

FUNDING THE CJA DEFENSE CASE

2025 CJA PANEL ATTORNEYS TRAINING SEMINAR

April 11, 2025

Presented by the Office of the Federal Public Defender

Oxford, Mississippi

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Circuit CJA Case Budgeting Attorney – Fifth Circuit

FUNDING AND BUDGETING

ATTORNEY FEES

SERVICE
PROVIDERS

EXPERTS

AUTHORITY:

- 18 U.S.C § 3006A
- 18 U.S.C § 3599 (Capital cases)
- CJA GUIDELINES
- CJA PLAN – Circuit, District & Division

Court & FPD Websites

CJA PLANS

[CIRCUIT PLAN AND POLICIES](#)

MSND and MSSD Courts / Fifth Circuit

LITIGATION SUPPORT - FPD / FD.org

EBA - [Welcome to Electronic Budgeting Application |
Electronic Budgeting Application](#)

ATTORNEY FEES

Guidelines Sec. 230.26

When to budget –

- 300+ attorney hours
- Complex case likely to exceed the case compensation maximum
- Budget is not a guarantee of payment but does facilitate voucher review

Budget in stages in complex cases

- Discovery
- Pretrial litigation
- Trial, post-verdict litigation and sentence

Advantages

- Alert court to cost drivers and likely costs of the representation
- Interim payments
- Quicker payments: no need for circuit review
- No need for CJA 26 or excess memo
- Pre-approval required for service providers

ATTORNEY BUDGET MOTION

- Description of charges / factual & procedural overview
- Description of cost drivers
 - Voluminous ESI - Client mental health issues; multiple co-defendants; long-running conspiracy; travel issues
- Estimate hours for tasks
- Division of work if more than one attorney appointed or associate counsel assisting
- Request to submit interim vouchers
- *CBA available to discuss / review draft*

Electronic Budgeting Application – EBA

[Welcome to Electronic Budgeting Application | Electronic Budgeting Application](#)



Create Case

Budget Webform *

Non-Capital Budget Webform



Representation information

Defendant First Name

Defendant Middle Name

Defendant Last Name *

Date of Indictment

mm/dd/yyyy



Number of Co-Defendants

Co-Defendant Number

Case Name

Case Number *

Circuit *

Fifth Circuit



District

Mississippi, Northern



Division

Oxford Division



Trial Date

mm/dd/yyyy



Number of Trial Days

Presiding Judge

Discovery

Discovery Volume *

- Select -



Discovery Type

- | | |
|--|---|
| ☐ Audio Recordings | ☐ Forensic Reports |
| ☐ Cell Phone Data | ☐ Investigative Reports |
| ☐ Cell Site or GPS Location Records | ☐ Pen Register Materials |
| ☐ Documents (Hard Copy) | ☐ Photographs |
| ☐ Documents (Scanned - No OCR) | ☐ Search Warrants |
| ☐ Documents (Scanned - OCR) | ☐ Social Media Records |
| ☐ Email | ☐ Video Surveillance |
| ☐ Foreign Language Recordings | ☐ Wiretaps |
| ☐ Forensic Images | ☐ Other |

Discovery Needs

- | | |
|---|---|
| ☐ Discovery is disorganized | ☐ In-custody clients do not have access to discovery |
| ☐ Documents have not been OCR'd | ☐ Protective order issued in case |
| ☐ Encrypted Files | ☐ Transcription services needed |
| ☐ Evidence can only be viewed at AUSA office | ☐ Translation services needed |
| ☐ Files Corrupted | ☐ Unable to open |
| ☐ Government did not provide discovery index | ☐ Other |

Discovery Tools

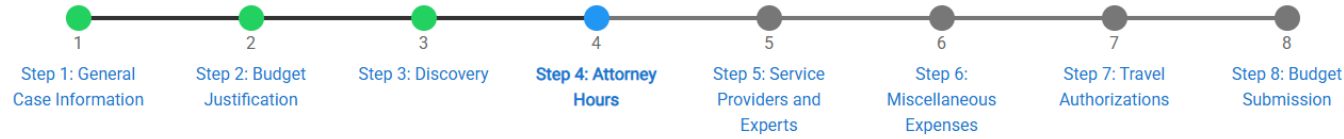
- | | |
|--|--|
| ☐ Adobe Acrobat Pro or DC | ☐ MS Excel |
| ☐ CaseMap | ☐ Text searching software |
| ☐ Casepoint | ☐ Web-hosted document review platform |
| ☐ FTK (Forensic Toolkit Software) | ☐ Other |

