

CASE BUDGETING BASICS AND RESOURCES FOR NON-CAPITAL MEGA-CASES AND CAPITAL CASES

RENEE HURTIG EDELMAN

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CASE BUDGETING IN A NUTSHELL

Case budgeting is a program to encourage cost-efficient, high-quality representation in the most complex and expensive CJA representations

A case budgeting proposal is a spreadsheet form covering all attorney and service provider time, travel and expenses, and a memo from you explaining the factual background and justification for your requests

Cases are budgeted in phases, with supplemental budgets available

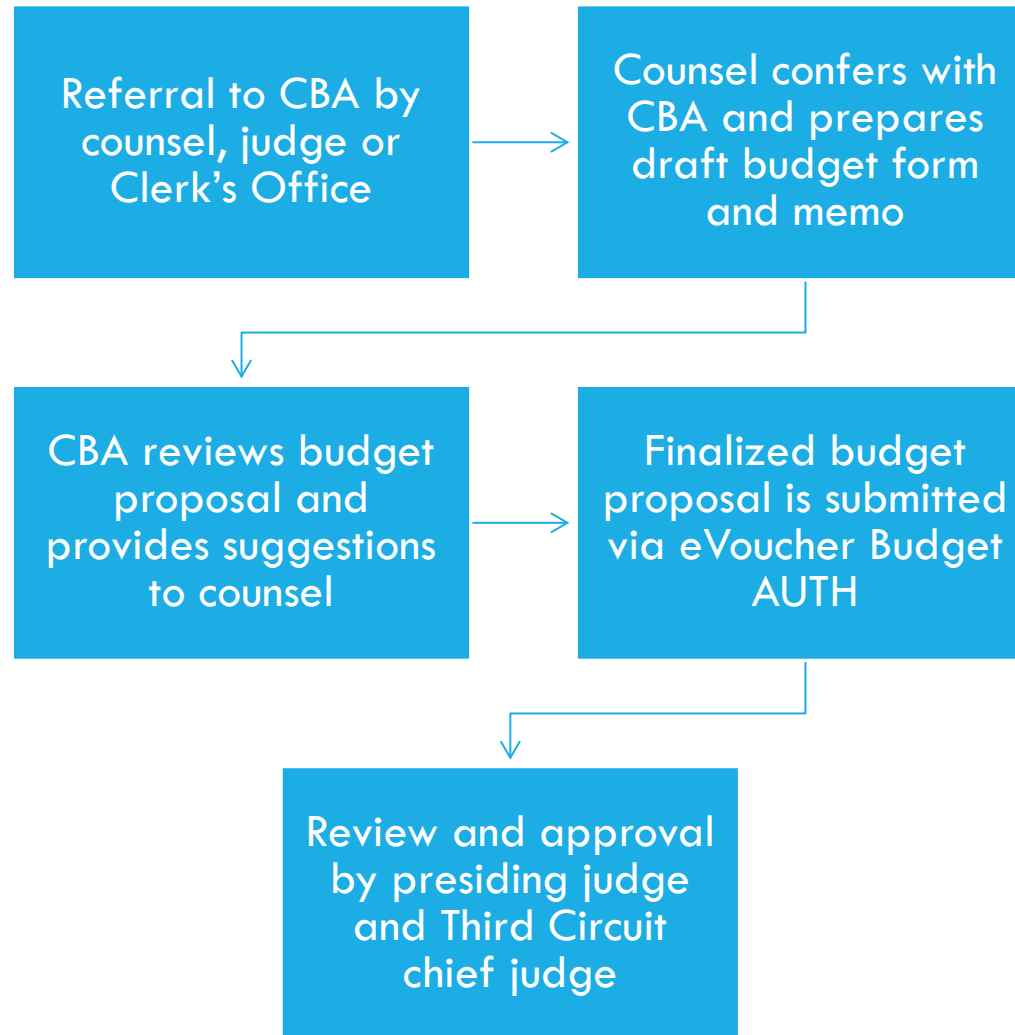
Budgets are approved by the presiding judge and the chief judge of the Third Circuit

WHICH CASES SHOULD BE BUDGETED?

