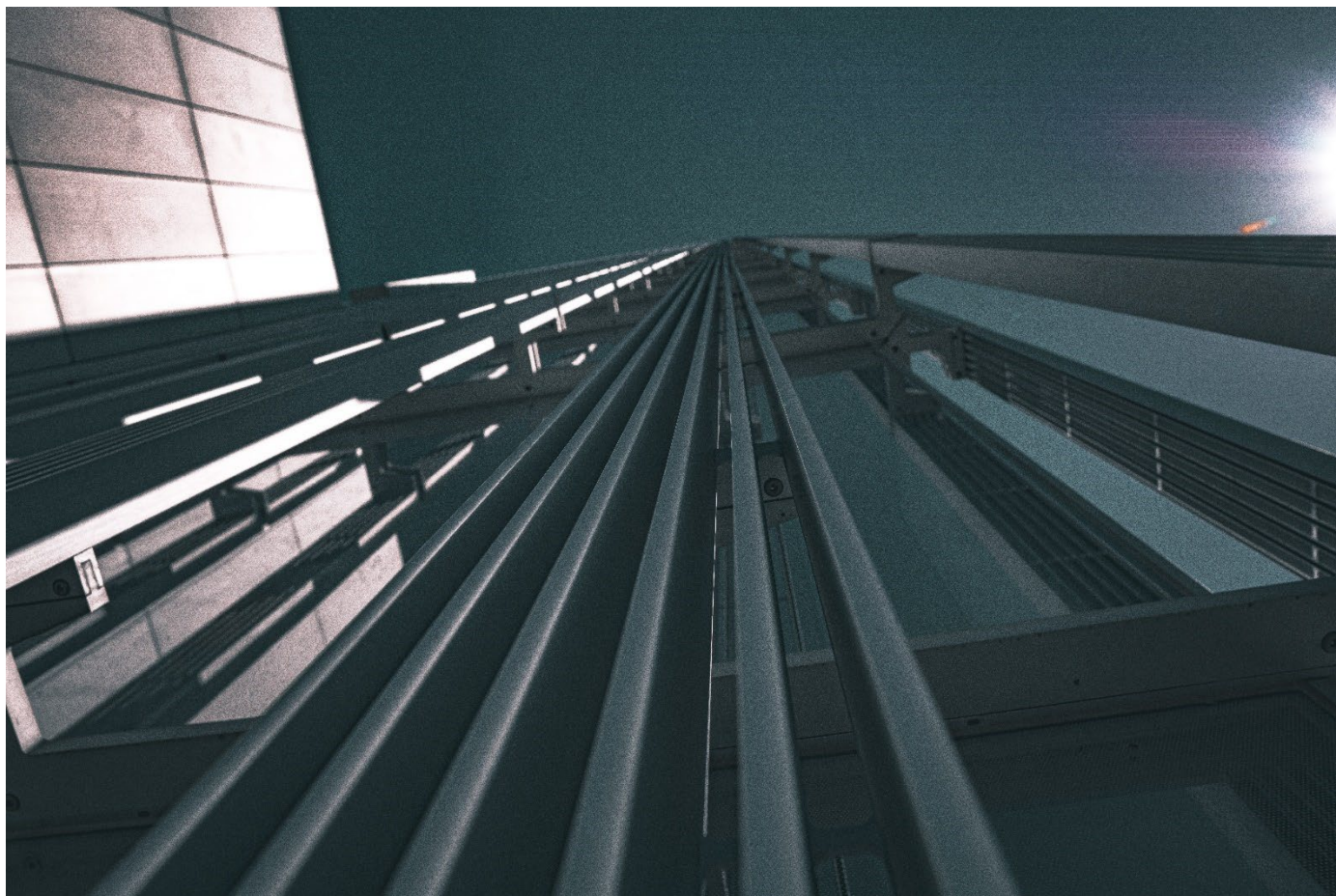


**UTAH FEDERAL PUBLIC DEFENDER
CRIMINAL JUSTICE ACT
PANEL ATTORNEY HANDBOOK**



Revised January 2023

Introduction

The Criminal Justice Act (CJA), 18 U.S.C. §3006A, provides funding for the legal representation of individuals with limited financial resources in federal criminal proceedings. In each district, a plan exists for providing representation through private panel attorneys and federal public or community defender offices. The CJA Plan for the District of Utah was revised in 2022 and can be found [here](#) and [here](#).

This handbook describes the additional practices, requirements, and resources for CJA panel attorneys.

The Utah CJA panel is administered through the Utah Federal Public Defender Office (FPDO). If you have questions about any CJA-related matter, please contact us:

Utah Federal Public Defender CJA Team

Joanna E. Landau
CJA Resource Attorney
Joanna_landau@fd.org
801-712-8629

Cynthia Olivares
CJA Administrative Assistant
Cynthia_olivares@fd.org
801-524-5323