Discovery Coordinator

- | | |
|--|---|
| ☐ Discovery Coordinator | ☐ National Litigation Support Team Coordinating Discovery Attorney |
| ☐ Litigation Support Vendor | ☐ Objective Case Paralegal or Investigator |
| ☐ Local Coordinating Discovery Attorney | ☐ Other |



4:25-cr-0097 - Dart: Non-Capital Budget Webform



* Indicates required field

Attorney Rates

Counsel Name	Counsel Rate	Counsel Type	Total
Stan Premble	175	Lead Counsel	12950
		Total	12950

Attorney Hours

Unbilled Attorney Hours (Nunc Pro Tunc)

Counsel	Hours	Justification
Stan Premble	30	client interviews, initial discovery review, meetings with counsel for co-def; detention hearings

Arraignment and/or Plea

Counsel	Hours	Justification
Stan Premble		

Bail and Detention Hearings

Counsel	Hours	Justification
Stan Premble	3	contested hearing

Motion Hearings

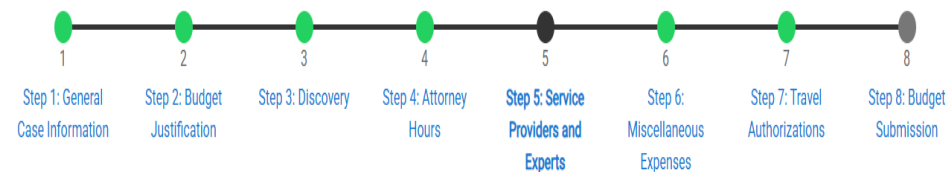
Counsel	Hours	Justification
Stan Premble		

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Status message



Submission saved. You may return to this form later and it will restore the current values.



* Indicates required field

Service Providers and Experts

For Paralegal(s), Investigator(s), Experts and other providers.

In the following table, identify any service provider or expert you are requesting for this phase as well as the hours and hourly rate requested for that provider.

Use the **Justification** field to describe scope of work, include justification to exceed presumptive hourly rate if applicable. Also, indicate how many hours have been previously authorized to date, if any.

Show row weights

Type	Name *	Hours *	Rate *	Total	Justification
Investigator	Dave Robicheaux	40	100	4000	witness location and interview, investigate cooperator backgrounds, review discovery w client

✓ Add

✓ Save Draft

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✓ Next >

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Status message



Submission saved. You may return to this form later and it will restore the current values.



* Indicates required field

Travel Authorizations

Show row weights

Traveler	Origin	Destination	No. of Trips	No. of Nights	Method of Travel	Purpose of Travel
- None -					- None -	- None -

✓ Add

In addition to completing this request, you will still need to create separate travel authorizations (TRAVEL) in eVoucher or file a motion with the Court for any out-of-district travel/overnight travel prior to booking flights.

Prior to booking any out of district travel, please refer to the following resources to make sure your costs and fares are reasonable:

- Verify that the costs are within the per diem for the districts you are traveling: <https://www.gsa.gov/travel/plan-book/per-diem-rates/per-diem-rates-lookup>
- Use GSA City Pairs: <https://cpsearch.fas.gsa.gov/cpsearch/search.do>
- OCONUS Rates: <https://www.defensetravel.dod.mil/site/perdiemCalc.cfm>

