2026

Criminal Justice Act Manual

District of Idaho

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TABLE OF CONTENTS

I. Introduction 1

II. Composition and Management of the CJA Panel 1

III. Case Budgeting 1

A. Death-Eligible Prosecutions 1

B. Capital Habeas Corpus Proceedings 1

C. Non-Capital High-Cost Cases 6

1. Notice of Potential High-Cost Case 6

D. Budgeting in Stages 7

E. Voucher Review in budgeted cases 7

F. Budget Supplements 7

IV. Counsel Appointment and Compensation 7

A. Geographic Proximity 7

B. Hourly Rates for Appointed Counsel 7

1. Death-Eligible Prosecutions 7

2. Capital Habeas Corpus Proceedings 8

3. Non-Capital Representations 8

C. CJA Appointment of Retained Counsel 8

D. Compensable and Non-Compensable Services 9

1. Budgeting and Voucher Preparation 9

2. Travel Arrangements 9

3. Travel 9

4. Administrative Work Related to Notices of Electronic Filing 10

5. Discovery Organization and Review 10

6. Discovery Motions 11

7. Record Review in Capital Habeas Cases 11

8. Certificate of Appealability Briefing in Capital Habeas Cases 12

9. Transferring Case to Appellate Counsel 12

10. Ancillary Matters 13

E. Non-Appointed Attorneys 13

1. Prior Authorization 13

2. Hourly Rate in Non-Capital Cases 13
3. Billing 13
4. Expectations 13
F. Division of Labor 14
V. Investigative, Expert, and Other Service Providers 14
A. Prior Authorization 14
1. District Court 14
2. Circuit Reviewing Judge 15
B. Engaging Relatives 15
C. Geographic Proximity 16
D. Presumptive Rates 16
E. Travel Time 16
F. Interpreters and Translators 17
G. Attorney Payment of Service Provider Fees 17
H. Engagement Letters 17
VI. Authorization and Billing Procedures 18
A. Fees in Excess of the Statutory Maximum 18
B. Preauthorization of Service Provider Fees 18
C. Use of Interim Vouchers 18
D. Submission of Interim Vouchers for Circuit Review 18
1. Preauthorized Fees in Excess of Statutory Maximum 18
2. Fees Not Preauthorized 19
E. Timesheets and Recordkeeping 19
1. Specificity in Timesheets 19
2. Record and Discovery Review 20
3. Aggregate Time 20
4. Excess Hours in One Day 20
5. Expenses 20
6. Records 20
F. Deadline for Voucher Submission 20
G. Voucher Review 21

H. Voucher Reduction Procedures 21
VII. Appendix 1 – Attorney Hourly Rates 22
A. Capital-Eligible Prosecutions 22
B. Capital Habeas Cases 22
C. Non-Capital Cases 22
VIII. Appendix 2 – Service Provider Hourly Rates 23
IX. Appendix 3 – Sample Engagement Letter 25
X. Appendix 4 – reserved for new GO 27
XI. Appendix 5 – Statutory Maximums 28
A. Attorney Case Compensation Maximums 28
B. Service Provider No Prior Authorization Limit 28
C Service Provider Case Compensation Maximums 28
XII. Appendix 6 – Specificity in Timesheets 29
XIII. Appendix 7 – Expense Policies 31
XIV. Appendix 8 – Sample Fee Peer Review Committee Procedures 32
XV. Appendix 9 – High-Cost Case Indicators 34
XVI. Appendix 10 – Resources 35
A. Ninth Circuit CJA Case Budgeting Attorney 35
B. Litigation Support 35
XVII. Appendix 11 – CJA Administrators 36

I. INTRODUCTION

This manual is provided as a resource to assist the Criminal Justice Act ("CJA") Court-appointed attorney with administrative duties related to your Court appointment.

This manual must be read in conjunction with the Criminal Justice Act Plan ("Plan") for the District of Idaho, which applies to all CJA representations. To the extent these policies conflict with the Plan, the policies prevail.

II. COMPOSITION AND MANAGEMENT OF THE CJA PANEL

Establishment of the CJA Panel is set forth in section IX of the Plan, with qualifications and membership requirements set forth in IX(D). Members of the panel serve at the pleasure of the Court.

Administration and management of the CJA Plan is cooperative effort of the CJA Resource Counsel Office and the Clerk's Office to ensure that counsel are appointed as expeditiously as possible, appointments are equitably distributed and information on availability of counsel is maintained. Appointments are made pursuant to section X of the Plan.

Each attorney is uniquely identified in the automated payment system by their Social Security Number. For the purpose of reporting taxable income to the Internal Revenue Service, attorneys may use their firm Tax ID number. Questions regarding the appropriate use of these numbers should be directed to the CJA Plan Administrator.

III. CASE BUDGETING

Counsel appointed to represent an individual in a capital prosecution, or a capital habeas case are expected to comply with the provisions outlined in this manual, where applicable. In addition, the following information specifically pertains to representation in capital cases. To the extent possible, the circuit CJA Case Budgeting Attorneys ("circuit CBA") should be utilized to assist with case budgeting. *See* Appendix 10 for their contact information.

A. Death-Eligible Prosecutions

CJA attorneys appointed in all death-eligible prosecutions, including as co-counsel with a federal public or community defender, must budget CJA case costs. Within thirty (30) days of appointment, the court or CJA counsel assigned to a death-eligible federal case should contact one of the circuit CMAs and the district CJA administrator for assistance in budgeting the case.

B. Capital Habeas Corpus Proceedings

It is the intent of this court to work with counsel to manage the costs of capital habeas litigation. CJA attorneys appointed in all capital habeas cases, including as co-counsel with a community defender, are 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.

1. Capital Case Budgeting Procedures. As a cost-containment mechanism, up-front budgeting is required in the Ninth Circuit's district courts for

all capital habeas cases in which counsel will be compensated under the provisions of 21 U.S.C. § 848(q) and 18 U.S.C. § 3006A. Capital habeas cases will be divided into four (4) budgeting phases:

- Phase I (Appointment, Record Review, and Preliminary Investigation);
- Phase II (Preparation of the Petition);
- Phase III (Procedural Defenses, Motion for Evidentiary Hearing, and Briefing of Claims); and
- Phase IV (Discovery, Evidentiary Hearing, and Final Briefing).

Any case that has not yet been budgeted will be budgeted once the case moves into a new phase. Petitioner's counsel will submit a proposed budget to be reviewed by the Court at the beginning of each phase. Petitioner's counsel will also submit a declaration in support of the proposed budget, indicating how counsel developed estimates of time and expenses for that phase. The Court and counsel will reach an agreement on the proposed budget, and the Court-approved budget will be submitted for review by the Judicial Council of the Ninth Circuit. It will be possible to amend the budget later, provided sufficient justification is presented in advance to the Court. Attorneys are required to submit proposed budgets using the electronic Excel budgeting system, developed specifically for budgeting cases in the Ninth Circuit's district courts. The Court will maintain a master budget reflecting current balances and fees/expenses paid. All budgetary matters will remain confidential.

2. Judicial Council Review of Budgeted Cases. As an additional response to the concerns of the Judicial Conference of the United States, the Ninth Circuit Judicial Council will review all budgets that have been approved by the district court. This review process includes budgets for both new cases and cases that are already pending. The Council will also review any significant modifications to these budgets. A significant modification is defined as a twenty (20%) percent (or more) increase in the total amount of the budget or $25,000.00, whichever is less. Initial review of the budgets is completed by the Capital Case Committee ("Committee"), appointed by the Chief Circuit Judge. Budgets are reviewed quarterly by the Committee. The Committee will make a recommendation to the assigned district judges on the Judicial Council. The Committee can also recommend that budget approval be deferred if the budget is incomplete in some way. Judicial Council approval or disapproval will be communicated to the presiding district judge for action. If there is a significant lapse between the time petitioner's counsel submits a budget to the Court and the time in which the Judicial Council approves that budget, neither counsel nor the Court is expected to suspend work on the case while waiting for Judicial Council

approval. However, counsel should be aware that the Judicial Council will review the budget and will provide ultimate approval and that no work at rates above the prescribed maximum rates can be performed without prior Judicial Council approval.

