

**Criminal Justice Act  
Panel Attorney  
Manual**

**Western District of Washington**

**October 2014**

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

- (1) The Criminal Justice Act, 18 U.S.C. 3006A;
- (2) The Criminal Justice Act Plan for the Western District of Washington;
- (3) Guide to Judiciary Policy, Volume 7: Defender Services.

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

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

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

**Phone: (206) 553-2510  
Fax: (206) 553-2334  
website: [waw.fd.org](http://waw.fd.org)  
e-mail: [zzzWAWml\\_CJA@fd.org](mailto:zzzWAWml_CJA@fd.org)**

# **I. Attorney Compensation and Recordkeeping**

## ***A. General Expectations***

### **1. Fiscal Responsibility**

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

### **2. Multi-Defendant Cases**

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

### **3. Record Retention**

Time and expense records for CJA representations may be subject to audit and must be retained by the appointed attorney for three years after approval of the final voucher for an appointment.<sup>1</sup>

### **4. Confidentiality**

Documents filed through CJA eVoucher in conjunction with CJA billings shall not be disclosed to the public except as provided by statute, by the Guide to Judiciary Policy or by order of the court.<sup>2</sup>

## ***B. Compensation Maximums<sup>3</sup>***

**Felonies** (Non-Capital), Civil Forfeiture, Non-Capital Post-Conviction (2241, 2254, 2255) – \$9,800 trial court level, \$7,000 appeal level

**Misdemeanors** – \$2,800 trial court level, \$7,000 appeal level

**Prisoner Transfers** – \$2,800

**Paroled Prisoner Transfers** – \$2,100 before Parole Commission, \$7,000 appeal level

**Other:** Probation Violation; Supervised Release Violation; Parole Violation; Material Witness (in custody); Mental Condition Hearings (with exceptions); Contempt (with possible loss of liberty); Witnesses (Grand Jury, court, Congress, etc.); International Extradition – \$2,100 trial court level

## ***C. Staffing***

### **1. Court Appearances**

Attorneys appointed to a case under the CJA are expected to personally appear and participate in all proceedings related to plea, detention, substantive motions, trial and sentence.

### **2. Associate Attorneys<sup>4</sup>**

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

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

Associate counsel should be billed at actual cost (hourly plus benefits, taxes, overhead, space, etc.), but not to exceed \$126 per hour. Billing records should identify the attorney performing the task.

Meeting time between the appointed attorney and any associates should only be billed by appointed counsel.

### **3. Contract Attorneys**

If appointed counsel wishes to use an attorney who is not a member of his or her firm, pre-authorization **must** be obtained. The preauthorization request must identify the contract attorney appointed counsel anticipates using as well as an explanation as to the need. Contract attorneys must be billed at cost not to exceed \$126 per hour unless used as an expert (see section C, Expert and Other Service Providers). All the above policies for associate attorneys apply to contract attorneys.<sup>5</sup>

### **4. Co-Counsel**

In a difficult case where the court finds it in the interests of justice, co-counsel may be appointed. If so, each attorney is eligible to receive the maximum compensation allowable under the Act.<sup>6</sup>

If co-counsel are not in the same firm, attorney conferences will be approved for limited and reasonable expenditures of time.

## ***D. CJA Billing and Voucher Process***

### **1. Attorney Hourly Rate**

#### **a. Non-Capital-CJA Form 20**

Attorneys appointed by the court pursuant to CJA for non-capital cases after March 1, 2014 are compensated at \$126 per hour; between September 1, 2013 and February 28, 2013 at \$110 per hour; between January 1, 2010 and August 31, 2013 at \$125 per hour; between December 31, 2009 and March 11, 2009 at \$110 per hour; between January 1, 2008 and March 10, 2009 at \$100 per hour; between May 20, 2007 and December 31, 2007 at \$94 per hour; between January 1, 2006 and May 19, 2007 at \$92 per hour; between May 1, 2002 and December 31, 2005 at \$90 per hour; before May 1, 2002 at \$75 per hour.<sup>7</sup> The Court will sign a CJA 20 that should be used for compensation claims.

## **b. Capital – CJA Form 30**

The maximum hourly rate for attorneys appointed to federal capital prosecution cases and capital post-conviction proceedings, effective March 1, 2014 is \$180 per hour; between September 1, 2013 and February 28, 2014 at \$163; between January 1, 2010 and August 31, 2013 at \$178 per hour; between December 31, 2009 and March 11, 2009 at \$175 per hour; between January 1, 2008 and March 10, 2009 at \$170 per hour; between May 20, 2007, and December 31, 2007 at \$166 per hour; between January 1, 2006 and May 19, 2007 at \$163 per hour; between February 1, 2005 and December 31, 2005 at \$160 per hour; before February 1, 2005 at \$125 per hour.<sup>8</sup> The Court will sign a CJA 30 that should be used for compensation claims.