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TRAVEL

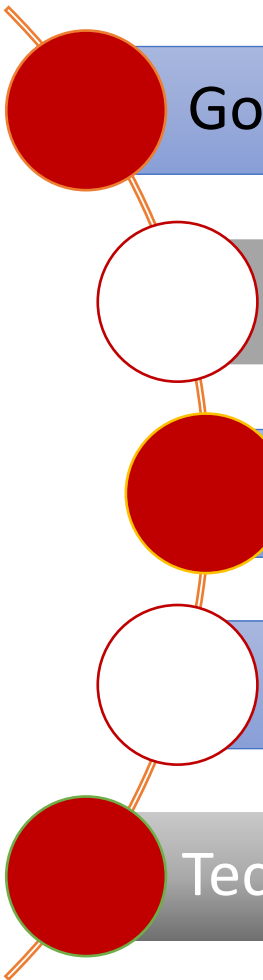
- ☐ Necessary & reasonable travel includes travel time to meet with clients even if videoconferencing is available. CJA Guidelines § 230.60
 - Importance of in person meetings is stressed as necessary to build & maintain client relationship
- ☐ Include in attorney budget
 - Estimate attorney time/mileage expense for anticipated number of trips to see client; meet AUSA; attend court
- ☐ Travel authorization request
 - For overnight travel – airfare; lodging M&I and ground transportation
 - May need order or letter from the court to obtain government rate at hotels
- ☐ Appeals – travel authorization for OA or client visit
 - Airfare booked and paid for through National Travel
 - Pre-approval for driving over 4 hours

This guidance applies to attorneys, experts, and service providers

ASSOCIATE COUNSEL

- ❑ CJA Guidelines § 230.53.10 – need prior court approval if seeking associate counsel who is **not** an associate or partner of appointed counsel's firm; budget if likely to exceed case comp max.
- ❑ Voucher / Audit Issues
 - Identify tasks performed by associate on voucher (same firm)
 - eVoucher now puts both on the same voucher (**RATE!**)
 - **Separate CJA 20 or 30 if appointed or not in same firm**
 - AVOID: Appointed counsel delegating most of the work to associate
- ❑ District CJA Plan – e.g mentoring programs
- ❑ NOTE – if more than one attorney is appointed in an extremely difficult case, each attorney is entitled to claim the case compensation maximum

Technology is Driving Change



Gone are the days of sitting down to review discovery page-by-page

Voluminous discovery and seized devices

Ethical obligation to be technologically competent

Studies show linear review is less effective

Technology-assisted (search-based) review is faster and more accurate

DISCOVERY MANAGEMENT and LITIGATION SUPPORT SERVICES

- Costs for computer systems, litigation support products, experts expected to exceed \$10,000: CJA Guidelines require that National Litigation Support be contacted § 320.70.40
- Litigation support vendor services available (CJA funded for case)
 - Processing and hosting / Training and support
 - Slate Technologies – call review
- Software discounts available (licenses for purchase)
 - secure cloud storage (box.com)
 - document and case information tools (Casemap / Docmanager)
 - document review platform (Casepoint)
 - document search programs (dtSearch)

<https://www.fd.org/litigation-support/cja-panel-attorney-software-discounts>

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Litigation Support

Litigation Support

[What is Litigation Support?](#)

[The Language of Litigation Support](#)

[I Have Electronic Data... Now What?](#)

[Who is the National Litigation Support Team?](#)

[Coordinating Discovery Attorneys](#)

[Direct Assistance for CJA Panel](#)

[CJA Panel Attorney Software Discounts](#)

[Joint Electronic Technology Working Group \(JETWG\)](#)

[Resource Materials](#)

[Litigation Support Blog](#)

What is Litigation Support?

The essential goal of litigation support is to organize, analyze, and present case materials through computer systems. In federal criminal defense cases, there are three primary ways that litigation support is used by Federal Defender Office (FDO) staff and Criminal Justice Act (CJA) panel attorneys. One is in conducting electronic courtroom presentations. Another is management and analysis of paper documents and their electronic equivalents. The third is the identification, collection, preservation, processing, review, analysis and production of electronically stored information (ESI).

Litigation support is the marriage of project management and technology. We believe that while every district is different and every case is unique, there are certain standards to follow in order to ensure that the data involved in a case is handled in a cost effective and time efficient manner allowing for good organization, easy retrieval and effective client representation.

Both federal defender offices and CJA panel attorneys are often faced with the challenge of limited resources and staffing. Litigation support technology can help to make up that deficit by allowing data to be intelligently collected, processed, organized, reviewed, analyzed and presented.