3. Rate of Compensation for Counsel Appointed Under 21 U.S.C. § 848(q). The presumptive rate of compensation for counsel appointed under 21 U.S.C. § 848(q) and 18 U.S.C. § 3006A(2)(B) is listed on Appendix 1 of this manual. This rate is reserved for those who have substantial experience and skill in federal capital habeas corpus proceedings. The rate for those with significant, but less than substantial experience handling capital habeas corpus proceedings, those who have other comparable experience, such as substantial experience with capital cases or with federal habeas corpus proceedings, and those serving as second counsel, will be compensated at an hourly rate as set forth in Appendix 1.

4. Interim Submission of Vouchers. To facilitate the Court in the processing and approval of fees and expenses, counsel appointed in cases which are not under budgeting guidelines will submit interim vouchers quarterly. Counsel will submit a CJA Form 30, "Death Penalty Proceedings: Appointment and Authority to Pay Court Appointed Counsel" for each interim period. The first interim period will conclude no later than the third full month after appointment. Thereafter, each interim voucher will reflect time and expenses incurred for each subsequent three-month period. Cases which are under the direction of a budgeting order, will comply with requirements of this manual. (See Section 1& 2).

5. Payment of Vouchers. All vouchers will be supported by itemized time and expense statements. Counsel will identify all payments previously received. Authorization will be made for payment of all approved itemized hours and all reimbursable expenses. Each interim voucher submitted will be reviewed for time claimed and type of service provided in accordance with the standards set forth below:

    a. Itemization of Hours. Billing statements must list the time expended for each discrete task, specifically describe the work performed and, if necessary, explain the relevance of the task to the federal proceeding. Time entries should relate to specific tasks and not simply list multiple tasks performed in a specified block of time. For example, work related to obtaining or reviewing documents should identify the documents or source being reviewed, as well as the time devoted to that task; legal research should identify the topic researched, the relevance to the federal proceeding and the time devoted to that task. Aggregate time blocks and time entries which are generally vague or ambiguous may not be approved for payment.

b. Internal Staff Division of Labor. There should be reasonable division of labor between counsel and other staff to avoid both duplication of effort and excessive staff conferencing. Counsel should minimize time claimed for such items as internal conferences and memos, coordination between co-counsel, and coordination between counsel and staff, such as investigators and paralegals.

c. Client Conferences. See *infra* Section IV.A.

d. Conferences with Co-Counsel. Conferences with co-counsel regarding the status of the case should not be considered billable time. For example, conferences regarding division of labor, scheduling matters and general updates on case development will not be approved for payment (unless specifically allowed by a case budgeting order regarding the initial budget review). Conferences with co-counsel regarding a substantive issue may be approved for payment if the conference was necessary to the development of that issue. Time entries reflecting a conference with co-counsel must identify the individuals involved, the topic discussed, and the relevance to the development of a substantive issue related to the federal case.

e. Attendance by Multiple Staff in Sessions with Experts, Service Providers and Witnesses. Unless prior permission is granted by the Court, no more than two (2) persons (two (2) attorneys or one (1) attorney and one (1) paralegal or investigator) will be compensated for time expended in interviews and meetings with experts, service providers and/or witnesses.

f. Attendance by Multiple Staff at Court Hearings. Except for evidentiary hearings, only one (1) counsel will be compensated for attendance at Court hearings unless otherwise allowed by the Court. Compensation will not be approved for attendance at Court hearings by additional support staff, including law clerks, paralegals, and investigators without permission from the Court.

g. Non-Reimbursable Services. Appointed counsel may not claim compensation for the following:

- Time expended in the preparation or submission of vouchers.
- Time relating to State Court proceedings, or for proceedings arising from an appeal of an order of this Court. Requests for payment in these instances should be made to the appropriate court.
- Clerical services regardless of whether the person performing those functions is an attorney, law clerk, paralegal, or secretary.

- Services of a personal nature and expenses incidental thereto, for counsel, or on behalf of the person being represented.
- Process service without prior authorization.

6. Reimbursable Expenses. Counsel may be reimbursed for out-of-pocket expenses reasonably incurred incident to the representation.

    - Certain expenses must be supported by appropriate itemization reports and receipts. See Appendix 7.
    - Courier and messenger services are discouraged unless a specific need is provided. Receipts will be required.
    - In-house copy costs may be reimbursed at a rate listed in Appendix 7.
    - Computerized research fees are considered office overhead, as are other fees for library items. All CJA panel attorneys are expected to subscribe to a flat-fee research plan and the Court should only provide reimbursement for computerized research when an explanation is provided -- e.g., that fees imposed are outside the scope of the flat fee plan or why a flat fee plan is not feasible.
    - Counsel must not incur any single expense in excess of the permitted limit without prior approval of the Court. Such approval must be obtained by filing an application stating the nature of the expense, the estimated dollar amount and the purpose the expense is necessary to the representation. See Appendix 7.

    Upon finding that the expense is reasonable, the Court will issue an order authorizing counsel to incur the expense.

7. Travel Expenses. Travel outside the immediate location of counsel for the purpose of interviewing witnesses, etc., will be considered a single item expense. Travel expenses, including mileage, meals and lodging, for a single trip which aggregate in excess of $500.00 will be considered one (1) itemized expense and will require prior approval of the Court. In all instances, counsel must seek authorization for use of the District of Idaho Government Travel Service Account for travel requiring airfare. Applications for travel must be submitted on a Request for Travel Authorization form and may be submitted to the Court by facsimile. See *infra* Section IV.D.3.

8. Rates and Pre-Approval of Associates and Paralegal. See Appendix 2 for a list of all allowable rates. Rates for all staff, whether on the appointed attorney's staff or independent, may not exceed the Judicial Council's maximum rates, unless otherwise authorized by the Court and the Judicial Council. It should be explicitly noted that attorneys and/or law firms are not to make a profit on these positions. In other words, the

Court will not authorize a higher hourly rate than the actual out-of-pocket costs, including benefits, to the firm. General overhead costs may not be included in the calculation of the hourly rate. Appointed counsel are expected to use associates, paralegals or other cost effective means to minimize costs where lead attorney expertise is not required, such as legal research and file review. Use of associates and paralegals must be pre-approved in conjunction with case budgeting or a funding request; such requests must detail the projected number of hours, the hourly rate, and the total anticipated expenditure.

9. Rates for Investigators. The maximum rate for an investigator is specified on Appendix 2. Once funding for investigative services, experts and/or other services has been approved, counsel is responsible for communicating with the service provider to ensure that services comply with specific terms of the Court order and do not exceed the amount authorized. Payments to service providers should only be authorized at the appropriate rate for the type of task performed – e.g., an investigator should only be paid at the paralegal rate for performing paralegal tasks (such as record gathering).

10. Additional Maximum Rates. Any expert testifying at a Court proceeding will receive eight (8) times the hourly rate per full day or four (4) times the hourly rate per half day, or the actual number of hours, whichever is less. Absent Court and Judicial Council approval, experts may not exceed the maximum rates.

C. Non-Capital High-Cost Cases

Other high-cost cases will be budgeted. Any representation anticipated to exceed either 300 attorney hours or total costs (attorney plus service provider fees) in excess of 300 times the prevailing CJA panel attorney non-capital hourly rate, rounded up to the nearest thousand. *See* CJA Guidelines § 230.26.10. Budget representations that meet these thresholds are encouraged to seek budgeting assistance from a circuit CBA and CJA Resource Counsel with budgeting experience. Representations that are anticipated to exceed $100,000.00 must be referred at the earliest opportunity to a circuit CMA.

