supervising Attorney then performs what is commonly referred to as the "reasonableness review." If the amount requested is reasonable and appropriate and does not exceed the statutory maximum, the voucher is approved for payment. There is no further review; the information is electronically transmitted to the AO, and the AO issues payment directly to the attorney.

In cases that exceed the statutory maximum – as most Central District cases do – counsel must submit "a detailed memorandum supporting and justifying counsel's claim that the representation was given in an extended or complex case," and "the excess payment is necessary to provide fair compensation." Guide § 230.30(b) (citations omitted). In this District, the long-standing practice has been to submit a CJA 26 form as the justification memorandum with the final voucher rather than at the point in time when the statutory maximum has been exceeded.

The justification for treating the case as "extended or complex" is often readily apparent, and many panel members have fallen into the habit of describing only briefly why "excess payment is necessary to provide fair compensation." E.g., "This is a RICO case." Such cursory statements provide no assistance in determining why the amount of excess compensation requested is "necessary to provide fair compensation."

As Circuit Judge Richard Tallman, acting in his capacity as the delegate of the Chief Judge of the Ninth Circuit,² stated in In re Smith:

[T]he purpose of the Act is not to compensate counsel with fees rivaling those available to attorneys representing nonindigent clients. See generally United States v. Dillon, 346 F.2d 633, 635 (9th Cir. 1965) (“[T]he obligation of the legal profession to serve indigents on court order is an ancient and established tradition, and . . . appointed counsel have generally been compensated, if at all, only by statutory fees which would be inadequate under just compensation principles, and which are usually payable only in limited types of cases.”). Instead, Congress enacted the CJA to both “assure adequate representation in the Federal courts of accused persons with insufficient means,” and “afford[] reasonable compensation to counsel who are assigned.” S. REP. No. 88-346, at 1 (1963).

The question thus becomes not “what hours were *actually* expended,” but “what hours were *reasonably* expended completing work necessary for adequate representation.” See 18 U.S.C. § 3006A(a).

586 F.3d 1169, 1175 (9th Cir. 2009).

In answering this question, the CJA Supervising Attorney performs a line-by-line review of each voucher. She considers whether each line item is compensable and whether the amount billed for the task is reasonable. In addition, to the extent possible, she considers whether the total amount claimed in the quarterly submission (either alone or when considered in light of previous submissions) is reasonable, appropriate, and necessary to provide fair compensation.

In practice, the CJA Supervising Attorney often consults with the assigned judge and the Chair of the Central District CJA Committee during her review. Consultation in individual cases may be triggered by such things as questionable patterns in billing, seemingly excessive charges for mundane matters, and charges for unique or questionable tasks. Before reducing or denying a voucher for other

² Judge Tallman is now Chair of the Ninth Circuit CJA Oversight Committee.

than mathematical or technical errors, the CJA Supervising Attorney will either give counsel notice of the intended reduction, or make the reduction and provide a brief statement of the reasons for it. Guide § 230.36 (a), (b). In either case, counsel is provided due process – notice and an opportunity to be heard regarding reconsideration. Id. If the CJA Supervising Attorney denies a request for reconsideration, in whole or in part, counsel may appeal to the assigned judge. At the district court level, the judge’s decision is final.

Determining whether the requested excess payment is reasonable and necessary to provide fair compensation for work essential to providing the indigent defendant with adequate representation can be arduous and time-consuming, especially in light of the number of cases, attorneys, and vouchers submitted in the Central District. It is especially difficult to analyze whether the time spent collectively in certain categories has become excessive.

It is not feasible for the Court to identify for CJA counsel all of the services for which compensation is permitted, or all of the services for which compensation cannot be paid. In re Smith and other cases, the Guide, the ABA and California Rules of Professional Conduct, and the memoranda contained in the CJA Trial Attorney Panel Manual as revised from time to time, provide significant guidance. Ultimately, the Court depends on the exercise of reasonable professional judgment subject to later review by the district and circuit judges, if necessary.

You should not rely on the experience of other panel members, or even your own experience, to conclude that certain services are compensable, or descriptions of services are adequate. That certain services or descriptions have not been questioned by CJA staff, including the CJA Supervising Attorney, in the past does not mean that those practices are acceptable. Although our CJA Supervising Attorney and her staff are hard-working and diligent, they simply cannot spend the time it would take to identify and advise counsel of every error or inadequate description on every voucher. It is CJA counsel’s responsibility to be familiar with all of the relevant authority and requirements – and to use common sense when submitting claims for compensation.

The more detailed the description of the services, and the more closely panel members adhere to the guidance provided as to appropriate billing and voucher submission, the more likely they are to have their vouchers approved as submitted.

When an interim voucher is preliminarily approved, it is submitted to the AO for payment directly to the attorney. Final vouchers in cases where compensation requests exceed statutory maximums are sent to the circuit for review and approval of the entire amount billed in the case before being submitted to the AO.

The following steps will assist in prompt processing of your vouchers:

- Be sure there are no mathematical errors.
- Be sure there are no technical errors.
- Evaluate the time spent, and determine whether the services were performed at peak efficiency and whether a private client would pay for the number of hours submitted for the task.
- Provide sufficient detail for the reviewer to determine what services were performed, and why those services were necessary for adequate representation.
- Indicate the time spent on individual tasks within the subcategories on the voucher worksheets. E.g., “16a. Interviews and Conferences: Met with defendant at MDC to review and discuss plea agreement 1.3; Met with AUSA to discuss defendant’s concerns regarding plea agreement 0.3.”
- Have paralegals, investigators, or other staff perform appropriate tasks, including discovery review.
- Do not bill for services performed for the comfort or convenience of the client, such as traveling to meet an out-of-custody client, or updating the client’s family or friends about the case.
- Do not bill for items and services of a personal nature. Guide § 230.66.20. This is true regardless of whether performing such services will make the client feel better, increase his or her ability to focus on the case, ease his or her mind, etc.

- Obtain permission through the CJA Supervising Attorney before handling ancillary matters or civil forfeiture proceedings. Guide § 210.20.30.
- Provide more detailed information in your CJA 26, describing the services performed, why those services were necessary for adequate representation, and why the amount of payment requested is necessary for adequate compensation. Of course, you will need to provide more detailed information for the out-of-court fees and expenses than for the in-court fees and related expenses.

IV. Ninth Circuit Practice

As expressly permitted by 18 U.S.C. § 3006A(d)(3), the Chief Judge of the Ninth Circuit has regularly delegated approval authority among the circuit judges on a rotating three-year basis. The circuit is split into three administrative units; the Central District is in the Southern Administrative Unit. Circuit Judge Milan Smith, Jr. is the present delegate for the Southern Administrative Unit. For these purposes, the unit delegate is designated the “Chief Administrative Unit Judge.”

It is important to remember that when Judge Smith reviews the form CJA 26 attached to your final voucher, he typically knows nothing about the case. He does not receive copies of your interim vouchers, nor does he receive copies of any pleadings in the case. In some cases, a panel member’s CJA 26 explanation does not provide sufficient information to permit him to perform his statutory obligation to consider “what hours were reasonably expended completing work necessary for adequate representation” and whether the amount requested is “necessary to provide fair compensation.” *Id.* at § 3006A(d)(3). Therefore, Judge Smith may request that you provide a much more detailed summary to justify the time spent in each category of the CJA 20 worksheets. If counsel fails to provide the requested information, or if, after reviewing the information requested, Judge Smith has significant concerns about the reasonableness of the amount of time spent, he may ask the district judge who handled the case to review the vouchers for reasonableness and report the findings to him.

Judge Smith has authorized the Committee to provide some guidance that may expedite his processing of your vouchers. Of course, you should follow the

Central District's billing requirements. If provided at the time of submission of your final voucher, in a CJA 26 or a supplement thereto, the following information will reduce the likelihood that Judge Smith will require a further explanation from you or a review of your billing by the district judge.

- Provide a summary of “each aspect” or “each category” of the case to justify the total time spent. This refers to the categories listed on the CJA 20 worksheets, e.g., “15. In Court, 16. Out of Court, 17. Travel, and 18. Other Expenses,” and the sub-categories therein, e.g., “16. b. Obtaining and Reviewing Records (discovery review).” You have access, through CJA Services, to the total time spent in the basic categories. Judge Smith is particularly interested in the amount of time spent in court, in the preparation of pleadings filed with the court, and in the breakdown of time spent doing discovery.
- Describe in a reasonable amount of detail the services provided, as well as the number of hours spent and the total dollars billed. Remember that Judge Smith does not have your previous vouchers. It is most helpful to Judge Smith if you describe the services performed separately by month or by quarter. As quarterly billing is now required, it would seem most efficient to prepare a summary when you submit your vouchers every quarter and maintain it in your files for submission with the final voucher. Remember that the question is not whether you actually worked the hours represented in your voucher (though that is certainly a requirement), but whether the time billed was reasonable. Consider what a client in the private sector paying for your services by the hour would expect to see as justification for the fee charged.
- If you have spent a significant amount of time in certain categories, such as legal research or brief writing, describe what you did and why it may have taken more time than might otherwise seem reasonable. Stating that you billed 200 hours preparing motions, for example, is not sufficient.
- If substantial amounts of time are spent on discovery review, explain not only the volume of discovery, but your reasoned approach to

assessing and reviewing it in an efficient and cost-effective manner. Explain whether you obtained paralegal services to assist in that regard, or why you did not do so. (Remember that if you choose to perform services yourself that could have been adequately performed by a paralegal, or investigator, you must bill for those services at the appropriate rate and on a separate CJA 20.)

When Judge Smith approves the final voucher, the Central District CJA Office staff enters the certified/approved amounts in the CJA Panel Attorney Payment System.

If you disagree with a district judge's ruling on a reduction, you may appeal that decision to the Ninth Circuit delegate. See In re Smith, 586 F.3d at 1173. There appears to be no appeal from the decision of the Ninth Circuit delegate, either from his or her determination of your appeal from the district judge's determination or from his or her determination as to the final amount of compensation approved. Id.

We hope this explanation has been helpful. If you have questions concerning the billing process, you may contact Cynthia Dixon at (213)894-0978.

SECTION 4

Memo re: Format of
Contemporaneous Time and
Attendance Records [attorneys]
(10/2/2012)



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United States District Judge

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MEMORANDUM

TO: CJA TRIAL PANEL ATTORNEYS

FROM: HON. DALE S. FISCHER, CHAIR
CRIMINAL JUSTICE ACT COMMITTEE

RE: FORMAT OF CONTEMPORANEOUS
TIME AND ATTENDANCE RECORDS

DATE: OCTOBER 2, 2012

As you know, the Criminal Justice Act Guidelines require CJA panel attorneys to maintain “contemporaneous time and attendance records for all work performed” as well as expense records. These records are subject to audit and must be retained for three years after approval of the final voucher for an appointment. CJA Guidelines, Volume 7, Part A, Chapter 2, § 230.76. The Guidelines do not specifically describe the format to be followed, which has made it difficult to document work performed or otherwise to audit records uniformly. Therefore, the Court’s Criminal Justice Act Committee has decided to clarify its requirements and standardize the format for all CJA case time and attendance and expense records.

The CJA Committee has determined that – beginning November 1, 2012 – contemporaneous time and attendance records must be kept in the following format:

1. Time must be recorded for all CJA cases on a daily basis in a single document. In other words, a single document must reflect all work done in a single day for all CJA cases, rather than in a separate document for each client.
2. The record must indicate the specific timeframe when each type of service was performed. For example, you would indicate that from 8:30 to 9:30 you met with client Smith, from 9:30 to 9:35 you communicated with the AUSA on U.S. v. Jones, etc.

3. The time must be recorded as close as possible to the time when the services were performed.
4. You must document the time spent on discrete tasks, rather than “block billing.” As you know, you are already required to identify the time spent on discrete tasks within categories of services on the worksheets you submit for payment (although on the worksheets you indicate time spent in tenths of an hour).
5. The contemporaneous records should reflect all time spent on CJA matters (whether trial, habeas, or appellate panel, and in all federal courts).
6. You must also maintain contemporaneous records for work performed by your partners, associates, and staff (if you bill for their time) as well as expense records. § 230.76.

Per § 230.50(f) and GO 97-07, you must not bill time in such a way that you have billed for more time in any day than you actually spent performing CJA services for that day. For example, if you spent four minutes talking to the AUSA on each of ten cases in a single day (and did no other CJA work that day), and billed .1 for each conversation (the CJA system only allows billing in tenths of an hour), you would have billed for one hour’s worth of services. However, you can only bill .7 hour for that day, because you spent only 40 minutes (rounded up to the nearest tenth). Maintaining your records as described will assist you in insuring accurate billing and allow for an accurate and effective audit, should an audit be performed.

We understand that many panel attorneys already keep their contemporaneous time and attendance records in this format, and that there are a number of computerized time-keeping programs that can record time in this fashion. Attorneys who do not use computers for timekeeping can keep the same type of records manually.

This will not impact the way vouchers and worksheets are submitted. The contemporaneous time and attendance records would only be provided on request. Therefore, you may maintain a single record for both CJA and retained cases – and redact information not requested in an audit, if appropriate.

This requirement will be explained in greater detail at the new panel attorney training, and further information and some sample contemporaneous records will be provided at the October 13 training.

Thank you in advance for your cooperation. Please contact me if you have any questions.

