

United States District Court Western District *of* New York



CRIMINAL JUSTICE ACT POLICIES AND PROCEDURES

September 2022

TABLE OF CONTENTS

CONTENTS

I.	INTRODUCTION	5
II.	CJA PLANS	6
III.	CASE BUDGETING	7
	A. Capital Cases	7
	B. Non-Capital High-Cost Cases	8
	C. Notice of Potential High-Cost Case	8
	D. Budgeting in Stages	8
	E. Voucher Review in Budgeted Cases	9
	F. Budget Supplements	10
IV.	COUNSEL APPOINTMENT AND COMPENSATION	11
	A. Geographic Proximity	11
	B. Hourly Rates for Appointed Counsel	11
	1. Death-Eligible Prosecutions	11
	2. Capital Habeas Corpus Proceedings	12
	3. Non-Capital Representations	13
	C. Attorney Compensation Maximums	13
	D. CJA Appointment of Retained Counsel	14
	E. Associates	15
	1. Distinction Between Associate Counsel and Co-Counsel	15
	2. Prior Authorization for Associates	15
	3. Hourly Rate	16
	4. Billing	16
	F. Division of Labor	17
	G. Compensable Services	18
	1. Office Overhead	18
	2. Budgeting and Voucher Preparation	19

TABLE OF CONTENTS

3. Travel Arrangements _____	19
4. Attorney Travel _____	19
5. Notices of Electronic Filing _____	20
6. Discovery Organization and Review _____	20
V. INVESTIGATIVE, EXPERT, AND OTHER SERVICE PROVIDERS _____	22
A. Prior Authorization for Services _____	22
1. Presiding Judge or Delegee _____	22
2. Chief Circuit Judge or Delegee _____	23
B. Engaging Relatives _____	24
C. Geographic Proximity _____	24
D. Service Provider Hourly Rates _____	24
E. Service Provider Travel _____	25
F. Interpreters and Translators _____	26
G. Transcripts _____	26
H. Payment of Service Provider Fees _____	27
I. Services for Defendants with Retained Counsel _____	27
J. Engagement Letters _____	27
VI. AUTHORIZATION AND BILLING PROCEDURES _____	28
A. Timesheets and Recordkeeping _____	28
1. Billing Entries _____	28
2. Excess Hours in One Day _____	29
3. Expenses _____	29
4. Billing Records _____	29
B. Deadline for Voucher Submission _____	30
C. Voucher Review _____	30
D. Voucher Reduction Procedures _____	31

TABLE OF CONTENTS

APPENDIX 1 – ATTORNEY HOURLY RATES	33
APPENDIX 2 – SERVICE PROVIDER HOURLY RATES	34
APPENDIX 3 – SAMPLE ENGAGEMENT LETTER	37
APPENDIX 4 – COMPENSATION MAXIMUMS	39
APPENDIX 5 – SPECIFICITY IN TIMESHEETS	40
APPENDIX 6 – EXPENSE POLICIES	42
APPENDIX 7 – HIGH-COST CASE INDICATORS	44
APPENDIX 8 – RESOURCES	45

I. INTRODUCTION

I. INTRODUCTION

The Western District of New York has developed the following District Court specific policy and procedures manual which expands upon the Guidelines and also highlights the policy particularly relevant to our district.

These policies should be read in conjunction with the Guidelines for Administering the CJA and Related Statutes, Volume 7, Part A, Guide to Judiciary Policy (“CJA Guidelines”) as well as the Second Circuit Policy and Procedure Manual. The Second Circuit Manual can be found here https://www.ca2.uscourts.gov/clerk/attorneys/cja_manual.html

The Judicial Council of the Second Circuit (“the Judicial Council”) has approved case management and budgeting policies and procedures applicable to representations for counsel appointed under the Criminal Justice Act, 18 U.S.C. § 3006A (“CJA”), and to death-eligible and capital habeas representations for counsel appointed under 18 U.S.C. § 3005 or § 3599(a).

Additional CJA procedural guidance is available on the Western District of New York website at <https://www.nywd.uscourts.gov/criminal-justice-act-cja>

II. CJA PLANS

II. CJA PLANS

As required by the CJA and the CJA Guidelines, each court develops a plan for furnishing representation in federal court for any person financially unable to obtain adequate representation. The objective of the plan is to attain equal justice under the law for all persons.

The Western District *of* New York's Model CJA Plan, is available on <https://www.nywd.uscourts.gov/criminal-justice-act-cja>,

III. CASE BUDGETING

III. CASE BUDGETING

The development of a case budget in all capital and eligible complex or high-cost non-capital CJA appointments supports the availability of appropriate funding for quality client representations while providing necessary oversight and opportunities for efficiencies. A case budget with supporting documentation also provides the reviewing court sufficient information for reasonableness determinations and other statutorily required approvals.

To facilitate review and approval of a budget by the Chief Circuit Judge or delegee, case budgets should be developed with the assistance of the circuit Case Budgeting Attorney (“CBA”). Specialized forms utilizing Excel spreadsheets will be used to prepare the budget. All questions concerning case-budgeting should be directed to Alan M. Nelson, Second Circuit Case Budgeting Attorney, at 212-857-8726 or 646-300-5260.

When submitting an interim, final or supplemental voucher, counsel must include in the eVoucher documents tab, a completed CJA 26 form describing the present posture of the case and a copy of the approved budget. The CJA 26 only applies to non-capital budgeted appointments.

A. CAPITAL CASES

All CJA costs in death-eligible prosecutions or capital habeas proceedings, must be budgeted by the circuit CBA. Within 30 days of appointment, CJA counsel must contact the circuit CBA for budgeting assistance.

A capital budget authorized by a court also must be submitted to the Chief Circuit Judge or delegee for secondary approval.

III. CASE BUDGETING

B. NON-CAPITAL HIGH-COST CASES

In CJA Guideline [§ 230.26.10](#), the Judicial Conference of the United States (“JCUS”) encourages the use of case budgeting in any representation anticipated to exceed either 300 attorney hours or total costs (combined attorney and service provider fees) in excess of 300 times the prevailing CJA attorney non-capital hourly rate, rounded up to the nearest thousand (e.g., if the prevailing panel rate is \$158/hour, the total costs benchmark would be \$48,000: \$158/hour x 300 hours = \$47,400, rounded up to \$48,000).