Indications of a potential high-cost case are listed in Appendix 9.

1. Notice of Potential High-Cost Case

The Judicial Council encourages districts to have a local rule, or for judges to implement a standing order, identifying non-capital high-cost cases as early in the criminal process as possible. Because a district's United States Attorney's Office is most knowledgeable about a case's charges and discovery, such rule or order can direct that office to provide notice of a potential high-cost case. Districts are not precluded from requiring similar notice from defense counsel.

D. Budgeting in Stages

It may be difficult for counsel to anticipate costs early in a capital or other high-cost case. Therefore, a court should consider authorizing early on a limited amount of "seed money" to allow the defense to become familiar with the case, develop strategy, gather a team, and develop and file budgets for attorneys and service providers. The seed money authorization should provide sufficient funding for the first ninety (90) days of representation and include authorization for counsel to enlist reasonably necessary service providers, such as an investigator, paralegal, or mitigation specialist. The seed money is part of the overall budget and not money in addition to the budget; therefore, the seed money should be included in the Stage 1 budget.

E. Voucher Review in budgeted cases

The Court or its delegee will review proposed budgets to assess whether amounts billed are reasonable, appropriate, and necessary to provide fair compensation.

F. Budget Supplements

Counsel is responsible for keeping track of attorney hours and all CJA-funded service provider hours. Counsel, investigators, experts, and other service providers must not exceed the budget authorized by a Court without first seeking prior approval. Supplemental budget requests will be made before funding is exhausted and far enough in advance to give the Court sufficient time to review and rule on the request. *Nunc pro tunc* requests will be considered only upon a showing of good cause, such as when a task not previously contemplated required immediate action. A general assertion of "competing professional demands" does not establish good cause; a detailed explanation of those demands is required.

IV. Counsel Appointment and Compensation

A. Geographic Proximity

CJA panel appointments are made pursuant to the roster from the three (3) divisions within the District. In cases where more than one attorney is appointed, the counsel nearest the client should conduct most of the client visits unless the counsel farthest from the client possesses a certain expertise or working relationship with the client that warrants otherwise. Counsel not in close geographic proximity to the client should coordinate client visits with Court hearings whenever feasible.

B. Hourly Rates for Appointed Counsel

1. Death-Eligible Prosecutions

At the outset of any proceeding in which a financially eligible defendant is or may be charged with a crime punishable by death, the Court will appoint two counsel, at least one (1) of whom is learned in the law applicable to capital cases. 18 U.S.C. § 3005. The Court will consider

the recommendation of the federal defender organization before appointing counsel. The maximum hourly rate in death-eligible prosecutions is set forth in Appendix 1.

Pursuant to CJA Guidelines § 630.30, if the prosecution files notice that the death penalty will not be sought in a case in which a defendant was charged with a death-eligible offense, the Court will consider reducing the number of counsel and reducing prospectively the hourly compensation rate for remaining counsel, absent extenuating circumstances. Extenuating circumstances include those cases where the prosecution waits until weeks before trial to decertify death or the defense has reasonably allocated trial duties among counsel well into the case such that it would negatively impact the representation to dismiss one (1) counsel.

If the Court reduces the number of counsel, it will authorize a sufficient number of hours to allow for an orderly transition of the defense team. This includes allowing departing counsel and the mitigation investigator or specialist time to draft transmittal memoranda and meet with remaining counsel and client. Typically, twenty (20) hours should be adequate for this purpose.

2. Capital Habeas Corpus Proceedings

The hourly rate range for CJA-appointed attorneys in capital habeas cases is listed in Appendix 1. The maximum rate is reserved for lead counsel who have substantial experience and skill in federal capital habeas corpus proceedings. All other counsel must be compensated at a rate that takes into account the attorney=s experience and skill. Two (2) lead counsel may be appointed at the maximum hourly rate. *See infra* Section IV.F regarding division of labor in cases with more than one (1) appointed attorney.

3. Non-Capital Representations

The current maximum hourly rate for CJA attorneys is set forth in Appendix 1. In most cases, only one CJA-compensated attorney is authorized for each client representation. However, the Court has the discretion to appoint co-counsel in the interest of justice.

C. CJA Appointment of Retained Counsel

The Court has the discretion under the CJA, 18 U.S.C. § 3006A(c), to authorize appointment and payment for an attorney retained by a person who later becomes financially unable to pay for representation. The Court will inquire into the fees already paid to the retained attorney. Such inquiry may include requiring counsel to provide copies of the retainer agreement, billing statements, and a statement of funds actually received from or on behalf of the client.

D. Compensable and Non-Compensable Services

1. Budgeting and Voucher Preparation

Time spent preparing a CJA 20 (attorney payment voucher in non-capital case) or CJA 30 (attorney payment voucher in capital case) is not compensable. Time spent reviewing and certifying expert and service provider vouchers as required by the CJA Guidelines is compensable. Additionally, time spent preparing a budget for the Court is compensable because it requires counsel to plan for litigation by preliminarily reviewing records, sorting through discovery, initiating contact with experts and other service providers, and assessing overall case needs.

2. Travel Arrangements

Time spent making travel arrangements, whether undertaken by an attorney, paralegal, or other staff member, is not compensable. Time spent preparing a request for travel authorization from the Court is compensable.

3. Travel

Travel and out-of-pocket expenses are not included in the statutory maximums. All expenses claimed which are $75.00 or over, must be accompanied by receipts. Compensation may be approved for time spent in necessary and reasonable travel. Such compensation is at a rate not to exceed the rate provided in Subsection (d) of the Act for "time reasonably expended out-of-Court."

a. Mileage Claims Mileage may be claimed for use of privately-owned vehicle. This is similar to the rate claimed by government employees and is subject to change. Please check the GSA's guidelines for privately owned vehicles mileage reimbursement rates. Mileage should be itemized by listing the following:

- particular locations traveled to;
- number of miles traveled on each date; and
- date of each travel event

Accordingly, expenses incurred for meals and lodging may be claimed when travel is required for *an overnight stay away from home*. Though per diem in lieu of subsistence is not allowable, travelers should be guided by the prevailing limitations existing in the Federal Judiciary Travel Regulations. Please visit the GSA's website for per diem rates for the traveler's place of destination prior to travel. The Court in this District requires advance authorization for counsel's expenses and travel which would be in excess of that which is ordinary and prudent.

b. Government Travel Account **CJA** attorneys and experts are authorized to obtain government travel rates when providing representation under the Criminal Justice Act. Attorneys and experts wishing to travel on the Government Travel Account ("GTA") should use the following procedures:

- Counsel will submit to the Clerk's Office a Request for a Travel Authorization.
- A Travel Authorization will be issued by the Court and sent to the traveler and the authorized government travel agency.
- The Travel Authorization is an official government document and should enable the traveler to obtain government rates at hotels as well.
- After the authorization has been obtained, the attorney/expert will call the authorized government travel agency at its toll-free number indicated in the Travel Authorization to make reservations
- The airline tickets will be paid by the Court.
- Payment of hotel costs are not charged to the GTA account but are paid by the traveler and reimbursed on the CJA voucher.
- Travel Authorization in appellate cases must be arranged by the circuit clerk's office

4. Administrative Work Related to Notices of Electronic Filing

Because it is a clerical function, counsel should not charge for downloading, reviewing, renaming, saving, printing, or forwarding a Notice of Electronic Filing ("NEF"), unless the NEF is a text-only entry unaccompanied by an Electronic Court Filing ("ECF") document. Counsel may bill for reading substantive ECF documents attached to a NEF, but should aggregate time spent during the day and ensure that double billing of time does not occur. An example of how to bill time for aggregated ECF review is in Appendix 6.