SECTION 5

Memo re: Detailed Worksheet
Descriptions
(6/19/2013)



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MEMORANDUM

TO: CJA TRIAL PANEL ATTORNEYS

FROM: HON. DALE S. FISCHER, CHAIR
CRIMINAL JUSTICE ACT COMMITTEE

RE: DETAILED WORKSHEET DESCRIPTIONS

DATE: JUNE 19, 2013

In order to permit meaningful reasonableness review of worksheets and vouchers, descriptions of work must contain sufficient detail. Vouchers and worksheets lacking sufficient detail will be placed at the back of the line, at best, and may be “unprocessed,” deleted, and ultimately, denied without payment. Because of the volume of vouchers reviewed by Cynthia Dixon each day (between 80 and 90 generally), it is impossible to identify all of the inadequately described entries. Therefore, that your descriptions have not been challenged in the past and may not be in the future does not mean that they are sufficient. In addition to following the requirements described in the Central District of California CJA Billing Requirements (posted on the Court’s website), please note the following concerning the level of detail required.

1. Descriptions relating to research should specify the type of research and what it relates to (i.e., research re PSR advisory Guideline calculation, research prior conviction as qualifying prior for career offender status, research re governmental misconduct before Grand Jury).

2. Descriptions relating to review of discovery or other information should specify the type of discovery being reviewed and a reasonably detailed description

of the volume of discovery reviewed (i.e., the number of pages reviewed, Bates stamp range, the number of photographs, videos, or wiretaps reviewed). The presumptive maximum rate for general document review is 60 pages per hour; some types of documents may take substantially less time to review. Certain limited types of documents may require additional time. Those types of documents must be specifically identified by type if the billing exceeds the presumptive maximum rate. When reviewing ECF documents, provide a description of the documents reviewed (i.e. co-defendant's plea agreement) and the number of pages reviewed.

3. Conferences, telephone calls, and other meetings should identify the participants as well as the general nature of the conference (i.e., conference with client re PSR, t/c with AUSA re discovery issues). You can only bill for communication with a client's family and friends if the communication has a purpose that advances the case (i.e., identifying potential witnesses, obtaining information for sentencing position) rather than simply providing the family with a status update.

4. Descriptions relating to brief writing – particularly as it pertains to standardized motions and joinder motions – should include an explanation re: significant/substantial time spent on such motions (i.e., content was modified significantly because of the unique facts of the case which include . . . etc.). You may not bill more than once for research or content that is used repeatedly, such as general research and description of the 3553(a) factors that is used in more than one sentencing position paper.

Of course, neither confidential information nor attorney-client or attorney work product should be disclosed in any description. Remember that you can only bill for the lesser of the actual time spent or the time that is reasonably and efficiently spent on a task - and you cannot bill for more time than you spent in a single day. Also remember that you may not bill for keeping your contemporaneous time records or preparing and submitting your vouchers and worksheets.

Please contact me or David Kaloyanides if you have any questions about these requirements.

SECTION 6

Memo re: New Voucher
Submission Policy

(7/11/2014)



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MEMORANDUM

To: CJA Panel Members

From: Hon. Dale S. Fischer, Chair, CJA Committee

Date: July 11, 2014

Re: New Voucher Submission Policy

In response to concerns of panel members, the Executive Committee has approved the recommendation of the CJA Committee to transition to a system of staggered quarterly interim billing. The policy will become official (assuming full court approval) within a few weeks, but will not become effective until October 1. Pursuant to the new policy:

1. CJA appointed counsel will be divided into three groups, by surname, and each group will be assigned four quarterly billing periods throughout the year. Every attorney in each group must submit vouchers for all work completed in each quarter (except as specified in paragraph 2, below) by the 15th day of the month following the close of that quarter. The groups, and their designated billing months, are as follows (see attached chart for more detail):

Group 1 - Surnames A - H: January, April, July, October

Group 2 - Surnames I - P: February, May, August, November

Group 3 - Surnames Q - Z: March, June, September, December

2. Do not submit interim vouchers on cases where fees incurred in the preceding quarter do not exceed \$500.
3. Processing of vouchers submitted after the 15th day of the month will require the approval of the CJA Committee Chair based on a showing of good cause. Preoccupation with pressing professional demands does not establish good cause.
4. For completed cases and cases on which the services of the CJA appointed counsel have been terminated for any reason, vouchers must be submitted no later than 45 days after the attorney ceases representation. Processing of vouchers submitted after that time will require the approval of the CJA Committee Chair based on a showing of good cause. Preoccupation with pressing professional demands does not establish good cause.
5. Counsel are required to advise the CJA Supervising Attorney when they have billed more than 1800 hours on a rolling nine-month basis (see my December 5, 2012 Memorandum to CJA Trial Panel Attorneys re Case Appointment Policy).

The panel has requested, and the CJA Committee has approved, a transition plan that provides for an interim period of immediate submission of vouchers, as specified below, in order to alleviate financial burden, and to the extent possible, allow all counsel to be on equal footing with regard to payment before we embark on the staggered payment schedule. Therefore, you may begin submitting vouchers **immediately, as follows:**

1. CJA appointed counsel may submit vouchers in all cases in which the total amount of the voucher is \$2,500 or higher starting immediately through August 15. Vouchers not submitted by the August 15 deadline will have to be held until the designated submission time pursuant to the new voucher submission policy. An attorney who submits vouchers during this optional period must submit all eligible vouchers on all cases at one time on only one submission date during the month-long optional period.
2. Because we cannot anticipate the number of vouchers that this will generate, we cannot provide any assurances that the vouchers will be processed within 30 days, but would hope to clear the pending vouchers by September 30. Obviously, the earlier that vouchers are submitted during this transition period, the more quickly those vouchers will be processed.

3. Because we will be processing an unknown number but increased volume of vouchers, and hope to get them processed before September 30, the new staggered quarterly billing policy will take effect on October 1, 2014 for Group 1, on November 1, 2014 for Group 2, and December 1, 2014 for Group 3.

Please contact Cynthia Dixon if you have any questions.

Billing Month	CJA Appointed Counsel Surname	Period of Service
January	A-H	October, November, December
February	I-P	November, December, January
March	Q-Z	December, January, February
April	A-H	January, February, March
May	I-P	February, March, April
June	Q-Z	March, April, May
July	A-H	April, May, June
August	I-P	May, June, July
September	Q-Z	June, July, August
October	A-H	July, August, September
November	I-P	August, September, October
December	Q-Z	September, October, November

SECTION 7

Memo re: New Voucher
Submission Process

(1/26/2016)



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To: CJA Trial Panel Attorneys

From: Judge Dale S. Fischer, Chair, CJA Committee

Date: January 26, 2016

Re: New Voucher Submission Process

Circuit Judge Milan D. Smith, Jr. has informed us that we must make some changes to the voucher submission process in cases that exceed the statutory maximum (\$10,000 for felony cases as of January 1, 2016). Please review the information below detailing those changes, which will take effect on February 1, 2016.

Previously we required that certain information be submitted *with the final voucher* in every case that exceeded the statutory maximum, including a completed CJA-26 form and a breakdown and explanation of hours billed by category. This information was required in order to justify both that the case was either “extended” or “complex,” and that the hours claimed had been “reasonably expended completing work necessary for adequate representation.” See In re Smith, 586 F.3d 1168, 1175 (9th Cir. 2009)(Tallman, R.). Judge Smith recently advised that he will now review all *interim vouchers* once the statutory maximum has been exceeded. See 18 U.S.C. § 3006A(d)(3); *Guide to Judiciary Policy* Vol. 7A, § 230.23.40(b). The question of whether a case is “extended or complex,” as required for compensation above the statutory maximum, will be determined with the first voucher taking the case over the threshold. But Judge Smith will determine whether the additional hours claimed in each subsequent voucher were reasonably expended completing work necessary for adequate representation.

Therefore, the information you were previously required to submit at the end of the case must now be submitted with the first voucher taking the case over the statutory maximum. (For pending cases already over that amount, this information will be required with the

next voucher submitted in the case.) You will then need to supplement that information with every subsequent voucher you submit regardless of the number of hours claimed during that period.

To help clarify exactly what is required, and to consolidate various documents and pieces of information into one place, we have created a new form designed to replace the existing CJA-26 and all other supplemental material we have been requiring with final vouchers (e.g., the breakdown of hours by category and required explanations). I attach a blank version of this form for your reference. It may seem long, but it does not substantially add to what we have been requiring in every case that exceeds the statutory maximum. Nor must every section of the form be completed at once; some sections will be used for the initial submission, and other sections will be completed only for subsequent vouchers, if applicable.

The goal of the form is not to create unnecessary busywork, or to make you restate or summarize everything in your voucher worksheets. Rather, it is to prompt you to highlight what has occurred during the voucher time frame that supports the two findings that must be made for compensation claims that exceed the statutory maximum: (1) that the case is extended or complex; and (2) that the hours claimed were reasonably expended completing work necessary for adequate representation.

Most of the form should be completed the first time it is submitted, which should be with the first voucher taking the case over the statutory maximum.¹ Once you have completed the form, save a copy of it. The next time you submit a voucher in the same case, use the saved version of the form, and update two brief sections (Sections II and IV). If anything new has occurred during the period of service that further supports the claim that the hours expended were reasonable, etc., add a note in the relevant section of the form.

We appreciate your cooperation in adopting this new form. If you have questions about the new form or the timing of its use, or suggestions for its improvement, please contact Cynthia Dixon.

¹ In pending cases that have already exceeded the statutory maximum, you will need to submit this new form with the next voucher you submit.

SECTION 8

Memo re: Interim Voucher
Review

(5/10/2016)



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MEMORANDUM

To: CJA Trial Panel Attorneys

From: Hon. Dale S. Fischer
Chair, Criminal Justice Act Committee

Re: Interim Voucher Review

Date: May 10, 2016

As you know, Circuit Judge Milan Smith has determined that 18 U.S.C. § 3006A(d)(3) requires that all interim vouchers be forwarded to him for review and approval once the attorney's fees in a case exceed the statutory case compensation maximum. The recently revised CJA 26 form will assist in expediting that review. As he did with the final vouchers, Judge Smith may occasionally send interim vouchers to district judges for a reasonableness review. Although this review of interim vouchers will necessarily add some additional time to the process, it also has benefits for the panel. Judge Smith has confirmed that once he has approved payment of an interim voucher, the determination that the amount approved is reasonable compensation for the services rendered through the end of the period reflected in the interim voucher will be final. In other words, there will be no "clawback" of funds previously paid as to that case once Judge Smith has approved the interim voucher.

It is possible, of course, that either Judge Smith or the presiding district judge may determine that it is too early to perform a meaningful review of the amount billed on the matter thus far - and therefore defer review until a later time.

It is too early to tell whether that will happen often - or at all.

Sums paid on vouchers that have not been approved by Judge Smith remain subject to possible repayment - and sums approved by Judge Smith on interim and final vouchers may be used to offset amounts determined to have been overpaid unless other arrangements have been made.

Please contact me or Cynthia Dixon if you have any questions.

c: Circuit Judge Milan D. Smith, Jr.

SECTION 9

Memo re: Case Budgeting Overview

(8/4/2016)

OFFICE OF THE CIRCUIT EXECUTIVE
UNITED STATES COURTS FOR THE NINTH CIRCUIT

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SAN FRANCISCO, CA 94119-3939

CATHY A. CATTERSON
CIRCUIT AND COURT OF APPEALS EXECUTIVE
PHONE: (415) 355-8900
FAX: (415) 355-8901

TO: CJA Panel Members

FROM: Kristine M. Fox and Blair Perilman,
Circuit Case Managing Attorneys

DATE: August 4, 2016

RE: Case Budgeting Overview

I. WHAT IS CASE BUDGETING?

Case budgeting is a process by which an appointed panel attorney develops a road map for funding litigation on a case, based on strategic analysis of the work required over the course of the representation and the amount of time required to perform the work. It is also a process by which counsel ascertains the need for and requests funding for service providers, including investigators, mitigation specialists, paralegals, and case-specific experts.

Budgeting is intended to enhance the quality of representation and optimize the use of resources by enabling counsel to manage the litigation in an effective, yet cost-conscious manner, through case planning. A carefully devised budget application provides the district court with sufficient information to assess the reasonableness of and necessary justification for expenditures. Upon approval by the district court, the budget goes to the circuit reviewing judge for approval. Once a budget order is in place, counsel can proceed with the assurance that funding within the budget will be forthcoming.

Budgeting also helps to facilitate efficient and expeditious voucher review. With a circuit-approved case budget, counsel may submit interim vouchers to the district court for payment without the need for circuit review, until the final voucher, thereby reducing delays and additional paperwork.

II. TYPES OF CASES THAT MAY BE BUDGETED

The *Guide to Judiciary Policy*, Vol. 7, Part A, Guidelines for Administering the CJA and Related Statutes, (“CJA Guidelines”) encourages and provides guidance for case budgeting in non-capital and capital cases. Cases subject to budgeting are often protracted and complex litigation. A case typically meets the case budgeting threshold when the following high cost influences are present: (a) multi-count indictments, e.g., RICO, CCE, major frauds, (b) multiple defendants, (c) electronic surveillance, (d) voluminous documents or electronically stored discovery, (e) extensive scientific or forensic evidence, and (f) projected length of the trial.