While there may not be a single piece of technology to address all the challenges you face, the National Litigation Support Team can help you to navigate through the process of evaluating your choices and in deciding what solutions best meet the needs of your case.

AI Tools

Translations / Jail or Title III call transcriptions / Document summaries

No substitute for certified transcription; accuracy not guaranteed, but may narrow down the field of what does need to be transcribed

Contact National Litigation Support w FD.org for uses and recommended resources

Some available programs:

JUSTICE TEXT (no human QC)

REDUCT.VIDEO (no human QC)

SONIX (no human QC)

TRIALKIT

Ethical Considerations

AI tools may enhance efficiency but, there are serious ethical concerns that counsel need to be aware of, particularly regarding protective orders and attorney-client privilege.

Be aware that AI models will store information as it builds its database.

“Is the case law you swear exists in the room with us right now?”



Coordinating Discovery Attorneys (CDAs)

- **available in multi-defendant cases with voluminous or complicated ESI issues**

- Appointed by the court to manage discovery for multiple defendants
- Contracts with third party vendor for hosting
- Alternatively, designate an appointed attorney to act as the discovery liaison attorney for multiple defendants

DUTY TO CONSIDER USING A PARALEGAL, INTERN, LITIGATION SUPPORT OR INVESTIGATOR TO FURTHER YOUR CASE

Voluminous discovery can be
insurmountable

1 TB = 3.5 million documents

1 TB = 2 million photos

Ways to USE A PARALEGAL, Intern and/or Litigation Support To further your case

- ❖ Organize, Index and Analyze Documents and Information
- ❖ Prepare Summaries, Outlines and Chronologies
- ❖ Review calls and other discovery with the client
- ❖ Create, Update and Maintain eDiscovery Data
- ❖ Conduct Automated Searches of eDiscovery (dtSearch, Adobe)
- ❖ Draft Affidavits, Motions , Trial Memorandum, Subpoenas, etc.
- ❖ Obtain Jury List and Biographical Information on Jurors
- ❖ Prepare Trial Notebooks, Organize and Mark Trial Exhibits
- ❖ Work with Experts, Consultants and Witnesses
- ❖ Gather and Prepare Sentencing Information

18 U.S.C § 3006A (e) – Experts and Service Providers

Counsel for a person who is financially unable to obtain investigative, expert, or other services **necessary for adequate representation** may request them in an ***ex parte*** application.

No Pre-Approval

Total costs for investigative, expert, or other services obtained without prior request:

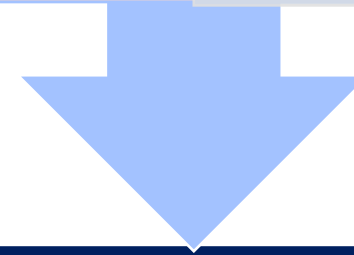
\$1,000 plus expenses

District Court Approval

For **each** service provider or expert:

\$3,000 per
provider (2025)

plus expenses



pre-approval may be waived in the **interests of justice** where judge finds that timely procurement of services could not wait prior authorization

Circuit Approval

Any service provider or expert whose services are expected to exceed \$3,000

Must be certified by the district court as “necessary to provide fair compensation for services of an unusual character or duration”

Must be approved by the Chief Judge of the Circuit or his/her designee

WHEN TO APPLY FOR FUNDS

- Once the need becomes apparent
- BEFORE YOU AUTHORIZE THE WORK
- BUT - district court may authorize the services nunc pro tunc, if the presiding judge “**in the interests of justice**”, finds that timely procurement of necessary services could not await prior authorization”. CJA Guidelines, §§ 310.20.30(b)
- Monitor expenditures
- **Ask for additional funds BEFORE you authorize more work**

**For instance, you
may need ...**

EXPERTS:

- Computer expert // Cell phone / tower expert
- DNA // Ballistics // Forensics // CPA // fraud examiner
- Mental health experts – guilt / sentence mitigation / competency

SERVICE PROVIDERS

- Investigators
- Paralegals
- Mitigation specialists
- Assistance to catalogue and review numerous jail calls

**Competency
– Dual
Purpose
Examination
§
DOJ May Pay
Expert**

§ 320.20.50

- who requested the examination
- the specific purpose(s) of the examination
- Who gets copies of the report