5. Discovery Organization and Review

For cases with complex or voluminous discovery, the Court and attorney(s) should confer with a circuit CBA or the National Litigation Support Team ("NLST") in the Defender Services Office (*see* Appendix 10). In any case where counsel is contracting for discovery-related services in excess of $10,000.00 or seeking to purchase computer hardware or software in excess of $800.00, counsel must confer with the CBA or the NLST. *See* CJA Guidelines § 320.70.40(a)(2).

While computer hardware or software is being used by counsel, information contained on the hardware or software may be confidential

work product and may also be protected by attorney-client privilege. Upon the completion of the case, the computer hardware and software must be returned in good condition, after all case-related materials have been removed, to a federal defender organization designated by the Office of Defender Services. Unless otherwise required by the Court or law, counsel will retain copies, electronic or otherwise, of the case-related materials for the client's file.

In budgeted cases, at the onset of the case, counsel will present a preliminary budget detailing an efficient and cost-effective method to process, distribute, and organize discovery. This may include the use of an eDiscovery vendor or case management software and use of paralegals and investigators. If the Court appoints consultants or attorneys skilled in electronic discovery to assist appointed counsel in developing a budget and discovery plan, the time associated with preparing the budget is compensable and should be included in the budget. Counsel in multi-defendant cases must make every effort to collaborate and share discovery organization resources.

Counsel should review *Recommendations for Electronically Stored Information (ESI) Discovery Production in Federal Criminal Cases*, available on www.fd.org, as well as *Criminal e-Discovery: A Pocket Guide for Judges*, available on www.fjc.gov. Parties are encouraged to meet and confer about the nature, volume, and mechanics of producing electronic discovery.

6. Discovery Motions

Counsel will attempt to resolve discovery issues informally through conferences with opposing counsel. Except as to third-party discovery, counsel will not file formal discovery motions without first meeting and conferring with opposing counsel.

7. Record Review in Capital Habeas Cases

For purposes of developing a budget, the presumptive rate of review for the state record and other documents is sixty (60) pages an hour. All appointed counsel will review core materials and divide review of non-core materials between them. Core materials include the trial transcript from opening statements to verdict, substantial motions, state appellate briefs and decisions, and state post-conviction pleadings, exhibits, transcripts, and decisions. Non-core materials include prior counsel's case files, co-defendant files, and investigative reports.

To reduce extraordinary expenses associated with record review of cases with voluminous documents, a two-stage approach should be employed for review of non-core materials. Use of a paralegal is strongly encouraged.

Stage One

In the first stage, the Court approves a modest amount (*e.g.*, 40-60 hours) for the attorney or paralegal to assess the available materials and prepare an inventory or index, including a general description of each box. For example: Box 1, Source – Trial Attorney; Contents – 4 redwell folders labeled "police reports." Original documents that have potential use as exhibits should be preserved and copies made as needed for the paralegal or attorney to use during substantive review.

Stage Two

In the second stage, counsel should know the types and volume of documents that need careful review (*e.g.*, police reports with handwritten notes) and those that may need less detailed attention (*e.g.*, the second or third copy of a transcript). Accordingly, counsel should be in a position to prepare a detailed, accurate budget proposal for review of the core and non-core materials.

The budget may include time for preliminary review and organization of materials by a paralegal prior to attorney review. For example, a paralegal could organize all state pleadings in notebooks, prepare separate notebooks on witnesses, put police reports into chronological order or into witness notebooks, summarize transcripts or other materials, and prepare an exhaustion/default chart identifying each claim raised in state court on appeal or in a post-conviction proceeding.

8. Certificate of Appealability Briefing in Capital Habeas Cases

Consistent with Rule 11 of the Rules Governing § 2254 Cases (effective Dec. 1, 2009), the Courts will issue or deny a Certificate of Appealability ("COA") when entering a final order adverse to the petitioner. Briefing on entitlement to a COA will be authorized only if the Court concludes that it cannot rule without additional argument from the parties.

The Court will indicate whether a COA will be granted when ruling on a specific claim in a non-final order and then at the very end of the final dispositive order identify, by claim number, any and all claims for which a COA is granted. For example: "A COA is granted as to Claims __, __, and __. A COA is denied as to all other claims. *See* 28 U.S.C. § 2253(c); *Miller-El v. Cockrell*, 537 U.S. 322, 338 (2003); *Slack v. McDaniel*, 529 U.S. 478, 484 (2000)."

9. Transferring Case to Appellate Counsel

Time spent transferring a case to appellate counsel, including meeting with appellate counsel and reviewing the file, is compensable.

10. Ancillary Matters

Representation in an ancillary matter is compensable as part of the representation in the principal matter for which counsel has been appointed and is not considered a separate appointment for which a separate compensation maximum would be applicable under § 230.23.10(g). The Court may consider requests for appointment of CJA counsel for purposes of filing a motion for early termination of supervised release where counsel shows the defendant is still unable to pay for representation.

E. Non-Appointed Attorneys

1. Prior Authorization

Pursuant to CJA Guidelines § 230.53.20(b) (non-capital) and § 620.10 (capital), CJA panel attorneys may utilize the services of attorneys who are members of appointed counsel's firm. However, prior approval is required in all capital cases and in some districts in non-capital cases. Counsel must consult with the District's CJA Resource Counsel regarding its authorization procedures before using members of appointed counsel's firm.

In all cases, prior authorization is required to utilize contract attorneys who are not members of appointed counsel's firm.

2. Hourly Rate in Non-Capital Cases

For associates, an experience-based hourly rate range is listed in Appendix 1. For non-appointed attorneys who are members of the District's CJA panel, the Court may authorize up to the maximum non-capital CJA hourly rate.

3. Billing

The services of non-appointed counsel may not be billed as an expense of appointed CJA counsel, even if the attorney is an employee of appointed CJA counsel's firm. Counsel are required to use separate CJA voucher forms 20 and 30 to bill those services. Such vouchers must be submitted at the same time as appointed CJA counsel for the same billing period.

4. Expectations

Appointed counsel is expected to do all substantive work, including in-court hearings, pre-trial and probation interviews, and plea negotiations.

Non-appointed attorneys may be compensated for reasonable time conferring with appointed counsel. Where a non-appointed attorney appears in Court with appointed CJA counsel, prior approval of

the Court should be sought to allow the Court to rule on the necessity of the non-appointed attorney's participation.

F. Division of Labor

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

Counsel will develop a plan to divide responsibilities among defense team members so that each team member is performing duties effectively and efficiently, thereby avoiding unnecessary duplication of effort. While meetings are needed to effectively divide responsibilities among team members and to coordinate efforts, counsel should also avoid unnecessary conferences among multiple attorneys, and between counsel and defense team members. In-person team meetings are compensable if the frequency and time billed are reasonable given the needs of a case, but counsel should always assess the need for a meeting in advance and consider whether the purpose of the meeting could be served equally by a team conference call.

Initial fact-gathering interviews of potential witnesses generally should be conducted by an investigator or mitigation specialist. After key witnesses are identified, usually only one attorney along with an investigator or mitigation specialist should conduct interviews.

Support staff—including law clerks, paralegals, associates, and investigators—will not be compensated for attendance at Court hearings without prior Court approval. However, the Court may consider authorizing one or more such staff to assist appointed counsel during trial or an evidentiary hearing, especially in capital cases and cases involving voluminous discovery, trial exhibits, or witnesses.

V. Investigative, Expert, and Other Service Providers

A. Prior Authorization

1. District Court

Pursuant to 18 U.S.C. § 3006A(e)(2), prior authorization from the District Court must be obtained for any service provider fees in excess of $1000.00 per case, *not* per service provider.