III. THE BUDGETING PROCESS

Once it is determined by the district court that a case is appropriate for budgeting, a Ninth Circuit Case Managing Attorney will be available to consult with counsel on the preparation and review of the budget, and will provide the necessary forms and guidance.

Budget submissions are considered by the court *ex parte* and are maintained in a confidential manner.

There are several ways to generate a budget. Upon identifying the legal and factual issues in a case, counsel can assess the work that needs to be performed and the time needed to do it. The government’s projection of the length of a trial enables counsel to budget for trial preparation and trial time. Counsel should also factor in post-verdict motions and sentencing proceedings.

Budgets are meant to be flexible, not rigid financial parameters restricting the defense of the case. If counsel determines that the budgeted amount will be insufficient, counsel should submit a supplemental budget request as soon as practicable.

We look forward to working with you. Please do not hesitate to contact either of us with any questions:

Kristine M. Fox
415.355.8985
kfox@ce9.uscourts.gov

Blair Perilman
415.355.8982
bperilman@ce9.uscourts.gov



Kristine Fox

Ninth Circuit Case Managing Attorney
Office of the Circuit Executive

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Kristine Fox transferred to the Ninth Circuit from the U.S. District Court for the District of Arizona, where she was a Death Penalty Law Clerk for the past 17 years. In that capacity, she assisted the Court with managing both capital habeas petitions from state prisoners and federal death penalty cases. She is also an Adjunct Legal Writing Instructor at the University of Arizona College of Law, and author of the FJC's pocket guide for capital habeas cases. Previously, Kristine worked as a Law Clerk to the Hon. Thomas A. Zlaket on the Arizona Supreme Court. She received her J.D. from the University of Arizona College of Law and graduated from Hofstra University with a Bachelor's of Business Administration in Banking and Finance.



Blair Perilman

Ninth Circuit Case Managing Attorney
Office of the Circuit Executive

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Blair Perilman was a Solo Practitioner prior to joining the Ninth Circuit and specialized in discovery litigation in federal criminal-mega cases in San Francisco. She founded the company, Litigation Support Expert Services, which over the past nine years provided assistance with discovery organization, database management, and document review to practitioners on criminal defense panels in state and federal court. Prior to that, she was a Quality Control Manager for a discovery consulting firm servicing boutique civil firms in San Francisco. Blair received her J.D. from Golden Gate University School of Law and graduated from Kent State University with a Bachelor's of Science in Nutrition and Dietetics/Pre-Medicine.

SECTION 10

Order of the Chief Judge

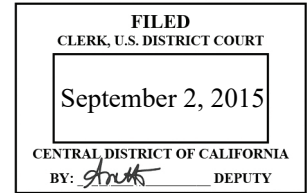
No. 15-021,

In the Matter of Obtaining CJA

Services Without Prior

Authorization

(9/2/2015)



UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

IN THE MATTER OF } ORDER OF THE CHIEF JUDGE
OBTAINING CJA SERVICES }
WITHOUT PRIOR AUTHORIZATION } 15- 021

18 U.S.C. Section 3006A(e)(2)(A) provides: “Counsel appointed under this section may obtain, subject to later review, investigative, expert, and other services without prior authorization if necessary for adequate representation. Except as provided in subparagraph (B) of this paragraph, the total cost of services obtained without prior authorization may not exceed \$800 and expenses reasonably incurred.” Subparagraph (B) provides: “The court . . . may, in the interest of justice, and upon the finding that timely procurement of necessary services could not await prior authorization, approve payment for such services after they have been obtained, even if the cost of such services exceeds \$800.”

On October 19, 2012, the Court authorized CJA defense counsel to utilize the services of investigators, experts, and other service providers in an amount not to exceed \$800 for each category, rather than in the aggregate, of service providers without further order of the Court. In addition, for all cases in which the defendant required the use of an interpreter, the Court authorized CJA defense counsel to

1 utilize the services of an interpreter in an amount not to exceed \$2,400 without
2 prior judicial approval. This policy was memorialized in Order of the Chief Judge
3 No. 12-049.

4 However, on September 1, 2015, the Court transitioned to the national online
5 system for processing and payment of all CJA vouchers ("eVoucher"). The
6 eVoucher system is not compatible with an \$800 pre-authorization per service
7 provider category rule, and requires that the Court adopt the national policy of
8 limiting pre-authorization of service providers to \$800 per case. Accordingly, after
9 consultation with the Court's two CJA panel attorney national representatives, the
10 CJA Committee voted unanimously to rescind the policy set forth in Order of the
11 Chief Judge No. 12-049, and revert to the \$800 per case rule. IT IS THEREFORE
12 HEREBY ORDERED that Order of the Chief Judge No. 12-049 is SUPERSEDED.

13 IT IS SO ORDERED.

14
15 Date: September 2, 2015

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17 _____
18 CHIEF UNITED STATES DISTRICT JUDGE
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SECTION 11

Memo re: Nunc Pro Tunc
Requests on Behalf of Service
Providers

(1/14/2013)



Chambers of
DALE S. FISCHER
United States District Judge

**UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA**

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MEMORANDUM

To: CJA Trial Panel Attorneys

From: Honorable Dale S. Fischer, Chair
Criminal Justice Act Committee

Re: Nunc Pro Tunc Requests on Behalf of Service Providers

Date: January 14, 2013

Recently, the CJA Office has received a number of nunc pro tunc requests from counsel on behalf of service providers. As you know, requests for services that will exceed \$800 must be approved in advance. See CJA Guidelines, Volume 7, Part A, §310.20.30; Order of the Chief Judge, 12-049, In The Matter of Obtaining CJA Services Without Prior Authorization. I understand that proper representation of your clients may occasionally require an investigation, interview, etc. that was not previously contemplated and that requires immediate action, such that permission could not be sought in advance. However, such occasions should be rare, and the hours requested should be minimal. Because these services and hours have not been approved in advance, there is a risk that the CJA Supervising Attorney or the presiding judicial officer will conclude that compensation would not be consistent with the Guidelines. You should so advise your service providers.

In addition, nunc pro tunc requests are especially labor and time intensive for CJA staff, and delay the processing of properly submitted vouchers. Consequently, nunc pro tunc requests will be a low priority and will be delayed in payment, and may not be paid at all. If a nunc pro tunc request is unavoidable, it should be made as soon as possible after the services are rendered.

Proper supervision and oversight of ancillary service providers and their voucher submissions is a condition of membership on the panel. In that regard, you should advise your service providers that - like you - they are required to “maintain contemporaneous time and attendance records for all work billed by them, as well as expense records,” and that “[s]uch records are subject to audit and must be retained for three years after approval of the appointed counsel’s or the service provider’s final voucher, whichever is later, for a representation.” CJA Guidelines, Volume 7, Part A, §320.90. Service providers are also generally subject to requirements similar to those described in the Central District of California CJA Billing Requirements. A similar document pertaining to service providers will be distributed soon. As you may know, the Judicial Council of the Ninth Circuit’s Habeas Costs Policy provides that “[e]very effort should be made to retain experts, investigators, and other service providers who maintain offices in the geographic area in which work is to be performed.” In these economic times, it is more important than ever to heed cost-saving policies such as this one. I intend to propose that the CJA Committee adopt a similar policy. In the meantime, the reasonableness of requests for reimbursement for travel, and the location of the service provider, will be considered by the CJA Supervising Attorney when evaluating service provider requests.

SECTION 12

Statement re: Billings for
Paralegals and Law Clerks on
Capital Habeas Cases
(not dated)

Billings for Paralegals and Law Clerks on Capital Habeas Cases

To comply with new 9th Circuit capital habeas budget reporting requirements, those capital habeas attorneys currently utilizing paralegals and/or law clerks and who bill these fees as expenses on the [CJA 30](#) voucher form must now submit these fees on a [CJA 31](#) voucher form (available on the Court's website). A court order authorizing the utilization of paralegals and/or law clerks must be attached to each CJA 31 voucher submitted.

If you are included in the above situation and do not have a court order authorizing the use of paralegals and/or law clerks, you must now obtain such authorization.

Please call if you have any questions.

SECTION 13

Memo re: Format of
Contemporaneous Time and
Attendance Records
[service providers]
(2/1/2013)



Chambers of
DALE S. FISCHER
United States District Judge

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MEMORANDUM

TO: CJA TRIAL PANEL ATTORNEYS

FROM: HON. DALE S. FISCHER, CHAIR
CRIMINAL JUSTICE ACT COMMITTEE

RE: FORMAT OF CONTEMPORANEOUS
TIME AND ATTENDANCE RECORDS

DATE: FEBRUARY 1, 2013

As you know, the Criminal Justice Act requires investigative, expert, and other service providers, to maintain “contemporaneous time and attendance records for all work billed by them, as well as expense records.” These “records are subject to audit and must be retained for three years after approval of the appointed counsel’s or the service provider’s final voucher, whichever is later,” for an appointment. CJA Guidelines, Volume 7, Part A, Chapter 2, § 320.90. The CJA does not specifically describe the format to be followed, which has made it difficult to document work performed or otherwise to audit records uniformly. Therefore, the Court’s Criminal Justice Act Committee has decided to clarify its requirements and standardize the format for all CJA case time and attendance and expense records.

The CJA Committee has determined that – beginning March 1, 2013 – contemporaneous time and attendance records must be kept in the following format:

1. Time must be recorded for all CJA cases on a daily basis in a single document. In other words, a single document must reflect all work done in a single day for all CJA cases, rather than in a separate document for each client.
2. The record must indicate the specific timeframe when each type of service was performed. For example, you would indicate that from 8:30 to 9:30 you met with defendant Smith, from 9:30 to 9:35 you communicated with the assigned CJA

counsel on U.S. v. Jones, etc.

3. The time must be recorded as close as possible to the time when the services were performed.
4. Service Providers must document the time spent on discrete tasks, rather than “block billing.” As you know, you are already required to identify the time spent on discrete tasks within categories of services on the invoices that you attach to the CJA 21 and CJA 31 forms. § 310.40.
5. The contemporaneous records should reflect all time spent on Criminal Justice Act matters (whether trial, habeas, or appellate panel, and in all federal courts).

Per § 310.65.30 and GO 97-07, you must not bill time in such a way that you have billed for more time in any day than you actually spent performing CJA services for that day. Maintaining your records as described will assist you in insuring accurate billing and allow for an accurate and effective audit, should an audit be performed.

We understand that many service providers already keep their contemporaneous time and attendance records in this format, and that there are a number of computerized time-keeping programs that can record time in this fashion. Service providers who do not use computers for timekeeping can keep the same type of records manually.

This will not impact the way vouchers are submitted. The contemporaneous time and attendance records would only be provided on request. Therefore, you may maintain a single record for both CJA and retained cases – and redact information not requested in an audit, if appropriate.

Thank you in advance for your cooperation. Please contact Cynthia Dixon if you have any questions.

SECTION 14

Memo re: Travel Policies –
Service Providers

(7/10/2013)



Chambers of
DALE S. FISCHER
United States District Judge

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MEMORANDUM

TO: CJA Panel Attorneys

FROM: Judge Dale S. Fischer, Chair, CJA Committee

DATE: July 10, 2013

RE: Travel Policies - Service Providers

As you know, the Judicial Conference of the United States Committee on Defender Services issued a May 23, 2013 Memo re: Negotiating Rates of Retained Experts, Investigators, and Other Service Providers. In this District the amount billed for travel by service providers is of particular concern. As you are aware, the Court is in the process of drafting new travel policies that will apply to panel members and service providers. I have advised you previously that Ninth Circuit policy provides: "Geographic Proximity. To minimize travel, counsel should select local investigators and experts when possible. Courts should try to appoint CJA panel attorneys who are located reasonably near to where the case will be heard to avoid unnecessary travel time." Similarly, the Judicial Council of the Ninth Circuit's Habeas Costs Policy provides that "[e]very effort should be made to retain experts, investigators, and other service providers who maintain offices in the geographic area in which work is to be performed."

You may recall that I previously advised you that the reasonableness of requests for reimbursement for travel and the location of the service provider would be considered by the CJA Supervising Attorney when evaluating applications to obtain service providers. In the past few months, we have monitored service provider applications and vouchers for intra-district travel and determined

that some service providers bill extraordinary numbers of hours for travel on a recurring basis. Negotiating substantially lower rates for service provider travel is not practical in this District because it would increase the number of vouchers to be processed. Instead, I expect that limits will soon be placed on the amount of time service providers are permitted to bill for travel.

In these economic times, it is more important than ever to adopt cost-saving policies. It is simply not appropriate to pay service providers for extraordinary amounts of travel time when other service providers of similar quality and experience are more conveniently located.

You will be advised of the specific policies concerning travel in the near future.

