

## II. Services Which Are Compensable - Support Required

### A. Associates

1. The use of associates is allowed under the Guide. (*See Guide to Judiciary Policies and Procedures*, Vol. 7, Part A, Chapter II, Part B, Section 2.11 (a) & (b)) It is the intent of each court's CJA Plan that the assigned CJA attorney represent the client and not the associate. An associate is considered an extension of, not a substitute for, the CJA Panel Attorney. The associate may perform services for the CJA Panel Attorney, not instead of the CJA attorney. In order to claim associate compensation you must:
  - a. In a non-capital representation, obtain prior approval from the presiding judge where it is anticipated that the billing for the associate will exceed ten hours. If the associate is not part of appointed counsel's law practice, prior approval is required for any amount of work. In capital representations, prior approval is required to bill any amount of associate work.
  - b. Use CJA forms 20 and 30 to bill associated attorneys services. Associate use is billed on individual worksheets attached to the attorney's voucher setting forth the hours worked and the rate of compensation. Associate counsel services cannot be billed as an expense of counsel, even if the associate is an employee of the firm.
  - c. Associates are billed at between \$80 and \$90 per hour regardless of the nature of the case, including capital cases. Associates who are not members of the CJA Panel will not be reimbursed at the full CJA rate. Where within the \$80 to \$90 parameters the rate should fall should be the product of a discussion between the assigned attorney and the Case-Budgeting Attorney with final approval of the rate given by the presiding judicial officer. Consideration should be given to the experience, knowledge and educational background of the associate as well as cost savings anticipated to be enjoyed due to the special attributes of the associate.
  - d. Although it is intended that the \$90 figure be viewed as a maximum rate for associates who are not full time employees of the assigned attorney's firm, there may be situations where an associate is possessed of some special knowledge or skill so as to warrant a higher rate. Prior application must be made to the presiding judicial officer for authorization to pay an associate a higher rate. If an associate is a member of the CJA panel, he or she

may, without a request for an exception, receive the full CJA rate.

2. In a death-eligible case, where lead counsel and learned co-counsel are paid the higher death-eligible case rate, if an associate rate higher than \$90 per hour is sought, counsel should address such application to the discretion of the presiding judicial officer after consulting with the Case-Budgeting Attorney.
  - a. The mere fact that the associate shall be working on a capital case, shall not, in and of itself, be deemed sufficient to warrant a higher associate rate.
  - b. CJA Guideline §6.01 mandates that in capital cases, associates may be used with prior approval, “at a reduced hourly rate” provided the net effect would be to “diminish the total cost of representation.” A reduced hourly rate cannot exceed \$90 per hour. The \$90 figure is a cap which not all associates will be qualified to receive. Counsel should be prepared to justify the amount paid with consideration given to the knowledge, skill and experience of the associate.
  - c. It should be noted that where an associate is a full time employee of the CJA Panel member, a rate which exceeds \$90 per hour may be set, after consulting with the Circuit CJA Case-Budgeting Attorney, which recognizes the additional overhead costs associated with maintaining said full time employee. This rate must also be approved by the presiding judicial officer to whom the case is assigned and applies to capital and non-capital cases.
  - d. On the face of the worksheets, separately identify the time claimed by the CJA attorney and/or the associate
  - e. Associate time spent in meetings or in court will not be compensated absent some compelling justification for the associate to participate in these events. Only appointed CJA counsel may bill for meetings, conferences or court appearances. Where the associate appears in court with CJA counsel, or in lieu of appointed CJA counsel, prior approval of the presiding judicial officer should be sought to allow the court to rule on the necessity of the associates’ participation. Without an appropriate ruling from the court, an associate will not be compensated for attending meetings, conferences and court appearances
  - f. With respect to non-capital cases, the spirit of CJA Guideline

§6.01 also applies for using associates to lower the cost of the representation or to meet time limits. With prior approval for services in excess of ten hours, associates may be used, at the presumptive rate, where such services will diminish the total cost of representation

- g. CJA Panel Members should be fiscally responsible in using associates.
  - i. Excessive research or copying by associates will not be reimbursed.
  - ii. Excessive time spent in conference with or among associates will not be compensated.
  - iii. If the assigned attorney does not have time to represent the client, he/she should not accept the assignment.

B. Research

- 1. Counsel will be reimbursed for reasonable and necessary research time. Each CJA attorney is expected to have a basic knowledge of the Federal Criminal Code and Rules.
- 2.. Worksheets should set forth sufficient details regarding the issues researched to facilitate the reasonableness review of each voucher.

C. Document Review

- 1. Detail sufficient to identify the work performed should be provided on the worksheets for time spent on “file” or “discovery” review.
- 2.. Simply noting “discovery review” is insufficient.
- 3. Counsel should describe the type of documents reviewed and the quantity reviewed along with the date this review occurred.
- 4. It is intended that sufficient information be supplied to allow the Court to make a meaningful reasonableness evaluation of the work performed by CJA counsel.

D Waiting Time

1. Reasonable waiting time will be compensated where it is unforeseen and unavoidable.
2. In instances where waiting time is “foreseeable” CJA counsel should bring other matters to work on during such period of waiting. Counsel should also attempt to use the inevitable waiting time encountered when attempting to enter a correctional facility by bringing other material to review.

E. Travel Expenses

1. Compensation will be approved for time spent in reasonable and necessary travel. Allowable time includes only those hours actually spent in or awaiting transit and should be recorded on the out-of-court hourly worksheet.
2. Where the client is jailed at considerable distance from counsel’s office, consideration should be given to telephone conferencing whenever appropriate. It is not the purpose of this provision to discourage attorney-client in-person meetings, however, where non-substantive matters are to be discussed, telephone conferencing may be appropriate.
3. Permission for out-of-District/Circuit travel should be obtained from the presiding judge in the form of a travel authorization where an overnight stay will be required or a transportation expense exceeding \$500 is anticipated. Permission for out-of-Circuit travel on appeals shall be obtained from the Circuit Executive’s office. The travel authorization will be necessary to obtain favorable government rates for CJA Panel Attorney travel through the government travel agency.