

**FACT WITNESS COMPENSATION
INSTRUCTIONS
AND
GUIDELINES**

Compiled by:

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ATTACHMENTS:

Attachment A - Sample OBD-2, "Notice to Fact Witness"

Attachment B - Transportation Expense Listing

Attachment C - Sample OBD-3, "Fact Witness Voucher"

Attachment D - Sample OBD-47, "Request, Authorization and Agreement for Fees
and Expenses of Witnesses

Attachment E - Parking Receipt Form

FACT WITNESS COMPENSATION INSTRUCTIONS

The following are guidelines to be followed in order to obtain attendance fees, travel and accommodations reimbursement for fact witnesses:

1. **Responsibilities:**

- A. It is the responsibility of each attorney to file a motion and proposed order with the Clerk's Office for issuance of subpoenas at government expense.
- B. Counsel must provide the U.S. Marshal's Office with a copy of the court order when witness fees and accommodations are requested, regardless of whether or not the witness resides within the district.
- C. The court order shall be in compliance with Rule 17(b) of the Federal Rules of Criminal Procedure and must name the witnesses who are subpoenaed.

2. **Procedures:**

- A. As soon as the attorney determines that a particular witness' testimony is necessary, the attorney must obtain a copy of the appropriate court order, attach it to the witness' subpoena and forward it to the U.S. Marshal's Office for service of said subpoena.
- B. If the witness is unable to provide for their own transportation, the attorney must notify the U.S. Marshal's Office and supply them with a copy of the court order and the subpoena. The U.S. Marshal's Office will make the necessary travel arrangements.
- C. If a witness cannot afford his or her expenses, the attorney should contact the Clerk's Office and supply the dates of attendance for each witness. A Deputy Clerk will contact a hotel and make room reservations for the witness at the government rate. It is imperative that these reservations be made well in advance. The Deputy Clerk will log in the reservation on the direct billing sheet and provide the U.S. Marshal's Service with an information copy.
- D. The attorney will provide all fact witnesses with a copy of the Notice to Fact Witness Appearing on Behalf of an Indigent Defendant, Form OBD-2, (see Attachment A) at the time the witness is served a subpoena. The witness should be instructed to read the form as it will provide them with information regarding refundable and non-refundable expenses.

MAXIMUM AMOUNTS ALLOWED

1. Rates per mile traveled by privately owned vehicles:

Motorcycles--\$.285

Automobile--\$.375

Airplane----\$.995

2. Meals:

Travel Days: \$21.50 - Spokane

\$15.50 - Richland & Yakima

Full Days: \$43.00 - Spokane

\$31.00 - Richland & Yakima

3. Lodging per night:

Richland--\$55.00

Spokane--\$63.00

Yakima---\$55.00

3. **Completing the Fact Witness Voucher, Form OBD-3 (Attachment C):**

- A. When the presence of the fact witness is no longer required, the attorney must complete a Fact Witness Voucher, Form OBD-3 (see Attachment C).
- B. The voucher must be filled out completely by the attorney or an assistant, coordinating all information with the fact witness. **The amount (dollar) column shall be left blank and will be calculated by the U.S. Marshal's Service.**
- C. The attorney must fill out Part I--Attendance Certification and review Part II--Allowances for accuracy. Then the attorney would sign and date at Section B. Part I--Attendance Attestation.
- D. Upon completion of the Fact Witness Voucher (OBD-3), the attorney should take the court order, subpoena, voucher, and all reimbursable receipts to the U.S. District Court Clerk's Office. The witness should be advised that the U.S. Marshal will send them a check for their fees and expenses. Only in extraordinary circumstances, will the U.S. Marshal's Office make payment immediately upon presentation of the voucher.

4. **Extraordinary Circumstances:**

- A. Occasionally witnesses will have special needs that must be addressed in order for them to appear. Examples of such special needs include, but are not limited to, the following:
 - Ambulance transportation
 - Attendants
 - Travel expenses for the parent/guardian of a child witness

- B. When a special circumstance is identified, it is the attorney's responsibility to request authorization by completing a Request and Authorization for Fees and Expenses of Witnesses, Form OBD-47, (see Attachment D). These requests should be coordinated and pre-arranged with the Special Authorization Unit, Department of Justice, Washington, D.C.

U.S. Department of Justice
JMD/Finance Staff
600 E Street, NW, Room 4090
Washington, D.C. 20530-0001
Tel. Hotline: (202) 616-6260

FACT WITNESS COMPENSATION GUIDELINES

1. **Witness Attendance Fees:**

Fact witnesses are allowed a \$40.00 attendance fee for each day's attendance and for the time necessary to travel.