SECTION 15

Travel Guidelines for CJA
Attorneys and Experts
(10/20/1998)

**UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA**



**TRAVEL GUIDELINES
for
CJA ATTORNEYS AND EXPERTS**

APPROVED BY THE COURT: October 20, 1998

Randall W. Schnack
CJA Supervising Attorney

(Revised 10/05)

TABLE OF CONTENTS

INTRODUCTION	i
1. <u>GENERAL RULES</u>	1
A. <u>Attorney's and Expert's Obligation.</u>	1
B. <u>Reimbursable Expenses.</u>	1
C. <u>Billing While in Travel Status.</u>	1
D. <u>Authority for Travel.</u>	1
1. <u>Intra-District.</u>	1
2. <u>Inter-District.</u>	1
2. <u>TRANSPORTATION ALLOWABLE</u>	2
A. <u>Expenses Payable as Transportation.</u>	2
B. <u>Methods of Transportation.</u>	2
1. <u>Authorized Methods.</u>	2
2. <u>Selecting Method of Transportation to be Used.</u>	2
3. <u>Most Advantageous Method of Transportation.</u>	2
4. <u>Privately-Owned Automobile.</u>	2
C. <u>Government Discount Travel Rates.</u>	2
1. <u>Advantageous to Court.</u>	2
2. <u>Written Travel Authorization.</u>	3
3. <u>After Obtaining the Travel Authorization.</u>	3
4. <u>Hotels and Rental Cars.</u>	3
D. <u>Use of Special Lower Fares.</u>	3
E. <u>Reimbursement for Travel at Other Than Government Rate.</u>	4
F. <u>Routing of Travel.</u>	4
1. <u>Official Necessity.</u>	4
2. <u>Indirect-Route or Interrupted Travel.</u>	4
G. <u>Class of Service and Rental Cars Authorized.</u>	4
H. <u>Frequent Traveler Programs.</u>	4
3. <u>AUTHORIZED TRAVEL EXPENSES</u>	5
A. <u>Travel in Excess of 24 Hours or When Lodging is Incurred.</u>	5
B. <u>Travel of 24 Hours or Less and No Lodging Incurred.</u>	5
C. <u>Reasonableness of Expenses.</u>	5
D. <u>Receipts.</u>	5
4. <u>NON-REIMBURSABLE EXPENSES</u>	5
APPENDIX	6

INTRODUCTION

Travel expenses reasonably incurred in providing representation under the Criminal Justice Act (“CJA”), may be claimed on the CJA voucher, and must be itemized and reasonably documented.

Following the passage in late 1992 of Section 702 of the Federal Courts Administration Act of 1992, (Public Law 102-572, 106 Stat. 4506), attorneys and experts¹ providing representation pursuant to the CJA were authorized to obtain government travel rates. These guidelines have been prepared to inform CJA attorneys and experts of the Court’s policies and procedures related to travel.

Considerable savings to the Court will be achieved through compliance with these guidelines. All CJA attorneys and experts are required to arrange their travel in this manner. The guidelines set forth the procedure for obtaining government travel rates and provide a summary of recurring allowable and non-allowable charges. While it is impossible to address all possible travel related issues, the guidelines are intended to serve as a basic resource.

CAVEAT- The guidelines are not exclusive. Please refer to: pertinent local rules; general and specific court orders; Chapter VI, Travel and Transportation, Volume I, Guide to Judiciary Policies and Procedures; and the Guidelines for the Administration of the Criminal Justice Act, Volume VII, Guide to Judiciary Policies and Procedures.

¹In these guidelines, the term “experts” encompasses persons providing investigative, expert or other services necessary for adequate representation pursuant to subsection (e) of the CJA.

1. **GENERAL RULES**

- A. **Attorney's and Expert's Obligation.** An attorney or expert² traveling as part of his or her representation under the CJA is expected to exercise the same care in incurring expenses that a prudent person would exercise if traveling on personal business. Only those expenses which were actually incurred and were essential to and in connection with representation under the CJA should be claimed.

In addition, an attorney appointed to represent a fact witness has the obligation to inform the witness to contact the U.S. Marshal's office on how to make travel arrangements and to obtain government transportation rates when the witness is required to remain away from their residence overnight. A fact Witness Voucher, Form OBD-3 must be prepared by the attorney for each witness. For detailed information, call the U.S. Marshal's office or obtain USMS Pub. No. 74, September 1997.

- B. **Reimbursable Expenses.** Travel expenses which will be reimbursed are confined to those expenses essential and in connection with representation under the CJA and supported by receipts.

- C. **Billing While in Travel Status.** An attorney or expert may be compensated for travel time spent in travel status to and from the travel destination. However since this unproductive travel time is foreseeable, every effort should be made to work on existing matters. Compensation for other than travel time while in travel status will be paid only for actual services rendered.

- D. **Authority for Travel.**

1. **Intra-District.** An attorney or expert traveling in connection with representation under the CJA is not required to obtain prior authorization for local non-overnight intra-district travel. Prior court authorization for overnight intra-district travel is required.
2. **Inter-District.** An attorney or expert traveling in connection with representation under the CJA is required to obtain prior court authorization for inter-district and all overnight travel.

²In these guidelines, the term "experts" encompasses persons providing investigative, expert or other services necessary for adequate representation pursuant to subsection (e) of the CJA.

2. **TRANSPORTATION ALLOWABLE**

A. **Expenses Payable as Transportation.** Transportation expenses which may be claimed on the voucher or paid directly by the Court include fares, automobile rental fees, mileage payments, parking and any expenses incident to transportation such as baggage transfer, business related telephone, and food when on overnight travel. Regardless of dollar amount, receipts are required for reimbursement of all travel expenses.

B. **Methods of Transportation.**

1. **Authorized Methods.** Methods of transportation authorized for travel include railroads, airlines, helicopter service, ferries, buses, streetcars, subways, transportation terminal limousines, taxis, rental automobiles, privately-owned automobiles, and other necessary means of conveyance.
2. **Selecting Method of Transportation to be Used.** Travel shall be by the method of transportation which will result in the greatest advantage to the Court, cost and other factors considered. In selecting a particular method of transportation to be used, the traveler should consider energy conservation, the total cost to the Court, including cost of subsistence and fees and actual transportation costs. The travel shall be by the most expeditious means of transportation practicable and shall be commensurate with the nature and purpose of the duties of the individual requiring such travel.
3. **Most Advantageous Method of Transportation.** Since travel by common carrier (air, rail, taxicabs or bus) will generally result in the most efficient use of energy resources and in the least costly and most expeditious performance of travel, the traveler shall use a common carrier whenever it is reasonably available. If rail, bus or other means is selected as a personal preference, and is more costly (including travel time) than air, reimbursement will be limited to actual expenses not to exceed constructive costs of travel by air.
4. **Privately-Owned Automobile.** CJA case related travel by privately-owned automobile should be claimed at the rate then in effect for the federal judiciary employees. The Court will also reimburse case related parking fees if documented with receipts.

C. **Government Discount Travel Rates.**

1. **Advantageous to Court.** The use of government discount fares is considered advantageous to the Court. In order to obtain the government

discount fare, the tickets must be charged to the Court's Government Transportation Account ("GTA"). Only officially authorized travel related to CJA representation may be arranged in this manner.

2. **Written Travel Authorization.** A written Travel Request and Authorization ("TA") must be issued for each trip, a copy of which must be carried during the authorized travel for identification and for presentation should an airline agent ask to see it. The traveler is to complete the TA and submit it to the Office of the CJA Supervising Attorney. If a Court Order has been issued authorizing the travel, a copy of the order shall be included. Once authorized, the traveler will be notified by facsimile. The sample TA attached to these guidelines may be reproduced and used for this purpose.
 3. **After Obtaining the Travel Authorization.** Once the TA has been issued, the traveler is to contact the court's nationwide Travel Management Center (TMC). The traveler is to advise TMC that he/she is a panel attorney (or expert) providing CJA representation and that airfare charges are to be made to the Court's account. In addition, the docket number must also be provided to TMC. TMC will provide an itinerary which the traveler must immediately fax to the Office of the CJA Supervising Attorney. Within ten calendar days of the conclusion of travel, a copy of the TA and passenger receipt must be submitted to the Office of the CJA Supervising Attorney.
 4. **Hotels and Rental Cars.** Because the TA is an official government document, it should enable the traveler to obtain government rates at hotels and rental agencies as well. TMC is a full-service travel agency and can provide assistance with hotel and car rental reservations. Costs for other than common carriers (which are paid directly by the Court) are claimed for reimbursement on the CJA voucher under the travel section and must be documented with receipts regardless of amount. Credit card receipts and billings are not acceptable.
- D. **Use of Special Lower Fares.** Other special, excursion, and reduced rate round-trip fares for official travel may be used (in lieu of government-contract fares and regular coach) when the traveler can determine prior to the start of a trip that any such type of service is practical and more economical to the Court. Special fares which involve penalties for changes or cancellation may be utilized provided that, to a high degree of certainty, no changes or cancellation will occur. Liability for costs for changes or cancellation over which the traveler had control will accrue to the traveler if a change or cancellation was due to personal preferences.
- E. **Reimbursement for Travel at Other Than Government Rate.** When an

attorney or expert arranges their own travel without using the government rate, they will be reimbursed using the contracted government coach fare or lower. Reimbursement will be for the common carrier that is the most efficient, expeditious, and advantageous to the Court. All reimbursement for common carrier must be supported by travel receipts. Submission of credit card receipts is not sufficient for reimbursement purposes.

F. Routing of Travel.

1. **Official Necessity.** The traveler shall perform all travel by the usually-traveled route. Reimbursement for travel by other routes will be made only when the traveler establishes official necessity.
2. **Indirect-Route or Interrupted Travel.** When a traveler for his or her own convenience travels by an indirect route or interrupts travel by direct route, he or she shall bear the extra expense. Reimbursement will be made of only the expenses the traveler would have incurred on the usually-traveled route.

G. Class of Service and Rental Cars Authorized. There is no reimbursement for first class or business class travel expenses.³ Travelers should exercise prudence in the selection of the least expensive rental vehicle necessary to adequately perform the official travel. The Court will not reimburse Personal Accident Insurance (PAI) or Personal Effects Coverage (PEC) for rental automobiles. In addition, no reimbursement will be made for add-ons or upgrades when renting an automobile, or for the excessive cost of refueling a rental car at the rental agency.

H. Frequent Traveler Programs. Travelers are encouraged to participate in frequent traveler programs for official travel. Section 1116 of the fiscal year 2002 National Defense Authorization Act, Public Law No. 107-107, allows federal contractors including CJA attorneys and experts to make personal use of frequent flyer mileage and similar travel bonuses arising from official travel. Section 1116 applies even with respect to such benefits received before the date of its enactment (12/28/2001), as well as on and after that date.

³Reimbursement will be made for business class travel when air travel is direct between authorized origin and destination points which are separated by several time zones, and either the origin or destination point is outside the continental United States, and the scheduled flight time (including stopovers) is in excess of 14 hours.

3. **AUTHORIZED TRAVEL EXPENSES**

- A. **Travel in Excess of 24 Hours or When Lodging is Incurred.** During overnight authorized travel, reimbursement will be made for actual subsistence expenses. Expenses of subsistence include all reasonable charges for meals (maximum three per day); lodging; all fees and tips to waiters, porters, and hotel maids; necessary cleaning and pressing of clothing while staying at the hotel; and transportation between places of lodging and business (specifically excluded are alcoholic beverages and entertainment expenses such as in-room movies, and any expenses incurred for other persons).
- B. **Travel of 24 Hours or Less and No Lodging Incurred.** When the travel period is 24 hours or less and no lodging is incurred, meals will not be reimbursed. Only those travel expenses related to the case will be reimbursed such as mileage, parking, tolls, etc.
- C. **Reasonableness of Expenses.** In determining the reasonableness of travel costs, the Court will be guided by the prevailing limitations placed upon travel and subsistence expenses of federal judiciary employees in accordance with existing government travel regulations. The Office of the CJA Supervising Attorney may be contacted for guidance in determining the reasonableness of such costs.
- D. **Receipts.** With the exception of tips and mileage calculations, receipts must be submitted with the voucher for all travel (including to and from the Court) and subsistence expenses regardless of the amount incurred. Credit card receipts and billings are not acceptable.

4. **NON-REIMBURSABLE EXPENSES** The cost of travel for spouses, other family members, and friends is not allowable. In addition, the following items are not reimbursable as a separate itemized expense:

- Snacks and alcoholic beverages
- Entertainment (e.g., movies)
- Travel insurance taken while traveling
- Parking fines or fees for traffic violations
- Personal automobile expenses (e.g., PAI and PEC)
- Expenses incurred in traveling by indirect routes for personal reasons
- Use of taxis to obtain meals
- Expenses submitted without receipts.

If a traveler lengthens a trip or incurs any cost for personal reasons or performs work that is not related to the purpose of the official travel, the increased cost caused by such action is not allowable.

SECTION 16

Voucher Review Guidelines for Capital Habeas and Capital Prosecution Cases (not dated)

United States District Court Central District of California



Voucher Review Guidelines for Capital Habeas and Capital Prosecution Cases

Table of Contents

Introduction

Voucher Review Guidelines

I. In-Office Work

- A. Staffing a Case
- B. Research
- C. Conferences
- D. Duplicate and Excessive Services

II. Out of Office Work

- A. Time
- B. Meetings

III. Reimbursable Expenses

- A. Travel
- B. Telephone
- C. Facsimile
- D. Photocopying
- E. Postage
- F. Messenger or Attorney Service
- G. Transcripts
- H. Computer Assisted Legal Research

IV. Miscellaneous

- A. Vouchers/Services Rendered
- B. Overhead
- C. Items and Services of a Personal Nature
- D. Other Non-Reimbursable Items
- E. Expenditures Over \$800

Introduction

The process of voucher review enables the Court to fulfill its responsibility of furnishing adequate compensation to attorneys appointed under the Criminal Justice Act (“CJA”) to represent persons financially unable to obtain representation. It also ensures that only the most cost effective services are rendered and compensated. These guidelines have been prepared to inform CJA panel attorneys of the Court’s expectations and provide an understanding of the voucher review process.