The Judicial Council also encourages budgeting in complex or high-cost non-capital cases that meet these thresholds. For CJA representations that exceed or are likely to exceed \$100,000 in total costs, the Judicial Council requires budgeting by the circuit CBA.

C. NOTICE OF POTENTIAL HIGH-COST CASE

While there are no specific criteria or elements of a case which in itself will make a case achieve mega status, there are several indicators which, if present, could indicate that a case will become a mega-case. Indicators of a potential high-cost case are listed in [Appendix 7](#).

D. BUDGETING IN STAGES

To make the budget submission and review process more manageable and effective, budgeting ordinarily will be accomplished in stages and, if appropriate, in discrete time periods within stages, such as six-month intervals.

For example, depending on the circumstances, an attorney might submit a budget for the entire representation (through trial/potential sentencing), the entire

III. CASE BUDGETING

pretrial stage, or, if the pretrial stage is expected to be lengthy, for a shorter interval such as through discovery review, the filing of pretrial motions, or trial preparation. Similarly, the first stage of a death-eligible federal prosecution may extend to a decision by the Department of Justice whether to authorize the prosecution to seek the death penalty. Depending on the timing of DOJ's decision-making process, the attorney could submit a budget for the entire stage or for a given period of time within the stage.

For capital habeas proceedings, budgets may be composed of numerous stages, depending on a number of factors particular to a case or district. Such stages ordinarily include record review, petition preparation, responsive briefing, and evidentiary hearing.

In death-eligible prosecutions, it is often critical to assemble a team and begin working on mitigation and fact investigation right away. Therefore, shortly after appointment, the assigned CBA will provide counsel with a proposed "seed money" budget/preliminary order, for the court's consideration. Courts should authorize the preliminary order to allow counsel to become familiar with the case, develop strategy, gather a team, and develop a more detailed budget. This preliminary order/budget should provide sufficient funding for the first 90 days of representation and include authorization for counsel to enlist an investigator, paralegal, and mitigation specialist.

E. VOUCHER REVIEW IN BUDGETED CASES

Although case budgeting generally expedites voucher review, courts are still required to assess whether claimed amounts were reasonably incurred in light of their representational purpose. See CJA Guideline [§ 230.33.10](#) (Standard for Voucher Review) and [JCUS-SEP 2018](#), p. 42.

III. CASE BUDGETING

F. BUDGET SUPPLEMENTS

Counsel are responsible for tracking attorney hours and all CJA-funded service provider hours and should routinely run a Defendant Detail Budget Report in eVoucher to ensure the defense team remains within authorized funding levels. Counsel, investigators, experts, and other service providers must not exceed the budget authorized by a court without first seeking prior approval. Supplemental budget requests should be made before funding is exhausted and far enough in advance to give the court sufficient time to review and rule on the request.

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

IV. COUNSEL APPOINTMENT AND COMPENSATION

A. GEOGRAPHIC PROXIMITY

Without compromising the quality of representation, courts should try to appoint CJA attorneys who are located reasonably near to where the case will be heard to avoid unnecessary travel time and facilitate access to the client.

In cases where more than one attorney is appointed, preferably counsel nearest the client would 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 and other team members not in close geographic proximity to the client should coordinate client visits with court hearings or other case-related activities whenever feasible and, if applicable, arrange to meet with other CJA clients on the same trip.

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, a court must appoint two attorneys, at least one of whom is learned in the law applicable to capital cases. 18 U.S.C. § 3005. Courts must consider and give due weight to the recommendation of the federal defender organization before appointing counsel. The maximum hourly rate in death-eligible prosecutions is set forth in CJA Guideline § 630.10.10(A) and Appendix 1. In orders appointing counsel, courts should identify the applicable hourly rate for all counsel and provide for the rate to adjust automatically in accordance with periodic rate increases.

If the prosecution files notice that it will not seek the death penalty, the court should consider whether reducing the number of counsel is appropriate, as

IV. COUNSEL APPOINTMENT AND COMPENSATION

provided in CJA Guideline § 630.30.20. The factors to consider in determining whether circumstances justify the continuation of more than one attorney include: the need to avoid disruption of the proceedings, whether the decision not to seek the death penalty occurred late in the litigation, whether the case is unusually complex, and whether the defense has reasonably allocated trial duties among counsel well into the case such that it would negatively impact the representation to dismiss one attorney.

Following notice that the prosecution will not seek the death penalty, the court should also consider reducing the hourly rate for counsel (and any service providers authorized at a higher capital rate), in light of the factors listed in CJA Guideline § 630.30.30. Such factors include the extent to which the representation precludes counsel from taking other work, the commitment of time and resources counsel has made and will continue to make in the case, and the need to compensate appointed counsel fairly. Any rate reduction must apply prospectively only.

If a court reduces the number of counsel, it should set a timeline and authorize a sufficient number of hours to allow for an orderly transition of the defense team. This includes allowing departing counsel and any mitigation investigator or specialist time to draft transmittal memoranda and meet with remaining counsel and the client.

2. Capital Habeas Corpus Proceedings

Under 18 U.S.C. § 3599(a)(2), a financially eligible petitioner seeking to vacate or set aside a death sentence in any proceeding under 28 U.S.C. § 2254 or § 2255 is entitled to the appointment of one or more attorneys.

IV. COUNSEL APPOINTMENT AND COMPENSATION

3. Non-Capital Representations

The current maximum hourly rate for CJA attorneys in non-capital cases is set forth in [Appendix 1](#). In most circumstances, only one CJA-compensated attorney is necessary for each client representation. However, a second attorney may be appointed in any case determined by the court to be extremely difficult or when such appointment would be in the interest of justice to ensure high quality representation. See CJA Guideline [§ 230.53.20](#).

Co-counsel who are members of the court's CJA panel should be compensated at the non-capital CJA hourly rate.

C. ATTORNEY COMPENSATION MAXIMUMS

The CJA contains waivable attorney case compensation maximum amounts for various types of non-capital representations; capital representations have no attorney case compensation maximum. [Appendix 4](#) lists the most common non-capital representation maximums. A complete list is set forth in CJA Guideline [§ 230.23.20](#). Expenses and service provider fees do not apply toward a compensation maximum.