CJA Panel Representative

G. Fred Metos
299 South Main, Suite 1300,
Salt Lake City, Utah, 84111
Phone: 801-535-4350
Email: fred@gfredmetos.com

Table of Contents

I.	CJA PANEL ATTORNEY QUALIFICATIONS, APPLICATIONS, AND APPOINTMENTS.....	5
1.	District of Utah CJA Panels.....	5
2.	Equal Opportunity.....	5
3.	CJA Panel Applications.	5
a.	Process.....	5
b.	Review.	5
4.	Applicant Qualifications.....	5
5.	Terms.	6
6.	Reappointment.....	6
7.	Removal.....	6
8.	Withdrawal and Inactive Status.....	6
II.	DUTIES OF CJA ATTORNEYS	7
1.	Standards and Professional Conduct.	7
2.	Training and Continuing Legal Education.....	7
3.	Facilities and Technology Requirements.	7
4.	Continuing Representation.....	7
5.	Other requirements of continued CJA panel membership.	7
III.	CJA ATTORNEY APPOINTMENTS, COMPENSATION, AND FUNDING	8
1.	Appointments.....	8
2.	Compensation.....	8
3.	eVoucher.....	8
4.	Types of Representations and Compensation.	9
5.	Review.	9
6.	Billing Guidelines. (Additional Billing Guidelines are in Appendix 1).....	9
7.	Interim Billing.....	9
8.	Reductions.....	9
6.	Ancillary Matters.....	10
7.	Voucher Timing.	10
8.	Formal Committee Review.....	10

- IV. ASSOCIATES AND CO-COUNSEL..... 10**
 - 1. Second Attorney Appointments..... 10
 - 2. Associates..... 11
 - 3. Co-Counsel..... 11
- V. WAIVABLE STATUTORY THRESHOLDS AND CASE BUDGETING 11**
 - 1. Current Statutory Threshold Amounts - for each type of CJA case are here..... 11
 - 2. Case Budgeting..... 12
- VI. INVESTIGATIVE, EXPERT, AND OTHER SERVICE PROVIDERS 12**
 - 1. Compensation..... 12
 - 2. Amounts..... 12
 - 3. Standard..... 13
 - 4. Preapproval..... 13
 - 5. Legal Standard..... 13
 - 6. 10th Circuit Review..... 13
 - 7. Investigators and Paralegals..... 13
 - 8. Discovery Coordinator..... 13
 - 9. Interpreters..... 13
- VII. TRAVEL..... 14**
 - 1. Government Rates..... 14
 - 2. Documentation..... 14
 - 3. Mileage..... 14
 - 4. Prior approval..... 14
 - 5. Timing..... 14
 - 6. Hotel Rates..... 15
- VIII. TRANSCRIPTS..... 15**
 - 1. Initiation..... 15
 - 2. Consolidation..... 15
 - 3. Expedited Transcripts..... 15
- IX. OUT OF POCKET EXPENSES 15**
 - 1. Reimbursable & Non-Reimbursable Expenses..... 15
 - 2. Documentation..... 15

X. MISCELLANEOUS PROVISIONS	16
1. No other payments.	16
2. Disclosure.....	16
3. Dispute.....	16
APPENDIX 1 – CJA ATTORNEY BEST PRACTICES	17
APPENDIX 2 – SERVICE PROVIDERS	22

I. CJA PANEL ATTORNEY QUALIFICATIONS, APPLICATIONS, AND APPOINTMENTS

1. District of Utah CJA Panels.

The District of Utah (district) has two CJA Panels, one in Salt Lake City and one in St. George. CJA attorneys regularly appear in both Courts. Each panel is intended to be of a size that provides enough experienced attorneys to handle the CJA caseload but small enough so that panel attorneys receive sufficient appointments to remain proficient in federal criminal defense.

2. Equal Opportunity.

All qualified attorneys are encouraged to apply for CJA panel membership.

3. CJA Panel Applications.

a. Process.

Applications to join the Utah CJA Panel (the panel) are available on the Utah FPDO website (<https://ut.fd.org/>). Submit an application through the online form, then email a writing sample and resume to the Utah Federal Public Defender CJA Team (CJA Team) at UTX_CJA_Panelteam@fd.org (do not email applications).

b. Review.

The CJA Panel Committee will make decisions on CJA panel applications near the end of each calendar year (or as needed throughout the year) and appointments will begin in the following calendar year.

4. Applicant Qualifications.

CJA panel applicants must meet the following minimum criteria.¹

- a. Be members in good standing of the Utah State Bar and the federal bar of the District of Utah;
- b. Maintain a primary, satellite, or shared office in the District of Utah;
- c. Have five or more years in criminal law experience, which may include a judicial clerkship, work with a Federal or Community Defender Office, a United States Attorney's Office, prior participation as a CJA panel mentee, or as a CJA Second Chair attorney;
- d. Demonstrate strong litigation and writing skills;
- e. Have proficiency and experience working with the Bail Reform Act, ESI (including the Court's ESI Order and Recommendations for Electronically Stored Information Discovery

¹ Applicants who do not possess this experience, but believe they have equivalent or other relevant experience are encouraged to apply and set forth in writing the details of that experience for the Committee's consideration and if applicable, why they want to participate in the CJA Second Chair Program.

Production in Federal Criminal Cases (ESI Protocol), Federal Rules of Evidence, Criminal Procedure, and Appellate Procedure, the United States Sentencing Guidelines, federal sentencing procedures, and the District Court's Local Rules and Orders;

- f. Have the training and ability to manage and effectively utilize electronic case-presentation equipment and software in the courtroom and manage ESI;
- g. Have CM-ECF access;
- h. Carry a manageable caseload outside of CJA appointments, as CJA appointments should not constitute a majority of a panel attorney's annual work, but CJA cases require the same attention and zealous advocacy as the attorney's private cases; and
- i. Have significant experience representing people charged with serious criminal offenses; and
- j. Have read and understood the district's CJA plan and this handbook.

5. Terms.

Once appointed, attorneys may serve a term of three years on the CJA panel, unless otherwise determined by the Committee. There is no limit on the number of terms a panel attorney may serve if they are reappointed at the end of each three-year term.

6. Reappointment.

Panel attorneys must re-apply for panel membership after each three-year term. The Committee will notify panel attorneys of the need to apply for reappointment and will set forth the procedures and deadlines for reapplying.