Voucher review entails the review and analysis of vouchers submitted by CJA panel attorneys to determine that the services rendered and expenses incurred are in accordance with the policies, requirements, practices and procedures of the judiciary. The guidelines provide a summary of recurring allowable and non-allowable charges. While it is impossible to address all possible voucher infractions, the guidelines are intended to serve as a basic resource. Once familiarized with the guidelines, CJA panel attorneys can refer to the “Detailed Review Processing Checklist and Adjustment Form” which is attached. Referral to the form will assist in the preparation of vouchers which conform with these guidelines.

CAVEAT - The guidelines are not exclusive. Please also refer to pertinent local rules, general and specific court orders and the Guidelines for Administering the CJA and Related Statutes, Volume 7A, Guide to Judiciary Policy.

Voucher Review Guidelines

I. In-Office Work

A. Staffing a Case

Compensation will only be paid for services provided by appointed counsel.

1. Appointed counsel will not be compensated for the work of experts, investigators, interpreters, partners, associates or paraprofessionals without the prior authorization of the Court.
2. Generally the Court will only approve the use of one attorney and, if appropriate, one paraprofessional to assist in a petition. In addition, assistance should be obtained from the individual with the least expensive billing rate who is competent to handle the matter. In no event will the assisting individual receive compensation at an hourly rate exceeding the maximum allowed by the Act.
3. Appointed counsel will not be compensated for the work of more than one partner or associate and one paraprofessional unless the prior authorization of the Court so specifies.
4. Appointed counsel will be compensated for reasonable charges resulting from the substitution of attorneys. Typical charges that will be compensated are transfer reports, file reviews, update meetings, redrafting, etc.
5. Appointed counsel will not be compensated for work performed by attorneys that could or should be performed by other less expensive court authorized staff (e.g. paraprofessional, clerks, etc.).
6. Whenever appropriate, without compromising the quality of the work, the services that are performed should be performed by the least expensive, competent staff member authorized by the Court and capable of performing the work. For example, lawyers should not be used for court filings, service of papers, file organization, photocopying, etc.
7. Secretarial or clerical services will not be compensated regardless of whether the person performing the functions is an attorney, law clerk, paralegal or secretary; regardless of whether that person is regularly or specially employed, performing normal, overtime, or supplemental work; and regardless of whether the CJA panel attorney has any regularly employed secretary. These services are considered to be general overhead.

B. Research

1. Each CJA panel attorney is expected to have a basic knowledge of federal criminal law and procedure. Compensation will be paid for reasonable and necessary research related to the case.

C. Conferences

1. A CJA panel attorney will not be compensated for any conferences that are:
 - merely for the exchange of information, particularly among attorneys of similar expertise;
 - to familiarize other attorneys with a matter for “back-up” purposes;
 - intra-office meetings; or
 - to transfer a matter among attorneys.

2. Conferences not within (1) above should be charged only at the rate of the highest paid (not to exceed the statutory maximum) Court authorized and necessary attorney at the meeting. The coordination of efforts between members of the same firm working on a file is the responsibility of the firm and not a charge for which the Court will pay. The CJA panel attorney should absorb the costs of the other participants.

D. Duplicate and Excessive Services

1. A CJA panel attorney should use his or her own resources (e.g. similar cases previously handled) and briefs and pleadings prepared on previous matters, to the extent practical to minimize charges.
2. A CJA panel attorney must provide adequate representation to his or her client. Charges for excessive services such as the following will be scrutinized and should be justified:
 - excessive “file reviews.” (A CJA panel attorney will be compensated for initial review of a matter and a review after a long period of inactivity in the case. When the file is initially reviewed, the attorney should include a summary in the file to avoid subsequent reviews);
 - excessive document revisions and “polishing”;
 - overcharging or excessive time for routine matters; or
 - papering a file when a telephone call to update the client would be adequate.
3. Time spent on multiple cases for the Court that require overlapping services (e.g. research, attendance at court) should be appropriately allocated among the cases and not charged in full to each case.
4. Compensation will not be allowed for “double billing” (i.e. two persons drafting the **same** claim, too many attorneys or paralegals working on the same petition; and two or more people attending the same meeting or interview).

II. Out of Office Work

A. Time

1. Waiting-time. Reasonable waiting-time will be compensated. However, the court will not compensate a panel attorney for “foreseeable” waiting time during which the CJA panel attorney could have been working on other matters unless justification is provided explaining why the charge is being incurred.
 - A reasonable “review/preparation” time before a meeting or appearance is an appropriate charge, even though such “review/preparation is conducted while waiting. However, when counsel is aware that “waiting time” may be substantial (e.g. waiting for conferences with the client) the CJA panel attorney should have other work to occupy the time.
2. For court matters, a CJA panel attorney should allocate the time spent at court among all the cases for which the attorney had made an appearance on that day. A CJA panel attorney may not “double bill” by charging the full court

time separately for each of the several different matters heard on the same day.

- The detailed statement submitted with the voucher should indicate on what other matters the CJA panel attorney made court appearances on that day, whether CJA or non-CJA matters.

B. Meetings

1. A CJA panel attorney will not be compensated for the unauthorized use of additional attorneys/staff at meetings and court appearances. Only the appointed attorney may bill for services.
 - Only the appointed attorney may make a court appearance, interview witnesses, and attend a meeting on behalf of the client unless it is less expensive for another attorney or paraprofessional to handle the matter and still competently represent the client.
 - Replacing an attorney, for any other reason than stated above or having multiple persons attend, will not be compensated without the Court's prior authorization.
2. A CJA panel attorney will not be compensated for excessive and/or unnecessary outside meetings.
 - An attorney should have meetings in his or her office whenever possible to avoid excessive billing time traveling to and waiting for meetings.

III. Reimbursable Expenses

A. Travel

1. Case related travel by privately owned automobile should be claimed at the rate then in effect for federal judiciary employees. Reimbursement is also granted for case related parking fees, and required bridge/road tolls.
2. Transportation other than by privately owned automobile will be reimbursed on an actual expense basis. Every effort to obtain the lowest possible fares or rates must be made. There is no reimbursement for first class or business class travel expenses, for unnecessary add-ons or upgrades when renting an automobile, or for the excessive cost of refueling a rental car at the rental agency.
3. For individuals arranging their own court authorized travel and not using contracted government rates or other rates that are deemed most advantageous to the Court, reimbursement will be made using the contracted government coach fare or lower. Reimbursement will be for the common carrier that is the most efficient, expeditious, and advantageous to the Court.
4. During overnight authorized travel, reimbursement will be made for hotel accommodations provided the accommodations are moderately priced. Expenses for luxury hotels and special services are not to be charged to the Court and are not reimbursable.
5. Reimbursement for meals will not be allowed unless in overnight authorized travel status. Meals obtained while in authorized overnight travel status should be in accordance with existing government travel regulations.

6. In determining the reasonableness of travel costs, the Court will be guided by the prevailing limitations placed upon travel and subsistence expenses of federal judiciary employees in accordance with existing government travel regulations.
7. Receipts must be submitted for all travel (including to and from the Court) regardless of the amount incurred; including parking, tolls, taxi, airfare, hotel, etc.

B. Telephone

1. Reimbursement is made for the actual cost of case related long distance telephone calls. Long distance calls must be itemized including a brief description of the issue being addressed and to whom the call was made. Accepting excessive collect calls from the client should be avoided. The Court will not pay for any surcharges or local telephone service.

C. Facsimile

1. Reimbursement for facsimile costs is limited to the actual cost of long distance phone transmissions for outgoing documents. There is no cost associated with receiving such transmissions and therefore any charge for incoming facsimiles is inappropriate. The costs of the machine, its supplies and phone line are considered general office overhead expenses which are not reimbursable.

D. Photocopying

1. The actual out-of-pocket expenses incurred in photocopying up to a maximum of \$0.10 per page will be reimbursed. This rate applies both to in-house and outside photocopying. Large photocopying jobs are to be sent to an outside photocopy service unless in-house photocopying is more economical.

E. Postage

1. Reimbursement will be made for the actual cost of case related regular U.S. postage. Reimbursement for the actual cost of other postal services or the use of non-federal carriers (such as overnight or two-day delivery) will be reimbursed only if circumstances require the use of such services. For example, no reimbursement will be made for expedited delivery costs for routine correspondence, including submission of court documents that are not filed pursuant to a deadline.

F. Messenger or Attorney Service

1. Expenses for messenger or attorney services will not be reimbursed when regular U.S. postage, other postal services or non-federal carriers services are more advantageous to the Court. The use of messenger or attorney services must be justified.

G. Transcripts

1. In the event that transcripts are required, counsel should arrange with the court reporter(s) to bill the court directly through use of a CJA Form 24. Only the necessary parts of the transcripts should be ordered. The request should include justification explaining the need for all requested portions of the transcript. In the rare event counsel pays for the transcript, the cost will be reimbursed.

H. Computer Assisted Legal Research

1. Reimbursement is provided for the actual cost, including any discount received from the vendor, of reasonable and necessary computer assisted legal research.

IV. Miscellaneous

A. Vouchers/Services Rendered

1. In accordance with General Order 97-7 and to avoid disallowances and voucher review problems, a detailed statement must be included with the voucher. Fees shall be chronologically and fully itemized with individual narrative entries showing the date of the service, precise description of the service including relevance of the service to the federal proceedings, actual time consumed for that service in hours and tenths of hours, name of the individual providing the service, hourly rate of the individual providing the service, and calculation of rate/hours equaling the charge for the individual entry. The hours and charges shall be totaled for all services and a calculation tape from an adding machine attached to the statement.
2. Expenses shall be itemized and stated separately on the statement. The itemized expenses shall state as to each item the date incurred and the description (i.e. person called, mileage, number of copies made and unit charged per copy, destination of messenger, etc.). All supporting documentation (receipts, canceled checks, etc.) shall be attached. The charges shall be totaled for all expenses/costs and a calculation tape from an adding machine attached to the invoice.

B. Overhead

1. A CJA panel attorney will not be compensated or reimbursed for items that are part of general office overhead including, without limitation:
 - secretarial or clerical services regardless of whether the person performing the functions is an attorney, law clerk, paralegal or secretary; regardless of whether that person is regularly or specially employed, performing normal, overtime, or supplemental work; and regardless of whether the CJA panel attorney has any regularly employed secretary;
 - general law office supplies;
 - word processing or computer time (except actual charges for Westlaw or Lexis);
 - mark ups on any supplies or services;
 - time spent filing documents when there are more cost effective means such as the use of U.S. postal services.
2. Compensation will not be provided for the preparation of CJA vouchers, the detailed statement or voucher review issues.

C. Items and Services of a Personal Nature

1. No compensation will be granted for the cost of items of a personal nature purchased for or on behalf of the person represented, such as purchasing clothing, having clothing cleaned or picked up and delivered; getting a

haircut; furnishing cigarettes, candy or meals; providing transportation, etc. The cost of services of a personal nature and expenses incidental thereto which cannot be considered legal representation will not be compensated, such as assisting the defendant in the disposition of his or her personal property, arranging for the placement of minor children of the defendant, assisting the defendant in executing the conditions of probation, assisting the defendant in modifying bond terms such as drafting applications for his or her travel, providing legal assistance in matters unrelated to the litigation of the case although incidental to the defendant's arrest, etc.

D. Other Non-Reimbursable Items

1. Appointed counsel may not claim reimbursement for the following:
 - printing of briefs; however, the cost of mimeographing, photocopying or similar copying service is reimbursable;
 - service of process, witness fees, travel costs and expenses for service of subpoena on fact witnesses, are not payable out of the CJA appropriation but are governed by Rule 17, Fed. R. Crim. P. and 28 U.S.C. §1825;
 - taxes paid on attorney compensation received pursuant to the CJA, whether based on income, sales, or gross receipts, are not reimbursable expenses;
 - books, journals or other publications;
 - costs related to educational seminars, including travel, attendance, registration, or materials;
 - 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 this Court. These are considered as applicable to the case before the United States Court of Appeals, and should be included on the voucher for services performed in that court; and
 - work related to state court proceedings.

E. Expenditures Over \$800

1. Any expenditure over \$800 must be authorized in advance by the court. Upon a finding that timely procurement of such goods or services could not practicably await prior authorization, in the interest of justice, the court may authorize the provision of and payment for such goods or services.

SECTION 17

Voucher Review Guidelines for Non-Death Penalty Cases (not dated)

United States District Court Central District of California



Voucher Review Guidelines for Non-Death Penalty Cases

Table of Contents

Introduction

Voucher Review Guidelines

I. In-Office Work

- A. Staffing a Case
- B. Research
- C. Conferences
- D. Duplicate and Excessive Services

II. Out of Office Work

- A. Time
- B. Meetings

III. Reimbursable Expenses

- A. Travel
- B. Telephone
- C. Facsimile
- D. Photocopying
- E. Postage
- F. Messenger or Attorney Service
- G. Transcripts
- H. Computer Assisted Legal Research

IV. Miscellaneous

- A. Vouchers/Services Rendered
- B. Overhead
- C. Items and Services of a Personal Nature
- D. Other Non-Reimbursable Items
- E. Expenditures Over \$800

Introduction

The process of voucher review enables the Court to fulfill its responsibility of furnishing adequate compensation to attorneys appointed under the Criminal Justice Act (“CJA”) to represent persons financially unable to obtain representation. It also ensures that only the most cost effective services are rendered and compensated. These guidelines have been prepared to inform CJA panel attorneys of the Court’s expectations and provide an understanding of the voucher review process.