2. **Authorization Of Travel And Allowances:**

Fact witnesses are entitled to reimbursement for necessary transportation by the least expensive method available and reimbursement for meals and lodging when they are required to remain away from their residences overnight. They are expected to exercise the same care in incurring expenses that a prudent person would exercise in traveling on personal business and expending personal funds. Excess costs, circuitous routes, delays, or luxury accommodations and services unnecessary or unjustified are not acceptable under this standard. Witnesses will be responsible for excess costs and additional expenses incurred for personal preference or convenience.

3. **Allowable Transportation:**

Travel shall be by the method of transportation which will result in the greatest advantage to the Government.

- A. Intermediate travel (50 to 350 miles from court): Travel requiring one day will be reimbursed the MOST ECONOMICAL WAY. Mileage allowance: Ordinary fact witnesses are allowed 37.5 cents per mile. The Rand McNally Standard Highway Mileage Guide is designated for use in determining mileage. The witness should keep a record of their odometer readings if traveling by motorcycle or automobile. If two or more witnesses travel in the same privately owned vehicle, only one reimbursement for mileage will be paid. If a government vehicle is used, there is no reimbursement for mileage.

Note: See Attachment B, Transportation Expense Listing, which is a worksheet designed to assist the witness in recording all expenses related to travel.

- B. Long distance travel(over 350 miles from court): Travel requiring longer than one day will be reimbursed the MOST ECONOMICAL WAY. A reasonable minimum daily travel distance by a privately owned vehicle is 350 miles.

1. Common Carrier: Train, bus or airfare will be reimbursed at the Government rate. Reimbursement WILL NOT be made for First Class accommodations, "Frequent Flyer" tickets, or charter service. DO NOT purchase non-refundable tickets. If the appearance date changes or is canceled, the witness WILL NOT be reimbursed for non-refundable tickets. RECEIPTS MUST BE SUBMITTED.
 2. To and from carrier terminals: Expenditures for the use of taxicab and airport limousine fares are reimbursed. However, when courtesy transportation is provided by hotels/motels, the witness should be made aware of his/her requirement to use them. RECEIPTS ARE REQUIRED FOR ALL SINGLE ITEMS COSTING OVER \$25.00.
- C. Parking Receipts: Parking receipts are required by law in order to reimburse witnesses for ANY parking. If a witness parks at a meter or an unattended lot, have the witness complete and sign the "Parking Receipt Form" (Attachment E). Attach receipts to the originals of Form OBD-3.
- D. RENTAL CARS ARE NOT REIMBURSABLE

4. **Subsistence:**

Fact Witnesses are entitled to reimbursement for meals and lodging when they are required to remain away from their residences overnight. (The long distance travel mileage prevails). The dollar amounts for per diem allowances for witnesses are in accordance with those for Government employee travel.

- A. Lodging Allowances: Lodging allowances range from \$55.00 in the Richland area to \$63.00 in Spokane. Maximum lodging for federal court cities are:

Richland--\$55.00
 Spokane--\$63.00
 Yakima---\$55.00

1. Lodging Reimbursements: If it is necessary for a witness to remain away from home overnight, they will be reimbursed for the ACTUAL COST of lodging. However, the reimbursement shall not exceed the lodging allowable rates. ALL REIMBURSEMENT FOR LODGING MUST BE SUPPORTED BY HOTEL/MOTEL RECEIPTS. (Copies of lost or destroyed receipts from the lodging establishments are required).

2. Shared Lodging: If the lodging receipt shows a charge for double occupancy, such fact shall be shown on the voucher. One-half of the double occupancy charge shall be allowable for each witness. If the person sharing the room is not another witness, the witness shall be allowed the single room rate.
 3. Lodging with Friends or Relatives: When a witness obtains lodging from friends or relatives with or without charge, no part of the per diem allowance will be allowed for lodging. Neither costs based on room rates for comparable commercial lodging in the area nor flat "token" amounts will be considered as reasonable.
- B. Meals and Incidental Expenses Allowance: The maximum per diem rates include a fixed allowance for meals and incidental expenses. Fact Witnesses shall be entitled to one-half the daily meals and expense allowance for the day of departure (\$21.50 for Spokane; \$15.50 for Richland and Yakima) and one-half of the allowance for the day of return (\$21.50 for Spokane; \$15.50 for Richland and Yakima). Full days at the place of attendance shall be at the full meals and incidental expenses allowance rate (\$43 for Spokane; \$31 for Richland and Yakima) and all other locations in the Eastern District of Washington is \$31. A reasonable minimum daily travel distance by a privately owned vehicle is 350 miles. If a witness leaves his/her residence earlier than necessary he/she will be paid only for the necessary time.