7. Removal.

Service on the CJA Panel is a privilege and attorneys who are not providing zealous representation may be removed. The CJA Plan establishes a complaint and removal procedures to be conducted by the Committee with approval from the Chief Judge.

8. Withdrawal and Inactive Status.

- a. **Withdrawal.** An attorney may withdraw from the CJA panel by submitting a letter to the Committee. The letter must include a list of pending appointments. Unless otherwise ordered or relieved, the panel attorney will remain responsible for representing clients in appointed cases until the court enters an order appointing substitute counsel in each case.
- b. **Inactive Status.** Members of the CJA panel may voluntarily place themselves on inactive status by notifying the CJA Resource Attorney ahead of their hiatus with information about how long they will not be accepting CJA cases. Panel attorneys must obtain approval from CJA Resource Attorney to remain on inactive status for more than twelve months during one appointment term.

II. DUTIES OF CJA ATTORNEYS

1. Standards and Professional Conduct.

CJA attorneys who are appointed on federal criminal cases must provide high-quality representation consistent with the legal profession's best practices as guided by Utah Rules of Professional Conduct and any other standards adopted by the Court.

2. Training and Continuing Legal Education.

CJA attorneys must remain apprised of developments in federal criminal law and procedures and must annually attend at least six (6) hours of Continuing Legal Education (CLE) credits offered by the CJA Team.

- a. Free CLEs. The CJA Team will offer CLEs to FPDO and CJA attorneys throughout the year at no cost. The CJA Team will submit application for CLE credit with the Utah State Bar for all live attendees. CJA attorneys shall attend as many of the free CLEs provided by the CJA Team as possible, but no fewer than 6 per year.
- b. Other trainings. The Utah Federal Bar, the National Defender Services Organization, the US Sentencing Commission, the Federal Judicial Center, and other states' FPD offices all provide other relevant legal trainings. CLEs provided by Defender Services Training Division are free to CJA attorneys, who may also apply for travel cost assistance.

3. Facilities and Technology Requirements.

Panel attorneys must have sufficient facilities, resources, and technological capabilities to manage cases, including access to office space to meet with clients, and the technological resources to receive, review, organize, and effectively use ESI in cases. CJA attorneys must know and comply with the requirements of electronic filing and eVoucher, including how to submit requests for payment, investigative, expert, and other services.

4. Continuing Representation.

Once counsel is appointed to represent a client, that representation should continue until:

- a. The matter is closed, including conclusion of any appellate or certiorari proceedings;
- b. Substitute counsel has filed a notice of appearance;
- c. An order is entered allowing the client to proceed pro se; or
- d. The appointment is otherwise terminated by court order; and
- e. If a client wishes to appeal, trial counsel must comply with [DUCrimR 44-1\(c\)](#) as amended.

5. Other requirements of continued CJA panel membership.

- a. Responsiveness. CJA panel attorneys must respond quickly to requests by the CJA Team to appear in court for appointments to CJA clients, after having run a check for any conflicts of interest. The CJA Team will move on to find another CJA attorney if they do not hear from the original attorney in a reasonable time.

- b. Accepting cases. CJA panel members must ensure they have experience in the type of representation required before accepting a case. If unsure, they should contact the CJA Team for assistance or help in determining whether their appointment is appropriate.
- c. Continued representation and conflicts. Personal conflicts with clients may arise, and CJA attorneys should make every effort to resolve such conflicts in favor of continued representation of appointed clients. If a conflict appears non-negotiable, the attorney must contact the CJA Resource Attorney before moving the court for a hearing to appoint new counsel.
- d. Pretrial Services Interviews. CJA attorneys are expected to attend all pretrial service interviews with their clients.
- e. Billing in eVoucher. eVoucher billing policies and practices are discussed below. Timely and accurate billing in eVoucher is a critical requirement of continued panel membership. All attorneys must submit all requirements to be set up in eVoucher.
- f. CLE. Attend as many of the free CLEs put on for CJA and FPDO attorneys as possible and demonstrate attendance to at least six (6) hours of Continuing Legal Education (CLE) credits relevant to federal criminal practice for each year of panel membership.
- g. Professional Development. CJA panel attorneys shall serve as mentors or lead attorney on cases with Second Chair attorneys and or law students in the training program during CJA panel membership.

III. CJA ATTORNEY APPOINTMENTS, COMPENSATION, AND FUNDING

1. Appointments.

Case appointments to CJA panel attorneys are proposed on a rotation. The CJA Team will notify the attorney via email, phone, or text message and the attorney will have a limited time to respond. If no response is received within a reasonable time, another attorney will be proposed. The CJA Team will enter all representations in eVoucher. Once appointed, attorneys should consider hiring service providers, such as investigators or paralegals (See Appendix 2), as needed.

2. Compensation.

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

3. eVoucher.

The national eVoucher program is used to create, submit, and track all CJA vouchers. More information on eVoucher and how to use it is [here](#), [here](#), on the [Utah FPDO website](#). The CJA Team can help with questions and support.

4. Types of Representations and Compensation.

A table of representation types and the current waivable statutory threshold for each type of case is [here](#). All CJA payment vouchers must be filed in eVoucher. All CJA forms are available [here](#).

5. Review.

The CJA Team will review all CJA payment vouchers for accuracy, reasonableness, and compensability under the CJA Guidelines, the District's CJA Plan, and related compensability and billing guidelines. Reasonableness will be considered under the following factors:

- a. Whether the work was appropriate attorney work and was actually performed;
- b. Whether the work performed was a reasonable means of protecting the client's interests in the litigation; and
- c. Whether the time spent to accomplish that work was reasonable.