Voucher review entails the review and analysis of vouchers submitted by CJA panel attorneys to determine that the services rendered and expenses incurred are in accordance with the policies, requirements, practices and procedures of the judiciary. The guidelines provide a summary of recurring allowable and non-allowable charges. While it is impossible to address all possible voucher infractions, the guidelines are intended to serve as a basic resource. Once familiarized with the guidelines, CJA panel attorneys can refer to the “Detailed Review Processing Checklist and Adjustment Form” which is attached. Referral to the form will assist in the preparation of vouchers which conform with these guidelines.

CAVEAT - The guidelines are not exclusive. Please also refer to pertinent local rules, general and specific court orders and the [Guidelines for the Adminstrering the CJA and Related Statutes](#), Volume 7, Pt A.

Voucher Review Guidelines

I. In-Office Work

A. Staffing a Case

1. Compensation will only be paid for services provided by appointed counsel.
2. Appointed counsel will not be compensated for the work of experts, investigators, interpreters, partners, associates or paraprofessionals without the prior authorization of the Court. Claims for compensation for the services of other than the appointed CJA attorney must be submitted on a CJA Form 21. Claims under \$800.00 do not require the prior authorization of the Court but it is highly recommended that prior authorization be obtained regardless of the amount of compensation to be claimed. Where prior authorization by the Court is approved, a copy of the court order must be attached to each voucher.
3. Appointed counsel will be compensated for reasonable charges resulting from the substitution of attorneys. Typical charges that will be compensated are transfer reports, file reviews, update meetings, redrafting, etc.
4. Appointed counsel will not be compensated for work performed by attorneys that could or should be performed by other less expensive authorized staff (e.g. paraprofessional, clerks, etc.)
 - Whenever appropriate, without compromising the quality of the work, the services that are performed should be performed by the least expensive, competent staff member authorized by the Court and capable of performing the work. For example, lawyers should not be used for court filings, service of papers, file organization, photocopying, etc.
 - Secretarial or clerical services will not be compensated regardless of whether the person performing the functions is an attorney, law clerk, paralegal or secretary; regardless of whether that person is regularly or specially employed, performing normal, overtime, or supplemental work; and regardless of whether the CJA panel attorney has any regularly employed secretary. These services are considered to be general overhead.

B. Research

1. Each CJA panel attorney is expected to have a basic knowledge of federal criminal law and procedure. Compensation will be paid for reasonable and necessary research related to the case.

C. Conferences

1. The coordination of efforts between members of the same firm authorized to work on a case is the responsibility of the firm and not a charge for which the Court will pay.
2. In multiple defendant cases, coordination of efforts and cooperation among CJA panel attorneys is expected.

D. Duplicate and Excessive Services

1. A CJA panel attorney should use his or her own resources (e.g. similar cases previously handled) and briefs and pleadings prepared on previous matters, to the extent practical to minimize charges.
2. A CJA panel attorney must provide adequate representation to his or her client. Charges for excessive services such as the following will be scrutinized and should be justified:
 - excessive “file reviews.” (A CJA attorney will be compensated for initial review of a matter and a review after a long period of inactivity in the case. When the file is initially reviewed, the attorney should include a summary in the file to avoid subsequent reviews);
 - excessive document revisions and “polishing”;
 - overcharging or excessive time for routine matters and bail research; or papering a file when a telephone call to update the client would be adequate.
3. Time spent on multiple cases for the Court that require overlapping services (e.g. research, attendance at court) should be appropriately allocated among the cases and not charged in full to each case.

II. Out of Office Work

A. Time

1. Waiting-time. Reasonable waiting-time will be compensated. However, the Court will not compensate a CJA panel attorney for “foreseeable” waiting-time (such as waiting at the Metropolitan Detention Center “MDC”) during which the CJA panel attorney could have been working on other matters unless justification is provided explaining why the charge is being incurred.
 - A reasonable “review/preparation” time before a meeting or appearance is an appropriate charge even though such “review/preparation” is conducted while waiting.
2. For court matters, a CJA panel attorney should allocate the time spent at court among all the cases for which the attorney had made an appearance on that day. The Court will not allow a panel attorney to “double bill” by charging the full court time separately for each of the several different matters heard on the same day.
 - The detailed statement submitted with the voucher should indicate on what other matters the CJA panel attorney made court appearances on that day, whether CJA or non-CJA matters.

B. Meetings

1. A CJA panel attorney will not be compensated for the unauthorized use of additional attorneys/staff at meetings and court appearances. Only the appointed attorney may bill for services.
 - Only the appointed attorney may make a court appearance, interview witnesses, and attend a meeting on behalf of the client.
2. A CJA panel attorney will not be compensated for excessive and/or unnecessary outside meetings.

- An attorney should have meetings in his or her office whenever possible to avoid excessive billing time traveling to and waiting for meetings.

III. Reimbursable Expenses

A. Travel

1. Case related travel by privately owned automobile should be claimed at the rate then in effect for federal judiciary employees. Reimbursement is also granted for case related parking fees and required bridge/road tolls.
2. Transportation other than by privately owned automobile will be reimbursed on an actual expense basis. Every effort to obtain the lowest possible fares or rates must be made. There is no reimbursement for first class or business class travel expenses, for unnecessary add-ons or upgrades when renting an automobile, or for the excessive cost of refueling a rental car at the rental agency.
3. For individuals arranging their own court authorized travel and not using contracted government rates or other rates that are deemed most advantageous to the Court, reimbursement will be made using the contracted government coach fare or lower. Reimbursement will be for the common carrier that is the most efficient, expeditious, and advantageous to the Court.
4. During overnight authorized travel, reimbursement will be made for hotel accommodations provided the accommodations are moderately priced. Expenses for luxury hotels and special services are not to be charged to the Court and are not reimbursable.
5. Reimbursement for meals will not be allowed unless in overnight authorized travel status. Meals obtained while in authorized overnight travel status should be in accordance with existing government travel regulations.
6. In determining the reasonableness of travel costs, the Court will be guided by the prevailing limitations placed upon travel and subsistence expenses of federal judiciary employees in accordance with existing government travel regulations.
7. Receipts must be submitted for all travel (including to and from the Court) regardless of the amount incurred; including parking, tolls, taxi, airfare, hotel, etc.

B. Telephone

1. Reimbursement is made for the actual cost of case related long distance telephone calls. Long distance calls must be itemized including a brief description of the issue being addressed and to whom the call was made. Accepting excessive collect calls from the client should be avoided. The Court will not pay for any surcharges or local telephone service.

C. Facsimile

1. Reimbursement for facsimile costs is limited to the actual cost of long distance phone transmissions for outgoing documents. There is no cost associated with receiving such transmissions and therefore any charge for incoming facsimiles is inappropriate. The costs of the machine, its supplies

and phone line are considered general office overhead expenses which are not reimbursable.

D. Photocopying

1. The actual out-of-pocket expenses incurred in photocopying up to a maximum of \$0.10 per page will be reimbursed. This rate applies both to in-house and outside photocopying. Large photocopying jobs are to be sent to an outside photocopy service unless in-house photocopying is more economical.

E. Postage

1. Reimbursement will be made for the actual cost of case related regular U.S. postage. Reimbursement for the actual cost of other postal services or the use of non-federal carriers (such as overnight or two-day delivery) will be reimbursed only if circumstances require the use of such services. For example, no reimbursement will be made for expedited delivery costs for routine correspondence, including submission of court documents that are not filed pursuant to a deadline.

F. Messenger or Attorney Service

1. Expenses for messenger or attorney services will not be reimbursed when regular U.S. postage, other postal services or non-federal carriers services are more advantageous to the Court. The use of messenger or attorney services must be justified.

G. Transcripts

1. In the event that transcripts are required, counsel should arrange with the court reporter(s) to bill the Court directly through use of a CJA Form 24. Only the necessary parts of the transcripts should be ordered. The request should include justification explaining the need for all requested portions of the transcript. In the rare event counsel pays for the transcript, the cost will be reimbursed.

H. Computer Assisted Legal Research

1. Reimbursement is provided for the actual cost, including any discount received from the vendor, of reasonable and necessary computer assisted legal research.

IV. Miscellaneous

A. Vouchers/Services Rendered

1. In accordance with General Order 97-7 and to avoid disallowances and voucher review problems, a detailed statement must be included with the voucher. Fees shall be chronologically and fully itemized with individual narrative entries showing the date of the service, precise description of the service including relevance of the service to the federal proceedings, actual time consumed for that service in hours and tenths of hours, name of the individual providing the service, hourly rate of the individual providing the service, and calculation of rate/hours equaling the charge for the individual entry. The hours and charges shall be totaled for all services and a calculation tape from an adding machine attached to the statement.

2. Expenses shall be itemized and stated separately on the statement. The itemized expenses shall state as to each item the date incurred and the description (i.e. person called, mileage, number of copies made and unit charged per copy, destination of messenger, etc.). All supporting documentation (receipts, canceled checks, etc.) shall be attached. The charges shall be totaled for all expenses/costs and a calculation tape from an adding machine attached to the invoice.

B. Overhead

1. A CJA panel attorney will not be compensated or reimbursed for items that are part of general office overhead including, without limitation:
 - secretarial or clerical services regardless of whether the person performing the functions is an attorney, law clerk, paralegal or secretary; regardless of whether that person is regularly or specially employed, performing normal, overtime, or supplemental work; and regardless of whether the CJA panel attorney has any regularly employed secretary;
 - general law office supplies;
 - word processing or computer time (except actual charges for Westlaw or Lexis);
 - mark ups on any supplies or services;
 - time spent filing documents when there are more cost effective means such as the use of U.S. postal services.
2. Compensation will not be provided for the preparation of CJA vouchers, the detailed statement or voucher review issues.

C. Items and Services of a Personal Nature

1. No compensation will be granted for the cost of items of a personal nature purchased for or on behalf of the person represented, such as purchasing clothing, having clothing cleaned or picked up and delivered; getting a haircut; furnishing cigarettes, candy or meals; providing transportation, etc. The cost of services of a personal nature and expenses incidental thereto which cannot be considered legal representation will not be compensated, such as assisting the defendant in the disposition of his or her personal property, arranging for the placement of minor children of the defendant, assisting the defendant in executing the conditions of probation, assisting the defendant in modifying bond terms such as drafting applications for his or her travel, providing legal assistance in matters unrelated to the litigation of the case although incidental to the defendant's arrest, etc.

D. Other Non-Reimbursable Items

1. Appointed counsel may not claim reimbursement for the following:
 - printing of briefs, however the cost of mimeographing, photocopying or similar copying service is reimbursable;
 - service of process, witness fees, travel costs and expenses for service of subpoena on fact witnesses, are not payable out of the CJA appropriation but are governed by Rule 17, Fed. R. Crim. P. and 28 U.S.C. §1825;

- taxes paid on attorney compensation received pursuant to the CJA, whether based on income, sales, or gross receipts, are not reimbursable expenses;
- books, journals or other publications;
- costs related to educational seminars, including travel, attendance, registration, or materials;
- time and expenses involved in the preparation of an appeal (whether from interlocutory orders or final judgements) or work related to the review of proceedings before this Court. These are considered as applicable to the case before the United States Court of Appeals, and should be included on the voucher for services performed in that court; and
- work related to state court proceedings.

E. Expenditures Over \$800

1. Any expenditure over \$800 must be authorized in advance by the Court. Upon a finding that timely procurement of such goods or services could not practicably await prior authorization, in the interest of justice, the Court may authorize the provision of and payment for such goods or services.

SECTION 18

CJA New Panel Member Training



CJA Trial Attorney Panel New Member Training

UNITED STATES DISTRICT JUDGE DALE S. FISCHER

CRIMINAL JUSTICE ACT Web Page

www.cacd.uscourts.gov/attorneys/cja



UNITED STATES DISTRICT COURT Central District of California

Philip S. Gutierrez, Chief Judge

Kiry K. Gray, District Court Executive/Clerk of Court

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Criminal Justice Act (CJA)

Criminal Justice Act Plan

[Application for Membership on CJA Trial Attorney Panel](#)

[Application for Renewal of Membership on CJA Trial Attorney Panel](#)

[Mentoring Program](#)

[CJA Appellate Panel Membership Application](#)

[CJA Duty Schedule Instructions](#)

[CJA Rosters and Duty Schedules](#)

[CJA eVoucher System](#)

[CJA Service Provider Policies & Rates](#)

[Scheduling Out-of-Court Interpreters](#)

[Home](#) » [Attorneys](#) » [Criminal Justice Act \(CJA\)](#)

Criminal Justice Act

The Sixth Amendment to the United States Constitution guarantees an accused the right to representation by counsel in serious criminal prosecutions. Enacted in 1964, the [Criminal Justice Act \("CJA"\)](#), [18 U.S.C. § 3006A](#), establishes a comprehensive system for appointing and compensating attorneys for accused individuals who are financially unable to retain counsel in federal criminal proceedings. The Judicial Conference of the United States has promulgated guidelines for the administration and operation of the CJA in [Volume 7 of the Guide to Judiciary Policy](#).