## **2. Billing Software**

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

## **3. Timekeeping**

### **a. Time Increments<sup>9</sup>**

Time must be reported in tenths of an hour (six minute increments).

<u>Minutes</u>	=	<u>Tenths</u>
1-6		.1
7-12		.2
13-18		.3
19-24		.4
25-30		.5
31-36		.6
37-42		.7
43-48		.8
49-54		.9
55-60		1.0

## **b. Contemporaneous Timekeeping<sup>10</sup>**

Attorneys must maintain **contemporaneous** time and attendance records for all work performed on a case, including work performed by associates, partners and support staff, as well as expense records.

## **c. Detailed Time Entry**

Counsel should provide a description of the work performed for each time entry in sufficient detail as to permit meaningful review, without violation of the canons of ethics or disclosure of attorney work product. Details should include, but are not limited to: identification of persons involved in telephone conversations, conferences or interviews and topics discussed (a simple description of the general topic of discussion, not specific details – names of individuals present may be shortened to a descriptive i.e., AUSA, guilty phase witness #1, etc.); specific topics researched; identification of documents reviewed or prepared, including transcripts and pleadings drafted or reviewed; and, if necessary for an understanding of the task, explanation of its relevance to the federal proceedings.

**Aggregate time blocks or entries which are vague or ambiguous will not be approved for payment.**

## **d. Travel Time<sup>11</sup>**

Compensation shall be approved for time spent in necessary and reasonable travel. Ordinary allowable time for travel includes only those hours actually spent in or awaiting transit.<sup>12</sup>

## **e. Multiple Cases**

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

#### **f. Secretarial Tasks**

Attorneys should not bill for secretarial tasks (see also II. C.5 Non-Reimbursable)<sup>13</sup>

#### **g. Original Work Product**

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

#### **h. Time Spent on Voucher Process**

Attorneys, or anyone else, should not bill for time involved in accepting a CJA appointment or for time taken to prepare their CJA billing, including time spent preparing a declaration in support of a voucher where the fees requested exceed the statutory maximum.

#### **i. Ancillary Matters**

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

### **4. Timeline for Submission of Vouchers**

Final vouchers must be submitted to the CJA Administration no later than 45 days after the final disposition of the case, unless good cause is shown.<sup>14</sup> Failure to do so may result in a voucher reduction or non-payment. To the extent possible, appointed counsel should submit vouchers for fees and vouchers for other services at the same time.

## **5. Complex or Extended Cases-Interim Payments**

For non-capital cases that are complex or extended, the attorney may request interim payments. The appointed attorney must initiate the request for interim payments by submitting a voucher labeled interim#1 in CJA eVoucher and attaching a declaration detailing why the case is extended and complex. The CJA Administration will prepare the interim agreement<sup>15</sup> outlining the standard interim practice whereby vouchers are submitted monthly unless the fees incurred during the interim period do not exceed \$1,000.00 and one-fifth of the requested compensation is held in abeyance until the final voucher is approved and processed for payment. Approval of that first interim voucher by both the presiding judge and the Ninth Circuit Chief Judge will constitute approval to bill on an interim basis.

In federal capital prosecutions and capital habeas cases the judge may approve interim payments at the time of appointment. The CJA Administration will ensure that an interim payment order is generated and signed by the judge. Approval is necessary from the Ninth Circuit. There is no withholding of amounts from interim vouchers submitted on CJA Form 30.<sup>16</sup>

## **6. Vouchers in Excess of Maximum**

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

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

## **7. Voucher Review, Approval and Payment**

CJA vouchers for the Western District of Washington are processed, reviewed and audited by the CJA Administration in the Office of the Federal Public Defender. The audit process includes reviews of the time and expense records associated with a CJA representation to verify that services rendered and expenses incurred are in accordance with the local guidelines, as well as the policies and procedures of the Judiciary. Voucher review by the presiding judge includes an assessment of whether or not the fees and expenses are reasonable for the activity or task involved and compliance with the CJA Guidelines and this manual.

Once a voucher has been approved by the presiding judge and the Chief Judge of the U.S. Court of Appeals for the Ninth Circuit if over the statutory maximum, it is processed for payment. Payment will be mailed from the Administrative Office of the U.S. Courts in Washington, D.C.