6. Billing Guidelines. (Additional Billing Guidelines are in Appendix 1)

- a. Time entries should contain sufficient detail to allow for a meaningful review and determination of reasonableness, with an entry for each task. Do not bundle multiple tasks into one block of time. Be mindful of attorney client privilege.
- b. When time is recorded for discovery review, attorneys must include some quantitative detail, such as number of pages or length of audio or video recordings. If legal research is conducted, include a description of the issue or purpose of the research.
- c. When billing for conferences or phone calls, identify the participants and general topics.
- d. Time spent preparing CJA20 attorney vouchers is not compensable. However, reasonable time spent preparing a CJA26, or preparing a case budget is compensable at the CJA attorney rate.

7. Interim Billing.

Interim billing is strongly encouraged, as it allows for timely and ongoing review of vouchers. Interim claims for compensation may be submitted monthly or when the claim exceeds \$1,000.

8. Reductions.

Voucher reductions will be limited to mathematical errors, instances in which work billed was not compensable or undertaken, and instances in which the hours billed clearly exceed what was reasonably required to complete the task.

- a. Preparing your voucher, reviewing CJA 21 vouchers, submitting requests for authorization or performing administrative tasks like scheduling, communicating with the court or others about information unrelated to the disposition of the case, etc. are not compensable

- b. Time spent reviewing administrative and clerical docket entries is not compensable. ECF review should reflect the actual aggregate time spent reviewing the subject documents daily. Counsel may not bill for signing into their PACER account every time a notification is received, then billing separate entries.

9. Ancillary Matters.

Counsel should contact the CJA Resource Attorney before billing for work related to any municipal or state court proceedings or other ancillary matters. Such work may be approved where the matter, or the law or facts in the matter, arose from, or are the same as or closely related to, the facts and circumstances surrounding the principal federal criminal charge. See the Guide at [§210.20.30](#) and [§210.20.40](#) for additional criteria and considerations.

10. Voucher Timing.

- h. Review. Absent extraordinary circumstances, review of CJA requests in eVoucher will be reviewed within 30 days of submission.
- i. Final Vouchers. Final vouchers must be submitted no later than 45 days after final disposition of the case or termination of the appointment, whichever occurs earlier. Final vouchers submitted after this deadline must be accompanied by a letter demonstrating good cause for the untimely submission. Contact the CJA Resource Attorney to request additional time but should do so before the 90-day period has expired.

11. Formal Committee Review.

A formal review by nonconflicted members of the Committee will be available to any panel attorney or service provider seeking review of the decision to reduce a voucher. The panel attorney or service provider must provide a written request to the Committee by emailing UTX_CJA_Panelteam@fd.org within 10 days of notice of the reduction. The Committee will review the record and the reductions and submit its finding to the Chief Judge for review. Notice of the final decision will be sent to the attorney or service provider within 30 days of receipt of the written request.

IV. ASSOCIATES AND CO-COUNSEL

1. Second Attorney Appointments.

Counsel may enlist the help of an associate, second chair attorney, law student mentee, co-counsel, or outside attorney work on CJA cases. The CJA attorney is responsible for overseeing all work and for reviewing all vouchers before anyone on the case submits them. Associates and second chair attorneys are compensated at a reduced attorney rate and bill in eVoucher on CJA20 and CJA30 forms.

- a. Law students and outside attorneys (immigration, etc.) can be added as service providers through AUTHs and CJA21s. Advisory rates for service providers are in Appendix 2.

2. Associates.

Associates in the same firm may be added to a case by the CJA Resource Attorney upon request by the appointed CJA attorney.

- a. An associate's time is billed against the same waivable threshold as the CJA panel attorney.
- b. Associates may not bill for the same tasks as the CJA attorney, nor for intraoffice conferences or coordination of efforts with the CJA counsel.
- c. The CJA panel attorney is expected to do the bulk of the work in all cases.

3. Co-Counsel.

A court may appoint a second CJA attorney on a case where the case is *extremely difficult and it is in the interests of justice* to appoint an additional attorney, or where the second attorney is in the Second Chair Program.

- a. Appointed counsel should first contact the CJA Resource Counsel to discuss the appointment of co-counsel.
- b. A motion for the appointment of co-counsel must be filed in CM-ECF. The proposed order must include a finding that the appointment of co-counsel in a difficult case was necessary and in the interests of justice. Counsel may file the motion ex-parte/under seal.
- c. When co-counsel is appointed, each attorney prepares and submits their own CJA20, and may seek additional funds through their own CJA26.

V. WAIVABLE STATUTORY THRESHOLDS AND CASE BUDGETING

1. Current Statutory Threshold Amounts - for each type of CJA case are [here](#).

- a. Procedure. Where attorney hours may exceed the statutory threshold for the type of case, counsel must submit a CJA26. When service provider's hours will exceed the threshold, CJA attorneys must submit an AUTH in eVoucher for additional hours. In both cases, the requests should be filed before exceeding the waivable statutory threshold.
- b. Supporting Information. Counsel must fill out a CJA26 form or upload a memorandum to establish 1) sufficient facts upon which to find that the representation *is complex or extended*; and 2) an estimate of the total amount of anticipated fees and a basis for that estimate.
- c. Standard. Payments in excess of CJA compensation maximums for attorneys may be made to provide *fair compensation in cases involving extended or complex representation* pursuant to [§ 230.23.40](#). The review of such requests will first consider:
- d. Whether the case is either extended or complex: (1) 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." (2) If more time is reasonably required for total processing than the average case, including pre-trial and post-trial hearings, the case is "extended"; and

- e. What fair compensation is in the case considering the responsibilities involved measured by the magnitude and importance of the case; manner in which duties were performed; knowledge, skill, efficiency, professionalism, and judgment required of and used by counsel; nature of counsel's practice and injury thereto; any extraordinary pressure of time or other factors under which services were rendered; and any other circumstances relevant and material to a determination of a fair and reasonable fee.