As required by the CJA, "[e]ach United States district court, with approval of the judicial council of the circuit, shall place in operation throughout the district a plan for furnishing representation for any person financially unable to obtain adequate representation in accordance with this section." The current CJA Plan for the Central District of California, codified in General Order No. 13-09, was approved by the Court on July 30, 2013 and approved by the Judicial Council of the Ninth Circuit on September 10, 2013.

[The CJA Plan](#)

Obligations of Panel Membership

Panel members:

- must manage their caseloads in accordance with the appropriate standards of practice under the California Rules of Professional Responsibility as well as other standards for ensuring high quality representation of financially eligible defendants.
- must manage the funding for service providers and experts in eVoucher which includes requesting funding before work is performed and ensuring vouchers are submitted timely and accurately.
- must notify the Court if they are unable to accept appointments as a result of caseload, calendar, or personal issues.
- must properly cover their duty days or ensure that their duty days are properly covered by other panel members if they are unavailable for any reason.

Obligations of Panel Membership

- must notify the CJA Supervising Attorney **within seven days** of any changes in phone number, email address, or office address, in addition to complying with Local Civil Rules 5-4.8.1 and 83-2.4.
- must also notify the CJA Supervising Attorney **within seven days** of learning of any new information that would have been responsive to the questions on the initial application relating to disciplinary matters as detailed in the “Procedures for the CJA Trial Panel” document.
- must notify the CJA Supervising Attorney **within seven days** of being terminated as appointed counsel unless due to conflict with another client or substitution by retained counsel.
- must attend the annual meeting of the CJA Trial Panel. This meeting addresses issues concerning the administration of the panel and provides training (including some CLE) for panel members.

Obligations of Panel Membership

- must complete eight hours of continuing legal education in the area of criminal law each year.
- must take a minimum of four cases per year, but no more than would allow them to represent their clients effectively.
- must be in good standing with all relevant bar associations including the California State Bar, and be admitted to practice before the Central District of California and the Court of Appeals for the Ninth Circuit, or have applications for admission pending.
- must read [The Guide to Judiciary Policy, Volume 7 – Defender Services, 9th Circuit CJA Policies and Procedures](#), and [Ninth Circuit CJA Compensability Handbook](#), and the court's [Voucher Review Guidelines, Application/Procedures Memo, Billing Requirements Memo, Contemporaneous Time Records Memo, Duty Day Procedures](#) and all other communications from the Court.



How To Get Paid



CJA eVoucher & Billing Training

February 10, 2023

Please contact Edith Nakada if you have any other eVoucher questions.

- *Phone: (213) 894-3025*
- *Email: Edith_Nakada@cacd.uscourts.gov*

Online video tutorials and user manuals on CJA web page:

<https://www.cacd.uscourts.gov/attorneys/cja/cja-evoucher-system>



CJA eVoucher - California Central District Court

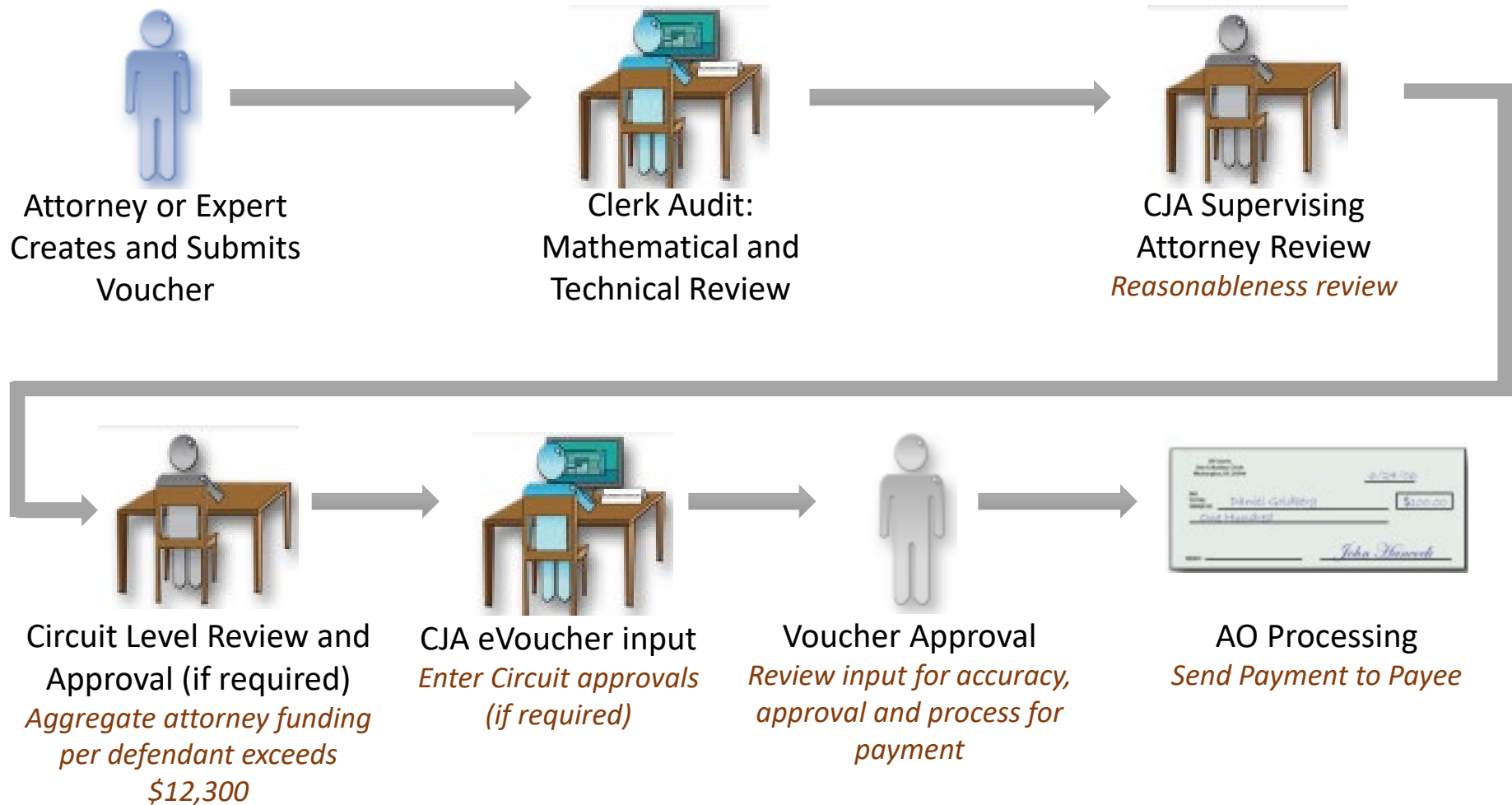
Sign in to CJA eVoucher

Enter your email address. If you have not created a single login profile, you will be prompted to create one.

Email Address

Next

CJA Voucher End-to-End Process



District Court and Ninth Circuit Review & Approval

- The CJA places limitations on the general authority of presiding judicial officers to unilaterally approve attorney compensation. [\[Guide, Vol. 7, § 230.23.10\(c\)\(1\)\]](#)
- For each voucher claiming fees in excess of the case compensation maximum, counsel is required to submit a detailed memorandum (form CJA-26) supporting and justifying counsel's claim that the representation given was in an extended or complex case, and that excess compensation is necessary to provide fair compensation. [\[Guide, Vol. 7, § 230.30\(b\)\(1\)\]](#)
- Payments above case compensation limits may be authorized when certified by the presiding judicial officer (or the CJA Supervising Attorney) and approved by the chief judge of the circuit. The chief judge of the circuit is permitted to delegate this approval authority to another active or senior circuit judge (or the Circuit CJA Supervising Attorney). [\[Guide, Vol. 7, § 230.23.10\(c\)\(2\)\]](#)

REASONABLENESS STANDARD

- Congress enacted the CJA to both “assure adequate representation in the Federal courts of accused persons with insufficient means,” and “afford[] reasonable compensation to counsel who are assigned.” See **In re Smith**, 586 F.3d 1169, 1175 (9th Cir. 2009).
- The question thus becomes not “what hours were actually expended,” but “what hours were reasonably expended completing work necessary for adequate representation.” See **In re Smith**, 586 F.3d 1169, 1175 (9th Cir. 2009).
- Appointed counsel “shall, at the conclusion of the representation or any segment thereof, be compensated... for time expended in court...and for time reasonably expended out of court.” 18 U.S.C. § 3006A(d)(1).
- Billing for time clearly in excess of what was reasonably required to complete the task will result in reduced payment subject to the CACD’s Procedures for Review of Proposed Reductions to CJA Payment Vouchers.

Standard for Voucher Review

[Guide, Vol. 7, § 230.33.10(4)]

- ▶ Voucher deductions are made in the following circumstances:
- ▶ Mathematical errors;
- ▶ Instances in which work billed was not compensable;
- ▶ Instances in which work billed was not undertaken or completed; and
- ▶ Instances in which the hours billed are clearly in excess of what was reasonably required to complete the task.

VOUCHER SUBMISSION POLICY

1. INTERIM BILLING: CJA appointed counsel are divided into three groups, by surname, and each group is assigned four quarterly billing periods throughout the year. Every attorney in each group must submit vouchers for all work completed in each quarter by the 15th day of the month following the close of that quarter. The groups, and their designated billing months, are:

Group 1 - Surnames A - H: January, April, July, October

Group 2 - Surnames I - P: February, May, August, November

Group 3 - Surnames Q - Z: March, June, September, December

VOUCHER SUBMISSION POLICY

2. Do not submit INTERIM vouchers on cases where outstanding fees do not exceed \$500.
3. FINAL VOUCHERS: For case completed in the trial court or cases on which the services of the CJA attorney have been terminated for any reason, the *final* voucher may be submitted immediately regardless of its amount and must be submitted no later than 45 days after the attorney ceases representation. Therefore, counsel may be required to submit a *final* voucher before the interim quarterly due date.
4. LATE VOUCHERS: Processing of late vouchers, whether interim or final, requires the approval of the CJA Committee Chair based on a showing of good cause. Preoccupation with pressing professional demands does not establish good cause.
5. Counsel are required to advise the CJA Supervising Attorney when they have billed more than 1800 hours on a rolling nine-month basis (see December 5, 2012 Memorandum to CJA Trial Panel Attorneys re Case Appointment Policy).



COMMON MISTAKES THAT DELAY THE PROCESS

- CJA-26 form – Counsel forget to attach the CJA-26 form to vouchers that exceed the statutory maximum; counsel do not use the most current CJA-26 form; and counsel do not fill out the CJA-26 completely, especially with respect to summarizing work performed in the contemporaneous billing quarter.
- “Late Letter” – A “Late Letter” providing good cause must be attached to all vouchers submitted late.
- Expenses not itemized – All expenses and travel must be itemized.
- Required receipts missing - All travel and any non-travel expenses in excess of \$50 must be accompanied by receipts or supporting documentation where practical.
- Mathematical errors.
- Cutting and pasting which results in duplicate entries.



FREQUENT PROBLEMS WITH CONTEMPORANEOUS TIME RECORDS AND BILLING

- Appointed counsel must maintain contemporaneous time records for at least three years after approval of final voucher. (Guide, Vol 7, Pt A, Chap 2, §230.76).
- Frequent problems include:
 - Handwritten records are often illegible (results in mistaken entries and duplicate billing)
 - Records not kept reasonably contemporaneously (results in inaccurate billing)
 - Records not kept chronologically by day, or even within a client entry (results in duplicate billing)
 - Records don't contain accurate start and end times. All "begin" and "end" times should not always be in multiples of six minutes (keep exact time).
 - Billing fails to reflect breaks taken and voucher reflects a 12 hour charge (e.g., discovery 7 a.m. to 7 p.m.)

FREQUENT PROBLEMS WITH CONTEMPORANEOUS TIME RECORDS AND BILLING

- Overlapping time frames (e.g., review discovery 8:15 a.m. to 10:00 a.m.; t/c AUSA re __ 9:15 to 9:30 a.m.)
- Records don't indicate when breaks were taken (approximately 10-15 minutes every 60-90 minutes is necessary to keep brain focused and efficient)
- Computation errors (e.g., 10:00 a.m. to 10:30 a.m. = 1 hour)
- Entries are “block-billed” (State Bar study concluded this increases time billed by 10-30%)
- Entries have inadequate descriptions
- More hours on the voucher than in the contemporaneous time records for a particular task
- More hours on the voucher than in the contemporaneous time records on a particular day

FREQUENT PROBLEMS WITH CONTEMPORANEOUS TIME RECORDS AND BILLING

- Formulaic billing (1 hour for travel, 2 hours for client meeting, repeated “review and analyze emails from court clerk, court pleadings, court orders, court minutes, court docket entries, prior correspondence, internal notes, and other file materials,” etc.)
- Billing “.1” for every task performed even if the task took one or two minutes
- Minimum billing (.1 for review of NEF, .2 for every phone call, etc.)
- Billing excessive/impossible time in a day
- Duplicate entries
- Billing while attending seminars, etc.