To avoid the necessity of counsel having to expend time in numerous cases each year applying for permission to exceed the $1000 total case maximum, the District Court has adopted a General Order authorizing counsel to utilize the services of investigators, paralegals, and interpreters up to a Court-determined amount not in excess of the statutory maximum for each provider type (*see* Appendix 4).

Except as authorized by the Court's General Order, claims for service provider compensation exceeding $1000.00 without prior

authorization will be approved only if the Court finds, in the interest of justice, that timely procurement of necessary services could not await prior authorization. Every effort should be made to avoid *nunc pro tunc* applications.

When seeking prior approval, counsel must indicate the necessity for the service, the hourly rate charged by the provider, and the estimated number of hours to complete the work.

If counsel obtains prior approval for expert, investigative, or other services and it later becomes apparent that the cost will exceed the initial approved amount, requests for additional compensation should be requested by counsel and authorized by the Court *before* any further service is provided. *Nunc pro tunc* requests will be considered only upon a showing of good cause, such as when a task not previously contemplated required immediate action.

Once funding for investigators, experts or other specialized services has been approved, counsel is responsible for communicating with the service provider to ensure compliance with specific terms of the Court order and to ensure that charges do not exceed the amount authorized.

2. Circuit Reviewing Judge

In non-capital cases, service provider fees, excluding expenses, may not exceed the statutory maximum *per individual or organization* unless the excess fees are certified by the Court as necessary to provide fair compensation for services of an unusual character or duration and approved by the Chief Judge of the Ninth Circuit or the Chief Judge's delegate.

In capital cases, the statutory maximum applies to the total payments for all ancillary services in a case, not to each service individually. Payments in excess of the statutory maximum must be approved by the Chief Judge of the Ninth Circuit or the Chief Judge's delegate.

Statutory maximums are set forth in Appendix 5.

Absent a showing that procurement of necessary services could not await prior authorization, circuit approval to exceed the statutory maximum must be authorized *before* the work is performed.

B. Engaging Relatives

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

C. Geographic Proximity

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

D. Presumptive Rates

Counsel are expected to negotiate reasonable hourly rates with service providers. The current hourly rate ranges for paralegals, investigators, support staff, and other categories of experts are listed in Appendix 2.

The Court or its delegee may approve a rate in excess of the presumptive maximum in Appendix 2 only for good cause. Factors that may be considered in determining the existence of good cause include the uniqueness of the service or the service provider; the education, training, or specialization of the service provider; the lack of availability of this or similar service providers; complexity of the case; and any time limitations on the case that may affect how quickly the service needs to be completed.

For service providers who are employees of appointed counsel or counsel's firm, such as an in-house paralegal, the hourly rate must not exceed the lesser of the maximum rate listed in Appendix 2 or the rate typically charged by counsel to a fee-paying client for such services.

Payments to service providers should be authorized only at the appropriate rate for the type of task performed. For example, a paralegal or investigator could gather and organize records to be provided to an expert rather than paying the expert to perform that function. If the service provider performs a function such as gathering records, such tasks should be compensated at the appropriate lower rate.

Any service providers testifying at a Court proceeding must be paid for the actual number of hours they are in attendance at Court, plus their travel time and expenses. Counsel are encouraged to negotiate lower or flat travel rates for out-of-district service providers.

E. Travel Time

Service providers must be compensated for travel time and expenses reasonably incurred. However, advance approval by the Court is ordinarily required in two circumstances: (1) out-of-district travel, and (2) overnight travel. Counsel should consult with the District's CJA Resource Counsel regarding its travel authorization procedures for service providers. See *supra* Section IV.D.3.

Counsel are encouraged to negotiate with service providers, especially higher-cost specialists, for lower hourly rates for travel time. If the service provider bills travel at a reduced rate, time spent performing case-related work while traveling is not "travel time" and should be compensated at the full (*i.e.*, not reduced) hourly rate. Case-related work is work relevant to the

responsibilities or duties assigned to the expert or service provider by appointed counsel.

F. Interpreters and Translators

The Clerk of Court maintains a local roster of certified, professionally qualified and language skilled interpreters and will provide assistance to parties in locating available interpreters. Interpreters for all criminal Court hearings are provided by the Court and payment is made by the Clerk's Office. The Interpreter is appointed to the case by the presiding judicial officer as required by 28 U.S.C. §1827(d)(1), and unless good cause is shown, should handle all required interpreting services in that case.

Interpreters used while taking material witness depositions are scheduled by the United States Attorney and payment is made by the Department of Justice. Interpreters required by Court-appointed counsel when conversing with their clients, witnesses, etc. are arranged by the attorney and billing is submitted on a CJA Form 21 voucher to the Clerk's Office for payment.

The translation of documents should be billed by the English word at the rate set forth in Appendix 2.

Interpreters are an integral and valued part of effectively representing financially-eligible defendants. Every effort should be made to avoid less than twenty-four (24) hours' notice of a cancelled interpreter appointment. Should that occur, the interpreter can bill the Clerk's Office for any actual out-of-pocket expenses and for the time required to get to and from the appointment.

G. Attorney Payment of Service Provider Fees

Payment of service provider fees and expenses must be made on CJA Form 21 (payment voucher for service provider in non-capital case) or Form 31 (payment voucher for service provider in capital case). Counsel must not pay service providers directly and then seek reimbursement from CJA.

H. Engagement Letters

Counsel should use written engagement letters for experts or other specialized services setting forth the details of their engagement, including the hourly rate, the maximum number of authorized hours or compensation amount, and the requirement of contemporaneous time recordkeeping.

For service providers being shared by multiple defendants in one case, the engagement letter should identify all the defendants' attorneys and not just the liaison attorney. In addition, the Court's CJA administrator should be notified if a liaison attorney withdraws from the case.

Retained counsel should also use written engagement letters when they seek to use CJA funds to engage service providers.

Counsel should note that engagement letters are potentially discoverable. Sample engagement letter language is included in Appendix 3.

VI. AUTHORIZATION AND BILLING PROCEDURES

A. Request For Fees in Excess of the Statutory Maximum

The District Court uses a Request for Excess Compensation (REC) Form for approval of attorney fees in cases that exceed the statutory maximum. To aid circuit review of this request, counsel should supply detailed information in the REC Form to justify the request.

B. Preauthorization of Service Provider Fees

The Court uses the eVoucher (AUTH) form to request preauthorization of fees for any individual service provider type expected to exceed the statutory maximum. To aid circuit review of a preauthorization request, counsel or the Court will attach relevant documents to the voucher in eVoucher such as any motion, supporting declaration, Court order, budget documents, or internal Court memoranda concerning the request.

C. Use of Interim Vouchers

Where it is considered necessary and appropriate in a specific case, the presiding trial judge may arrange for periodic or interim payments to an individual whose services are obtained pursuant to subsection (e) of the Act. The interim payment option is designed to strike a balance between the interest in relieving CJA attorneys of financial hardships *in extended and complex cases*, and the practical application of the statutorily imposed responsibility of the judges.

Appointed counsel may petition the Court for payment of interim vouchers through the CJA eVoucher program detailing the need for interim payments."

In the District of Idaho, interim periods typically are no less than two months beginning at the first of the month of the initial appointment and continuing thereafter. Pursuant to **General Order #256** (August 2011), interim CJA 20 vouchers must not be submitted to the Court for payment if the combination of hours and expenses does not exceed $2,000.00, unless it is a final payment.