2. Case Budgeting.

- a. 300 Hours. Consistent with CJA Guidelines, Ch. 2 §§ 230.26.10–20, panel attorneys are encouraged to use case-budgeting techniques in non-capital representations where attorney hours may exceed 300 hours or total case expenditures may exceed 300 times the current CJA attorney, non-capital, hourly rate.
- b. When. Generally, a budget should be considered where attorney fees are approaching \$15,000 to \$20,000 and there is no solid plea agreement.
- c. Contact. The CJA attorney must contact the Tenth Circuit Case Budgeting Attorney, Rebecca Skordas, 303-335-2826, Rebecca_Skordas@ca10.uscourts.gov to prepare a case budget. Counsel must make this contact as early in the case as possible.
- d. Reasonable time. Reasonable time spent drafting case budgets is compensable. All vouchers submitted on a budgeted case will be reviewed for reasonableness. Approved CJA26 and budget orders MUST be attached to all subsequent CJA20 vouchers, and this includes CJA21 vouchers if the budget order authorized expert or provider services.

VI. INVESTIGATIVE, EXPERT, AND OTHER SERVICE PROVIDERS

1. Compensation.

The Guide to Judiciary Policy, Vol. 7A (the Guide) § 310.20.10, permits compensation for investigative, expert, and other services. All requests service providers must be submitted through eVoucher to be paid from CJA funds. More guidance and advisory rates for service providers is in Appendix 2.

2. Amounts.

The current statutory service provider compensation thresholds are [here](#). Those waivable amounts apply per organization or individual, exclusive of reimbursement for expenses reasonably incurred, and per individual authorization to perform said service, except with regard to capital cases.

3. Standard.

The appointment of an expert or service provider must be “*necessary for an adequate defense*” and the expert is then defense services where the defense controls the disclosure of any reports or other material produced.

4. Preapproval.

Preapproval for expert services must be obtained if the cumulative amount of all service providers in a case will exceed \$900. Once the services are over \$900, for one or any combination of service providers, prior authorization must be obtained in eVoucher by filing an AUTH.

5. Legal Standard.

To exceed the statutory threshold amounts for service providers, the AUTH must establish that the services are *necessary to provide fair compensation for services of an unusual character or duration*.

6. 10th Circuit Review.

When requesting the appointment of a service provider or expert, whose fees or total cost will exceed the waivable threshold, the first AUTH filed and every CJA21 that exceeds that amount will be sent to the Tenth Circuit for secondary approval. Attorneys should take such requests seriously and include an appropriate justification for the requested amount in the case and consult the expert rate table in Appendix 2 below. Counsel is responsible for communicating with the service provider to ensure compliance with the terms and amounts of any approved voucher, and then for reviewing all vouchers before submission.

7. Investigators and Paralegals.

Appointed counsel is expected to have service providers such as investigators or paralegals appointed to provide thorough representations and help undertake tasks not requiring attorney expertise, but neither counsel nor such service providers may bill for administrative work.

8. Discovery Coordinator.

In cases with multiple individuals facing charges, the CJA attorney who is the discovery coordinator will work with the other CJA attorneys to coordinate discovery efficiently and without creating conflicts of interest. The discovery coordinator will work with the CJA Resource Attorney under the Court’s ESI Order.

9. Interpreters.

No prior approval needed. In cases involving CJA counsel and requiring interpreter services, the court has authorized interpreter services up to the waivable statutory threshold rate, without prior approval. If additional interpreter services are need above the waivable

statutory threshold, counsel must submit an AUTH for additional interpreter services. For a list of court interpreters, [click here](#)

VII. TRAVEL

1. Government Rates.

CJA attorneys and their service providers must travel on government rates for case-related travel. All travel arrangements must be arranged with the clerk's office and in eVoucher, by submitting a travel AUTH.

2. Documentation.

All travel expenses must be reasonable and fully documented, with legible itemized receipts attached to the voucher. Credit card slips/statements are not acceptable. Reimbursement for meals does not include the purchase of meals for anyone other than counsel or alcoholic beverages and is only allowable when traveling for at least 12 hours. To determine whether actual expenses are reasonable travelers should be guided by the prevailing limitations placed upon travel subsistence expenses of federal judiciary employees in accordance with existing government travel regulations

3. Mileage.

Mileage must be properly documented, and the appropriate rates billed for the date the travel took place. Neither travel time nor mileage incurred between an attorney's office or residence and the court for appearances will be reimbursed.

4. Prior approval.

Prior approval via a Travel AUTH in eVoucher is required for all air and/or out-of-district overnight travel. Counsel is expected to perform case-related work while traveling. Reimbursement for travel expenses actually incurred, is available for lodging, meals, car rental, parking, and mileage through eVoucher.

A Travel AUTH should specify the travelers name(s), dates of travel, estimated expenses, destination, and the purpose for travel. Counsel should contact [National Travel](#) to estimate travel expenses. Once the AUTH is granted and the attorney receives the email notification, counsel may contact National Travel to finalize travel arrangements. National Travel will bill the court's CJA travel account directly for airfare only and counsel *will not need to seek reimbursement* for the airfare on their voucher. Counsel must contact National Travel for any cancellations.

5. Timing.

Travel requests should be made 10 business days in advance to allow for adequate processing time.

