



# UNITED STATES DISTRICT COURT DISTRICT OF HAWAII CJA Billing Guide

## I. INTRODUCTION

An attorney appointed under the Criminal Justice Act (CJA), 18 U.S.C. § 3006A, to represent a financially eligible individual in a matter before the United States District Court for the District of Hawaii is entitled to reasonable compensation for work performed; reimbursement of properly documented expenses; and expert, investigative, or other services reasonably necessary for adequate representation. Appointed attorneys have an obligation to work in a cost-effective manner while still providing full and effective representation of the client.

To facilitate timely processing of payment and funding requests, the Court has adopted this billing guide. In addition to following this guide, CJA attorneys should be familiar with the District of Hawaii's [CJA Plan](#) and are expected to comply with the [Guide to Judiciary Policy, Volume 7 – Defender Services](#) (“CJA Guidelines”), and the Ninth Circuit’s [CJA Policies and Procedures](#).

Failure to follow this guide may result in voucher processing delay, a rejection of a voucher back to counsel for more information, or, in some cases, nonpayment of a time or expense claim. Accordingly, CJA attorneys should abide by this guide when preparing vouchers.

For questions about eVoucher or payment issues, email [cjavoucher@hid.uscourts.gov](mailto:cjavoucher@hid.uscourts.gov) or contact the Court’s Finance Department:

**Eduard Javonillo**

(808) 541-1484

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For questions about budgeting, organizing eDiscovery, or locating expert, investigative, or other services, contact:

**Jen Naegele**

Ninth Circuit CJA Case Managing Attorney

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## II. ATTORNEY FEES

### A. Hourly Rates

Hourly rates for CJA panel attorneys are set by the Judicial Conference of the United States and are usually adjusted each year, depending on the availability of funds. The new rates apply for services performed on or after the effective date. Current and historical rates are available in [§ 230.16](#) (non-capital) and [§ 630.10.10](#) (capital) of the CJA Guidelines.

## **B. Voucher Submission**

All claims for attorney services must be submitted electronically in eVoucher on a CJA-20 for non-capital cases or a CJA-30 for capital cases. Final vouchers for attorneys and service providers are due no later than 60 days after final disposition of the case. Any voucher submitted beyond 60 days but less than one year after case disposition must attach a letter demonstrating good cause for the untimely submission. Counsel must obtain prior Court authorization before submitting a voucher one year or more after the case has concluded. If submitted after 60 days, counsel risks not being paid for the representation.

When a panel attorney is substituted by another attorney, the substituted attorney should prepare and submit a final voucher no later than 60 days after the substitution.

## **C. Compensation Maximums**

The CJA contains waivable case compensation maximum amounts for various types of non-capital representations. Expenses do not apply towards the statutory maximum. Current statutory maximums are available in CJA Guidelines [§ 230.23.20](#).

Approval by the Chief Judge of the Ninth Circuit or designee is required to exceed the statutory maximum and requires certification by this Court that the representation is “extended or complex” and that the excess payment is necessary to compensate counsel fairly. 18 U.S.C. § 3006A(d)(3).

**NOTE:** The statutory maximum does not reset when an attorney is substituted for another attorney. Rather, the combined fees for all attorneys in a representation count against the maximum. Running a Defendant Detail Budget Report in eVoucher (link on left panel within representation) will show the amount of remaining authorized fees.

## **D. Required Documentation**

Any CJA-20 voucher that exceeds the applicable statutory maximum, and all subsequent vouchers in the same representation, must have attached the District of Hawaii’s Request for Excess Compensation Form instead of a CJA-26. This justification form is available on the Court’s [website](#) and must contain detail sufficient to show that the case involves extended or complex representation and that the amount is necessary to provide fair compensation.

## **E. Interim Payments**

To alleviate the financial burden of waiting until conclusion of a case to submit a payment voucher and to allow for review of vouchers on a timely and ongoing basis, the Court authorizes submission of interim payments in no less than two-month increments.

