

United States District Court Central District of California



CJA Trial Attorney Panel Manual

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

I. INTRODUCTION

The 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. (If an applicant applies to a division other than the one(s) in which he/she has an office or residence, he/she may not be permitted to bill for travel time or mileage in some cases.) 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 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 is 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, 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 have significant experience representing people 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 their written and oral skills and criminal trial experience, and consideration of their experience handling criminal cases at the trial level and representing 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 he/she can be a zealous and skilled advocate 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, submit invoices in accordance with the Court's rules and orders, and 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 to be considered for panel service starting after the Court's mandatory fall training in late October. 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 one year, on the condition that they attend an initial mandatory orientation session and any subsequent annual mandatory training seminars.

New members are expected to be available to accept assignments within 90 days of being admitted to the panel. Extensions may be granted by the Chair of the CJA Committee.

B. Applications for Renewal

After the initial one-year term, membership may be renewed for subsequent three-year terms. Several months before 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 an application, along with a summary of his or her trial level work over the preceding term.

Renewal is granted in 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 (3d ed. 1993) ("The Defense Function"), available at http://www.americanbar.org/publications/criminal_justice_section_archive/crimjust_standards_dfunc_toc.html. In some circumstances, the CJA Committee may determine that a member should be renewed for less than a three-year term.

C. Removal

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 an initial application for panel membership, if he or she believes performance issues have been adequately addressed. An application may be submitted for a term beginning at least one full year after the suspension, removal, or non-renewal.

D. No Right to Review

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



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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 .



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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.



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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.



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MEMORANDUM

To: CJA Trial Panel Attorneys

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

Re: Change to Voucher Submission Policy

Date: July 25, 2013

As provided by General Order No. 13-04: In the Matter of CJA Interim and Final Voucher Submissions, which supersedes General Order No. 08-04, the following procedures, effective October 1, 2013, govern the submission of interim and final CJA vouchers for all trial and capital habeas attorneys appointed pursuant to the CJA.

1. Counsel shall submit a single final voucher no later than 45 days after final disposition of the case, or after counsel's services have been concluded for any reason, unless the submission of interim vouchers is permitted as described below.

2. Counsel may submit an initial voucher in any case after the total fees incurred in that case reach \$15,000, and quarterly interim vouchers whenever additional attorney fees incurred after the submission of the previous interim voucher exceed \$5,000. ("Quarterly" refers to any

90-day period, not a calendar quarter.) Counsel shall submit a final voucher no later than 45 days after final disposition of the case, or after counsel's services have been concluded for any reason.

3. If the single voucher or final interim voucher is not submitted within the 45-day period, payment will not be approved unless counsel establishes good cause for the delay in submission. Pressing professional demands alone will not constitute good cause.

4. The foregoing provisions apply to services rendered on or after October 1, 2013. For services provided after October 1, 2013, in pending cases that satisfy the criteria for the submission of quarterly vouchers, the first quarterly voucher may be submitted no earlier than 90 days from the date on which the last monthly voucher was due

Because this change from the monthly billing requirement impacts the Court's ability to determine whether counsel 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), counsel are required to advise the CJA Supervising Attorney when they have reached that threshold. The CJA Supervising Attorney may require counsel to submit their contemporaneous time records for review.

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



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MEMORANDUM

To: CJA Trial Panel Attorneys

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

Re: Change to Voucher Submission Policy (Reduction in Thresholds)

Date: September 12, 2013

As you know, the Court recently changed its voucher submission policy, as reflected in my June 25 Memorandum. Unfortunately, shortly thereafter the hourly rates for CJA panel members were changed on a temporary, emergency basis. In response to a request made on your behalf by your national representative David Kaloyanides, the Court has agreed to reduce the thresholds established in my July 25 Memorandum by a commensurate amount.