D. Submission of Interim Vouchers for Circuit Review

1. Fees in Excess of Statutory Maximum

For cases in which the circuit reviewing judge has approved a budget or budget supplement prepared with the circuit CBA or service provider fees (AUTH), only the final payment voucher will be submitted for review and approval by the circuit reviewing judge. Interim vouchers that do not exceed the preauthorized case maximum should not be sent to the circuit for review, unless otherwise directed by the circuit reviewing judge.

2. Fees Not Preauthorized

For cases in which the circuit reviewing judge has *not* approved a preauthorization request to exceed the case compensation maximum for attorney fees, the Courts will submit all interim payment vouchers to the circuit for review once the statutory maximum is exceeded. To aid circuit review, counsel or the Court must attach relevant supporting documents such as a ***CJA Form 26 or similar form that provides justification for the excess costs.

Circuit policy requires preauthorization of service provider fees in excess of statutory maximum. In the rare instance preauthorization is not feasible, counsel or the Court will attach relevant supporting justification documents to the voucher to aid circuit review.

E. Timesheets and Recordkeeping

1. Specificity in Timesheets

Actual time billing must be in tenths of an hour. Each entry in counsel's eVoucher timesheet must reflect discrete individual tasks and should not be bundled, especially tasks billable to different voucher categories. For example, if in one (1) day counsel spent two (2) hours conducting research, three (3) hours reviewing discovery, thirty (30) minutes on phone calls, and one (1) hour drafting correspondence, counsel must create four (4) separate entries in eVoucher for that day, with each task corresponding to its appropriate category. This requirement also applies to all service providers, including interpreters.

Information must be provided in detail sufficient to permit meaningful review, without violating the canons of ethics or disclosing client confidences, so that reviewers may determine that the amount sought in the voucher provides fair compensation for the services rendered. In particular:

- Describe witness interviews with sufficient information to distinguish between individuals (*e.g.*, "Witness 1" or "W1" or "Witness A.K.");
- Identify the person(s) involved in telephone conversations or conferences and general topic of discussion (using descriptors or initials where confidentiality is needed);
- Generally, describe any issue being researched; and
- When preparing or reviewing a Court filing, identify the document by name or ECF number.

Appendix 6 contains further guidance regarding specificity for timesheets. In addition, counsel should consult with the district's CJA staff regarding the level of specificity required in the supporting documentation.

2. Record and Discovery Review

Counsel should indicate bates stamp ranges or the total number of pages reviewed for all record or discovery review billing entries. Such entries should also indicate the nature of the material reviewed (*e.g.*, transcripts, investigative reports, medical records, etc.).

3. Aggregate Time

Multiple tasks in one (1) day of less than 0.1 hour (six (6) minutes) each (*e.g.*, reviewing ECF documents, reviewing and sending brief emails, leaving phone messages) must be quantified together at no more than the total actual time expended on all tasks. *See* Appendix 6 for an example.

4. Excess Hours in One Day

If billing more than twelve (12) hours in a single day when not in trial, counsel must ensure that sufficient justification is provided to explain the necessity for the excessive time. Without such justification, the voucher may be rejected back to counsel with a request to provide additional information.

5. Expenses

Attorneys will abide by the expense policies set forth in Appendix 7.

6. Records

Appointed counsel must maintain contemporaneous time and attendance records for all work performed, including work performed by associates, partners, contract lawyers, and support staff, as well as expense records. In the absence of a district-specific policy defining "contemporaneous time and attendance records," information entered into eVoucher timesheets satisfies counsel's recordkeeping requirement, provided the information is entered as soon as is feasible after performing the work described or is entered based upon contemporaneous notes. Written records may be subject to audit and must be retained for at least three (3) years after approval of the final voucher for any appointment. *See* CJA Guidelines § 230.76.

Counsel will advise all investigative, expert, and other service providers that they must 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 maintained for at least three (3) years after approval of the service provider's or appointed counsel's final voucher, whichever is later. *See* CJA Guidelines § 320.90.

F. Deadline for Voucher Submission

Final vouchers should be submitted to the Clerk's Office in Boise no later than forty-five (45) days after the filing of the judgment and commitment order or other disposition, absent good cause. *See* CJA Guideline § 230.13. The District may extend this period up to a maximum of ninety (90) days. Counsel

should make every effort to submit all outstanding vouchers in a case at the same time and is responsible for advising service providers of this voucher submission requirement.

G. Voucher Review

Vouchers are reviewed for technical compliance with the CJA Guidelines, these policies, and any policies adopted by the District Court.

The reasonableness of a claim is determined by the judge presiding over the matter (or designee) and, if the voucher exceeds the statutory maximum, the Chief Judge of the Ninth Circuit or the Chief Judge's delegate.

Pursuant to CJA Guidelines § 230.13 and § 310.70, absent extraordinary circumstances, Courts should act upon compensation claims within thirty (30) days of submission.

H. Voucher Reduction Procedures

Prior to the reduction of any voucher, other than for technical errors or non-compliance with billing guidelines, the CJA panel attorney must receive notice and a brief statement of the reason for the proposed reduction. The CJA attorney will then be allowed a reasonable opportunity to address the matter to the Court.

Any request for reconsideration by a panel attorney should be submitted within ten (10) days of notification of the proposed reduction unless good cause is shown. A decision on the reconsideration request must be communicated to the CJA panel attorney.

VII. APPENDIX 1 – ATTORNEY HOURLY RATES

For services performed by appointed counsel on or after January 1, 2026:[1]		
A. Capital-Eligible Prosecutions		
	Learned Counsel	$226
	Co-Counsel	$226
	Associate Counsel[2]	$95 – $125
B. Capital Habeas Cases		
	Lead Counsel[3]	$226
	Co-Counsel (other than co-lead)	$226
	Associate Counsel	$95 – $125
C. Non-Capital Cases		
	Lead Counsel	$177
	Co-Counsel	$177
	Associate Counsel	$85-120

[1] Consult CJA Guidelines § 230.16 and § 630.10.10 for the maximum hourly rates paid to capital and non-capital counsel for services performed prior to January 1, 2026.

[2] The hourly rate authorized for associate counsel in both capital and non-capital cases should be based on years of experience as a licensed attorney.

[3] The maximum rate is reserved for lead counsel who have substantial experience and skill in federal capital habeas corpus proceedings.

VIII. Appendix 2 – Service Provider Hourly Rates

Paralegal[1]	$70 - $80
Law Student	$30 - $45
Investigator[2]	$90 - $105
Legal Analyst/Consultant	$75 – $100
Strickland Expert	$125
Mitigation Specialist	$90 -$105 ($55 for record collection)
Attorney Expert – Capital Case	CJA Hourly Rate
Attorney Expert – Non-Capital Case	CJA Hourly Rate
Litigation Support Expert	$65 – $129
Psychiatrist (M.D.)	$300 - $425
Neurologist (M.D.)	$300 - $425
Other Medically-licensed Expert (M.D. or D.O.)	$300 - $425
Neuropsychologist (with Ph.D.)	$300 - $400
Psychologist (with Ph.D.)	$200 - $325
Accountant	$150 – $325
Audio, Video, or Photo Analyst	$125 - $200
Ballistics/Firearms Expert	$150 – $325
Chemist/Toxicologist	$150 - $325
DNA	$150 – $325
Fingerprint Analyst	$150 - $250
Forensic Computer/Cellphone Analyst	$175 - $300
Gang Expert	$150 - $200
Other Forensic Experts	$200
Handwriting Analyst	$100 – $250
Jury Consultant	$150 – $225

[1] The policy contemplates that paralegals appointed at the maximum hourly rate possess foreign language skills, discovery database management expertise, or subjective coding experience in at least two prior federal cases or complex civil litigation.

[2] The policy contemplates that investigators authorized at the maximum hourly rate have foreign language skills, a high level of investigative expertise in the type of crime alleged, special skills the case requires, or experience conducting investigations in a significant number of federal cases.