5. **Pretrial Conferences:**

Attorneys may authorize payments not to exceed three days (five days if a weekend is included) for Pretrial Conferences with witnesses in the period between the scheduling of a trial, hearing or grand jury proceeding and a witness' appearance. In addition, pretrial days caused by scheduling changes in trial, hearing or grand jury proceeding dates require a written explanation by the attorneys. The explanation should be attached to the witness voucher. Travel (other than by local witnesses) separate from trial attendance and/or additional pretrial days not caused by changes in scheduling require the written approval of the SPECIAL AUTHORIZATIONS UNIT. Requests must be submitted on Form OBD-47 (see Attachment D).

6. **Unusual Witness Expenses:**

Witnesses may be allowed unusual expenses which are necessary to their attendance. Examples of such unusual expenses include, but are not limited to, the following: ambulances, attendants, travel expenses of a parent accompanying a minor child witness, etc. Reimbursement in such instances is allowed on an actual expense basis. Such allowances must be specifically authorized on a Request and Authorization for Fees and Expenses of Witnesses, Form OBD-47 (see Attachment D), submitted to the Special Authorizations Unit, Department of Justice, by the Clerk's Office in advance of the witness' attendance. If an emergency situation does not permit time for advance authorization, the attorney should call the Special Authorizations Unit prior to submission of Form OBD-47. Subpoenas are not to be used for attendants accompanying witnesses. It is suggested that consideration be given to whether or not the witness can absorb these expenses in

his/her allowances when the allowances exceed the actual cost. The Special Authorization Unit will make the determination for approval or disapproval. Permission for the U.S. Marshal, Eastern District of Washington, to make payment for these expenses should be included in the request.

7. **Payment of Fact Witness Vouchers:**

Whenever a witness is advised that his or her attendance is no longer required, the witness should contact the CJA Attorney of Record. The attorney should then complete a Fact Witness Voucher, Form OBD-3, obtain the witness's signature, sign the form and submit it to the Clerk's Office for approval. The U.S. Marshal's Office will process the voucher and payment will be mailed to the witness. ONLY under unusual circumstances will the U.S. Marshal's Office pay the witness immediately if the witness requires the funds to return home.

INSTRUCTIONS FOR COMPLETING FACT WITNESS VOUCHER FORM OBD-3

The following instructions correspond with the alphabetized sections on the sample Form OBD-3 shown in Attachment B of this appendix:

The attorney who called the witness to testify should complete the voucher. (Instructions for completing the Fact Witness Voucher, OBD-3 are printed on the back of the form.)

HEADING

Circle the appropriate answer to:

- 1) if witness was/was not a U.S. citizen. If witness is not a citizen, they will be required to show proof of their resident or visitor status.
- 2) if witness was/was not a Government employee
- 3) if witness did/did not receive a cash/check advance and the amount and issuing office.

Witness Name: Self-explanatory.

Social Security Number: Enter witness' Social Security Number. (Privacy Act Statement is on the back of the form.)

Address, City, State, Zip: Witness' full address. This will be the address to which any reimbursement for fees or allowances will be mailed.

Telephone Number: Enter the witness' telephone number (including area code).

Case Number: Enter the court docket number.

Case Name: Self-explanatory.

District: Enter the trial district name.

Court Location: Enter the city location of the court proceedings.

GTA: (Government Travel Authorization) Mark the appropriate boxes for either transportation or lodging when advance arrangements have been made through U.S. Marshal's office.

PART I--ATTENDANCE CERTIFICATION

Part A. ATTENDANCE FEES: Witnesses will be paid a fee of \$40 per day, including travel days. **THE AMOUNT (DOLLAR) COLUMN SHALL BE LEFT BLANK AND WILL BE CALCULATED BY THE U.S. MARSHAL'S SERVICE.**

Deposition Dates: Indicate number of days witness was deposed.

Grand Jury/Trial Attendance Date (Including Travel): Enter the trial attendance dates. Trial attendance includes the time spent waiting to testify as well as time actually spent on the stand. The number of days of attendance plus the number of travel days (if attendance dates are not duplicated) multiplied by \$40.00 equals the amount of the trial attendance fees.

Pretrial Attendance Dates (Including Travel): Enter the pretrial attendance dates. The number of pretrial days (plus the number of travel days) multiplied by \$40.00 equals the amount of pretrial attendance fees. (Verify approval by the Special Authorizations unit if excess days or a separate trip is claimed.)

Detained Dates - Citizen/Visitor in Custody: Enter the dates a U.S. Citizen or lawful Visitor to the U.S. was detained IN CUSTODY because the witness' trial appearance could not be assured in another manner. The number of days IN CUSTODY as a witness for citizens or legal visitors multiplied by \$40.00 equals the amount of the detained fees. (Court attendance days are reported in A. Grand Jury/Trial Attendance Dates -- **DO NOT** duplicate here.)