Payment in excess of the maximum limits may be made in cases involving extended or complex representation whenever the district judge before whom representation was rendered, or if the magistrate judge (if the representation was furnished exclusively before the magistrate judge) certifies that the amount of the excess payment is necessary to provide fair compensation and the payment is approved by the Chief Judge of the Second Circuit or such active Circuit Judge to whom the Chief Judge has delegated such approval authority.

Counsel claiming payment in excess of the statutory maximum shall submit a Form CJA 26 under the documents tab in eVoucher.

IV. COUNSEL APPOINTMENT AND COMPENSATION

When an attorney withdraws and new counsel is substituted, the case compensation maximum does not reset. Rather, the combined fees for all successive attorneys appointed to a single representation (i.e., for a particular client in a particular case) count against the compensation maximum. See CJA Guideline § 230.56. Absent concerns over the performance or billing of prior counsel, the substituted attorney is allowed to submit a final voucher before the representation concludes, preferably within 45 days of withdrawing.

D. CJA APPOINTMENT OF RETAINED COUNSEL

Courts have discretion under the CJA, 18 U.S.C. § 3006A(c), to authorize appointment of and payment to an attorney initially retained by an individual who later becomes financially unable to pay for representation. In deciding whether to authorize the appointment, the court will consider whether counsel is a CJA attorney or otherwise regularly practices in federal court.

Regarding payment, the court may inquire into the fees already paid to the retained attorney. Such inquiry may include requiring counsel to provide *in camera* copies of the retainer agreement, billing statements, and a statement of funds received from or on behalf of the client.

The court may find it appropriate to allow the retained attorney to begin billing under the CJA upon appointment. Or the court may find it appropriate to appoint the retained attorney *nunc pro tunc* to the start of counsel's representation. In the latter scenario, the court may then order that any funds paid to retained counsel be attributed to work already performed and costs incurred (at the applicable CJA hourly rate), as well as new work performed and costs incurred, until the funds are deemed exhausted. Once exhausted, counsel and service providers would begin billing under the CJA. The court may consider other equitable arrangements as well.

IV. COUNSEL APPOINTMENT AND COMPENSATION

E. ASSOCIATES

1. Distinction Between Associate Counsel and Co-Counsel

“Associate,” for the purpose of CJA compensation, is an attorney authorized to assist appointed counsel on a case but not as counsel of record. An associate under the CJA is either a member of appointed counsel’s firm or an independent contract attorney authorized to practice law in the relevant jurisdiction. As discussed further below, an associate is considered an extension of, not a substitute for, the appointed CJA panel attorney. “Co-counsel” (see [Section IV.B.3](#)), on the other hand, serves as additional counsel of record and has the same duties and responsibilities as first appointed counsel unless appointed for a limited purpose.

Appointed counsel is responsible for attending pre-trial and probation interviews, negotiating potential pleas, discussing significant decisions with the client, and participating in substantive hearings, and may not unreasonably delegate responsibilities to associate counsel or duplicate work. Associates generally perform discrete tasks such as research, motion writing, summarizing discovery, reviewing discovery with the client, etc.

Associates and appointed counsel may be compensated for reasonable time conferring with each other regarding the case and specific assignments, but both should not bill time for participating in meetings with others absent a demonstrated need relevant to the associate’s assigned tasks. Such need should be described in detail in the corresponding voucher. Where an associate appears in court with appointed counsel, prior approval must be sought to allow the court to consider the reasonable necessity of the associate attorney’s participation.

2. Prior Authorization for Associates

As provided in CJA Guidelines [§ 230.53.20\(b\)](#) (non-capital) and [§ 620.10](#) (capital), CJA attorneys may utilize the services of attorneys who are members of

IV. COUNSEL APPOINTMENT AND COMPENSATION

appointed counsel's firm. However, prior approval is required where the billing of the associate will exceed 10 hours. This email request should be made directly to the CJA staff at the Buffalo Clerk's Office. Any questions, call 716-557-1732.

In all cases, prior authorization is required to enlist independent contract attorneys who are not members of appointed counsel's firm. The authorization request should provide justification for the associate appointment and detail the proposed scope of work.

In determining whether to permit appointed counsel to utilize an associate, the court will consider that associate involvement in a case provides a valuable opportunity to develop future CJA panel members.

3. Hourly Rate

The WDNY hourly rate for associates is \$50/hour. For those associates who are members of the court's CJA panel, a court may authorize up to the maximum non-capital CJA hourly rate.

4. Billing

The services of associate counsel may not be billed on CJA 21 or 31 (service provider payment voucher). Rather, an associate's billable time must be submitted on CJA 20 or 30 (attorney payment voucher) and counts toward the attorney compensation maximum.

IV. COUNSEL APPOINTMENT AND COMPENSATION

F. DIVISION OF LABOR

Whenever appropriate and without compromising the quality of work, services should be performed by the least expensive, competent provider capable of performing the work. Accordingly, CJA-appointed attorneys should enlist associates, paralegals, investigators, and other lower-cost service providers where the appointed attorney's expertise is not required, such as for legal research or preliminary discovery review.

Counsel should develop a plan to divide responsibilities among defense team members so that each 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 assess the need for a meeting in advance and consider whether its purpose could be served using a video or phone conference instead of meeting in person. Similarly, where team members belong to the same firm, non-substantive internal firm communications (e.g., to schedule internal deadlines or discuss division of labor logistics) should be billed with restraint.

Typically, it is presumed that initial fact-gathering interviews of potential witnesses may be conducted by an investigator or mitigation specialist alone and that, after key witnesses are identified, only one attorney need accompany the investigator or mitigation specialist to subsequent interviews. If the circumstances of a particular case warrant otherwise, counsel should provide justification in the payment voucher or authorization request.

Support staff—including law clerks, paralegals, associates, and investigators—will not be compensated for attendance at court hearings without prior court approval.

IV. COUNSEL APPOINTMENT AND COMPENSATION

G. COMPENSABLE SERVICES

The Western District of New York CJA Compensability Handbook provides extensive guidance and detailed examples on what is presumptively compensable within the Second Circuit throughout the many stages of CJA representation. The Handbook was created to assist both panel attorneys and approving authorities in understanding and applying the CJA Guidelines and to provide a framework for analyzing challenging compensability questions. Administrative tasks that are typically not separately reimbursable or compensable may be claimed when they are extraordinary or unusual in terms of volume, extent, or difficulty. See CJA Guideline [§ 320.70.30](#). Counsel are encouraged to consult the court CJA staff regarding such circumstances.

