

CJA Billing Guidelines



United States District Court, Eastern District of Tennessee

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Overview

★ CJA attorneys are obligated to comply with *The Judiciary Guidelines for Administering the CJA and Related Statutes*, applicable local rules, court orders, and notices.

★ CJA vouchers are reviewed to determine whether the claimed services and expenses were incurred in accordance with the policies, requirements, practices, and procedures of the Judiciary.

★ The CJA Billing Guidelines are intended to facilitate a quick review by the Clerk's Office and the Court.

★ Failure to comply with the Billing Guidelines may result in a processing delay, or the rejection of the voucher back to the attorney for a correction.

Voucher submitted
by CJA attorney

General review of
voucher by CJA
eVoucher clerk

Substantive review
of voucher by Staff
Attorney

Judge Review

* Additional steps required if Sixth Circuit approval is necessary.

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I. RECORD KEEPING

EXAMPLES OF AGGREGATE BILLING

Service Type	Date	Description	Hrs
Obtaining & Reviewing Records	01/02/01	Review client letter.	0.1
Interviews & Conferences	01/02/01	Conf. with AUSA.	0.1
Obtaining & Reviewing Records	01/01/01	Review ECFs #1-5.	0.2
Obtaining & Reviewing Records	01/5/01	Time spent reviewing NEFs during case	.06

These should be aggregated

- ★ Minimum .1/.2 billing per task is **not** allowed ★
- ★ Must aggregate time per I(e) ★

- Discreet tasks should be entered separately, in chronological order, with a brief correlating description, **UNLESS**:
- Multiple tasks, which require less than .1 hour each to complete, are performed in the same day. These tasks must be quantified together.
- If the tasks fall into multiple categories, the .1 hour entry may be entered into any applicable category.
- If a task requiring less than .1 hour cannot be quantified with any other service for that day, it can be claimed on its own.
- Aggregate time spent during the day reading substantive documents attached to a Notice of Electronic Filing (NEF) to ensure double billing of time does not occur.
- Time spent reviewing NEFs (the notice, not the attachment) should be aggregated weekly, monthly, or fore the entire period of representation to fairly represent the time spent reviewing these notices.

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I. RECORD KEEPING

NOT SUFFICIENTLY DETAILED:

Service Type	Date	Description	Hrs
Obtaining & Reviewing Records	01/01/01	Review documents.	0.2
Legal Research & Brief Writing	01/01/01	Draft motion.	0.4

SUFFICIENTLY DETAILED & ADEQUATE JUSTIFICATION:

Service Type	Date	Description	Hrs
Obtaining & Reviewing Records	01/01/01	Review ECFs #1-5.	0.2
Legal Research & Brief Writing	01/01/01	Draft and file motion to continue.	0.4

- Entries must be sufficiently **detailed** and **provide adequate justification**. I(d).
- Time and expense records must be maintained for three years after approval of the final voucher. I(k).
- Appointed counsel **may** claim time for services furnished by a partner or associate within the maximum compensation allowed by the CJA.
 - Time should be noted on attorney's voucher and voucher must separately ID the provider of each service.
 - Duplicative work may not be billed unless adequate justification is given for both appointed counsel and associate working on the same task.

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II. Submission of Vouchers

- Voucher should be submitted no later than 45 days after the final disposition of the case. II(a).
 - If filed after 45 days, the attorney **must** provide an explanation for why the voucher was filed late in the attorney's notes box.
- If an attorney is substituted by another attorney, the attorney should submit a voucher within 45 days of substitution. II(b).
 - If the total of the attorney's claim plus any panel attorney who was appointed before exceeds the case cap, the attorney must include a completed CJA 26 form.
- When an attorney represents a defendant in multiple cases, the attorney must submit individual vouchers for each separate appointment, even if the cases are related. II(c).
- If an attorney claims compensation exceeding the maximum statutory rate, the attorney must waive payment for the excess or file a CJA Form 26. II(e).
 - To waive payment for excess, include a note in the voucher in the public/attorney note field including your name and the date.

NOTE WAIVING EXCESS COMPENSATION:

I waive claim for excess compensation. Jane Doe. 01/01/01.

- CJA Form 26 must be saved as a PDF and attached under the document tab on the CJA 20 voucher. Claims for excess compensation must be approved by the Sixth Circuit after approval by this Court.