Detained Dates - Deportable Alien in Custody: Enter the dates a deportable alien was detained IN CUSTODY to assure the witness' trial appearance. The number of days IN CUSTODY as a witness for deportable aliens multiplied by \$1.00 equals the amount of the detained fees.

Note: Deportable aliens do not receive any other fees or allowances--DO NOT PAY \$40.00 for court attendance days.

Part B. ATTENDANCE ATTESTATION:

Witnesses SUBPOENAED on behalf of indigent defendants proceeding in forma pauperis will have their FORM OBD-03 attested by the CJA Attorney of Record. In proceedings before U.S. Magistrate Judges where more than four (4) witnesses were called, the Magistrate also attests that the approval and certificate of the CJA Attorney of Record were first obtained.

PART II--ALLOWANCES

The expenses claimed by the witness must be verified by the CJA Attorney to ensure that they do not exceed the travel allowances received by Government employees. Any expenses which must be specifically approved on a Government employee's travel voucher must have PRIOR approval of the Special Authorizations Unit or, for witnesses subpoenaed on behalf of defendants proceeding in forma pauperis, by the U.S. District Judge or Magistrate Judge. The GTA (Government Travel Advance) section at the top of the form must be checked to ensure that the witness reported any travel or lodging reservation made by a U.S. Marshal's Office.

Note: Receipts are required for Common Carrier costs, lodging costs, and all single items of \$25.00 or more.

Parts C. through F.

Note: The witness should be reminded that any check or draft advance will be deducted from the fees and allowances claimed by the witness. Also, no transportation expenses will be allowed for items paid by Government Travel Regulations or charged to a Government Travel Service account.

Part G. WITNESS CERTIFICATION:

The witness and the CJA Attorney of Record should verify that all items under Part II are correct. Have the witness sign his/her full legal name and the date. If the witness indicates non-citizenship, the witness' Alien Registration Records must be examined to ensure that the witness is a lawful resident alien or visitor to the United States.

Part H. CLAIM VERIFICATION:

An authorized certifying officer from the U.S. District Court Clerk's Office must certify the voucher as correct and proper for payment before the U.S. Marshal's Office will issue payment. The certifying officer must ascertain, to the best of his/her ability, that the claim contained on the voucher is true, that the reimbursement claimed is consistent with the applicable regulations.

PART III--CERTIFICATION

Voucher will be certified by the U.S. Marshal's Office

PART IV--DISBURSEMENT

Disbursement: The U.S. Marshal's Office of the trial district will complete Part IV and mail the payment to the witness. ONLY under unusual circumstances will the U.S. Marshal's Office pay the witness immediately if the witness requires the funds to return home.

AUTHORIZED HOTELS
EASTERN DISTRICT OF WASHINGTON:

KENNEWICK:

Cavanaugh's Motel, KENNEWICK, WA
Accounts Manager
North 1101 Columbia Center Boulevard
Kennewick, WA 99336
(509) 783-0611

RICHLAND:

Shilo Inn, RICHLAND, WA
Manager
50 Comstock
Richland, WA 99352
(509) 946-4661

Red Lion Inn Hanford House, RICHLAND, WA
Manager
802 George Washington Way
Richland, WA 99352
(509) 946-7611

SPOKANE:

Cavanaugh's River Inn, SPOKANE, WA
Corporate Sales Manager
North 700 Division
Spokane, WA 99202
(509) 358-8012 (Ms. Gorman)
(509) 358-8013 (Ms. Anderson)

Courtyard Marriott Hotel, SPOKANE, WA
Sales Coordinator
North 401 Riverpoint Boulevard
Spokane, WA 99202
(509) 456-7600

Holiday Inn Express, SPOKANE, WA
General Manager
North 801 Division
Spokane, WA 99202
(509) 328-8505

Ramada Inn, SPOKANE, WA

Director of Sales
Spokane International Airport
Spokane, WA 99219
(509) 838-5211

Doubletree SPOKANE, WA

Sales Manager
North 322 Spokane Falls Boulevard
Spokane, WA 99201-0165
(509) 455-9600

Roadway Inn City Center, SPOKANE, WA

Front Desk Manager
W. 827 First
Spokane, WA 99204
(509) 838-8271

Towne Center Motel, SPOKANE, WA

Manager
West 901 First Avenue
Spokane, WA 99201
(509) 747-1041

West Coast Ridpath Hotel, SPOKANE, WA

Corporate Sales Manager
West 515 Sprague Avenue
Spokane, WA 99204-0367
(509) 838-2711

YAKIMA:

Cavanaugh's at Yakima Center, YAKIMA, WA

Director of Sales
607 Yakima Avenue
Yakima, WA 98901
(509) 248-5900

Holiday Inn, YAKIMA, WA

Director of Sales
9 North 9th
Yakima, WA 98901
(509) 452-6511