Compensability and Reasonableness Review

Please see the Ninth Circuit CJA Compensability Handbook
for a more comprehensive policy

- ▶ You must bill in 0.1 or six-minute increments – do not round up to 0.5 or 1.0 hours
- ▶ Do not bill for more time in a day than actually worked
- ▶ Descriptions must be adequate to allow for evaluation of reasonableness
- ▶ No billing for acquiring basic knowledge of criminal law
- ▶ Do not overbill for use of “boilerplate” language in sentencing position papers
- ▶ Excessive time spent on tasks - time must be the lesser of “reasonable” or “actual,” and services must be billed as if performed at peak efficiency
- ▶ Communications with family, friends, etc. must advance the defense (no compensation for “hand-holding”)

Compensability and Reasonableness Review

- ▶ Counsel should bring other CJA work whenever possible to perform while waiting at MDC, traveling, waiting for court proceedings, waiting for jury verdicts, meetings, etc.
- ▶ Whenever possible, counsel should avoid traveling during peak traffic hours, and events likely to cause traffic delays (Dodgers opening day, Presidential visits, etc.)
- ▶ Counsel should have meetings whenever possible at counsel's office to ensure the most productive use of counsel's time.
- ▶ Secretarial or clerical work is not compensable regardless of who performs it (e.g., mailing, downloading, calendaring, copying, filing, transmittal letters).
- ▶ Attorneys performing paralegal or investigator work must indicate that an entry should be billed at the paralegal or investigator rate.

Compensability and Reasonableness Review

- ▶ To ensure expense reimbursement for significant or unusual expenses, counsel should seek prior authorization by emailing the CJA Supervising Attorney.
- ▶ Counsel should seek prior authorization for CJA payment to attend a hearing or trial in a co-defendant's case if the client is not testifying.
- ▶ Counsel should not bill for related work in state court (including Prop 47) without prior approval.
- ▶ Counsel should not bill for ancillary services without seeking prior approval, e.g., state-court work, retrieving a client's real or personal property, or most post-sentencing work other than supervision violations.
- ▶ Counsel should not claim general office overhead expenses, including secretarial help, as reimbursable expenses.
- ▶ Counsel should not allow anyone to bill their time as if it were the attorney's time.

COMPENSATION FOR TRAVEL

- Compensation for travel time is paid for “time reasonably expended out of court.” [Guide, Vol. 7, § 230.60(c)]
- CJA will not pay for more than eight hours of travel time within a 24-hour period commencing when the traveler leaves his/her home or office. In some circumstances, a cap of less than eight hours will apply based on reasonableness.
- CJA will not pay for travel time spent in-flight as it is expected that work can be performed on the plane (or train, if applicable).
- Any time spent working en route should be billed separately as substantive work with a notation in the billing entry that said work was performed en route.
- There can be no double billing, i.e. billing for travel time and substantive work performed contemporaneously. When applicable, always bill for substantive work over travel time.
- While the eight-hour travel cap does not apply to substantive work, a reasonableness standard will apply to the total number of hours worked/billed in a day and a 15-hour eVoucher report will automatically generate if 15 or more hours are billed in a day.
- Any time a 15-hour report is generated, supplemental justification will be required to allow the CJA Chair to conduct the necessary reasonableness review which will include the degree to which a person can efficiently perform substantive work en route given the en route conditions and the total number of hours billed.

COMPENSATION FOR TRAVEL

Do:

- obtain prior approval for out-of-district travel, any overnight travel/hotel, and foreign travel by submitting a TravelAUTH in eVoucher.
- for client visits at the locations below, please e-mail a three to four month client visitation plan or “travel tracker” for the entire defense team to the CJA Office for approval by the CJA Committee Chair.
 - *Central Valley Modified Community Correctional Facility located at McFarland, CA*
 - *Arizona State Prison Complex Yuma, located in San Luis, AZ*
 - *Arizona State Prison Complex Florence, located in Florence, AZ*
 - *USP Florence ADX, located in Florence, CO*
- work on CJA cases while en route if possible.
- obtain services of local providers per the Travel Policies for Service Providers memo.
- negotiate reduced hourly rate for expert travel time including caps on travel time or waiver of time travel payment when appropriate.
- consider scheduling VTC meetings whenever possible.
- travel that benefits more than one client must be prorated, even if one of the clients is a private client

Don't:

- bill for travel to visit an out-of-custody client absent unusual circumstances preventing the client from coming to you.
- bill for travel to Court or elsewhere solely to file, deliver or pick-up documents, etc.

Per § 210.10.30

Change in Client's Eligibility

- Disclosure of Change in Eligibility. If, at any time after appointment, counsel obtains information that a client is financially able to make payment, in whole or in part, for legal or other services in connection with his or her representation, and the source of the attorney's information is not protected as a privileged communication, counsel shall advise the Court. (CJA Plan)
- Don't accept payment for services without court authorization and any amount received must be deducted from the fees to be approved by the court.



- Communications with MDC: Counsel should communicate with MDC, including requests for medical treatment, by emailing los-execassistant-s@bop.gov or calling (213) 485-0439
 - Eliezer (Eli) Ben-Shmuel, ext. 5428
 - JoAnna Wilson, ext. 5471
 - May Shin, ext. 5187
 - Emma Sholder, ext. 5474
- Communications with USMS: Counsel should communicate with USMS for housing related issues including requests for medical treatment.
 - Detention Management Coordinators:
 - Richard Kith: (213) 925-1628, Richard.Kith2@usdoj.gov
 - Neftali Martinez: (213) 276-2249, Neftali.Martinez@usdoj.gov
 - Cellblock Supervisors:
 - Derek Haywood: (703) 400-9702, Derek.Haywood@usdoj.gov
 - Charity Levells: (213) 798-5187, Charity.Levells@usdoj.gov

PRIOR APPROVAL IS REQUIRED FOR SERVICE PROVIDER FUNDING

- All funding for experts, service providers, and associate counsel must be requested by submitting an AUTH in eVoucher with the appropriate AUTH-form including sufficient detailed justification that the requested services are “necessary for adequate representation.”
- If approval is required by the presiding judge, the CJA Supervising Attorney will obtain the necessary approval after the AUTH is submitted in eVoucher. For example, this would apply to funding requests for international travel, associate counsel, *nunc pro tunc* billing, and supplemental vouchers for work performed after the end of the case.



CACD Service Provider Hourly Rates

<http://www.cacd.uscourts.gov/attorneys/cja/cja-service-provider-policies-rates>

Service Provider/Expert	Hourly Rate	Type of Tasks
Paralegal	\$65	All Tasks Performed & Travel Time
	\$75	Tasks Requiring Use of the Paralegal's Foreign Language Skill
Paralegal Lawyer	\$75	All Tasks Performed & Travel Time
	\$85	Tasks Requiring Use of the Paralegal Lawyer's Foreign Language Skill (effective 10/21/2022)
Investigator	\$55	Tasks Involving Record Collection & Related Travel Time
	\$75	Routine Tasks & Travel Time
	\$95	Tasks Requiring Specialized Skills (a high level of investigative expertise relevant to the type of crime alleged or other special skills the case requires)
	\$115	Tasks Requiring Use of the Investigator's Foreign Language Skill
Capital Mitigation Specialist	\$125	All Tasks Performed & Travel Time
Capital Mitigation Specialist Proficient in a Foreign Language	\$150	Only for tasks requiring foreign language skills

DEFENDANT DETAIL BUDGET REPORT: THE PRIMARY eVOUCHER REPORT NEEDED TO MANAGE CJA FUNDING FOR SERVICE PROVIDERS AND EXPERTS

Expert and Other Services Budget - Requiring Authorization										Defendant: John Smith	
Voucher Dates	Voucher Number	Claimed				Approved				Voucher Info	
		Fees	Expenses		Total	Fees	Expenses		Total	Claim Status	Circuit Approved
			Travel	Other			Travel	Other			
Authorization Number: 0973.1291543 Specialty: Interpreter/Translator		Amount Requested: \$1,000.00				Amount Authorized: \$1,000.00				Attorney: Amy Test-Attorney	
Authorization Number: 0973.1291544 Specialty: Paralegal Services		Amount Requested: \$3,000.00				Amount Authorized: \$2,500.00				Attorney: Amy Test-Attorney	
Vendor: Patrick Paralegal (Paralegal Services)											
01/03/2022 to 01/04/2022	0973.1291546	\$825.00	\$0.00	\$0.00	\$825.00	\$825.00	\$0.00	\$0.00	\$825.00	Interim 1	
01/05/2022 to 01/05/2022	0973.1291551	\$150.00	\$0.00	\$0.00	\$150.00	\$150.00	\$0.00	\$0.00	\$150.00	Interim 2	
01/06/2022 to 01/06/2022	0973.1291552	\$225.00	\$0.00	\$0.00	\$225.00					Interim 3	
Total Claimed/Approved:		\$1,200.00	\$0.00	\$0.00	\$1,200.00	\$975.00	\$0.00	\$0.00	\$975.00		
Pending Approval:		\$225.00	\$0.00	\$0.00	\$225.00						
AUTHORIZATION TOTALS											
Authorization Number: 0973.1291544 Specialty: Paralegal Services		Amount Requested: 3000				Amount Authorized: 2500.0000				Attorney: Amy Test-Attorney	
		Claimed				Approved				Fee Amount Remaining	
		Fees	Expenses		Total	Fees	Expenses		Total	After Approved	After Pending and Approved
			Travel	Other			Travel	Other			
Total Claimed/Approved:		\$1,200.00	\$0.00	\$0.00	\$1,200.00	\$975.00	\$0.00	\$0.00	\$975.00	\$1,525.00	\$1,300.00
Pending Approval:		\$225.00	\$0.00	\$0.00	\$225.00						

Identifies the AUTH number and expert category for this authorization summary.

Identifies which attorney requested the funding

Remaining AUTH amount available.
Best Practice Tip: Review the DDBR after approving the expert's CJA-21/31 voucher to make sure there are sufficient funds available for the expert to continue his/her work. Be advised that *nunc pro tunc* funding requests must be approved by the presiding judge.

SERVICE PROVIDER FUNDING

- **DO** make timely funding requests for service providers as *nunc pro tunc* requests for funding are highly disfavored and may not be paid.
- **DO** specify discrete tasks the service provider will perform and estimate the number of hours needed to complete each task.
- **DO** identify the correct hourly rate including the applicable hourly rate for low-level work like record collection, routine work, and work requiring specialized skills.
- **DO** consider geographic proximity when choosing to work with a service provider and explain to that service provider that only reasonable travel time will be compensated.
- **DO** review the service provider's voucher for accuracy and compliance with CACD's CJA policies.
- **DO NOT** claim work performed by a service provider as an attorney expense.
- **DO NOT** allow service providers to perform work in court, unless testifying as a witness, without prior approval from the presiding judge. This should be facilitated by the CJA Supervising Attorney upon request.
- **DO NOT** allow service providers to bill for transporting or providing an escort for witnesses.
- **DO NOT** provide monies, books, or supplies to any defendant with the expectation of reimbursement from CJA funds.
- **DO NOT** bill for administrative tasks.
- **DO NOT** bill for serving a subpoena on a witness unless done contemporaneously with interviewing a witness. Subpoenas can be served by the USMS.
- **DO NOT** use funds approved for interpreting services for document translation, especially sentencing letters, or audio transcription.

Ninth Circuit CJA Resource Webpage

Ninth Circuit Criminal Justice Act Resources

Circuit-wide CJA policies, procedures, and relevant information for CJA attorneys, administrators, and staff.



CJA HOME

NINTH CIRCUIT
CJA POLICIES
AND
PROCEDURES

EXPERT
PRESUMPTIVE
RATES

NINTH CIRCUIT
MODEL CJA
PLAN

Ninth Circuit Presumptive Rates for Service Providers

Ninth Circuit CJA Policies and Procedures

Ninth Circuit CJA Compensability Handbook

Ninth Circuit: <https://www.ca9.uscourts.gov/attorneys/cja-resources/>



Where To Find Your Service Providers

- Other panel members
- Panel Website (cja.fpdccacd.org)
- FPDO Resources (213) 894-2854
- Local Bar

CJA Contact List

NAME:	PHONE/EMAIL:
Lauren Eskenazi-Ihrig CJA Supervising Attorney	(213) 894-0978 (work) (213) 335-0052 (cell/text) Lauren_Eskenazi-Ihrig@cacd.uscourts.gov
Mary Lou Morales, CJA Analyst CJA-20s, CJA-24s, CJA-30s, Travel AUTHs	(213) 894-5684 MaryLou_Morales@cacd.uscourts.gov
Tracy Nelson, CJA Analyst CJA-21s, CJA-30s, CJA-31s; AUTHs; Budgets	(213) 894-2382 Tracy_Nelson@cacd.uscourts.gov
Edith Nakada, CJA Analyst eVoucher appointments, eVoucher troubleshooting, CJA-20s	(213) 894-3025 Edith_Nakada@cacd.uscourts.gov
Chris Powers, CJA Analyst CJA-21s, CJA-30s, CJA-31s, Budgets, Takedowns, Travel AUTHs	(213) 894-5402 Christopher_Powers@cacd.uscourts.gov



THANK YOU FOR YOUR
DEDICATION TO OUR
CRIMINAL JUSTICE SYSTEM