## **F. Budgeting**

Case budgets in unusually expensive representations help ensure that defense counsel receive the resources needed to effectively represent clients and help the Court assess reasonableness, monitor fairness, and responsibly oversee the expenditure of public funds.

Budgets are required in death-eligible prosecutions or capital habeas proceedings under 28 U.S.C. § 2255. Within 30 days of appointment to such a case, CJA counsel should contact a Ninth Circuit CJA Case Managing Attorney for budgeting help.

Budgets are strongly encouraged in non-capital cases where counsel is likely to spend more than 300 hours on the representation or where total costs (including service provider fees) are likely to exceed 300 times the prevailing CJA panel attorney non-capital hourly rate (e.g., \$45,000 if the hourly rate is \$150). Counsel should contact a Ninth Circuit CJA Case Managing Attorney early in any potential high-cost representation. Budgets are typically submitted in phases, and reasonable time spent preparing a budget is compensable.

This Court has delegated to the duty or assigned magistrate judge the authority to approve budget requests. CJA counsel may seek review of a magistrate judge’s funding reduction or denial to the presiding judge, who retains ultimate review and approval authority. Requests for review by the presiding judge should be filed as ex parte motions in CM/ECF.

**G. Billing Basics**

1. Time must be billed in tenths of an hour:

Minutes	Bill As
0-6	.1
7-12	.2
13-18	.3
19-24	.4
25-30	.5
31-36	.6
37-42	.7
43-48	.8
49-52	.9
53-60	1.0

2. Describe work in sufficient detail to allow reviewers to gauge the reasonableness of tasks without unnecessarily revealing privileged communications.

**EXAMPLES:**

Date	Service	Time	Description
4/5/19	Interviews and Conferences	1.6	Met with AUSA (.4); phone call with client (.4); met with client at detention center (.8)
4/5/19	Obtain/Review Rcds	3.2	Reviewed 302s re: Count 1 (Bates Nos. 001-225)
4/6/19	Travel Time	1.0	Traveled in own car to locate and meet with two possible eye-witnesses (W1 and W2)
4/6/19	Interviews and Conferences	1.6	Interviewed two possible eye-witnesses (W1 and W2) at their separate residences
4/17/19	Legal Research and Brief Writing	5.2	Researched whether the search of client’s car without a warrant was unlawful; drafted motion to suppress (Doc. 112)
4/20/19	Obtain/Review Rcds	2.0	Reviewed approx. 150 pages of cell site data, took notes, and drafted timeline.

3. When counsel spends time in common for more than one CJA client (such as driving to a detention center to see multiple clients) or represents one client in multiple cases, the time must be split between the cases. A cross-reference should appear on each voucher.

4. 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.

5. Discrete tasks should be entered into eVoucher separately. However, when applicable, tasks should be aggregated into a single block of time when multiple tasks performed were less than 0.1 hour each. For example, counsel should aggregate time spent during the day reading ECF documents.

**EXAMPLES:**

Date	Service	Time	Description
4/5/19	Obtain/Review Records	.1	Reviewed multiple ECF filings (Doc. 2-5)
4/14/19	Interviews and Conferences	.2	Four emails back and forth to AUSA re: discovery issues

6. Counsel should not bill for items ordinarily considered a clerical function. For example, counsel should not bill for downloading, opening, renaming, saving, printing, or forwarding a Notice of Electronic Filing (NEF). Similarly, counsel ordinarily should not bill for scheduling-related tasks (e.g., communications related solely to availability of an individual or the Court) or for entering calls, meetings, or court appearances in a calendar, except in unusual situations where extraordinary overhead-type expenses are necessary to prepare and conduct an adequate defense.

**H. Billing Categories**

Court Proceedings

- In-court time should be calculated from the time the proceeding actually began until the time it actually ended. This information is typically available on the Court’s minute entries.
- Time spent meeting with the client, client’s family, witnesses, or Assistant United States Attorneys before or after a hearing should be claimed as out-of-court time.
- Reasonable time spent waiting for a hearing to begin will be compensated (e.g., where it is unforeseen or unavoidable), but such time should be reported as out-of-court time.