DVI CJA Plan states that all capital cases should be budgeted

DVI CJA Plan states Court may require budgeting for non-capital mega cases

- Eligibility threshold is defined as likely to exceed 300 attorney hours or equivalent in total cost
- Signs of a mega-case:
 - RICO or murder charges
 - Fraud and financial crimes
 - Pill mill/medical prescribing cases
 - Cases with large quantities of discovery/ESI
 - Cases with large quantities of material in foreign languages
 - Multi-state or international investigation
 - Cases where multiple experts are needed
 - Cases where you plan to request appointment of coordinating discovery attorney or approval of a discovery management vendor



HOW DO CASES GET BUDGETED?



SOME ADVANTAGES OF CASE BUDGETING

Case budgeting is a planning tool for your biggest cases

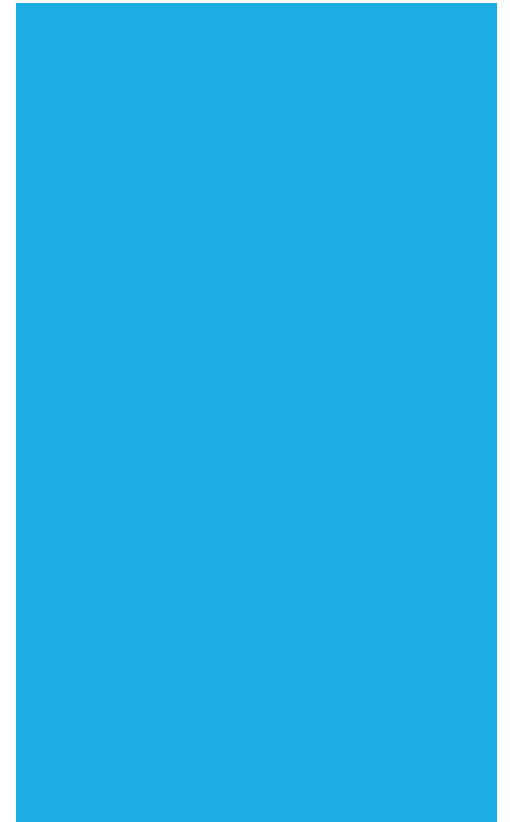
Faster payments – no circuit-level review of under budget excess compensation interim vouchers

Secure all prior approvals in one document – no CJA26 or service provider authorization requests needed

Assistance of the CBA in getting through the process

Opportunity to show the judge the amount of work required and find out in advance what the judge will pay for

Demonstrate for the Court your cost-consciousness and accountability





KEY COST-CONTAINMENT TOOLS FOR CASE BUDGETING

Identifying resources to help you review large volumes of discovery in a cost-efficient manner

Shopping around and negotiating hourly rates for experts

Using associates, paralegals and service providers

Identifying opportunities to share service providers or minimize duplication of work in multi-defendant cases

Advance planning and taking things one step at a time



CASE BUDGETING FOR DEATH-ELIGIBLE CASES

In any case punishable by death, the defendant is statutorily entitled to the appointment of two attorneys, one of whom must be learned in the law applicable to capital cases

Attorneys appointed in death-eligible cases are entitled to a higher hourly rate

Appointment of learned counsel must occur no later than when a defendant is charged with a federal criminal offense where the penalty of death is possible

If you are appointed to represent a defendant who is charged with a death-eligible crime, or may potentially be charged with a death-eligible crime, contact the Federal Defender immediately in to begin the process of obtaining learned counsel

After contacting the Federal Defender, contact the CBA to discuss the capital case budgeting process

Budgeting process begins as soon as learned counsel is appointed



WHAT HAPPENS AFTER THE BUDGET IS APPROVED?