Therefore, the policy is now as follows until further notice:

1. Counsel shall submit a single final voucher no later than 45 days after final disposition of the case, or after counsel's services have been concluded for

any reason, unless the submission of interim vouchers is permitted as described below.

2. Counsel may submit an initial voucher in any case after the total fees incurred in that case reach \$13,200, and quarterly interim vouchers whenever additional attorney fees incurred after the submission of the previous interim voucher exceed \$4,400. (“Quarterly” refers to any 90-day period, not a calendar quarter.) Counsel shall submit a final voucher no later than 45 days after final disposition of the case, or after counsel’s services have been concluded for any reason.

3. If the single voucher or final interim voucher is not submitted within the 45-day period, payment will not be approved unless counsel establishes good cause for the delay in submission. Pressing professional demands alone will not constitute good cause.

4. The foregoing provisions apply to services rendered on or after October 1, 2013. For services provided after October 1, 2013, in pending cases that satisfy the criteria for the submission of quarterly vouchers, the first quarterly voucher may be submitted no earlier than 90 days from the date on which the last monthly voucher was due

As I stated previously, because this change from the monthly billing requirement impacts the Court’s ability to determine whether counsel 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), counsel are required to advise the CJA Supervising Attorney when they have reached that threshold. The CJA Supervising Attorney may require counsel to submit their contemporaneous time records for review.

Our homegrown CJA Services electronic voucher program has been adjusted to apply the \$110 (and \$163) reduced rates for work performed from September 1, 2013 through September 30, 2014. However, the system can only apply one hourly rate per voucher, so please do not submit vouchers for overlapping time periods that include both the regular and reduced rates. Instead you must submit separate vouchers for work performed before and after September 1, 2013.

Please contact me or Cynthia Dixon if you have any questions. Thank you for your continued service to the Court and your clients during these difficult times.



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(909) 328-4450

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.



Chambers of
DALE S. FISCHER
United States District Judge

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

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EASTERN DIVISION
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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.

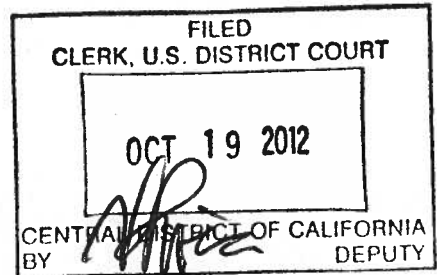
Proper supervision and oversight of ancillary service providers and their voucher submissions is a condition of membership on the panel. In that regard, you should advise your service providers that - like you - they are required to “maintain contemporaneous time and attendance records for all work billed 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.

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.



UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

IN THE MATTER OF) ORDER OF THE CHIEF JUDGE
OBTAINING CJA SERVICES)
WITHOUT PRIOR AUTHORIZATION) 12-048

12-049

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 a finding that the 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.”

Because of the nature and scope of the CJA representations in this District, adequate representation routinely requires investigative, expert, and other services, and the need for such services is often time-sensitive. In addition, the volume of requests for such services in this District is extraordinarily large. Requiring pre-approval for certain such services for hundreds of defendants will waste

1 attorney time and public funds, and will result in an unacceptable delay in
2 providing legal and ancillary services. Therefore, the Court authorizes CJA
3 defense counsel to utilize the services of investigators, experts, and other service
4 providers in an amount not to exceed \$800 for each category, rather than a
5 combination, of service providers without further order of the Court. In addition,
6 for all cases in which the defendant requires the use of an interpreter, the Court
7 authorizes CJA defense counsel to utilize the services of an interpreter in an
8 amount not to exceed \$2,400 without prior judicial approval. Obtaining services
9 without prior judicial approval as provided by this order will prevent the waste of
10 public funds, eliminate unnecessary delay, and promote the interest of justice in
11 this District.

