

### **Experience-Based Hourly-Rate Ranges for Service Providers in CJA Mega Cases**

Courts should consider the use in CJA mega cases<sup>1</sup> of the experience-based (presumptively reasonable) hourly rate ranges in the chart below and, if used, require permission of the presiding judicial officer to exceed the ranges. The ranges do not constitute ceilings.

Given the increases adopted through these updated ranges, it is anticipated that most service providers will be compensated at the low end of the revised rates. Compensation above that base amount should be reserved for providers with extraordinary skills or to address unusual difficulties with service provider availability. The chart includes explanatory language to help guide application of the ranges for paralegals, investigators, and mitigation specialists. Rates outside these experience-based ranges are permissible where justified by case-specific circumstances or the unique qualifications of service providers. Judicial officers are strongly encouraged to apply the ranges flexibly based on the circumstances of individual cases.

<b>Category</b>	<b>Experience-Based Hourly Ranges</b>
Law Students	\$15 - \$25
Paralegals	\$75 - \$125 - higher end of range for paralegals with specialized skills, such as IT competencies to perform complex litigation support
Investigators	\$75 - \$125 - higher end of the range for investigators with specialized skills, such as foreign-language fluency or mastery of one or more relevant areas of forensic science
Mitigation Specialists	\$125 - \$175 - higher end of the range for mitigation specialists with specialized skills, such as foreign-language fluency; mental health expertise; or mastery of relevant legal standards
Jury Consultants	\$150 - \$225

<sup>1</sup> CJA panel attorney mega cases are representations that qualify for case budgeting under the CJA Guidelines, which include all capital representations and non-capital representations that appear likely to become, or have become, extraordinary in terms of potential cost—i.e., attorney hours are expected to exceed 300 or total expenditures (for appointed counsel and services other than counsel) are expected to exceed an amount equal to 300 times the prevailing CJA panel attorney non-capital hourly rate, rounded up to the nearest thousand. Federal defender organization (FDO) mega cases are representations whose anticipated costs cannot be subsumed within an FDO's existing budget and whose funding requirements exceed authority that the Defender Services Committee has delegated to DSO to increase an FDO's budget. Because FDOs are funded through budgets approved by the Committee, service provider funding requests in FDO mega cases are reviewed by the Committee's Budget Subcommittee rather than by presiding judges, as is done in CJA panel attorney mega cases.

The experience-based hourly rate ranges in the chart above reflect increases in the rates for paralegals, investigators, and mitigation specialists approved by the Committee at its June 2019 meeting. As with the 2013 experience-based ranges (originally published in February 2014 and replaced by this announcement), the Committee received extensive input in developing these revisions from key Defender Service program stakeholders and working and advisory groups.

A critical component of establishing national, experience-based hourly rate ranges is that the presiding judge has the authority to approve rates outside of the recommended ranges for demonstrated good cause. Factors that a court may wish to consider in determining the appropriateness of an experience-based range include:

- the uniqueness of the service or the service provider;
- the education, training, reputation, or specialization of the service provider;
- the availability, or lack of availability, of this or similar service providers;
- the seriousness of the case;
- any time limitations on the case that may affect how quickly the service needs to be completed;
- the particular needs of a case or client; and
- any other factors relevant to the circuit or district.

The Committee has focused on five categories of commonly used service providers, listed in the chart above, that account for more than half of CJA service provider usage each year. It also recognizes that hourly rate ranges have been established by many circuit and district courts, working with their circuit CJA case budgeting attorneys and CJA supervising attorneys, for several other categories of service providers and experts beyond the five categories listed in the chart. The Committee understands that there are regional and geographic differences that may especially influence the rates and availability of qualified service providers in those categories not reflected in the chart. The Committee therefore decided that national ranges for these categories could not adequately reflect the numerous regional variances that exist. As a result, a district or circuit may choose to use ranges it has already developed based on the rates and availability of qualified service providers in its particular geographic area. The national ranges listed in the chart should be used where no current experience-based district or circuit ranges exist, or can serve as a basis for reevaluating existing district or circuit ranges. The national ranges could also be used to develop new district- or circuit-specific ranges.

The Committee is committed to reevaluating the national experience-based ranges every two to three years because of the continuing changes in the knowledge and skill sets required within these service provider categories.