Areas of note include:

1. Office Overhead

Under CJA Guidelines [§ 230.66.10](#) and [§ 320.80.10](#), the authorized hourly rate for panel attorneys and service providers includes compensation for general office overhead, including clerical assistance. Consequently, routine administrative tasks are not separately compensable, even if performed by an attorney.

Non-compensable administrative tasks include: (1) entering calls, meetings, due dates, or court appearances into a calendar; (2) rote or routine scheduling-related communications, including with the court; (3) leaving non-substantive voicemail messages; (4) filing or lodging electronic documents in CM/ECF, unless the filing is particularly voluminous or atypical such that filing takes an unusual or extraordinary amount of time; (5) emailing courtesy copies or proposed orders; (6) copying, scanning, or printing; (7) office filing; and (8) preparing documents for mailing.

IV. COUNSEL APPOINTMENT AND COMPENSATION

2. Budgeting and Voucher Preparation

Time spent creating and entering billable time and expenses into a payment voucher is a non-compensable administrative expense. However, time spent requesting funding for experts, investigators, and other service providers, as well as reviewing service provider payment vouchers to certify that billed time and expenses were rendered, is compensable.

In addition, time spent preparing a budget or an advance request to exceed the case compensation maximum 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. However, time spent justifying a bill or seeking authorization to exceed the compensation maximum *after* the work has been substantially completed is not compensable.

3. Travel Arrangements

Time spent making travel arrangements for counsel or a service provider, whether undertaken by an attorney, paralegal, or other staff member, is a non-compensable administrative task. However, time spent preparing a request for travel authorization from the court is compensable.

4. Attorney Travel

Under CJA Guideline [§ 230.60](#), appointed counsel must be compensated for reasonably necessary travel. Please see the WDNY CJA Compensability Handbook for details.

IV. COUNSEL APPOINTMENT AND COMPENSATION

In determining whether actual expenses incurred are “reasonable,” counsel should be guided by travel and subsistence expense levels set by the Judiciary Staff Travel Regulations.

Advance travel approval is ordinarily required in two circumstances: (1) out-of-district travel and (2) overnight travel. Counsel should consult with the court’s CJA staff regarding the preparation of a travel authorization form. When feasible, attorneys are expected to perform case-related work while traveling, which should be billed to a substantive billing category not as travel time.

Federal law authorizes attorneys, experts, and other persons traveling primarily in connection with carrying out responsibilities under the CJA to use government travel rates from common carriers and lodging providers. Government rates may provide substantial cost reductions or increased flexibility over ordinary commercial rates. To obtain such rates, prior approval must be obtained. See CJA Guideline § 230.63.40(d). Counsel should contact local CJA staff for details on how to obtain government rates.

5. Notices of Electronic Filing

Accessing, downloading, opening, renaming, saving, printing, or forwarding a Notice of Electronic Filing (“NEF”) is a non-compensable administrative task. However, reasonable time spent reviewing a text-only NEF or an Electronic Court Filing (“ECF”) document linked to an NEF is compensable.

Counsel are expected to exercise professional judgment in billing time for reviewing NEFs and ECF documents that require no substantive response, especially in multi-defendant cases where notices or filed documents may be unrelated or irrelevant to their client or representation.

6. Discovery Organization and Review

In any case with complex discovery, an efficient and cost-effective method to process, distribute, organize, and review discovery must be developed early in

IV. COUNSEL APPOINTMENT AND COMPENSATION

the representation. Counsel should confer with the National Litigation Support Team (“NLST”) in the Defender Services Office, and the circuit CBA, on ways to effectively manage discovery, which may include use of a Coordinating Discovery Attorney, case management software, web-based discovery review platform, or litigation support specialist.

In multi-defendant cases, counsel must make every reasonable effort to collaborate and share discovery organization resources to the extent possible without creating a conflict. Prior authorization for computer hardware, software, or litigation services is required. If combined costs are expected to exceed \$10,000, counsel must confer with NLST as provided in CJA Guideline § 320.70.40(a)(2).

V. INVESTIGATIVE, EXPERT, AND OTHER SERVICE PROVIDERS

V. INVESTIGATIVE, EXPERT, AND OTHER SERVICE PROVIDERS

A. AUTHORIZATION FOR SERVICES

1. Presiding Judge or Delegee

Under 18 U.S.C. § 3006A(e)(2) and CJA Guideline § 310.20.30, prior authorization from the presiding judge or delegee must be obtained for any service provider compensation in excess of \$900 per representation, *not* per service provider. CJA representations routinely require the use of investigators, paralegals, and interpreters. Counsel must submit authorization requests via eVoucher and not directly to chambers.

If prior authorization was neither sought nor authorized, claims for service provider compensation exceeding \$900 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 and to seek any required authorization before work by experts, investigators, or other providers is performed.

When seeking authorization, counsel must indicate the necessity of the service, the provider's name and hourly rate, and the estimated number of hours to complete the work. The court will rule on service provider requests as expeditiously as possible, to minimize litigation delay and associated costs.

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 services are undertaken. Again, *nunc pro tunc* requests will be approved only if the court finds, in the interest of justice, that timely procurement of the additional services could not await prior authorization.

V. INVESTIGATIVE, EXPERT, AND OTHER SERVICE PROVIDERS

Once funding for investigators, experts or other specialized services has been approved, counsel is responsible for communicating the specific terms of the authorization with the service provider, initiating a CJA 21 (non-capital) or 31 (capital) in eVoucher to facilitate timely billing, and ensuring the provider's services do not exceed the authorized amount. To monitor available service provider funding, counsel should routinely run a Defendant Detail Budget Report in eVoucher.

2. Chief Circuit Judge or Delegee

a. Non-capital Cases

Under 18 U.S.C. § 3006A(e)(3) and CJA Guideline § 310.20.10, compensation for services in non-capital cases may not exceed \$2,800 without approval of the Chief Circuit Judge or delegee and certification by the presiding judge or delegee that the fees are necessary to provide fair compensation for services of an unusual character or duration. The non-capital compensation services maximum is exclusive of reasonably incurred expenses. As provided in CJA Guideline § 310.20.20(b) and required by Second Circuit policy, approval for excess compensation must be obtained from the circuit.

b. Capital Cases

Under 18 U.S.C. § 3599(g)(2) and CJA Guideline § 660.20.20, for capital cases commenced on or after April 24, 1996, the combined fees and expenses for investigative, expert, and other services are limited to \$7,500 absent approval of the Chief Circuit Judge or delegee and certification by the presiding judge or delegee that the fees are necessary to provide fair compensation for services of an unusual charter or duration. This \$7,500 limit is per case and applies to the total payments for all services and expenses, not to each service provider type individually. As provided in CJA Guideline § 660.20.20(d) and required by Second Circuit policy, approval for excess compensation must be obtained from the circuit.