Every effort is made by the CJA Administration to have vouchers submitted for payment paid within a month if under the statutory maximum or six weeks if over the statutory maximum.

## **8. Voucher Reduction**<sup>17</sup>

If a judge has a question or concern regarding the amount of compensation claimed or has reduced a voucher, counsel will be notified. Counsel will be given an opportunity to provide information or documentation relevant to the voucher and the judge's question or concern on the claim, except in cases involving mathematical or technical corrections. In the event that the matter cannot be resolved, the voucher may be referred to the CJA Standing Committee for review and comment. (Please refer to the CJA Plan for the Western District of Washington for additional information on the formation and function of the CJA Standing Committee.) The Standing Committee will make a non-binding recommendation for the judge to consider.<sup>18</sup>

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

## **9. Supplemental Claims**

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

## **10. Case Budgeting**

### **a. Non-Capital Cases**

The court **requires** early development of a case budget in representations where the claims for compensation will exceed 300 attorney hours or the total expenditures are expected to exceed \$30,000 (compensation for counsel and other services on behalf of an individual CJA defendant).<sup>19</sup>

Counsel should contact the CJA Administration for assistance in developing and submitting a proposed initial litigation budget for the court's approval. Such a budget would be subject to modification in light of facts and developments that emerge as the case proceeds. Approval of any budget item will serve as approval of attorney's fees and expenditures for experts, investigators, paralegals, etc., unless the court specifically notes otherwise. In certain circumstances to be specified by the court, the court may require a subsequent written request to outline specifics not previously provided in the budget. While a budget request is pending, counsel may proceed with necessary tasks until notification by the court as to a resolution of the budget. Absent good cause or excluded conditions, fees and expenditures in the case shall not exceed the budget.<sup>20</sup>

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

Case budgeting is required in all capital prosecutions.<sup>21</sup> As soon as counsel is informed that the death penalty will be sought in connection with the prosecution of a criminal case, appointed counsel should contact the CJA Administrator to discuss budgeting procedures in such cases.<sup>22</sup>

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

**II. Attorney Expenses and Travel**

**A. Criterion**

Reimbursable out-of-pocket expenses incurred in connection with a CJA representation may be claimed on the CJA Form 20 or 30 vouchers. Necessary and reasonable expenses will be compensated over and above case statutory maximums, subject to this Manual's provisions on case budgets.<sup>23</sup>

## ***B. Reimbursable Out-of-Pocket Expenses***

### **1. In General**

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

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

### **2. Receipts Required**

Receipts are required for:

- a. Individual expenses over \$50**
- b. Computer-aided legal research (CALR) - if over \$500 counsel should also provide a brief justification for the expense<sup>24</sup>**
- c. Phone charges over \$50 per month<sup>25</sup>**
- d. Postage over \$50 per incident<sup>26</sup>**

### **3. Messenger, Couriers and Express Delivery**

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

### **4. Photocopies**

In-house photocopies should be billed at actual costs, not to exceed 10 cents per page.

If using a copy service, counsel should negotiate the lowest possible rate or utilize the special rates made available to the U.S. Courts by contract. For information on government copying rates (contract currently with Kinko's) contact Diane Abeyta at [dabeyta@gpo.gov](mailto:dabeyta@gpo.gov).

## **5. Paralegals, Law Students and Other Service Providers**

Paralegals and law students, whether in-house or independent, must be billed on a separate CJA Form 21/31, not on the attorney's voucher, even if the payee is the attorney or law firm. Other expert service providers also must be billed using a CJA Form 21/31. For additional information see section III. Expert and Other Service Providers.<sup>27</sup>

## **6. Transcripts**

The cost of transcripts for any matter other than fact witness depositions (see 7. Depositions below) should be billed on a CJA Form 24. The preferred method is to pay the court reporter or transcriber directly, however, the payee can be the attorney or law firm if they have incurred the expense "out-of-pocket."<sup>28</sup>

## **7. Depositions**

In any case where depositions are required, counsel should contact the CJA Administration for specific information regarding funding.<sup>29</sup>

### ***C. Non-Reimbursable Expenses***

#### **1. General Office Overhead**

General office overhead, such as rent, office supplies or equipment, telephone lines or service is not reimbursable except in extraordinary circumstances.<sup>30</sup> See also Appendix 2 of the Case Management and Budgeting Policy from the Ninth Circuit.