Interpreter	$60 – Language Skilled $80 – Professionally Qualified $100 – Federally Certified (1 Hour Minimum)
Document Translation[3]	$165 per $1,000 words for general material $170 per $1,000 words for semi-technical material $185 per $1,000 words for technical material

[3] Rate based on those prescribed by the United States Department of State, Office of Language Services, Translation Division. For small documents of 400 words or less, the standard hourly rate of compensation for interpreter services, $100.00 per hour for certified and $60.00 per hour for non-certified, will apply. If document translation services will exceed the statutory limitation for services without prior court approval, the CJA counsel must file an application requesting court authorization of the document translation services. Since the language of the Courts is English, translations of documents will be in English. If a non-English-speaking defendant needs to be advised of the content of an English language document, this should be done by means of sight translation

IX. APPENDIX 3 – SAMPLE ENGAGEMENT LETTER

Sample Engagement Letter: Contents of Financial Arrangements

Case Name: _____

Case Number: _____

The engagement of your services for this case is subject to the following:

1) You will be compensated at a rate of $_____ per hour for services and $_____ per hour for travel time. The maximum payment amount authorized by the Court as of this date for your services is $_____, excluding properly documented reimbursable expenses.

2) A CJA Form 21 (non-capital) or 31 (capital) will be created for you in the Court's electronic voucher system which either you or I will complete and submit. Instructions on how to use the eVoucher system will be provided to you.

3) It is my responsibility as counsel to certify to the Court that the services were rendered. Payment for your services is subject to approval by the presiding judge (or CJA Supervising Attorney) and, in certain circumstances, the Chief Judge of the Ninth Circuit (or the Chief Judge's delegate). Approved payments are made by the Department of the Treasury out of the federal judiciary's Defender Services account, **not by me or my law firm**.

4) The presiding judge (and the Chief Judge of the Ninth Circuit or the Chief Judge's delegate, if applicable) has discretion to reduce a voucher. Specific reasons include: (a) a mathematical error; (b) non-compliance with circuit policy, district Court policies or the Guidelines for Administering the CJA and Related Statutes (CJA Guidelines), *Guide to Judiciary Policy*, Volume 7, Part A, or (c) a determination that the services claimed are unreasonable either in terms of the work performed or the amount of time and expenses submitted. Accordingly, this Engagement Letter is not a guarantee of payment for all services rendered or expenses incurred.

5) **Do not perform services or incur expenses that would result in an invoice in excess of the maximum payment amount authorized by the Court** (as set forth in paragraph 1). Doing so creates a risk that the Court will not authorize the payment for the work done or expenses incurred in excess of the maximum authorized amount, even if the services performed or expenses incurred are necessary. You must advise me **before** you exceed the Court's maximum authorized payment amount, and if I determine such additional work and/or expenses are necessary for the representation, I will seek approval

from the Court for a new maximum authorization level, before such work is performed or expenses incurred.

6) Travel expenses will be reimbursed on the basis of actual expenses incurred. Please consult with me regarding the maximum reimbursement amounts for travel expenses. Airline travel must be authorized by the Court by my application. If airline travel is authorized, I will provide guidance to you regarding the purchase of a ticket.

7) Record Keeping – Consistent with CJA Guidelines § 320.90, you are required to maintain contemporaneous time and attendance records for all work/services billed, as well as expense records. These records should be attached to your CJA eVoucher that is submitted for payment. Any separate time and attendance records must be retained for three years after approval of the appointed counsel's or the service provider's final voucher, whichever is later.

8) Unless otherwise authorized by the Court, a voucher for services performed and expenses incurred for the representation should be submitted at the conclusion of your services. While the Court attempts to process invoices as quickly as possible, there may be delays in payment due to workload and other factors.

9) Scope of Work – You are authorized to do the following work:

_____

_____

_____

_____

_____

_____

_____

_____

Accepted by: _____

Date: _____

X. APPENDIX 4 – RESERVED FOR NEW GO

XI. APPENDIX 5 – STATUTORY MAXIMUMS

A. Attorney Case Compensation Maximums

For representations in which work is performed on or after January 1, 2026:	
Felony	$13,800 for trial court level $9,800 for appeal
Misdemeanors	$3,900 for trial court level $9,800 for appeal
Non-capital post-conviction proceedings under 28 U.S.C. § 2241, § 2254, or § 2255	$13,800 for trial court level $9,8000 for appeal

B. SERVICE PROVIDER NO PRIOR AUTHORIZATION LIMIT

For representations in which services are performed on or after January 1, 2024:

All cases $1,000 (all services)

C Service Provider Case Compensation Maximums

For representations in which services are performed on or after January 1, 2024:	
Non-capital cases	$3,000 (per individual authorization, exclusive of expenses reasonably incurred)
Capital cases	$7,500 (applicable to total payments for investigative, expert, and other services in a case, not to each service individually)

XII. APPENDIX 6 – SPECIFICITY IN TIMESHEETS

PROPER CLASSIFICATION OF SERVICES (NO BUNDLING):

Do this…

Date	Service	Time	Description
4/5/16	Interviews and Conferences	1.6	Met with AUSA (.4); phone call with client (.4); met with client at jail (.8)
4/5/16	Obtain/Review Rcds	3.2	Reviewed 302s re: Count 1 (Bates Nos. 001-225)
4/5/16	Legal Research	1.5	Legal research for motion to suppress

Not this…

Date	Service	Time	Description
4/5/16	Interviews and Conferences	4.1	Met with AUSA (.4); phone call with client (.8); reviewed 200 pages of wiretap transcripts (Bates Nos. 220-420) (1.0); met with client at jail (.4); legal research for motion to suppress (1.5)

DETAILED TASK DESCRIPTIONS:

Do this…

Date	Service	Time	Description
4/5/16	Travel Time	1.0	Traveled by private car to locate and meet with two possible eye-witnesses (W1 and W2) in Fresno, CA (includes travel to and within Fresno to two separate residences)
4/5/16	Interviews and Conferences	1.6	Interviewed two possible eye-witnesses (W1 and W2) in Fresno, CA, at their separate residences
4/8/16	Obtain/Review Rcds	1.5	Reviewed 200 pages of wiretap transcripts (Bates Nos. 220-420)
4/17/16	Legal Research	5.2	Researched whether the search of client's car without a warrant was unlawful; drafted motion to suppress (Doc. 112)
4/20/16	Obtain/Review Rcds	2.0	Reviewed cell site data, take notes, and draft timeline. Approx 150 pages of cell site discovery (no bates numbers).

Not this…

Date	Service	Time	Description
4/5/16	Travel Time	1.0	Travel to Fresno, CA
4/5/16	Interviews and Conferences	1.6	Witness interviews
4/8/16	Obtain/Review Rcds	1.5	Reviewed discovery
4/17/16	Legal Research	5.2	Legal research and writing
4/20/16	Obtain/Review Rcds	2.0	Reviewed discovery

AGGREGATE ECF DOCUMENT REVIEW:

Do this…

Date	Service	Time	Description
4/5/16	Obtain/Review Rcds	.3	Reviewed multiple ECF filings (Doc. 2-9)

Not This….

Date	Service	Time	Description
4/5/16	Obtain/Review Rcds	.1	ECF document review
4/5/16	Obtain/Review Rcds	.1	ECF document review
4/5/16	Obtain/Review Rcds	.1	ECF document review
4/5/16	Obtain/Review Rcds	.1	ECF document review
4/5/16	Obtain/Review Rcds	.1	ECF document review

XIII. APPENDIX 7 – EXPENSE POLICIES

- Prior approval of the presiding judicial officer or delegee is required for any non-travel, case-related expense in excess of $800.

- All expenses in excess of $75.00 must be supported by appropriate itemization reports and receipts.