V. INVESTIGATIVE, EXPERT, AND OTHER SERVICE PROVIDERS

B. ENGAGING RELATIVES

Counsel must 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. SERVICE PROVIDER HOURLY RATES

The current hourly rate ranges for investigators, experts, and other service providers are listed in [Appendix 2](#). The high end of a listed range is not the presumptive rate. Rather, rates vary based on locality, education, specialization, certification, licensing, and experience.

The WDNY has adopted our own service provider rate schedule based on local needs. Court-specific rates may not exceed the high end of a range listed in [Appendix 2](#) without approval of the presiding judge.

In any individual case, the presiding judge or delegee may, for good cause, approve a rate in excess of the maximum. 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. The circuit CBA is available to assist CJA counsel in negotiating rates with providers.

V. INVESTIGATIVE, EXPERT, AND OTHER SERVICE PROVIDERS

E. SERVICE PROVIDER TRAVEL

Service providers may be compensated for reasonable travel time and expenses. In determining whether actual expenses incurred are “reasonable,” service providers should be guided by travel and subsistence expense levels set by the Judiciary Staff Travel Regulations. Federal law authorizes experts and other service providers traveling primarily in connection with carrying out responsibilities under the CJA to use government travel rates from common carriers and lodging providers. Counsel and service providers should coordinate with the CJA staff regarding the process for obtaining these rates.

Advance approval by the court is ordinarily required in two circumstances: (1) out-of-district travel, and (2) overnight travel. Counsel should consult with our CJA staff regarding travel authorization procedures for service providers.

Counsel are expected to negotiate lower travel rates for high-cost service providers, preferably at 50 percent of the provider’s services rate. Time spent performing case-related work while traveling is not “travel time” and should be compensated at the full hourly rate. Case-related work is work relevant to the responsibilities or duties assigned to the expert or service provider by appointed counsel.

V. INVESTIGATIVE, EXPERT, AND OTHER SERVICE PROVIDERS

F. INTERPRETERS AND TRANSLATORS

As provided in CJA Guideline § 320.15.20, in determining the reasonableness of rates paid to interpreters under the CJA, our court utilizes the half-day and full-day rates established for contract court interpreters performing in-court services. Please contact Maria Gomolka at 716-551-1739 for interpreter authorization guidance as this has recently changed.

Every effort should be made to avoid less than 24 hours' notice of a canceled interpreter appointment. Should that occur, the interpreter may bill CJA for any actual out-of-pocket expenses and for the time required to get to and from the appointment.

The translation of written documents typically should be billed by the English word at the rate set forth in Appendix 2. Please contact Maria Gomolka at 716-551-1739 for guidance. Prior authorization is required by our court for providing a translation in written form verses the spoken word.

G. TRANSCRIPTS

As provided in CJA Guideline § 320.30.30(a), in multi-defendant cases, only one transcript should be purchased from the court reporter on behalf of CJA-represented defendants. The appointed counsel should share an electronic copy with each of the CJA defendants for whom a transcript has been approved. If the transcript was provided in printed format, counsel or the court reporter should arrange for duplication at a commercially competitive rate (typically ten cents per page) rather than the usual first or additional copy transcript rates.

V. INVESTIGATIVE, EXPERT, AND OTHER SERVICE PROVIDERS

H. PAYMENT OF SERVICE PROVIDER FEES

Given the critical importance of maintaining the availability of high-quality service providers willing to assist with CJA appointed matters, counsel should make every effort to process and submit service provider vouchers in a timely manner.

Service provider fees and expenses must be submitted using eVoucher's CJA 21 or 31, and payments should be made directly to the service provider. Absent extraordinary circumstances, counsel should not pay experts, investigators, or other service providers out of pocket and then seek reimbursement on a CJA 20 or 30. Any exceptions to this general requirement should be discussed in advance with local CJA administrative staff.

I. SERVICES FOR DEFENDANTS WITH RETAINED COUNSEL

A defendant with retained counsel may at any point during the representation seek a determination by the court of financial eligibility for reasonably necessary investigative, expert, or other services under 18 U.S.C. § 3006A(e)(2). Such application shall include a Financial Affidavit (CJA 23).

J. ENGAGEMENT LETTERS

Counsel appointed under the CJA and retained counsel authorized to enlist CJA-funded service providers 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 requirements of billing in tenths of an hour and contemporaneous record-keeping. A sample engagement letter is set forth in Appendix 3.

VI. AUTHORIZATION AND BILLING PROCEDURES

A. TIMESHEETS AND RECORDKEEPING

1. Billing Entries

Actual time must be billed in tenths of an hour. Discrete tasks must be billed separately and to the correct voucher category except that those tasks taking less than 0.1 hours each must be aggregated into one block of time to ensure that billable time does not exceed actual hours worked. These requirements also apply to service providers.

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:

- Identify the number of pages, amount of data, or length of audio or video records being reviewed, and the nature of the material reviewed (e.g., “transcripts,” “302s,” “surveillance video”)
- 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)
- Describe generally any issue being researched
- When preparing or reviewing a court filing, identify the document by name or ECF number

Appendix 5 contains further guidance regarding specificity for time sheets, and detailed billing tip sheets are available at www.nywd.uscourts.gov/cja. In addition, counsel should consult with the CJA staff or local billing guides regarding the level of specificity required in supporting documentation.

VI. AUTHORIZATION AND BILLING PROCEDURES

2. Excess Hours in One Day

Unless in trial, 10 or more hours billed in a single day by an attorney or service provider across all cases is unusual, and the necessity for such time should be explained in the voucher (e.g., trial preparation, impending deadline, etc.). Otherwise, the voucher may be returned for additional information.

3. Expenses

Courts will ensure that panel attorneys and service providers abide by the expense policies set forth in [Appendix 6](#) and in the CJA Compensability Handbook.