12 CJA defense counsel and service providers shall otherwise comply with 18
13 U.S.C. Section 3006A(e)(2).

14 With the concurrence of the full Court, IT IS SO ORDERED.

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16 Date: October 19, 2012

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CHIEF UNITED STATES DISTRICT JUDGE

Procedures for Submitting Travel Request and Authorization

As set forth in the Travel Guidelines for the CJA Attorneys and Experts approved by the Court on October 6, 2005, a written travel authorization is required prior to commencing inter-district and all overnight travel. The following are new procedures for submitting and processing the Travel Request and Authorization ("TA").

The attorney is to complete the TA and submit it to the Office of the CJA Supervising Attorney via [CJA Services](#). If a Court Order has been issued authorizing the travel, a copy of the order should be included. Once authorized, the attorney will be notified by e-mail and the attorney should log into CJA Services to obtain a copy of the TA. The traveler is to then contact National Travel Service (NTS) at 1-800-445-0668 to arrange the travel. NTS will provide an itinerary which the traveler must submit with the voucher billing for the associated time and expenses. A copy of the TA and the passenger's airfare receipt must also be attached to the voucher when submitted.



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.

Travel Guidelines for CJA Attorneys and Experts

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 - A. Expenses Payable as Transportation
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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; the Guide to Judiciary Policy, Vol. 7A, Guidelines for Administering the CJA and Related Statutes, Ch. 2, § 230.60: Attorney Compensation for Travel Time; § 230.63.40 Travel Expenses; § 310.65 Proration of Claims; § 310.65.50 Time Spent in Common with Non-CJA Representations; § 320.40.30 Travel Expenses, Subsistence, and Fees of Counsel in Habeas Corpus Cases; § 320.80.20 Government Travel Rates.

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.

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

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.

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 e-mail. 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. As of 4/1/12 the TMC vendor is National Travel Service (NTS). The contact number for NTS is 800-445-0668.

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. NTS 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 expenses³. 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.

³ Reimbursement 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.

Voucher Review Guidelines for Capital Habeas and Capital Prosecution Cases

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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

1. In-Office Work

1. Staffing a Case

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

2. 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.

3. 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.

4. 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).

2. Out of Office Work

1. 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.

2. 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.

3. Rembursable Expenses

1. 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.

2. 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.

3. Facsimile

1. Reimbursement for facsimile costs are 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.

4. 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.

5. 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.

6. 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.

7. 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.

8. 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.

4. Miscellaneous

1. 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. 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.

2. 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.

3. 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.

4. 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.

5. 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.

Voucher Review Guidelines for Non-Death Penalty Cases

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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

1. In-Office Work

1. Staffing a Case

1. 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. 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.
2. 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.
3. 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.)
 1. 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.

2. 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.

2. 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.

3. 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.

4. 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:
 1. 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);
 2. excessive document revisions and “polishing”;
 3. 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.

2. Out of Office Work

1. 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.
 1. 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.
 1. 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.

2. 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.
 1. 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.
 1. An attorney should have meetings in his or her office whenever possible to avoid excessive billing time traveling to and waiting for meetings.

3. Reimbursable Expenses

1. 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.

2. 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.

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4. Photocopying

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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.

6. 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.

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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.

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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.

2. Overhead

1. A CJA panel attorney will not be compensated or reimbursed for items that are part of general office overhead including, without limitation:
 1. 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;
 2. general law office supplies;
 3. word processing or computer time (except actual charges for Westlaw or Lexis);
 4. mark ups on any supplies or services;
 5. 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.

3. 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.

4. Other Non-Reimbursable Items

1. Appointed counsel may not claim reimbursement for the following:
 1. printing of briefs, however the cost of mimeographing, photocopying or similar copying service is reimbursable;
 2. 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;
 3. taxes paid on attorney compensation received pursuant to the CJA, whether based on income, sales, or gross receipts, are not reimbursable expenses;
 4. books, journals or other publications;

5. costs related to educational seminars, including travel, attendance, registration, or materials;
6. 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
7. work related to state court proceedings.

5. 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.