All service providers approved in the budget are authorized to begin work

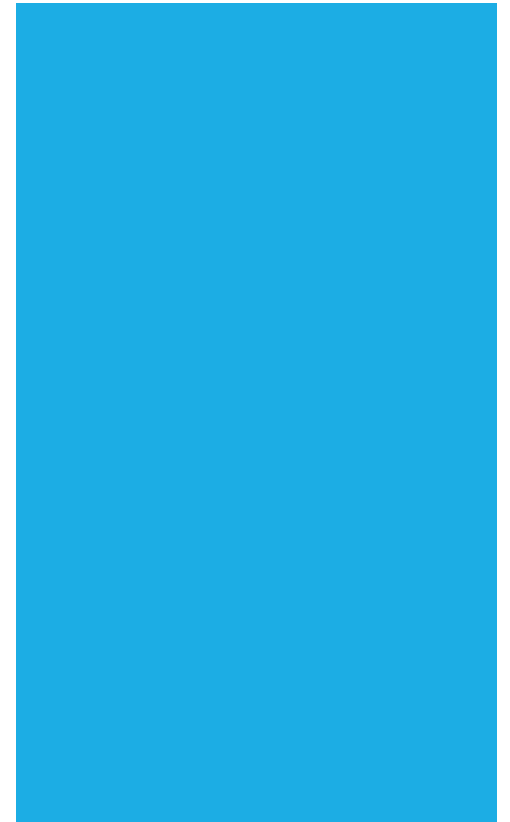
It is your obligation to keep track of everyone's time relative to the budget

If you or your service providers get close to or over budget, call the CBA to discuss a supplemental budget proposal BEFORE YOU SUBMIT A VOUCHER

Keep the CBA advised of major case developments

All vouchers will be audited to make sure that they comply with the budget

Under-budget interim vouchers will be paid upon approval of the presiding judge and only final vouchers require circuit-level approval



DISCOVERY MANAGEMENT IN COMPLEX AND BUDGETED CASES

Large quantities of discovery require a large amount of planning before you begin review

The case budgeting process can be your discovery planning process

- The case budgeting memo is a planning document
- Case budgeting provides a streamlined process for obtaining approval for the services and vendors you need to review the discovery
- Associates, paralegals, investigators or interns can help with large volume discovery review
- Referrals to expert and technical services

KNOW WHAT YOU HAVE — COMMON DISCOVERY TYPES IN CJA CASES

Searchable
text-based
files

Multimedia
files

Forensic
images

Social media
returns



TOOLS FOR MANAGING LARGE QUANTITIES OF DISCOVERY IN YOUR CJA CASES

Rule 16.1 is a tool for getting the government to turn over the discovery in a fashion that better meets *your* needs

- Requires the parties to meet and confer within 14 days of arraignment to try to agree on a timeline and procedures for pretrial disclosures
- After the meeting, either party can ask the Court to rule on discovery production issues

Basic office computer hardware and software requirements

- Most discovery review software and platforms do not run well or at all on Apple iOS
- You may need to upgrade your computer operating system or software packages
- You may need additional memory or bandwidth to download and store discovery

National Litigation Support Team provides services and assistance for CJA attorneys

- Contracts with vendors that provide discovery hosting and management services for CJA cases for free
- Case consultations and direct case assistance
- Individualized training for attorneys and staff

DIFFERENT TOOLS FOR DIFFERENT TYPES

Discovery review platforms are best for searchable text-based files

- Software that allows you to view a variety of document types in a single place without having to go through nested folders, with common functions including the ability to run text-based searches, tag documents, create notes, and organize materials
- Best for scanned paper, image files, PDF files, MS Office or other word processing files, emails

Multimedia files

- These usually come in proprietary formats or with proprietary viewers and standard discovery review platforms do not have tools for reviewing them
- [Slate Technology](#) can produce sortable spreadsheets linking wiretap intercepts with the linesheets and metadata

Forensic images

- Best reviewed with programs like [Cellebrite](#) (phones) or [Axiom Portable Case](#) (computers)