6. Hotel Rates.

To be reimbursed for hotel expenses, all travelers must check the allowable lodging rates [here with GSA](#).

VIII. TRANSCRIPTS

1. Initiation.

Counsel may file reasonable non-court transcript costs in the expenses tab of a CJA20. For court transcripts and court-transcribers, Counsel must submit an AUTH24 in eVoucher for. The AUTH24 needs to be specific and clear in what and how many transcripts are requested. After review and approval, one or more CJA24's will be created in eVoucher and sent to the court reporter to create, deliver, and file the transcript(s). The court reporter submits charges and expenses through eVoucher and sends the CJA24 to counsel for approval. The CJA24 is then approved in eVoucher. If counsel has paid for the transcript as a separate expense, a reimbursement request must be submitted in eVoucher. A schedule of transcript fees and a list of court reporters is [here](#).

2. Consolidation.

On cases where there are charges against many individuals, only one request for transcripts should be made and then shared with other counsel, with the discovery coordinator requesting an AUTH 24 for approval.

3. Expedited Transcripts.

Expedited transcripts require prior authorization and an explanation of need in the "Public/Attorney Notes" field in the Confirmation tab of the AUTH 24 in eVoucher.

IX. OUT OF POCKET EXPENSES

1. Reimbursable & Non-Reimbursable Expenses.

Those reasonably incurred by counsel and service providers may be claimed on a payment voucher in eVoucher and must be itemized and reasonably documented. However, the [Guidelines](#) list those expenses that are reimbursable and those that are not [reimbursable expenses](#).

2. Documentation.

The cost of copies and postage and other expenses specific to the representation must be fully documented on the expenses tab in eVoucher. Expenses must be supported with receipts and/or logs when they exceed \$50.00.

X. MISCELLANEOUS PROVISIONS

1. No other payments.

Appointed counsel may not require, request, or accept any payment or promise of payment or any other valuable consideration for representation under the CJA, unless such payment is approved by court order.

2. Disclosure.

Payment vouchers and amounts paid to counsel or service providers must not be disclosed except as required by law or the CJA Guidelines.

3. Dispute.

This handbook is intended accompany the CJA Plan for the District of Utah, in a format that can be more readily updated as circumstances change.

APPENDIX 1 – CJA ATTORNEY BEST PRACTICES

INTRODUCTION

The following non-exclusive list of guidelines and best practices to CJA panel attorneys in the District of Utah is intended to ensure quality representation. It is written in accordance with the CJA and the Guide. For a detailed guide on best practices to assist appointed counsel in provided services consistent with generally accepted practices of the legal profession, review the [Federal Adaptation of National Legal Aid and Defender Association \(NLADA\) Performance Guidelines for Criminal Defense Representations](#).

Engagement Letters with Service Providers

Counsel should use written engagement letters for experts or other specialized services setting forth the details of the engagement, with hourly rates, the number of authorized hours or compensation, and the requirement of contemporaneous time record-keeping.

For service providers shared by multiple individuals in one case, the engagement letter should identify all the individual attorneys.

Court Appearances

If an assigned CJA attorney is unable to attend a scheduled hearing, all reasonable efforts should be made to have another CJA attorney attend the hearing. Absent compelling circumstances, the CJA attorney should not send a substitute CJA attorney for the initial appearance or other critical stage of the proceedings.

Initial Appearances

For information on arranging to visit a client in custody prior to court contact the relevant [US Marshal's Office](#).

Financial Affidavit

Before the initial appearance, counsel should review the CJA23 – Financial Affidavit with the client. The court will not appoint CJA counsel without first making a finding of indigency.

Medication and Medical History

To help a client who needs prescribed medication, prior to the initial appearance CJA attorneys should assess the client's medication and medical history with this [Form](#). Counsel should provide medical records to the jail documenting the client's prescription medications. For a client to receive medication in the jail the individual must initiate a request for medical treatment consistent with the appropriate jail's procedures. The U.S. Marshal's Service can provide information on jail policies and contact information.

Medical Release of Information

Each magistrate judge can act as a notary. A standardized HIPAA release of information can be found on the court's website. The HIPAA release authorizes the release of the client's medical and psychiatric records to counsel. The client's signature can be notarized by the magistrate judge at the initial appearance or other hearing. [Click here](#) for the release of information.

Pretrial Services Report

Whenever the United States requests detention of a client, or where there is a likelihood of detention, a magistrate judge will request a pretrial services report pursuant to [18 U.S.C. § 3154](#). Pretrial Services tries to avoid questions that might incriminate your client, however, counsel's presence at the interview is the only way to ensure a client does not inadvertently make incriminatory statements. Counsel will be given a copy of the report to review prior to court. Counsel may retain a copy of the criminal history portion of the report. **It is imperative that you attend this interview with your client.**

Judges' Chamber Information, Practices, Procedures and Resources

Each District and Magistrate Judge has a [page](#) on the court's website that provides helpful information, practice pointers, forms, templates, and courtroom rules.

Local Court Rules

In addition to the Federal Rules of Criminal Procedure, the court's local rules can be found [here](#).

ESI & Discovery Coordinator Work on Multi-Individual Cases

Counsel must be familiar with the Court's Guidelines for ESI discovery in Criminal Cases, Order 22-003. If counsel is appointed to represent a client on a large multi-individual case, counsel must be willing to work with the CJA Team as a Discovery Coordinator if requested. There are many national resources available to attorneys in this position, including the National Litigation Support Team (NLST), and it will be easier for attorneys with support and in-house resources to act as Discovery Coordinators. Free training is available to attorneys and paralegals in the software platforms available through NLST.