4. Billing 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 court-specific policy defining “contemporaneous time and attendance records,” information entered into eVoucher payment vouchers satisfies counsel’s recordkeeping requirement, provided the information is entered as soon as feasible after performing the work described or based upon contemporaneous notes. Under CJA Guideline [§ 230.76](#), written records may be subject to audit and must be retained for at least three years after approval of the final voucher for any appointment.

Counsel should advise all investigators, experts, and other service providers that they must maintain contemporaneous time and attendance records for all work billed by them, as well as expense records. Providers who are authorized to enter time into eVoucher satisfy this requirement if billing information is entered as soon as feasible after performing the work described or based upon contemporaneous notes. Under CJA Guideline [§ 320.90](#), billing records are subject to audit and must be maintained for at least three years after approval of the service provider’s or appointed counsel’s final voucher, whichever is later.

VI. AUTHORIZATION AND BILLING PROCEDURES

B. DEADLINE FOR VOUCHER SUBMISSION

Under Guideline § 230.13, final vouchers should be submitted no later than 45 days after the representation concludes, absent good cause. Counsel should make every effort to submit all outstanding vouchers in a case at the same time and are responsible for advising service providers of this voucher submission requirement.

Counsel must create CJA 21 and 31 payment vouchers for service providers and should inform all providers of the date the representation concludes. If service providers are allowed to enter their own services into eVoucher, counsel should review and certify CJA 21 or 31 payment vouchers submitted for approval in a timely fashion.

Persistent submission of late vouchers may be addressed as a performance issue.

C. VOUCHER REVIEW

Providing fair compensation to appointed counsel is a critical component of the administration of justice. CJA panel attorneys must be compensated for time expended in court and time reasonably expended out of court and must be reimbursed for expenses reasonably incurred.

Vouchers are reviewed for technical compliance with the CJA Guidelines, Second Circuit policies, and any policies adopted by the WDNY.

The reasonableness of a claim is determined by the judge presiding over the matter or delegee and, if the voucher exceeds the case compensation maximum, the Chief Judge of the 2nd Circuit or delegee. In determining reasonableness, the court should consider whether the work was clearly in excess of what was reasonably necessary.

VI. AUTHORIZATION AND BILLING PROCEDURES

the court should consider whether the work was clearly in excess of what was reasonably necessary.

To aid with reasonableness review, a voucher may be referred to our local CJA panel review committee for input. The presiding judge or delegee also may seek input from the Circuit CJA Unit.

As provided by CJA Guidelines § 230.13 and § 310.70, absent extraordinary circumstances, courts should act upon payment vouchers within 30 days of submission.

D. VOUCHER REDUCTION PROCEDURES

Vouchers for attorney fees reasonably expended may not be reduced to lessen Defender Services program costs in response to adverse federal budgetary circumstances. Nor may a voucher be arbitrarily reduced to the statutory maximum.

As provided in CJA Guideline § 230.33.10, reductions to payment vouchers should be limited to mathematical errors; instances in which work billed was not compensable, undertaken, or completed; and instances in which the hours billed clearly exceed what was reasonably required to complete the task.

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

Courts should use the eVoucher program to facilitate this process by providing the reason(s) for the reduction either in the Public Notes section of eVoucher, or as an attachment in the Documents section. Attorneys can be

VI. AUTHORIZATION AND BILLING PROCEDURES

directed to respond in the same manner. Keeping the process within eVoucher will make for a transparent and convenient account of the exchange between the court and counsel. If an email exchange concerning an adjustment occurs, PDFs of the emails should be attached to the voucher and referenced in the eVoucher notes.

APPENDIX 1 – ATTORNEY HOURLY RATES

APPENDIX 1 – ATTORNEY HOURLY RATES

For services performed on or after January 1, 2022:¹

CAPITAL DEATH-ELIGIBLE PROSECUTIONS	
Learned Counsel	\$210
Co-Counsel	\$210
NON-CAPITAL CASES	
Lead Counsel	\$164
ASSOCIATES/PARTNERS	
As of 3/1/2007	\$50

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, 2023. Please note that eVoucher does not update capital rates automatically when annual increases go into effect. Therefore, when appointing counsel in capital cases, courts should consider expressly authorizing that annual increases be added to the initial appointment rate.

APPENDIX 2 – SERVICE PROVIDER HOURLY RATES

APPENDIX 2 – SERVICE PROVIDER HOURLY RATES

The high end of a listed range is not the presumptive rate. Rather, rates vary based on locality, education, specialization, certification, licensing, and experience. Depending on the circumstances in an individual case, a provider’s rate may exceed the high end of a range upon a showing of good cause, as explained in [Section V.D](#) of these policies.

The WDNY has adopted our own service provider rate schedule based on local needs. Court-specific rates may not exceed the high end of a range without approval of the presiding judge.

Counsel are expected to negotiate lower travel rates for high-cost service providers, preferably at 50 percent of the provider’s services rate. Counsel should consult with local CJA staff regarding applicable travel policies. Time spent performing case-related work while traveling is not “travel time” and should be compensated at the full hourly rate.

Investigators, Mitigation Specialists, and Paralegals			
Court-specific rates vary based on unique locality needs. Thus, the high end of a range is not the presumptive rate. For providers who work in multiple courts, the approved rate will be based on the applicable court’s presumptive rate, not prior authorizations in other courts.			
	Standard Rate	Special Skills Rate	
Investigator	\$80 - \$95	\$110	Special skills rate is for case-needed foreign language fluency or other specialization, such as mastery of one or more relevant areas of forensic science (e.g., forensic psychology or digital forensics) or a high level of experience in the type of alleged offense.
Mitigation Specialist	\$90 - \$100	\$125	Special skills rate is for case-needed foreign language fluency or specialized mental health expertise.

APPENDIX 2 – SERVICE PROVIDER HOURLY RATES

	Standard Rate	Special Skills Rate	
Paralegal	\$25	\$**	Special skills rate is for those with the technology skills necessary to perform complex litigation support or discovery database management (including subjective coding), case-needed foreign language fluency, or capital case expertise.
Associates	\$50		
Paralegal (J.D.)	\$65 -\$75	\$75	Special skills rate is for those with the technology skills necessary to perform complex litigation support or discovery database management (including subjective coding), case-needed foreign language fluency, or capital case expertise.