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III. ACTUAL AND REASONABLE EXPENSES

EXPENSES THAT ARE NOT REIMBURSABLE AND MAY NOT BE CLAIMED:

- **General office overhead.** (Rent; telephone services; secretarial services; other expenses that would normally be reflected in fee charged to client).
- **Items of a personal nature for client.** (Clothes; books; etc.)
- **The cost of printing briefs.** (Although photocopying is reimbursable if justified).
- **Fact witness fees, witness travel costs, and expenses for service of subpoenas.** (These expenses are paid by the Department of Justice – contact the US Marshal for payment procedure).
- **Taxes paid on attorney compensation.**

III(c).

- Only reasonable work actually performed, and reasonable expenses actually accrued, may be claimed. III(a).
- All compensation claimed should be reasonable. III(b).
- Time spent on overlapping cases (such as research, court appearances, etc.) must be allocated appropriately among the cases. Please note in the description field how the time was allocated. II(d).
 - Travel time and mileage must also be allocated appropriately, indicating in the description how the time/mileage was prorated. IV(f).

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III. ACTUAL AND REASONABLE EXPENSES

CLAIMS FOR CONFERENCES WITH FAMILY:

Service Type	Date	Description	Hrs
Interviews & Conferences	01/01/01	TC with client's mother re case status.	0.2
Interviews & Conferences	01/02/01	TC with client's fiancé re letters of support.	0.1

JUSTIFICATION FOR EXCESSIVE TIME:

Service Type	Date	Description	Hrs
Interviews & Conferences	01/01/01	Client conference re sentencing. Lengthy due to translation necessity.	2.1
Legal Research & Brief Writing	01/02/01	Research law on cooperation & other issues relevant to substantial assistance motion – complicated issues of fact and law.	3.4

- Only time *newly* expended in creating “boiler-plate” notices and motions (ex: motions to seal, motions to continue, etc.) should be claimed. III(e).
- Claims for conferences with family representatives must briefly state the subject of the communication. III(f).
- Absent extraordinary circumstances, billing should not exceed ten hours a day, unless in trial. I(h).
- Justification should be provided for any time or expense claimed that exceeds what would normally be presumed adequate for the task at hand. I(e).

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IV. DESCRIPTION OF TASKS



EXAMPLES OF ADEQUATE TASK DESCRIPTIONS:

Service Type	Date	Description	Hrs
Obtaining & Reviewing Records	01/01/01	Reviewed discovery: crime scene photos (52 photos) & 60 pages of supplemental discovery including additional statements and phone records.	2.4
Obtaining & Reviewing Records	01/02/01	Reviewed NEFs #s 16-18.	0.2
Legal Research & Brief Writing	01/03/01	Research re Johnson & Section 2255 procedural issues as applied to facts of the case.	1.6

- Description of services must be **sufficiently detailed** to understand the service and evaluate the reasonableness of the time claimed. I(d).
- Claims for **document review** (i.e., discovery) must specifically state the nature of the material reviewed and number of pages (if possible). Expected to review ~50 pages/hour. If longer, please justify. IV(b).
- Counsel should not bill for clerical functions. **DO NOT** bill for downloading, opening, renaming, saving, printing, or forwarding a NEF. III(d).
- Claims for reviewing NEFs must specify NEF by document number or name. **DO NOT** claim time for reviewing your own NEFs. IV(c).
- Claims for **legal research** must briefly state the issue researched. **DO NOT** claim time for basic review of Federal Criminal Code, Rules of Criminal Procedures, or Sentencing Guidelines. IV(d).

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V. IN-COURT AND OUT-OF-COURT TIME

In-Court Service Types

- Arraignment and/or Plea
- Bail and Detention Hearing
- Motion Hearings
- Trial
- Sentencing Hearing
- Revocation Hearings
- Appeals Court
- Other

Out-of-Court Service Types

- Interviews and Conferences
- Obtaining and Reviewing Records
- Legal Research and Brief Writing
- Travel Time
- Investigative and Other Work

- In-court time is calculated from the time **the hearing actually begins** until the time **the hearing actually ends**. V(a).
 - In-court time claimed will be compared to the time recorded on the minute entry entered on the docket. Time must match.
 - Make sure in-court service type matches type of hearing actually being held.
- Time spent meeting with the defendant, AUSA, or waiting for the hearing should be claimed as out-of-court time. V(b)-(c).
 - Typically claimed as “interviews and conferences” or “investigative and other work.” **DO NOT** use the in-court type “Other.”
 - Provide adequate description justifying out-of-court time claimed. Ex: “Waiting for hearing to begin.” “Meeting with client before hearing.”