§ 320.20.60 - Chart

CALCULATING THE EXPERT'S TIME

Document review

Interviews

- Client (incl travel time to jails)
- Witnesses

Evidence examination and testing

Preparation of reports

Consultation with counsel

Preparation to testify

Testimony

Travel (time and expenses)

Rate Ranges

CIRCUIT HAS NOT ADOPTED PRESUMPTIVE RATE RANGES

- Point of reference

EXPERIENCE BASED HOURLY RATES

- Training, experience, specialized skills
- Specific skills for specific case needs, e.g. paralegal with training in medical billing in health care fraud cases; paralegal/nurse who can read medical records; investigator who worked in a crime lab and can read/analyze DNA reports
- Need for the specialized skill that justifies higher rate must be present in the case
- Provide CV or resume and fee schedule where available

FUNDING MOTION REQUIREMENTS

Factual support for the need for assistance

Description of services to be performed / time required – EBA

Resume or CV

Hourly rate or fee schedule

Vet the expert

Shop around for competitive rates

Travel issues

CBA available to discuss / review draft

Retained
counsel may
seek funding

Pro Se
defendants /
standby counsel

RETAINED COUNSEL

- § 310.10.10
 - Defendant with retained counsel may seek funding where
 - the defendant's resources are in excess of the amount needed to provide the defendant and his/her dependents with the necessities of life, defendant's release on bond, and pay a reasonable fee to retained counsel, **but are insufficient to pay for the necessary services.**
- § 310.10.20
 - (a) the court should inquire into counsel's fee arrangement
 - (b) If the court finds the fee arrangement unreasonable in relation to fees customarily paid to qualified practitioners in the community for services in criminal matters of similar duration and complexity, or that it was made with a gross disregard of the defendant's trial expenses, the court may order the retained attorney to pay out of such fees all or such part of the costs and expenses as the court may direct.

CIRCUIT ORDER

- Name of provider / ## hours / rate \$\$ (think eVoucher AUTH)
- Incumbent on attorney to monitor the work and request additional funds, if needed, **before the work is performed.**
- Budget is not a guarantee of payment; all vouchers still subject to audit for compensability and reasonableness review

INTERIM VOUCHERS

Budgeted Cases

- District court authorization to submit interim vouchers
- Payments within budget approved and paid by district court; circuit approval not required
- 20% withheld until end of budget period; then all billing reviewed by circuit
- Expenses paid in full by district court

No Case Budget

- District court authorization to submit interim vouchers at regular intervals if case is 90+ days or > \$4,000
- District court may approve and pay up to case compensation maximum
- Circuit review once case compensation maximum exceeded
- 100% payment (no withholding)

VOUCHER REVIEW

- **§ 230.33.10 Standard for Voucher Review**
- Voucher cuts should be limited to:

(1) Mathematical errors;

- **(2) Instances in which work billed was not compensable;**
- **(3) Instances in which work was not undertaken or completed; and**
- **(4) Instances in which the hours billed are clearly in excess of what was reasonably required to complete the task.**

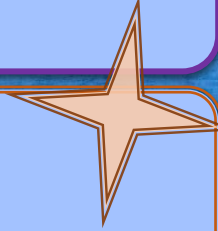
NON-COMPENSABLE – § 230.66.10 General Office Overhead

(a) General office overhead includes general office expenses that would normally be reflected in the fee charged to the client. **The statutory fee is intended to include compensation for these general office expenses.**



(b) Except in extraordinary circumstances (Guidelines § 320.70.30), **whether work is performed by counsel or other personnel**, the following expenses associated with CJA representation are not reimbursable: • personnel – rent – telephone & internet -- secretarial.

§ 320.70.30 a) CJA attorneys are expected to use their own office resources, including secretarial help, for work on CJA cases.



Not compensable regardless of who does the work



Filing, mailing, circulating, sending intraoffice communications, routine texts to check availability



Printing and Scanning



Downloading and saving, including ECF notices, pleadings, etc.