#### **2. Personal Items**

Personal items and services for the client, such as clothing, cleaning or pickup/delivery of clothing or personal items, haircuts, cigarettes, meals, the costs of assisting the defendant in the disposition of his or her personal property, arranging for placement of minor children of the defendant, assisting the defendant in executing the conditions of probation, providing legal assistance in matters unrelated to the litigation of the case, although incidental to the defendant's arrest, etc., will not be reimbursed.<sup>31</sup>

### **3. Filing Fees**

The fees are waived for persons proceeding under the CJA.<sup>32</sup>

### **4. Printing**

The cost of printing briefs is not reimbursable, although the cost of photocopying is.<sup>33</sup>

### **5. Secretarial Help**

Secretarial help (whether regularly or specially employed) and secretarial duties, including but not limited to the following:<sup>34</sup>

- Filing of court documents (CM-ECF)
- mailing, faxing, copying
- preparation of correspondence by either drafting from general instructions or typing in prescribed format
- transcribing dictation, editing and proofreading of initial drafts, general word processing
- receiving, screening and referring telephone and in-person callers
- answering/obtaining general inquiries/information about attorney office
- setting up meetings and conferences and informing participants of dates, times, locations etc. and maintaining office calendar
- notifying client of dates and times of court appearances and appointments with counsel, interpreters and other experts
- opening and closing case file
- preparation of attorney or expert billing

### **6. Taxes**

Taxes paid on attorney compensation received pursuant to CJA whether based on income, sales or gross receipts are not reimbursable expenses.<sup>35</sup>

## **7. Expenses Related to Fact Witnesses**

Expenses related to fact witnesses including service of subpoenas, witness fees, and travel costs are not payable from the CJA appropriations. Contact the CJA Administration for information on having this paid by the government.<sup>36</sup>

## **8. Computer Hardware, Software and Training**

CJA counsel should have an adequate understanding of electronic discovery. Attorneys and their staffs should be proficient in the use of e-mail programs, word processing, spreadsheet, ECF filing, searching of electronic data, or any other software programs that may be used in any federal criminal case.

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

Please note for future upgrades of the CM/ECF system, the Administrative Office of the U.S. Courts urges courts to support the Internet Explorer and Firefox browsers. Firefox updates their browser platform frequently. As a result CM/ECF functionality will be better supported using the Internet Explorer browser.

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

The following are minimum technology standards for CJA counsel. Computer equipment, software, and training are a part of each lawyer's overhead expenses and are not expenses that will be paid by the court.

- PC or Mac computer, including a DVD/CD writer;
- Printer;
- Scanner with ability to convert paper documents to PDF/A format;
- Speakers;
- Secure Internet connection (high speed preferred);
- A web browser such as Windows Internet Explorer;
- Multi-media player such as Windows Media Player;

- Word processing program – Microsoft Word preferred.
- Presentation, database, and spreadsheet software – similar to what is available in the Microsoft Office Suite;
- A PDF program with writing and reading capability, plus the ability to create searchable PDF documents;
- An individual e-mail address for the attorney that is private;
- Anti-virus software and attorneys should configure their operating system to automatically run security updates;
- The hardware and software to utilize external hard drives and thumb drives.

## **9. Fees for Deeds of Trust to Secure Defendant’s Release**

These fees are paid by the person(s) securing the collateral.<sup>37</sup>

## **10. Alcoholic Beverages<sup>38</sup>**

## **11. Non-Essential Travel Expenses**

In-room movies and other non-essential travel expenses.<sup>39</sup>

## **12. CLEs**

Costs related to educational seminars, including travel, attendance, registration or materials.<sup>40</sup>

## **13. PACER**

Appointed attorneys can apply for a no-fee account for CJA work and should contact the PACER Service Center in San Antonio at 1-800-676-6856 for more information.<sup>41</sup>

## **14. Appeal- Related Tasks**

Time and expenses involved in the preparation of an appeal (whether from interlocutory orders or final judgments) or work related to the review of proceedings before the court are considered applicable to the case before the United

States Court of Appeals and should be included on the voucher for services performed in that court.<sup>42</sup>

## ***D. Travel***

### **1. Receipts Required**

All travel-related expenses (parking, lodging, taxis, ferry fares, meals) **MUST HAVE RECEIPTS FOR REIMBURSEMENT**. In the event of air travel, boarding passes should be retained and submitted with the travel authorization and travel itinerary when the attorney or expert submits their CJA voucher for payment.<sup>43</sup>

### **2. Meals**

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

### **3. Private Vehicles**

Travel by privately owned vehicle does not require prior authorization and should be claimed at the rate currently prescribed for federal employees who use a vehicle for the conduct of official business (currently \$.56 per mile, effective 1/1/14).<sup>44</sup> Refer to the mileage chart (under Rates) on the FPD website for mileage rates during other time periods. Voucher documentation should include the date, destination and the number of miles traveled.