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VI. EXPENSES GENERALLY

EXAMPLES OF ADEQUATE EXPENSE DESCRIPTIONS:

<u>Expense Type</u>	<u>Date</u>	<u>Description</u>	<u>Rate</u>	<u>Amt</u>
Travel Misc.	01/01/01	Parking at court.		\$10.00
Photocopies	01/01/01	Copying discovery for client. 20 pages.	\$0.10	\$2.00
Postage	01/05/01	Postage – mail photos to client.		\$1.57
Other Expenses	01/08/01	Copying cost for medical records.		\$10.00

- All expenses claimed should include a **brief description justifying** the expense. See examples. VI(a).
- Claims for photocopies must include the date, number of pages copied, and actual cost per page. VI(a).
- Presumptive maximum charge for internal faxing/copying is \$0.10/page. Provide justification if not in-house or higher charge. VI(c).
- Proof of payment is required for **all** expenses over \$50, including travel expenses and itemized expenses. Proof of payment includes a receipt, copy of the front/back of a cancelled check, or credit card statement. **NOT** an invoice. VI(e).

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VI. EXPENSES GENERALLY



- **DO NOT** bill for PACER fees – PACER fees are not charged to attorneys providing CJA services. VI(f).
- Lexis and Westlaw charges are compensable if claim is reasonable. Provide a copy of the bill and receipt for **all** computer-assisted research charges indicating charges identifiable to individual case. VI(g).
- You **can** claim the cost of digital storage (i.e., flash drives, external hard drives) as an expense if the storage device will not be used again. Counsel must certify such in the expense description or attorney notes box. VI(h).
 - “I hereby certify that the storage device will not be used again and will remain as part of the client file. John Doe.”

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VII. TRAVEL EXPENSES

EXAMPLES OF TRAVEL TIME CLAIMS:

<u>Service Type</u>	<u>Date</u>	<u>Description</u>	<u>Hrs</u>
Travel Time	01/01/01	Travel to Knox Cnty Detention Center from Fed Defenders Office	1.8
Travel Time	02/01/01	Travel to/from Knox Fed Courthouse (split with US v. Jones, No. 12345)	0.7
Travel Time	03/01/01	Travel to Fed Defenders Office – NO MILEAGE	0.3

EXAMPLES OF TRAVEL MILEAGE CLAIMS:

<u>Expense Type</u>	<u>Date</u>	<u>Description</u>	<u>Miles</u>
Travel Miles	01/01/01	Travel to Knox Cnty Detention Center from Fed Defenders Office	95
Travel Miles	02/01/01	Travel to/from Knox Fed Courthouse (split with US v. Jones, No. 12345)	45

- Only actual travel time and miles may be claimed. Court may compare time/miles claimed to internet mapping sites to determine if mileage/time claimed is appropriate. VII(a).
 - Variables such as excessive traffic/construction must be documented to be considered.
 - If you are walking, please state so in description.
- Travel is ordinarily computed from attorney’s office address. If leaving/returning to different location, please specify complete address. VII(b)-(c).
 - If travel is shorter from attorney’s home, time may be computed from attorney’s home as long as attorney provides notation.
- If no mileage is to be claimed by the attorney, please indicate in the “Public/Attorney Notes” section on the Confirmation tab, or state so in the description for the service time entry for travel. VII(d).
- Receipts must accompany all claims for non-mileage travel related expenses over \$50. VII(g).

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VII. TRAVEL EXPENSES

EDTN CJA Travel Guidelines

- Travel by privately owned automobile will be reimbursed at the mileage rate for federal judiciary employees. VII(e).
- Advanced authorization is **not** required for travel outside of the district to meet with a client housed in a facility outside of the district. VII(h).
- Advanced authorization is not required for overnight travel to meet with a client housed in a facility more than 200 miles one-way from the courthouse located in the division in which the attorney serves as a member of the CJA panel. *See Standing Order 23-04.*
- When traveling under CJA authorization, attorneys will be reimbursed only up to the allowable GSA per diem rate. VII(i). *See www.gsa.gov.*

TRAVEL EXPENSES THAT ARE **NOT REIMBURSABLE:**

- Cost for travel of spouses, family, and friends;
- First class, business class, or other add-ons and upgrades;
- Snacks and alcoholic beverages;
- Entertainment;
- Travel insurance taken while traveling;
- Parking fines and fees for traffic violations;
- Personal automobile expenses;
- Expenses incurred for traveling by indirect route for personal reasons;
- Use of taxis to obtain meals;
- Non-mileage related travel expenses over \$50 submitted without an accompanying receipt.