Interviews and Conferences

- Identify the participants, mode of communication, and topic of conferences, calls, and emails without revealing privileged matters; initials or other identifiers may be used for witnesses.
- Conferences with the client or Assistant United States Attorney should describe the communication topic only if doing so does not reveal privileged matters.

### Discovery Review

- When possible, discovery review must include number of pages, Bates stamp ranges, and length or number of audio or video recordings, as well as the nature of the materials (e.g., transcripts, investigative reports, medical records, jail calls, video surveillance, etc.).
- Attorneys are expected to review documents at a rate of fifty (50) pages or more per hour. If review takes significantly longer, a brief justification should be provided.
- Claims for reviewing NEFs and associated ECF documents must include the document/pleading number and a brief description of the item reviewed. An attorney cannot claim time for reviewing NEFs or ECFs generated by an attorney's own filing.

### Research and Writing

- Claims for legal research must briefly describe the issue or purpose of the research.
- For preparation of "boiler-plate" notices and motions that do not require legal research, only time newly expended in creating the document may be claimed. Examples of such "boiler-plate" notices and motions often include motions to seal, motions to continue, notices of change of plea hearing, or any other routine filing involving minimal modification or use of a template.

#### **I. Associate Counsel**

Appointed counsel must obtain prior Court permission via motion to enlist the assistance of an in-house or contract associate attorney. Any such motion must identify the associate's name, address, years of experience (both in general practice and criminal defense specifically), and requested billing rate and appointment date. If granted, appointed counsel must provide a copy of the Court's order to the Finance Department, which will add the associate to appointed counsel's eVoucher appointment. Once an associate has been added, either appointed counsel or the associate may add the associate's services and expenses to appointed counsel's CJA-20/30. Appointed counsel then submits the associate's services and expenses together with their own services and expenses on the same voucher.

#### **J. Record Keeping**

Counsel and service providers must maintain contemporaneous time and expense records for all CJA work, including that performed by associates and support staff. Information entered into eVoucher timesheets satisfies counsel's recordkeeping requirement provided the information is entered as soon as feasible after performing the work. Counsel are strongly encouraged to enter time into eVoucher daily. Records are subject to audit and must be retained for three years after approval of the final voucher in a case.

### **III. TRAVEL**

#### **A. Inter-Island Travel**

The Court authorizes CJA attorneys to travel between islands to appear in court and visit in-custody clients, including up to one night of lodging if same-day travel is not practical. For any other purpose or if more than one night of lodging is needed, attorneys must seek prior Court authorization at least two weeks in advance of the proposed travel by submitting a TRAVEL-AUTH

in eVoucher. Prior authorization is also required for use of a rental car. This Court has delegated to the duty or assigned magistrate judge the authority to approve travel.

For travel between Oahu and the Island of Hawaii, counsel may bill up to a maximum of 2.0 hours each way. For travel between Oahu and all other islands, counsel may bill up to a maximum of 1.5 hours each way. If inter-island travel is combined with travel for any non-CJA client or non-professional reason, counsel must prorate both the travel time and expense billed to CJA.

#### **B. Other Travel**

Attorneys must seek prior Court authorization at least two weeks in advance of proposed travel for air travel and any travel involving an overnight stay or rental car (other than certain inter-island travel described in the preceding section) by submitting a TRAVEL-AUTH in eVoucher. The request must include the estimated cost and justification for the travel. The cost estimate should include travel time, airfare, ground transportation (e.g., rental car, if requested), lodging, and meals (limited to government per diem rate). The National Travel Service (1-800-445-0668) is available to provide cost estimates and to make travel arrangements.