## **4. Overnight Travel**

All **overnight travel and travel by air** must be approved in advance by the court. A declaration detailing the purpose, itinerary, duration and estimated expenses for the travel should be submitted to through CJA eVoucher along with travel authorization request.<sup>45</sup>

### **a. Air Travel**

#### **(1) Government Rates**

Panel attorneys and experts are allowed and encouraged to take advantage of government rates for travel. If air travel expenditures cannot be made at government rates, reimbursement to the attorney or expert for the travel costs may be limited to the amount of the government rate. Travelers must travel in coach class; any other arrangement must be detailed and specifically approved.

#### **(2) National Travel**

##### **a. Air Travel**

National Travel Services (herein referred to as NTS) is the current contract government travel agency. NTS may be contacted at any time at 1-800-445-0668 to obtain travel cost quotes. If approved for air travel,

CJA travelers may book airfare through NTS, using the 800 number or on-line at [www.nationaltravel.com](http://www.nationaltravel.com), which will be paid directly by the CJA Administration.

##### **b. Other Travel Arrangements**

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

## **b. Meals and Lodging**

CJA counsel and experts are only reimbursed for ACTUAL expenses incurred for meals and lodging while on overnight travel outside the city or county of residence in the course of a CJA representation. Actual receipts (not credit card slips) are REQUIRED for reimbursement. Travel expenses must conform to the prevailing limitations governing travel and subsistence expenses of federal judiciary employees. Since the amount allowable is dependent upon the place of travel, please consult the CJA Administration for current per diem rates. Meals and lodging are included in per diem rates; other expenses, such as taxi fares, rental car charges, etc. are not included in the per diem rate and may be claimed separately if receipts are provided. Meals are reimbursable only when overnight travel is authorized.<sup>46</sup>

## **III. Experts and Other Service Providers**

### ***A. Statutory Maximums for Service Providers***

The CJA compensation statutory maximum to any person providing expert services is \$2,400.00 in non-death penalty cases or \$7,500.00 (aggregate) in death penalty matters.<sup>47</sup>

### ***B. Pre-Authorization***

Prior authorization must be obtained from the court for the use of investigators, experts or other service providers where the total cost of the expert services met by any one or combination of service providers is expected to exceed \$800. The only exception to this is attorney-client meetings that require an interpreter.<sup>48</sup>

A request for the approval of funds over \$800 for such services shall be submitted through CJA eVoucher using the Authorization form along with a declaration in support of the request detailing the need for the service, the cost involved (hourly rate as well as number of hours, etc.) and information on the expert appointed counsel wishes to engage. Payments to service providers will only be authorized at the appropriate rate for the type of task performed. For example, a paralegal or investigator could gather and organize records to be provided to the expert rather than paying the expert to perform that function. The expert may perform the function, but charge the appropriate lower rate. (See Appendix 1)

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

Payment requests for experts where prior authorization was not received by appointed counsel should be submitted to the CJA Administration with a declaration detailing why, in the interests of justice, the services were necessary and could not await prior authorization.

### ***C. Expert Rates***

Appointed counsel is expected to negotiate the lowest reasonable compensation rate and total time required with the expert. (For maximum expert rates see Attachment A, Appendix 1 of the Criminal Justice Act Case Management and Budgeting Policy for the Ninth Circuit)

### ***D. Paralegals***

Use of paralegals is encouraged, but must be pre-approved, if the expenditure in conjunction with the use of other expert services will exceed \$800. With the prior approval of the court, paralegals, whether independent or employed in the same firm as appointed counsel, may perform case preparation services which are distinct from normal clerical support services.<sup>49</sup>

The CJA guideline rate is actual cost, including overhead if applicable, not to exceed \$45 per hour. The "actual costs" for in-house paraprofessionals, law clerks and law students include the regular hourly rate, plus any relevant costs, e.g., office expenses, payroll taxes, workers compensation insurance, and actual cost of benefits provided.<sup>50</sup> If the paralegal has special skills applicable to the case, appointed counsel may apply to have the paralegal compensated at a higher rate prior to their work on the case.