Motions Under the Speedy Trial Act

Counsel should carefully review [DUCrimR 12-1\(h\)](#) Motions Under the Speedy Trial Act (*18 U.S.C. §3161 et. seq.*) before filing a motion to continue trial. A guide to filing motions to continue and a template for the proposed order is [here](#).

Sentencing

Sentencing in federal court is a complex and difficult area of the law. Client's lives will be greatly impacted by the work CJA attorneys do at sentencing. The FPDO is available to help CJA attorneys with sentencing questions. CJA Attorneys must acquaint themselves with the information on the [US Sentencing Commission](#) website, including a free copy of the current Guidelines to download.

UACT – Utah Alternatives to Conviction Track

The District Court, the United States Attorney's Office, the United States Probation Office, and the FPDO, for the District of Utah jointly designed the Utah Alternatives to Conviction Track (UACT) Program as a post-guilty plea diversion program. UACT offers participants a creative blend of treatment, sanction alternatives, judicial involvement, and unique incentives to effectively address offender behavior for the purposes of promoting rehabilitation, reducing recidivism, and promoting the safety of our community. Counsel should consider early in the representation whether their client may be a candidate for [UACT](#).

Position Statements

After disclosure of the presentence report to the parties, but no later than seven (7) days before sentencing, counsel for the parties must file a pleading entitled "Position of Party with Respect to Sentencing Factors." The pleading must be accompanied by a written statement that the party has conferred in good faith with opposing counsel and with the probation officer to resolve any disputed matters.

Sentencing Memorandum 18 U.S.C. § 3553 Factors

In most cases, counsel should submit a sentencing memorandum applying the factors found in 18 U.S.C. §3553. Before filing, redact personal identifiers. Sentencing memorandums may be filed under seal. DUCRim 49.1 Redacting Personal Identifiers.

Compassionate Release

In most cases, counsel on the underlying case should handle any Compassionate Release motions filed by a prior client, which does not present a conflict of interest. The attorney being asked to handle a compassionate release motion should ask the CJA Team for help and resources.

Additional CJA Attorney Billing Guidelines

Contemporaneous Time

Attorney time is billed in tenths of an hour. Appointed counsel should maintain time records for all work performed. These records may be subject to audit and must be retained for three (3) years after approval of the final voucher.

Inadequate or incomplete vouchers will be returned to counsel with instructions, causing unnecessary delays in payment. Judges have up to 90 days to review a re-submitted voucher.

Termination and Substitution of Counsel

In cases where counsel has been terminated, the attorney has 90 days to submit their final attorney and service provider vouchers.

Tips for Preventing Voucher Payment Delays and Reductions

1. Attach expense receipts to vouchers when expenses exceed \$50.
2. Attach approved CJA26 or budget orders to each subsequent CJA20 voucher, and CJA21 vouchers if the budget order authorized service providers.
3. Vague or incomplete vouchers or invoices will be rejected, resulting in unnecessary delay.

PROPER CLASSIFICATION OF SERVICES – NO BUNDLING

Do this . . .

Date	Service	Time	Description
1/5/15	Interviews/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 Records	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/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)

DETAILED TASK DESCRIPTIONS

Do this . . .

Date	Service	Time	Description
2/5/15	Travel Time	7.0	R/T to (includes travel to and within Green River to two separate locations) to meet with two individual (450 miles R/T)
2/5/15	Interviews/Conferences	3.0	Interviewed two individuals in Green River
2/8/15	Obtain/Review Records	4.0	Reviewed 200 pages of wiretap transcripts (Bates Nos. 220-420) [include Bates range if available]
2/9/15	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	7.0	Travel for interviews
2/5/15	Interviews/Conferences	3.0	Interviews

2/8/15	Obtain/Review Records	4.0	Reviewed discovery
2/9/15	Legal Research	5.2	Legal research and writing

ECF REVIEW

ECF review should reflect the actual aggregate time reviewing documents daily and not billing for signing into PACER for every notification, then billing separate entries. Reviewing administrative orders is not attorney work that is compensable under the CJA attorney rate.

Do this . . .

Date	Service	Time	Description
1/5/15	Obtain/Review Records	0.1	Reviewed multiple substantive legal ECF filings (Dkt. Nos. 2-7)

Not this . . .

Date	Service	Time	Description
1/5/15	Obtain/Review Records	0.1	ECF review (Dkt. #2)
1/5/15	Obtain/Review Records	0.1	ECF review (Dkt. #3)
1/5/15	Obtain/Review Records	0.1	ECF review (Dkt. #5)

APPENDIX 2 – SERVICE PROVIDERS

Service Provider Rates

Purpose. The following table gives either specific hourly rates or a range of hourly rates for CJA21 service providers in the District of Utah. The high end of a listed range is not the presumptive rate. Rather, rates may vary based on 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.

Requirement on counsel. Counsel must show why a rate within the range is reasonable in the AUTH. When an attorney requests the appointment of a service provider with a listed range, the attorney should propose a rate within that range and an explanation of why that requested rate is reasonable, including the proposed individual’s CV, comparative rates of 2 to 3 similar experts in the field, and an explanation of, a) the total amount requested; b) the hourly rate requested (if the hourly rate exceeds the permissible rate below, counsel must explain why it is necessary to pay the expert more); c) justification for this type of expert; and d) the scope of work to be performed by the expert. All supplemental information should be included in eVoucher with the AUTH, so a reasonable hourly rate may be considered. *Counsel may bill up to one hour for preparing this memorandum.

Local experts preferred. Counsel should make reasonable efforts to find qualified local experts, investigators, or other service providers.