#### **C. Travel-related Compensable Time**

Time spent on necessary and reasonable travel is compensable. This includes travel to a detention facility, Court, U.S. Attorney's office, or other approved destination. Whenever feasible, counsel should perform case-related work while traveling (e.g., sitting at an airport or on a plane). Absent express authorization from the presiding judge, compensable travel time is limited to eight hours within a 24-hour period.

Time spent drafting the justification for a TRAVEL-AUTH in eVoucher is compensable. However, time spent making travel arrangements, whether undertaken by an attorney, paralegal, or other provider, is not compensable.

#### **D. Travel Expenses**

When traveling under CJA authorization, attorneys and service providers will be reimbursed only for their actual travel expenses subject to the same limitations and regulations as a judiciary employee and up to the allowable General Services Administration (GSA) per diem rate: <https://www.gsa.gov/travel/plan-book/per-diem-rates>.

Itemized, line-item receipts must accompany all reimbursement claims for meals and lodging when overnight travel has been authorized, regardless of amount. Reimbursement claims for other non-mileage travel expenses over \$50, such as parking or ground transportation, must include a receipt.

While travel time must be split between multiple clients, any associated travel expense must be billed to just one of the clients under CJA Guidelines [§ 230.50\(f\)](#). The vouchers should cross-reference the case to which the expense was billed.

1. AIRFARE. For all air travel, travelers should seek the most economical, fully refundable government fare. Actual travel time may be considered when determining whether a direct flight is most economical. Refundable tickets should be purchased whenever possible.

- a. National Travel Service. For approved travel, attorneys may contact the

National Travel Service at 1-800-445-0668 to obtain government-rate airfares. Inform NTS that the airfare should be paid by the U.S. Courts/Hawaii CJA Travel account, which will eliminate the traveler's out-of-pocket cost for the airfare. Attorneys may still earn frequent flyer points when using NTS.

b. Direct Booking. Attorneys are permitted to make travel arrangements without going through NTS; however, reimbursement for airfare will be limited to the GSA city-pair rate: <https://cpsearch.fas.gsa.gov/cpsearch/search.do?method=enter>

2. PRIVATELY-OWNED VEHICLE. Travel by privately-owned automobile will be reimbursed at the mileage rate currently prescribed for federal judiciary employees who use a private automobile to conduct official business. The rates are set by the GSA and are intended to cover gas and wear and tear. The CJA eVoucher program computes the appropriate mileage rate based on the date of travel.

Document the date, destination (use the general location rather than a specific address), and the number of miles traveled. Google maps mileage calculations are considered reasonable. Parking fees may also be reimbursed.

Travel time will be measured as driving time only. Time spent going through security and waiting for a client at a detention facility should be billed as part of the client visit.

3. CAR RENTAL. Reimbursement of rental car expense is permitted when the use of a rental vehicle is more advantageous to the judiciary than the use of a privately-owned vehicle, taxi, car service, or other mode of transportation. Car rental must be authorized in advance.

A government contract car rental rate is available if the travel is for official travel and booked via NTS. A government credit card is not required, but NTS may require counsel to provide a travel order to show that the travel is for government-related work.

A government contract rental includes full insurance coverage for damages resulting from an accident while performing official travel. The cost of collision damage waiver or insurance is included in the government rate and therefore should not be purchased separately. Where counsel uses her/his own credit card to pay the cost of a rental vehicle, s/he must ensure that the paperwork for the rental vehicle specifically identifies it as a "U.S. Government business rental."

Counsel may also choose not to go through NTS but has the responsibility of insuring the car, either through personal car insurance and payment with a personal credit card that supplements personal insurance for rentals, or by purchasing at their own cost the rental company's insurance. Insurance is not reimbursable by CJA.

The cost of a full-size car is reimbursable. Charges for upgrades, such as for a premium-size vehicle, van, or sport utility vehicle, are not reimbursable unless there is a specific business purpose for the upgrade. If the rental charges do not include the cost of gas or other incidental expenses of operation, the attorney should pay the costs and then itemize these expenses on her or his reimbursement voucher.