## ***E. Interpreters***

### **1. Billing Rates**

#### **a. Interpretation**

The CJA pays interpreters on a half-day/whole-day basis. Federally certified interpreters can bill at a rate of \$210 for half-day (up to 4 hours), \$388 for full-day (from 4-8 hours). For work over 8 hours, the overtime rate for federally certified interpreters is \$55 per hour. The alternate interpreter rate for interpreters who have not been federally certified is \$103 for a half-day, \$187 for full-day and overtime rate of \$32 per hour. The interpreter, certified or not, also is entitled to travel expenses. **Counsel should indicate on the face of the CJA Form 21 the actual time spent using the interpreter before signing off on the interpreter's bill.**

#### **b. Translation**

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

### **2. Cancellation Policy**

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

## ***F. Confidentiality***

Documents filed through CJA eVoucher in conjunction with CJA billings shall not be disclosed to the public except as provided by statute, by the Guide to Judiciary Policy or by order of the court.<sup>51</sup>

### ***G. Expert Voucher/Billing***

All claims for services other than counsel should be submitted on a CJA Form 21 for non-death penalty cases and CJA Form 31 in Capital matters.<sup>52</sup>

As with attorney vouchers, a detailed statement as to the type of service, dates of, and time expended for the services provided should be attached to the CJA Form 21/31 as well as an itemized statement and receipts for any expenses incurred. A copy of the preauthorization form and engagement letter if used should be attached.<sup>53</sup>

Appointed counsel are responsible for requiring experts to submit invoices which are sufficiently detailed to permit review in a similar manner to that described for appointed counsel.

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

Appointed counsel should review the expert's invoice and voucher prior to signing the voucher to ensure the service provider's claim is consistent with the appointed attorney's instructions and accurately reflects the services actually rendered.

# **APPENDIX**

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- <sup>1</sup> Guide 230.76
  - <sup>2</sup> Guide 50.10
  - <sup>3</sup> Guide 230.23.20
  - <sup>4</sup> Guide 230.53.10
  - <sup>5</sup> Guide 230.53.10
  - <sup>6</sup> Guide 230.53.20
  - <sup>7</sup> Guide 230.16
  - <sup>8</sup> Guide 630.10
  - <sup>9</sup> Guide Appendix A
  - <sup>10</sup> Guide 230.76
  - <sup>11</sup> Guide 230.60
  - <sup>12</sup> Guide 230.60
  - <sup>13</sup> Guide 230.66.10
  - <sup>14</sup> Guide 230.13
  - <sup>15</sup> Guide 230.73.10
  - <sup>16</sup> Guide 230.73.20
  - <sup>17</sup> Plan VIII B-E, Plan Appendix A, Guide 230.36 , Guide 230.23.40
  - <sup>18</sup> CJA Plan IX D
  - <sup>19</sup> Guide 230.26, October 24, 2012 letter from Chief Judge Pechman to FPD and Panel
  - <sup>20</sup> Guide 230.26
  - <sup>21</sup> Guide 640
  - <sup>22</sup> Ibid.
  - <sup>23</sup> Guide 230.63.10
  - <sup>24</sup> Guide 230.63.30
  - <sup>25</sup> Guide Appendix A-8, CJA 20 Form Instructions
  - <sup>26</sup> Ibid.
  - <sup>27</sup> Guide 320.70, Guide 310.20
  - <sup>28</sup> Guide 230.63.20
  - <sup>29</sup> Guide 320.40
  - <sup>30</sup> Guide 230.66
  - <sup>31</sup> Ibid.
  - <sup>32</sup> Ibid.
  - <sup>33</sup> Ibid.
  - <sup>34</sup> Ibid.
  - <sup>35</sup> Ibid.
  - <sup>36</sup> Ibid.
  - <sup>37</sup> Guide 230.66
  - <sup>38</sup> Ibid.
  - <sup>39</sup> Ibid.
  - <sup>40</sup> Ibid.
  - <sup>41</sup> Ibid.
  - <sup>42</sup> Ibid.
  - <sup>43</sup> Ibid.
  - <sup>44</sup> Guide 230.63.40
  - <sup>45</sup> Guide 230.46

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- <sup>46</sup> Guide Appendix A #17
  - <sup>47</sup> Guide 310.20
  - <sup>48</sup> Guide 310.20.10, Guide 310.20.30
  - <sup>49</sup> Guide 320.70.50, Guide 310.20.10, Guide 310.20.30
  - <sup>50</sup> Guide 320.70
  - <sup>51</sup> Chapter V
  - <sup>52</sup> Guide 310.50
  - <sup>53</sup> Guide 310.40