Other Service Provider Categories		
Accident Reconstruction	\$150 – \$200	
Accountant	\$125 – \$275	
Accounting Staff (non-CPA)	\$65	E.g., reviewing/summarizing/preparing financial records
Attorney Expert – Capital	CJA Hourly Rate	
Attorney Expert – Non-Capital	CJA Hourly Rate	E.g., immigration law expert
Audio, Video, Photo Forensic Analyst	\$125 – \$200	
Audio, Video, Photo Technician	\$25 – \$100	E.g., creating video exhibits, taking or enlarging photos, enhancing audio or video recordings, etc.
Ballistics/Firearms Expert	\$150 – \$300	
Canine Expert	\$125 – \$200	
Chemist/Toxicologist (B.S. or Ph.D.)	\$150 – \$275	
Chemist/Toxicologist (M.D.)	\$275 – \$400	

APPENDIX 2 – SERVICE PROVIDER HOURLY RATES

Computer/Cellphone/Cellular Tower Forensic Analyst	\$250 – \$300	
Crime Scene/Police Practices/Use-of-Force Expert	\$150 – \$250	
DNA Expert (B.S. or Ph.D.)	\$150 – \$250	
Fingerprint Analyst	\$150 – \$250	
Gang Expert	\$150 – \$200	
Handwriting Analyst	\$100 – \$250	
Interpreter/Translator for in-person meetings	CJA Rates	The half day, full day, contract rates negotiated between the court and the interpreters.
Jury Consultant	\$150 – \$225	
Law Student	\$15 – \$25	
Legal Analyst/Consultant (Non-Attorney)	\$75 – \$100	E.g., Sentencing Guidelines consultant.
Medical – Other (M.D. or D.O.)	\$200 – \$350	
Neurologist or Neuropsychiatrist (M.D.)	\$275 – \$350	
Neuropsychologist (Ph.D.)	\$225 – \$350	
Nurse (L.P.N. or R.N.)	\$100 – \$125	
Nurse (M.S.N. or D.N.P.)	\$150 – \$300	Including S.A.N.E. certified.
Pathologist/Medical Examiner	\$250	
Ph.D – Other	\$150 – \$300	
Polygraph	\$100 – \$250	Polygraph testing typically billed at a flat rate between \$350 and \$1,000.
Psychiatrist (M.D.)	\$200 – \$350	
Psychologist (Ph.D.)	\$150 – \$300	
Translation – Foreign Language Document	.165 cents per word	
Transcription – English Audio	\$3.65 per page	<u>Contract court reporter rate</u> (without foreign translation) for non-automated transcription services. NOTE: Reimbursement for transcripts of federal court proceedings must be submitted on Form CJA-24 in eVoucher and requested in District Court, whether for use in District Court or the Court of Appeals.
Transcription and Translation Combined – Foreign Audio	\$35 – \$85	Combined translation and transcription of foreign audio recordings are typically billed by the hour, not per word or page, for non-automated services. Rates vary based on language, interpreter certification, and recording quality.

September, 2022

APPENDIX 3 – SAMPLE ENGAGEMENT LETTER

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. Do not incur any single expense in excess of \$500 without first contacting me so that I may obtain prior court authorization.
- 2) A CJA 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 delegee and, in certain circumstances, the Chief Judge of the Second Circuit or delegee. 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 Second Circuit or delegee) has discretion to reduce a voucher. Specific reasons include: (a) mathematical errors; (b) instances in which work billed was not compensable under district or circuit court policies or the Guidelines for Administering the CJA and Related Statutes (CJA Guidelines), Guide to Judiciary Policy, Volume 7, Part A; (c) instances in which work billed was not undertaken or completed; and (d) instances in which the hours billed are clearly in excess of what was reasonably required to complete the task. 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 in excess of amounts authorized by the court.** Doing so creates a risk that the court will not authorize payment for the work done or expenses incurred, even if the services performed or expenses incurred are necessary. You must advise me **before** exceeding the court's authorization. If I determine such additional work and/or expenses are necessary for the representation, I will seek approval from the court for additional funds before such work is performed or expenses incurred.

APPENDIX 3 – SAMPLE ENGAGEMENT LETTER

- 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 Guideline § 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 entered into eVoucher on a CJA 21 or 31 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: _____

APPENDIX 4 – COMPENSATION MAXIMUMS

APPENDIX 4 – COMPENSATION MAXIMUMS

A. ATTORNEY CASE COMPENSATION MAXIMUMS

For representations in which work is performed on or after January 1, 2022:	
Non-capital felony	\$12,800 for trial court level \$9,100 for appeal
Misdemeanor	\$3,600 for trial court level \$9,100 for appeal
Non-capital post-conviction proceeding under 28 U.S.C. § 2241, § 2254, or § 2255	\$12,800 for trial court level \$9,100 for appeal

B. SERVICE PROVIDER NO PRIOR AUTHORIZATION LIMIT

For representations in which services are performed on or after February 15, 2019:	
All cases	\$900 (all services)

C. SERVICE PROVIDER CASE COMPENSATION MAXIMUMS

For representations in which services are performed on or after January 1, 2021:	
Non-capital case	\$2,800 (per individual authorization, exclusive of expenses reasonably incurred)
Capital case	\$7,500 (applicable to total payments for investigative, expert, and other services in a case, including expenses, not to each service individually)

APPENDIX 5 – SPECIFICITY IN TIMESHEETS

APPENDIX 5– SPECIFICITY IN TIMESHEETS

Counsel should strive to provide sufficient information in their billing to demonstrate both reasonableness and compensability and are encouraged to review the WDNY CJA Unit’s billing tip sheets at <https://www.nywd.uscourts.gov/cja> and any local billing guidelines.

PROPER CLASSIFICATION OF SERVICES (NO FULL-DAY BUNDLING):

Do this...

Date	Service	Description	Time
04/05/21	Interviews and Conferences	Met with AUSA (.4); phone call with client (.4); met with client at jail (.8)	1.6
04/05/21	Obtain/Review Rcds	Reviewed 302s re: Count 1 (Bates Nos. 001-225)	3.2
04/05/21	Legal Research	Legal research for motion to suppress	1.5

Not this...