4. OTHER GROUND TRANSPORTATION. Taxis, Uber, Lyft, shuttles, and public transit

are permitted modes of transportation. These expenses, including gratuity of no more than 20%, should be claimed on an actual expense basis. A voucher that includes taxi or car service fares over \$75 must have a certification from the attorney that a less expensive means of transportation was not available or was impractical to obtain or that the use of a taxi or car service resulted in the greatest advantage to the judiciary.

5. **LODGING.** CJA counsel are eligible for government hotel rates by presenting authorization from the Court and should request the lowest available rate when making hotel reservations. Travelers may also use NTS to make hotel reservations but must provide a personal credit card to secure and pay for the reservation. Detailed receipts for lodging must be submitted with the CJA voucher to receive reimbursement.

6. **SUBSISTENCE EXPENSES.** Actual subsistence expenses will normally be reimbursed within federal per diem limitations. Detailed receipts for food must be submitted with the CJA voucher to receive reimbursement. Travelers may seek reimbursement for their own expenses only. Alcoholic beverages are not reimbursable.

#### **IV. NON-TRAVEL EXPENSES**

##### **A. General Rule**

Reasonable out-of-pocket expenses incurred in connection with a representation may be claimed by counsel or a service provider and are not included in the statutory maximum. All expenses must be itemized on the “Expenses” tab of a payment voucher, with receipts attached to the “Documents” tab. For example, when claiming reimbursement for postage for mailing a letter to your client, state “postage for letter mailed to client” or when claiming reimbursement for copies, state “copies of motion to provide to client.” Vouchers with insufficient itemization or documentation may be returned. Prior Court authorization should be sought for any individual expense over \$500.<sup>1</sup>

##### **B. Photocopying**

The most fiscally responsible method of copying should be used. Coordination among counsel for co-defendants is encouraged. Any commercial copying must be accompanied by a receipt. Any claim for in-house photocopying must identify the date, the number of pages copied, and the actual cost per page. The maximum charge for in-house copying is \$0.10 per page.

##### **C. Postage**

Postage is reimbursable. Any mailing expense over \$50 must be accompanied by a receipt.

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<sup>1</sup> For high-cost photocopying or exhibit preparation at a commercial copy center, counsel should seek prior authorization via an AUTH in eVoucher. Such an AUTH facilitates both prior authorization for the expense and direct payment to the copy center, alleviating the need for counsel to pay out of pocket and later seek reimbursement. If photocopy services are authorized via an AUTH, counsel must create a CJA-21 voucher to pay the vendor, attaching an invoice to the Documents tab and listing the amount due on the Services (not Expenses) tab.



#### **D. Digital Storage Devices**

The cost of digital storage devices may be claimed as an expense if it will remain with the client file or be reused in other CJA representations. Proof of payment is required for any device exceeding \$50.

#### **E. Computer-Assisted Legal Research**

The cost of computer-assisted legal research (CALR) services, such as Lexis and Westlaw, may be reimbursed provided the research pertains to the CJA representation and is reasonable. Counsel must attach to the voucher a copy of the bill and receipt, regardless of amount, with the relevant charges highlighted or otherwise indicated. Prior authorization should be sought if CALR expenses are expected to exceed \$500.

#### **F. Non-reimbursable Expenses**

1. General office overhead such as secretarial help (whether regularly or specially employed), rent, telephone services, and office equipment or supplies are not reimbursable. Routine office tasks such as copying, filing, serving copies, and billing are not compensable even if performed by the attorney. The statutory hourly rate is intended to include compensation for these general overhead expenses.

2. Time spent on services of a personal nature unconnected to the legal representation is not reimbursable (e.g., arranging for the placement of a client's minor children, disposition of a client's non-case-related property, providing legal assistance in matters unrelated to the criminal case, etc.). CJA counsel also cannot be reimbursed for money spent on personal items for a client, such as food, clothing, or haircuts.