Social media returns

- Social media returns in raw or native format can be reviewed in [Cellebrite](#)
- Social media returns in PDF or other document format can be reviewed with a standard review platform



DISCOVERY REVIEW PLATFORMS

Not all discovery management systems and vendors are created equal

- Different platforms for different needs
- Wide range of fee structures

Computer-based review software

- [dtSearch](#), Adobe Acrobat Pro, [CaseMap](#), [Eclipse Publish](#)
- Discovery is stored on your device

Discovery hosting and cloud-based review platforms

- [CasePoint](#), [Everlaw](#), vendors such as Cornerstone and Reliable
- Discovery is hosted by the provider

Cloud storage options – [Box.com](#)

- [Box.com](#) provides cloud storage and organization, allows for file-sharing



AI-ASSISTED DISCOVERY REVIEW

Transcription of audio and video

- JusticeText – includes translation function, search and review functions, AI assisted review
- Reduct – human transcription option, can create captioning for video, synched multicamera review
- Rev – human transcription option, no translation but captioning can be done in multiple languages
- Veritone – includes translation function, facial recognition, object tracking, search functions

Translation of documents

- [Everlaw](#) has in-platform translation but no way to export
- Programs like Enterprise ChatGPT and DeepL offer document translation

Security and ethical concerns about AI

- Free vs closed/enterprise versions
- PII and other protected materials must not be uploaded to AI systems
- Accuracy

BE PREPARED FOR UPCOMING CJA PAYMENT DELAYS

Due to a funding shortfall in the continuing resolution, the AO will delay all CJA payments for the period from July 23 through the end of FY2025

JIFMS system outage will also delay payments for vouchers certified from June 6-June 27

DSO guidance is that the courts should continue processing and approving vouchers during these periods so that the AO can pay the vouchers as soon as funding is available

Payments will be made on a first in – first out basis once funding is available

SUBMITTING INTERIM VOUCHERS

Interim vouchers are an important tool for managing your practice

New Criminal Justice Act Guidelines on submission of interim vouchers

- “Courts and presiding judges...should allow interim payments of compensation and of expenses to attorneys...at regular intervals in representations exceeding 90 days in duration or \$4,000 in accrued compensation and expenses claims.”
- Similar language for service providers and capital cases
- Prior Guidelines language was more restrictive

In cases that are not budgeted, you must file a motion asking for permission to submit interim vouchers

In budgeted cases, interim vouchers are permitted by the Third Circuit

RESOURCES FOR CJA ATTORNEYS

National Litigation Support Team

[Litigation Support | Defender Services Office - Training Division \(fd.org\)](#)
[nlsblog.org | National Litigation Support Blog for Federal/Community
Defenders and CJA Practitioners](#)

Private paralegal listings by state compiled by NLST

[CJA Resources](#)

Defender Services Office Training Division

[Defender Services Office - Training Division \(fd.org\)](#)

- CJA Attorney hotline: (800) 788-9908
- Legal and Policy Division Duty Attorney: (202) 502-3030

Sentencing Resource Counsel (non-capital)

[Welcome | Sentencing Resource Counsel \(fd.org\)](#)

Capital Resource Counsel Projects

[Home | CDN \(capdefnet.org\)](#)

Defenders Initiative of the National Immigrant Justice Center

[Defenders Initiative | National Immigrant Justice Center](#)

CASE BUDGETING ATTORNEY ASSISTANCE IS AVAILABLE IN ANY CASE

Information about service provider rates and requests

Assistance in finding service providers and experts

Procedures for excess compensation cases

CJA Guidelines issues

Questions about unusual situations in which CJA funds may be available

Referrals to Defender Services resources

CASE
BUDGETING
ATTORNEY
CONTACT
INFORMATION

Renee Hurtig Edelman

renee_edelman@ca3.uscourts.gov

(267) 232-0210

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Court of Appeals \(uscourts.gov\)](#)