- The use of couriers, messengers, and other premium delivery services such as Express Mail, Federal Express, and United Parcel Service, is discouraged unless there is a genuine necessity for this service or unless the cost of the premium service does not exceed United States Postal Service express mail rates. Explanations and receipts for all such services are required.

- In-house copying is strongly encouraged and is reimbursable at a rate not to exceed fifteen cents ($0.15) per page. If in-house duplication is neither feasible nor cost effective, counsel are expected to negotiate the lowest rate possible from an outside vendor. Counsel should utilize the special rates made available to the U.S. Courts by contract (see Appendix 10).

- Counsel should use the most fiscally responsible method for discovery duplication. In some instances, this will require coordination among co-counsel, a "meet and confer" with the AUSA, and potential use of an outside vendor.

- The cost of use by appointed counsel of computer-assisted legal research (*e.g.*, Westlaw) may be allowed as a reimbursable out-of-pocket expense, provided the research pertains to the case and the amount claimed is reasonable and properly documented.

- General office overhead expenses are not reimbursable, including, but not limited to, flat-fee computerized research plans unless itemized by client, land and cellular telephone maintenance fees, books and publications, office supplies and equipment, and all costs related to educational seminars.

- Transcript requests must be submitted on CJA Form 24. Except during trial, expedited or daily copy is discouraged. Any requests for expedited or daily copy must be justified and pre-approved by the Court.

XIV. APPENDIX 8 – SAMPLE FEE PEER REVIEW COMMITTEE PROCEDURES

CJA Fee Review Committee

I. Purpose

The court, through its CJA Committee, has established a CJA Fee Review Committee (FRC) to investigate and review vouchers submitted by appointed counsel and service providers for payment of fees and expenses. The purpose of the FRC is to assist the court in ensuring compliance with mandated billing guidelines and accurate record keeping; to assess the reasonableness of vouchers or individual time entries; and to provide due process and ensure fairness in voucher review.

II. Initiation of Review

Attorney and service provider vouchers will be reviewed by the CJA Fee Review Committee in any of the following circumstances:

A. Upon request by the court for review of a specific voucher or series of vouchers;
B. Upon referral by the court for assessment of an appointed attorney's or service provider's general billing practices;
C. Upon timely written request to the court or CJA administrator by appointed counsel or a service provider for a voucher that has been reduced by an amount exceeding $500.00;
D. Upon referral by the court for a random audit.

III. Investigation

The FRC shall conduct a review and investigation to determine whether the panel attorney's or service provider's voucher conforms to the court's billing guidelines, is reasonable considering a funding authorization or the circumstances of the case, and is otherwise accurate and proper. The investigation may include review of vouchers submitted by other panel members or service providers in the same, or similar cases, a review of court files, records of detention facilities, or interviews of panel members or service providers including the individual whose voucher is being reviewed.

No provision of this section shall be construed as permitting disclosure to the panel member or service provider of information from which they may infer the source, and no information shall be disclosed to the panel member or service provider or be obtained by any process which would jeopardize the confidentiality of communications for persons whose opinions have been sought in the investigation.

IV. Determination

In the event that the FRC determines that a voucher does not comply with the court's billing guidelines, is unreasonable, or is not otherwise accurate or proper, the court shall so notify the appointed counsel or service provider in writing, specifying the reasons therefor. The panel attorney or service provider may provide a written response within 10 days. After reviewing the response, the FRC shall make a recommendation regarding any reduction in the voucher it deems appropriate. A copy of this recommendation will be provided to the presiding judge, the CJA administrator, and to the panel member or service provider. The presiding judge will give significant weight to the FRC's recommendation in making a final determination. Whether the court adopts the FRC's recommendation or not, the court's decision is final and there shall be no additional right of review or further appeal. Any determination that a voucher should be reduced does not necessarily constitute a finding of wrongdoing.

V. Confidentiality

All information gathered pertaining to a CJA panel member or service provider during the fee review process shall be the property of the U.S. District Court and is to be treated as confidential. Votes of the FRC shall also be confidential and its members shall not disclose to others in any manner the name of the panel member or service provider audited; the discussions, deliberations, or action of the FRC concerning any audit; information obtained during investigation or deliberation of the FRC, or any documents related to the foregoing, unless ordered to do so by a court of competent jurisdiction.

VI. FRC - Member Selection and Terms

The FRC members shall be appointed by the court to investigate and review fee vouchers submitted by CJA attorneys or service providers. The FRC shall be comprised of at least three and no more than five people, all of whom shall be current or former members of the CJA panel and shall have handled at least ten cases of varying types pursuant to appointment under the Criminal Justice Act. Members of the FRC shall be appointed for two-year terms expiring at the end of a calendar year. There is no prohibition against reappointment for additional terms.

VII. Conflict of Interest

A member of the FRC shall recuse himself or herself from any and all participation in the consideration of a panel attorney or service provider voucher or from attempting to influence others with respect to such consideration, in the following circumstances:

A. The committee member is the current or former law partner or associate of the panel attorney, or a former employer of the service provider;
B. The committee member, or the law firm or office with which the committee member is affiliated, represents the panel attorney or service provider;
C. The committee member, or the law firm or office with which the committee member is affiliated, is a party to pending litigation in which the service provider or panel attorney member, or the law firm or office with which the panel attorney member is affiliated, is a party;
D. The committee member or his or her spouse is related to the panel attorney or service provider by consanguinity or affinity within the third degree according to the rules of civil law;
E. The committee member stands in the relation of guardian and ward, conservator and conservatee, employer and employee, or principal and agent to the panel attorney or service provider;
F. The committee member has appeared as an expert witness or acted as a consultant or has been consulted with reference to an actual or threatened lawsuit against the panel attorney or service provider for malpractice;
G. The committee member has any personal bias or prejudice concerning the panel attorney or service provider which would prevent the committee member from fairly evaluating all of the evidence;
H. The committee member represents or represented one party in the matter for which the request for compensation is being reviewed where the panel attorney to be audited represents or represented another party or where the service provider worked on behalf of another party.

In the event that a member of the FRC does not voluntarily recuse himself or herself, the Chair of the CJA Committee, shall, upon becoming aware of factors which may indicate a potential conflict of interest as described above, initiate an inquiry and make a determination as to whether or not such member should be recused. Any resulting determination in that regard shall be binding.

XV. APPENDIX 9 – HIGH-COST CASE INDICATORS

- Voluminous discovery (*e.g.*, more than one terabyte of data in the form of documents, audio or video recordings, or forensic images of computers, cell phones, or other devices)
- Use of wiretaps, especially involving foreign languages
- Multiple defendants
- Large indictments with multiple counts
- Terrorism cases
- Securities or other major fraud cases
- RICO cases
- Organized crime, gang, or drug trafficking cases
- Cases with multi-national aspects

XVI. APPENDIX 10 – RESOURCES

A. Ninth Circuit CJA Case Budgeting Attorney

- Suzanne Morris
  415.355.8982
  Smorris@ce9.uscourts.gov
  Copy Service
- Government copying rates currently available at FedEx locations
- Contact: Jose Zelaya, National Account Manager
  214.767.0451, Ext. 6

B. Litigation Support

- National Litigation Support Team, AO Defender Services Office
  415.436.7700

XVII. APPENDIX 11 – CJA ADMINISTRATORS

- Federal Defender Services of Idaho
  Andy Parnes, CJA Resource Counsel
  208.331.5526
  Andy_Parnes@fd.org

- Federal Defender Services of Idaho
  Edwina Martinez, CJA Administrative Assistant
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- District of Idaho
  Kelly Montgomery, Operations Manager
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- 9th Circuit Court of Appeals
  Kevin Morley, CJA Supervising Attorney
  kmorley@ce9.uscourts.gov