NOTE – counsel should not claim time for reviewing CM/ECF notices generated by their own filings



Invoicing, setting up eVoucher accounts; memo in support of excess comp

BUT must certify work by service providers & experts



Calendaring and scheduling; rote communications requiring minimal effort



Trips to copy center / post office / USAO to copy, scan, mail, pick up discovery etc

**** state in voucher if met with AUSA while picking up discovery**

NOTICE OF PROPOSED REDUCTIONS

- § 230.33.30 Notification of Proposed Reduction of CJA Compensation Vouchers
 - (a) ... If the court determines that a claim should be reduced, appointed counsel should be provided: prior notice of the proposed reduction with a brief statement of the reason(s) for it, and an opportunity to address the matter.
 - (b) **Notice need not be given to appointed counsel where the reduction is based on mathematical or technical errors.**
 - (c) Nothing contained in this guideline should be construed as requiring a hearing or as discouraging the court from communicating informally with counsel about questions or concerns in person, telephonically, or electronically, as deemed appropriate or necessary.

VOUCHER RECORDING – BEST PRACTICES

- Services:
 - DO NOT block bill (hour increments)
 - DO NOT clump multiple tasks in one service entry (impossible to assess reasonableness)
 - Discovery review: add detail (e.g. wiretaps, video, medical records)
 - Legal research and writing – identify motions or areas of research
 - Plea – extended negotiations or unique issues / proffer sessions / cooperation
 - In court time is actual time spent in the court as reflected on the minute entry
 - Wait time = other
 - Time meeting with client, AUSA, etc = interviews and conferences
 - Travel time should be separated out; pro rate if travel is for more than one case

AGGREGATE TASKS > 6 minutes

Tasks taking less than 6 mins (e.g. email exchanges; non-substantive CM/ECF notices)

Aggregate multiple ECF notices and emails. Include ECF doc. #

Use PROFESSIONAL JUDGMENT when billing for reading for notices that do not require a substantive response especially in multi-defendant cases.

Reading and responding to intra-team emails should be aggregated over the course of the day

ECF REVIEW

Do This...

Date	Service	Time	Description
1/5/15	Obtain/Review Rcds	.3	Reviewed multiple ECF filings (Dkt. Nos. 2-9)

(NOTE: ECF review should reflect only the actual aggregate time that you spent reviewing the subject documents on a daily or weekly basis as opposed to billing every time you receive a notification)

Not This....

[illegible]

DETAIL TASK DESCRIPTIONS

DETAILED TASK DESCRIPTIONS

Do this...

Date	Service	Time	Description
2/5/15	Travel Time	5.8	Drove to El Paso (Round trip travel and travel in El Paso to meet with two potential witnesses; (2.5 hours each way)
2/5/15	Interviews and Conferences	3.0	Interviewed two witnesses in El Paso
2/8/15	Obtain/Review Rcds	4.0	Reviewed 200 pages of wiretap transcripts (Bates Nos. 220-420)
2/17/15	Legal Research	5.2	Researched whether the search of client's car without a warrant was unlawful; began drafting motion to suppress (Dkt. No. 112)

Not this...

Date	Service	Time	Description
2/5/15	Travel Time	5.6	Travel for interviews
2/5/15	Interviews and Conferences	3.0	Interviews
2/8/15	Obtain/Review Rcds	4.0	Reviewed discovery
2/17/15	Legal Research	5.2	Legal research and writing

BREAK OUT TASKS

PROPER CLASSIFICATION OF SERVICES (NO BUNDLING)

Do This....

Date	Service	Time	Description
1/5/15	Interviews and Conferences	1.6	Met with client's mother (.4); phone call with client (.4); met with client at jail (.8)
1/5/15	Obtain/Review Rcds	4.0	Reviewed 200 pages of wiretap transcripts (Bates Nos. 220-420)
1/5/15	Legal Research	5.2	Researched whether the search of client's car without a warrant was unlawful; began draft of motion to suppress (Dkt. No. 112)

Not this...

