

**Supplemental CJA Guidelines for Capital Habeas Cases
in the U.S. District Court for the Northern District of California**
Approved by the Ninth Circuit Judicial Council, February 24, 2000

Attendance by multiple staff at court hearings.

Only one counsel will be compensated for attendance at court hearings unless permission is granted by the court. Compensation will not be approved for attendance at court hearings by additional support staff, including law clerks, paralegals and investigators without permission from the court.

Attendance by multiple staff at interviews or hearing preparation sessions with experts, service providers and witnesses.

Unless permission is granted by the court, no more than two staff persons (two attorneys or one attorney and one paralegal or investigator) will be compensated for time expended in interviews and meetings with experts, service providers and witnesses.

Client Visits

In cases where one attorney has been appointed from within the Northern District of California and one attorney is from out of the district, whenever possible, local counsel should attempt to conduct most of the client visits. The Court urges counsel to develop a division of labor between counsel to minimize billing of time and travel expenses for client visits by out of district counsel.

Division of Labor between co-counsel.

When two counsel are appointed as co-counsel and are both compensated at an equal hourly rate, it is expected that a division of labor will be developed to ensure that each counsel will perform tasks in a relatively independent manner, minimizing duplication. When lead counsel is appointed at a higher hourly rate than second counsel, it is understood that more coordination and oversight by lead counsel will be required.

In-house internal meetings and communications, review and preparation of internal documents, meetings between co-counsel and between co-counsel and staff (investigators/paralegals).

The court expects that counsel will develop a reasonable division of labor between counsel, and between counsel and other staff, to avoid duplication of effort and excessive staff conferencing. Counsel should minimize time claimed for such items as internal conferences and memos, coordination between co-counsel, and coordination between counsel and staff, such as investigators and paralegals. Compensation will not be

approved for unreasonable claims in these areas.

Preapproval of paralegals and associates.

Appointed counsel are expected to use paralegals and other cost effective means to minimize costs where attorney expertise is not required. Appointed counsel are not permitted to earn a profit from use of support staff. Reimbursement for independent contractors may not exceed the amount actually paid. The rates for all staff, whether on the appointed attorney's staff or independent, may not exceed Northern District presumptive rates, unless otherwise authorized by the court: associate counsel, \$65.00 per hour; paralegals \$35.00 per hour, or \$45.00 per hour with special skills; investigators \$55.00 per hour or \$65.00 per hour with special skills. Use of associates, paralegals, law clerks, summer associates and law students must be pre approved in conjunction with case budgeting or a funding request; such requests must detail the projected number of hours and the hourly rate and total anticipated expenditure. Upon approval of funding authorization for investigative services, experts or other services, counsel is responsible for communicating with the service provider to ensure that services comply with specific terms of the court order and do not exceed the amount authorized. Service providers will not be paid in excess of amounts authorized, and payment will only be authorized at the appropriate rate for the type of task performed, e.g., an investigator will only be paid paralegal rate for paralegal tasks. All approved experts and service providers are permitted to submit bills on an interim basis

Specificity in supporting worksheets.

Each time entry shall reflect discrete individual tasks and shall not simply list multiple tasks performed in a specified block of time. Information should be provided in sufficient detail as to permit meaningful review, without violation of the canons of ethics or disclosure of attorney work product, including but not limited to: specification by identifying information of witnesses interviewed¹; identification of persons involved in telephone conversations or conferences and topic discussed²; specific topics researched; identification of documents reviewed or prepared, including transcripts and pleadings drafted or reviewed, by title and page numbers; and, if necessary for an understanding of the task, explanation of its relevance to the federal proceedings. Aggregate time blocks or entries which are vague or ambiguous will not be approved for payment. If the level of detail is insufficient for auditing purposes, the vouchers will be returned to counsel for resubmission with adequate detail.

¹ If counsel feels it is inappropriate to provide the name of a witness, identification by type of witness (e.g. "guilt phase witness #1") is sufficient. The court requires sufficient information to distinguish between individuals interviewed.

² A simple description of the general topic of discussion, not specific details, is requested.

Expert Presumptive Rates.

- Psychiatrists and other medically licensed mental health experts, \$150-\$275 per hour
- Other Forensic experts, \$125-200 per hour
- Psychologists (Ph.D.), \$150-200 per hour
- Attorneys serving as experts, \$125 per hour
- Any expert listed above testifying at a court proceeding, eight times the hourly rate per day or four times the hourly rate per half day.

Absent court approval, experts may not exceed the presumptive rates. In exceptional circumstances, when the need for services at a greater rate of compensation is documented and prior authorization is obtained from the Court compensation beyond the maximum may be paid.

Counsel should provide a copy of any budget or funding requests to the CJA Supervising Attorney for evaluation and recommendation to ensure services requested are appropriate and comply with authorized rates.

Couriers, Messengers and Delivery Services.

The use of couriers, messengers and other premium delivery services (e.g., Express Mail, Federal Express, Airborne Express, etc.) is discouraged unless there is a genuine necessity for this service. Receipts for all such services are required.

Reimbursement for computerized legal research.

Computerized research fees are considered office overhead, as are other fees for library items. All CJA panel attorneys are expected to subscribe to a flat-fee research plan and the court will only provide reimbursement for computerized research when an explanation is provided: e.g., that fees imposed are outside the scope of the flat fee plan or why a flat fee plan is not feasible.

Record Review

Guidelines issued by the Court of Appeals for the Ninth Circuit permit payment for review of the record (e.g. written documents, pleadings, transcripts, etc.) at a rate of 60 pages per hour.