Date	Service	Description	Time
04/05/21	Interviews and Conferences	Met with AUSA (.4); phone call with client (.4); met with client at jail (.8); Reviewed 302s re: Count 1 (Bates Nos. 001-225) (3.2); Legal research for motion to suppress (1.5)	6.3

DETAILED TASK DESCRIPTIONS:

Do this...

Date	Service	Description	Time
04/05/21	Travel Time	Traveled by private car to locate and meet with two possible eyewitnesses (W1 and W2) in Rochester, NY (includes travel to and within Roch. to two separate residences)	1.0
04/05/21	Interviews and Conferences	Interviewed two possible eyewitnesses (W1 and W2) in Roch. NY, at their separate residences	1.6
04/08/21	Obtain/Review Rcds	Reviewed 200 pages of wiretap transcripts (Bates Nos. 220-420)	1.5
04/17/21	Legal Research	Researched whether the search of client’s car without a warrant was unlawful; drafted motion to suppress (Doc. 112)	5.2
04/20/21	Obtain/Review Rcds	Reviewed cell site data, take notes, and draft timeline. Approx 150 pages of cell site discovery (no bates numbers).	2.0

APPENDIX 5 – SPECIFICITY IN TIMESHEETS

Not this...

Date	Service	Description	Time
04/05/21	Travel Time	Travel to Rochester, NY	1.0
04/05/21	Interviews and Conferences	Witness interviews	1.6
04/08/21	Obtain/Review Rcds	Reviewed discovery	1.5
04/17/21	Legal Research	Legal research and writing	5.2
04/20/21	Obtain/Review Rcds	Reviewed discovery	2.0

AGGREGATE ECF DOCUMENT REVIEW AND OTHER 0.1 TASKS:

Do this...

Date	Service	Description	Time
04/05/21	Obtain/Review Rcds	Reviewed multiple ECF filings (Doc. 2-9)	0.3
04/06/21	Interviews and Conferences	Review and respond to multiple emails from AUSA re: discovery	0.2

Not This....

Date	Service	Description	Time
04/05/21	Obtain/Review Rcds	ECF document review	0.1
04/05/21	Obtain/Review Rcds	ECF document review	0.1
04/05/21	Obtain/Review Rcds	ECF document review	0.1
04/05/21	Obtain/Review Rcds	ECF document review	0.1
04/05/21	Obtain/Review Rcds	ECF document review	0.1
04/06/21	Interviews and Conferences	Email AUSA re: discovery request	0.1
04/06/21	Interviews and Conferences	Review AUSA email response re: discovery request	0.1
04/06/21	Interviews and Conferences	Email AUSA re: discovery request follow-up	0.1
04/06/21	Interviews and Conferences	Review AUSA email response re: discovery request follow-up	0.1

APPENDIX 6 – EXPENSE POLICIES

APPENDIX 6– EXPENSE POLICIES

- Prior approval of the presiding judicial officer should be sought for any single non-travel, case-related expense in excess of \$500.
- 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 for black-and-white copies and twenty-five cents (\$0.25) per page for color copies. If in-house duplication is neither feasible nor cost effective, counsel or service providers are expected to negotiate the lowest rate possible from an outside vendor.
- 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.
- External hard drives purchased with the intent to stay with a case file (e.g., to store discovery) or for use in another CJA representation may be reimbursed as an out-of-pocket expense.
- General office overhead expenses are not reimbursable, including, but not limited to, flat-fee computerized research plans unless itemized by client (and billed on a proportional basis), land and cellular telephone maintenance fees, books and publications, office supplies and equipment, and all costs related to educational seminars.

APPENDIX 6 – EXPENSE POLICIES

- The cost 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. CJA attorneys are expected to utilize the most cost-efficient pricing plan available. As provided by CJA Guideline § 230.63.30, a copy of the bill or receipt is required.
- Reimbursement for transcripts of federal court proceedings must be submitted on a CJA 24 in eVoucher. Except during trial, accelerated transcripts, such as Expedited (7 days), 3-Day, or Daily, are discouraged. Any requests for accelerated transcripts must be justified and pre-approved by the court.
- As provided in CJA Guideline § 320.30.30, only one CJA-appointed attorney should order a transcript of any federal proceeding and should share a copy with appointed counsel for other defendants. If sharing is impracticable, additional copies may be ordered from the court reporter, but fees for a second or successive copy to appointed counsel must be furnished at a commercially competitive duplication (estimated to be ten cents per page) rate rather than the usual first or additional copy transcript rates.

APPENDIX 7 – HIGH-COST CASE INDICATORS

APPENDIX 7– HIGH-COST CASE INDICATORS

- Voluminous or complex discovery (*e.g.*, more than 500 gigabytes 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
- Lengthy trial proceedings
- Complex cases
- Large indictments with multiple counts
- Cases where a defendant has mental health issues
- Lengthy or complicated sentencing exposure
- Terrorism cases
- Securities or other major fraud cases
- RICO cases
- Organized crime, gang, or drug trafficking cases
- Cases where a plea appears out of question because of such factors as immigration status or deportation consequences
- Any case which appears, from an early stage, destined for trial

APPENDIX 8 – RESOURCES

APPENDIX 8 – RESOURCES

A. SECOND CIRCUIT COURT OF APPEALS, CJA

- CJA Policy and Procedures Manual
www.ca2.uscourts.gov/cja
- Alan Nelson
CJA Case Budgeting Attorney
212-857-8726
Alan_Nelson@ca2.uscourts.gov
- Richard Alcantara
Administrative Manager
212-857-8610
Richard_Alcantara@ca.uscourts.gov
- Candice Joseph
Legal Assistant to CBA
212-857-8728
Candice_Joseph@ca2.uscourts.gov

B. NATIONAL CJA GUIDELINES

- Guide to Judiciary Policy, Volume 7 (Criminal Justice Act Guidelines) <https://www.uscourts.gov/rules-policies/judiciary-policies/criminal-justice-act-cja-guidelines>
- AO Defender Services Legal and Policy Division
202-502-3030
DSO_LPD@ao.uscourts.gov

C. LITIGATION SUPPORT

- National Litigation Support Team, AO Defender Services Office
<https://www.fd.org/litigation-support>
510-637-3500
- Sean Broderick, National Litigation Support Administrator
Contact: sean_broderick@fd.org
- Kelly Scribner, Assistant National Litigation Support Administrator Contact:
kelly_scribner@fd.org