Date	Service	Time	Description
1/5/15	Interviews and Conferences	10.8	Met with client's mother (.4); phone call with client (.4); reviewed discovery (4.0); met with client at jail (.8); researched whether the search of client's car without a warrant was unlawful; began draft of motion to suppress (Dkt. No. 112) (5.2)

CJA DOES NOT PAY

Witness fees and expenses - § 230.66.50

- DOJ – Rule 17 **Subpoenas**; § 2254 proceedings – Rule 6; 28 U.S.C. § 1825
- If U.S. Marshals n/a, may incur expense; should seek prior approval
- But service while incidental to witness interviews o.k.

Competency Exam– DOJ pays CJA Guidelines § 320.20

Travel for non-custodial defendant

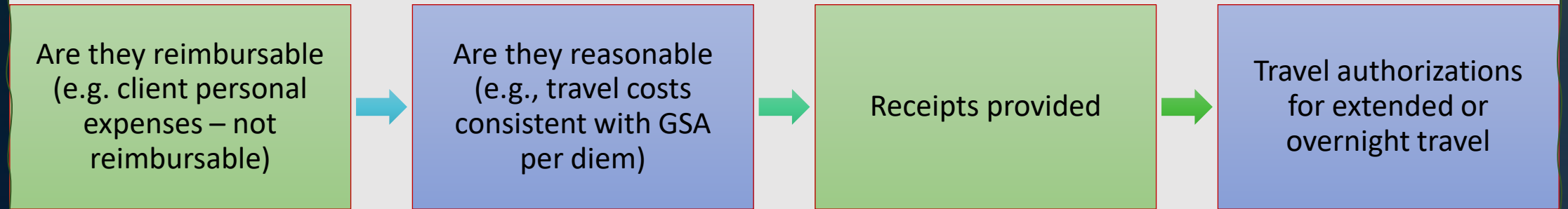
- 18 U.S.C. § 4285: US Marshals
- 3006A: *may be* interpreted as “other services necessary to the defense”

Filing Fees / PACER Fees (CJA account)

Defendant clothing, personal items CJA Guidelines § 230.66.20

- Assisting with disposition of defendant’s personal property compensable if obtaining the property contributes to a “representational purpose.”

EXPENSES



EXCEEDING THE CASE COMPENSATION MAX

\$13,600 – district court
\$9,700 – appeals

§ 3006A (d)(3) – judge must certify;
circuit approval required

§ 230.30 Supporting
Memorandum Justifying
Compensation Claimed

In any case in which the total compensation claimed is in excess of the statutory case compensation maximum, counsel will submit with the voucher a detailed memorandum supporting and justifying counsel's claim that:

- the representation given was in an extended or complex case (**see:** § 230.23.40(b)), and
- the excess payment is necessary to provide fair compensation (**see:** § 230.23.40(c)).

If the legal or factual issues in a case are unusual, thus requiring the expenditure of more time, skill, and effort by the lawyer than would normally be required in an average case, the case is “complex.”

If more time is reasonably required for total processing than the average case, including pre-trial and post-trial hearings, the case is “extended.”

LETTER IN SUPPORT OF EXCESS VOUCHER

- CASE BACKGROUND
 - charges, unique or complex challenges, outcome.
- COST DRIVERS
 - Discovery (describe amount and challenges);
 - Client (detained in remote location, mental health issues, demanding)
 - Witnesses or evidence in remote areas
 - Suppression, evidentiary or issues requiring expert evaluation
- TRAVEL
 - Travel distances office/court/client/USAO
 - Pro rate when possible
- PLEA & SENTENCE
 - Extended negotiations, eve of trial, cooperation, sentencing hearings

45 DAY RULE-

Guidelines § 230.13

– Vouchers should be submitted within 45 days of conclusion of the case absent a showing of good cause

- Provide a memo or letter to judge with explanation for delay in submitting bill
- Upload in docs tab in eVoucher

Travel Policies

- ❑ Per District / Division
- ❑ Need for prior authorization per district CJA Plans or rules
- ❑ Prior authorization advisable, e.g., long trial away from home
- ❑ Audit Issues and Red Flags
 - Within GSA per diem rates
 - Alcohol, more than one person on a bill
 - Change of flight – necessity or convenience

Note: in-person meetings with clients, even when videoconferencing is available, is viewed as important and necessary to high quality representation. § 230.60

CONTACT THE CASE BUDGETING ATTORNEY!

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504-310-7767