Travel. Travel costs may be billed at the expert's regular or a reduced hourly fee. Foreign travel by attorneys and experts is discouraged. Time spent performing case-related work while traveling is not “travel time” and should be compensated at the full hourly rate.

Special Circumstances. In situations where the expert is so specialized or not listed, counsel must outline the efforts taken to obtain similar experts and why the special circumstances warrant the use of a particular expert.

The hourly rates below are not meant to be comprehensive or to suggest a requirement to use any service provider. It is meant to guide counsel’s conversations with service providers about their CJA case rate.

TYPE OF EXPERT/SERVICE PROVIDER	HOURLY RATE OR RANGE	IF THERE IS A RANGE, THE AUTH MUST INCLUDE INFORMATION ABOUT TECHNICAL SKILLS, TRAINING, EXPERIENCE, ETC. THAT DEMONSTRATES THE NEED FOR THE HIGHER RANGE.
Accident Reconstruction Expert	\$150 – \$200	Depending on technical skills and experience.
Accountant (Forensic)	\$125 – \$275	Depending on technical skills and experience.
Accounting Staff (non-CPA)	\$50 – \$65	E.g., reviewing/summarizing/preparing financial records
Attorney Associate in the same firm	60% of current CJA hourly attorney	Associate attorney in the same firm working with a CJA panel attorney on cases. Associates may not bill for the

	rate, rounded up to the nearest dollar.	same tasks as the CJA panel counsel nor for intraoffice conferences or coordination of efforts with the CJA counsel.
Attorney – Second Chair Program	80% of the current CJA hourly attorney rate, rounded up to the nearest dollar.	Attorney working as court-appointed co-counsel with a CJA panel attorney on cases.
Attorney Expert – Capital	CJA Hourly Rate	
Attorney Expert – Non-Capital	CJA Hourly Rate	E.g., immigration law expert
Forensic Audio, Video, or Photo Analyst	\$125 – \$200	Depending on technical skills and experience.
Audio, Video, Photo Technician	\$25 – \$100	Depending on technical skills and experience. E.g., creating video exhibits, taking, or enlarging photos, enhancing audio or video recordings, etc.
Ballistics/Firearms Expert	Up to \$300	Depending on technical skills and experience.
Canine Expert	\$125 – \$200	Depending on technical skills and experience.
Chemist/Toxicologist (B.S. or Ph.D.)	\$150 – \$350	Depending on degree, technical skills, and experience.
Chemist/Toxicologist (M.D.)	Up to \$400	Depending on technical skills and experience.
Computer/Cellphone/Cellular Tower Forensic Analyst	\$150 – \$250	Depending on technical skills and experience.
Crime Scene/Police Practices/Use-of-Force Expert	\$150 – \$250	Depending on technical skills and experience.
DNA Expert (B.S. or Ph.D.)	\$150 – \$250,	Depending on technical skills and experience.
Fingerprint Analyst	\$150 – \$250	Depending on technical skills and experience.
Gang Expert	\$150 – \$200	Depending on technical skills and experience.
Handwriting Analyst	\$100 – \$250	Depending on technical skills and experience.
Investigator	\$100	
Jury Consultant	Up to \$200	Depending on skills and experience.
Law Student	Up to \$45	No payment for attending free FPD sponsored CLE trainings or travel to court
Legal Analyst/Consultant (Non-Attorney)	Up to \$75	E.g., Sentencing Guidelines consultant.
Medical – Other (M.D. or D.O.)	Up to \$400	Depending on skills and experience.
Mitigation Specialist	\$100 – \$125	Increased rate is for case-needed foreign language fluency, specialized mental health expertise, or mastery of the <i>Atkins</i> intellectual disability standard.
Neurologist or Neuropsychiatrist (M.D.)	Up to \$400	Depending on experience.
Neuropsychologist (Ph.D.)	Up to \$350	Depending on experience.
Nurse (L.P.N. or R.N.)	\$100 – \$150	Depending on experience.

Nurse (M.S.N. or D.N.P.)	Up to \$250	Including S.A.N.E. certified.
Paralegal (non-J.D.)	\$65	
Paralegal (J.D. or paralegal certificate or technology/ESL experience)	\$75	A resume and explanation should be submitted in eVoucher to establish why the higher rate may be appropriate.
Pathologist/Medical Examiner	Up to \$400	Depending on experience.
Ph.D. – Other	Up to \$350	Depending on experience.
Polygraph	Flat Rate	Polygraph testing typically billed at a flat rate, which should not exceed \$1000.
Psychiatrist (M.D.)	Up to \$400/hour	Depending on experience.
Psychologist (Ph.D.)	Up to \$350/hour	Depending on experience.
Social Worker	\$75-\$100/hour	Depending on degree and experience level, for work done on cases requiring specialized mental health experience.
Interpreter/Translator for in- person meetings	Half & full day rates set by and paid through the court.	
Translation – Foreign Language Document	.195 cents per word	
Transcription – English Audio	\$50 per hour	Combined translation and transcription of foreign language audio recordings are typically billed by the hour, not per word or page, for non-automated services. Rates may be approved at a higher rate under special circumstances but must be preapproved first in eVoucher. NOTE: Reimbursement for transcripts of federal court proceedings must be submitted on Form CJA-24 in eVoucher, whether for use in District Court or the 10 th Circuit Court of Appeals.
Transcription and Translation Combined – Foreign Language Audio	\$50 per hour	Combined translation and transcription of foreign language audio recordings are typically billed by the hour, not per word or page, for non-automated services. Rates may be approved at a higher rate under special circumstances but must be preapproved first in eVoucher.