3. The cost of printing briefs is not reimbursable, although the cost of copying briefs remains compensable in accordance with subsection B above.

4. PACER fees are not reimbursable because attorneys providing services under the CJA are entitled to a no-fee account, which may be obtained by contacting the PACER Service Center at 1-800-676-6856.

5. Fact witness fees, witness travel costs, and expenses for service of subpoenas are not payable out of CJA funds. These expenses are paid by the Department of Justice pursuant to Fed. R. Crim. P. 17, and 28 U.S.C. § 1825. Contact the United States Marshal for payment procedures.

6. Attorneys may not pay directly for transcripts of federal court hearings and then seek reimbursement from CJA funds. Transcripts must be ordered in eVoucher on an AUTH-24.

7. The cost of transcribing depositions in federal criminal cases is the responsibility of the Department of Justice, except when the witness is a defense expert.

8. Expenses associated with continuing legal education are not reimbursable.

9. Investigators, experts, and other service providers must be compensated on a CJA-21/31 in eVoucher. Except for commercial photocopying services, counsel may not pay a service provider directly and then seek reimbursement.

## **V. EXPERT, INVESTIGATIVE, AND OTHER SERVICES**

### **A. Hourly Rates**

The District of Hawaii follows the Ninth Circuit’s presumptive hourly rate ranges for experts, investigators, and other service providers, available in [Appendix 2](#) of the Ninth Circuit’s CJA Policies and Procedures. Within these ranges, attorneys should negotiate the lowest reasonable hourly rate for services, as well as an hourly rate for travel time (typically 50% of the services rate for higher cost experts).

The Court may approve a rate exceeding the Ninth Circuit’s presumptive maximum 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 that may affect how quickly the service needs to be completed.

### **B. Compensation Limits**

In non-capital cases, the waivable case compensation maximum for each service provider type is currently \$2,600. For capital cases, the waivable compensation maximum for all service providers combined is currently \$7,500. Expenses do not apply towards the statutory maximum.

Approval by the Chief Judge of the Ninth Circuit or designee is required to exceed the statutory maximum and requires certification by this Court that the excess amount is necessary to provide fair compensation for “services of an unusual character or duration.” 18 U.S.C. § 3006A(e)(3) (non-capital); 18 U.S.C. § 3599(g)(2) (capital).

### **C. Prior Authorization**

For services costing under \$900 per case (not per provider), CJA attorneys may obtain services without prior Court authorization. The combined fees of all service providers on a case count towards the \$900 limit.

For services exceeding \$900 per case, counsel must submit an AUTH in eVoucher identifying the service provider, the total funds requested, the hourly rate, and the total number of requested hours. Counsel must fill out and attach the Service Provider Funding Request form available on the Court’s [website](#) (see Instructions for Attorneys CJA 21 & 31).

This Court has delegated to the duty or assigned magistrate judge the authority to approve applications for investigative, expert, or other services. CJA counsel may seek review of a magistrate judge’s funding reduction or denial to the presiding judge, who retains ultimate review and approval authority. Requests for review by the presiding judge should be filed as ex parte motions in CM/ECF.

Attorneys are responsible for tracking all CJA service provider fees and for advising providers, in writing, of the details of an authorization. Providers should also keep track of approved funding and notify counsel if additional funds will be needed. If additional funding is needed, counsel must submit a new AUTH in eVoucher, selecting “Request Additional Funds” as the Authorization Type and attaching the Service Provider Funding Request form, prior to the existing authorized funds being exhausted.

Payment is made directly to the service provider on a CJA-21/31. If the service provider is on

the firm's payroll, the CJA-21/31 must list the firm as the payee. Counsel may not pay the service provider and then request reimbursement as an expense on CJA-20/30.

**D. Nunc Pro Tunc Requests**

Nunc pro tunc requests for services are disfavored. In the rare instance when prior Court approval is not feasible, attorneys may request nunc pro tunc approval on the AUTH in eVoucher, explaining why timely procurement of necessary services could not await prior authorization.