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Travel Outside of the Eastern District



Obtaining a Travel Authorization

- CJA attorney must submit a Travel Authorization (“TA”) request in eVoucher.
 - Completely fill out all required entries on the request for travel form.
 - Mark the type of travel requested and provide an estimated cost.
- Once submitted, the authorization will be sent to a judge for approval.
- Once approved by a judge, the attorney can view the completed authorization on eVoucher and print the authorization for use in obtaining government rates for travel.

Arranging Travel Outside District

- **FOR AIRFARE**
 - To receive the government rate, airfare **must** be booked through the Federal Defender Services for the Eastern District of Tennessee.
 - **Do not** report as an expense on voucher, as expense will be paid directly by the Court.
 - If not arranged in this manner, expenses claimed will be reimbursed at government rate.
- **FOR LODGING AND AUTO RENTALS**
 - A signed TA should enable the CJA attorney/expert to obtain government rates at hotels and car rental agencies.
 - **Do** report these expenses on voucher. Will be reimbursed at GSA per diem rates.

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Travel Outside of the Eastern District



Obtaining a Travel Authorization

- **FOR OVERNIGHT TRAVEL TO CLIENTS HOUSED 200 OR MORE MILES ONE-WAY FROM THE COURTHOUSE LOCATED IN THE DIVISION IN WHICH THE ATTORNEY SERVES AS A MEMBER OF THE CJA PANEL:**
 - It is not necessary to request a TA in these instances.
 - Instead, provide a printed copy of SO-23-04 as well as appointment order for the case to hotel to obtain government rate.

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VIII. Expert and Non-Expert Services

- Attorney may obtain investigative, expert, and other services necessary for adequate representation. VIII(a)-(b).
- Reimbursement for expert and other services is made through completion of a CJA Form 21. VIII(f).
- Attorney may accrue up to \$900 in costs of services without prior authorization. VIII(c).
 - Note: Costs of services exceeding Sixth Circuit presumptive hourly rates for experts will not be approved without prior authorization from the Court.
- Prior authorization must be obtained from the judge for services that cost more than \$900, but less than \$2,800. VIII(d).
- Prior authorization must be obtained from the presiding judge and the Chief Judge of the Sixth Circuit Court of Appeals for services exceeding \$2,800. VIII(e).
 - If prior amount (up to \$2,800) had already been approved, Attorney must submit an AUTH using the “request additional funds” option. The additional amount being requested will be entered in the estimated compensation box, not the total amount. Attorney must attach an Appendix 3A under the documents tab for the new AUTH.

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A Note on Experts...

- If you're concerned about whether a certain service will be approved by the Judge, BE SPECIFIC in your AUTH!
- Even if the total amount is expected to be below the threshold, you can still submit an AUTH to request specific pre-approval for a service.

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IX. Budgeting

- Attorneys should contact Sixth Circuit Budgeting Attorney in representations which attorney hours are expected to exceed 300 hours or total expenditures are expected to exceed \$40,000 as soon as they become aware that a budget may be necessary.
- After consulting with the Sixth Circuit case budgeting attorney, counsel should submit a proposed initial litigation budget for court approval, subject to modification in light of facts and developments that emerge as the case proceeds.
- Case budgets are submitted *ex parte* in CM/ECF and filed under seal.

Sixth Circuit Budgeting Attorney
Dennis Alerding
(513) 564-7358
Dennis_Alerding@ca6.uscourts.gov

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FREQUENT ERRORS

- Travel time
 - Should be billed on day that travel occurred.
 - Should have travel mileage on same day or a note that no mileage is claimed.
- Service Types
 - “Other” should not be used for waiting in court—use an appropriate out-of-court service type.
 - “Motion” is for an in-court motion hearing, not for drafting or filing a motion.
- Copying/Postage expenses should provide brief description of what was copied or mailed.
- CJA 26 is not submitted through e-voucher. It should be saved as a PDF and attached to the document tab of the CJA 20.
 - Attorneys should take care to review and correct CJA 26 spelling errors and typos.

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WHO TO CONTACT

- Issues with e-voucher itself (voucher won't submit, getting error messages, etc.)
- To change the appointment order date on the voucher.
- To increase the threshold on the voucher.
- If after one week you do not see your CJA appointment in e-Voucher, please call Jenifer or Angela.
- Jenifer Ferrell
 - Jenifer_Ferrell@tned.uscourts.gov
 - (865) 329-4685

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WHO TO CONTACT

- Substantive questions about vouchers.
- Questions about CJA Billing Guidelines and whether certain services or expenses are appropriate.
- Lindsey Lyle
 - Lindsey_Lyle@tned.uscourts.gov
 - (865) 329-4695

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