



POINTS OF INTEREST

JAC'S NEWSLETTER FOR COURT-APPOINTED
AND INDIGENT FOR COSTS ATTORNEYS AND
DUE PROCESS VENDORS

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A Word From JAC's Executive Director

Happy New Year from the Justice Administrative Commission (JAC)! I hope you find this latest edition of Points of Interest (JAC's Newsletter for Court-Appointed and Indigent for Costs Attorneys and Due Process Vendors) helpful and informative. Included is information about upcoming updates to JAC's Online Billing Submission System for investigators as well as information about the requirement to keep contemporaneous detailed records in support of billings submitted to JAC.



Rip Colvin
JAC Executive Director

Due to the ongoing impact of COVID-19, JAC continues telework. JAC requests your patience as the processing of billings, review of pleadings, and responses to inquiries may be delayed. If you have the contact information for a hearing (such as a ZOOM or Microsoft Teams link), please include that information on the Notice of Hearing.

JAC does not anticipate any funding issues related to payment of attorney fees, due process costs, or related expenses this fiscal year (ending on June 30, 2021).

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Payment for Services Provided to Judicial-Related Offices

In addition to JAC's duties related to court-appointed attorney and due process vendor billings, JAC also administratively serves 49 judicial-related offices (JROs) throughout the state, including the offices of the State Attorney, Public Defender, Regional Counsel, Capital Collateral Regional Counsel, and the Statewide Guardian ad Litem Program. Services provided are primarily in the areas of accounting, budget, financial services, and human resources.

While JAC administratively serves these offices, JAC does not supervise, direct, or control them. For this reason, JAC's Online Support Team only provides assistance related to JAC's processing of private court-appointed or indigent for costs billings for payment. If you are retained by a JRO, please contact the office which retained you directly for billing assistance rather than JAC's Online Support Team.

Update to the Investigator Online Billing System

JAC is enhancing its investigator online billing system in MyJAC. The online billing system update will streamline the process by helping investigators create a uniform hourly statement, prevent billing errors, and help ensure contractual and statutory compliance.

Under the current online billing system, investigators upload a detailed hourly statement listing and describing the activities billed. The new system will prompt investigators to enter their line items describing the services provided by date directly into the MyJAC online billing system. The system will also allow investigators to save their time on MyJAC, edit it, and submit it when a billable point is reached. Like before, after a billing is submitted, it will still need to be reviewed and approved by the attorney before it is reviewed by JAC.

JAC anticipates this update will occur in early 2021. Please be on the lookout for a notice on JAC's website with the precise date and additional information and instructions. Questions or concerns should be emailed to the Online Support Team at onlinesupportteam@justiceadmin.org.

Contemporaneous Records Supporting Hourly Billings

In recent months, JAC has been conducting routine post-payment reviews of hourly billings submitted by private court-appointed attorneys and due process vendors. Under the express terms of the JAC Registry and Due Process Contracts, attorneys and due process vendors are required to maintain detailed contemporaneous records that support the entries in their hourly billings. Moreover, the contract provides that upon proper notice these records are subject to inspection by JAC and may only be redacted to the extent necessary to protect attorney-client or work product privilege.

In conducting post-payment reviews, JAC has encountered some confusion regarding the types of supporting documents JAC is seeking to inspect. When JAC issues a Notice of Inspection of Contemporaneous Records, JAC is seeking those records that support the time billed by the attorney or due process vendor. JAC is not seeking the entirety of the records for a case.

Some examples of contemporaneous records may include the following:

- Contemporaneous entries into a computer timekeeping program; Excel spreadsheet; or other contemporaneous method of keeping time records;
- Handwritten or typed calendar or case notes entries;
- Handwritten or typed notes related to the case such as notes from any conference calls, client meetings, or witness interviews; notes regarding discovery and other materials reviewed; and hearing or deposition notes;
- Jail logs related to client visitations; and
- Any other contemporaneous materials that support the billing entries.

Moreover, it is imperative that these records be provided to JAC in an organized fashion so that JAC staff can easily ascertain which billing entry is supported by each record. ***Please know that providing JAC with the entire case file is not responsive to a Notice of Inspection of Contemporaneous Records.***

New Full Performance Objection Letter

JAC is now issuing Full Performance Objection Letters on invoices where an attorney other than the attorney appointed to the case (court-appointed attorney) attended the final dispositional hearing instead of the court-appointed attorney. For example, if a different attorney attends the sentencing hearing instead of the court-appointed attorney, JAC will issue the new full performance objection letter. The new objection letter is based on the requirements of the JAC Registry Contract and s. 27.5304(8), F.S. Section 27.5304(8), F.S., specifically provides:

A private attorney appointed in lieu of the public defender or the criminal conflict and civil regional counsel to represent an indigent defendant may not reassign or subcontract the case to another attorney or allow another attorney to appear at a critical stage of a case who is not on the registry developed under s. 27.40.

Emphasis added. Similarly, Paragraph II(2), of the JAC Registry Contract provides in relevant part:

Attorney may not reassign or subcontract any appointed case or portion thereof to another attorney or bill for work performed by another attorney. This limitation on subcontracting, reassigning, or billing shall include associates or partners of Attorney's law firm regardless of whether the associate or partner is on the registry. Attorney affirmatively waives the right to seek compensation for work performed by any other attorney.

Emphasis added. While JAC acknowledges that there may be instances where a court-appointed attorney is unavailable for the final dispositional hearing, in light of statutory and contractual requirements, JAC will no longer administratively process for payment flat fee billings where another attorney covered a final dispositional hearing instead of the court-appointed attorney.

Upon receipt of the new full performance objection letter, the court-appointed attorney will need to file a motion for fees addressing the reason(s) another attorney appeared at the final dispositional hearing instead of the court-appointed attorney. As with all motions for fees or costs, a copy of the motion must be sent to pleadings@justiceadmin.org even if JAC does not request a hearing in the objection letter. **Please be aware that the court-appointed attorney cannot seek more fees than the amount originally billed to JAC.** Upon receipt of an attorney fee order, the court-appointed attorney will then send the order to pleadings@justiceadmin.org for JAC to process the billing in accordance with the order.

Notice of Taking Deposition Required for Appearance Fees Billings

Starting March 1, 2021, a Notice of Taking Deposition will be required as part of the submission of any court reporter billing for appearance fees. During the online billing process, the Notice will be submitted as a due process order. A court reporter must submit this Notice in order for a billing for court reporter appearance fees to be processed. Submission of this Notice will help ensure accuracy in the review of court reporter billings.

It is the court reporter's responsibility to obtain a Notice of Taking Deposition from the attorney. If no Notice is available, the attorney will need to file a motion and obtain an order authorizing the court reporter appearance fees. The motion and order must include the name of the deponent and the date and time of the deposition.



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For comments, suggestions,
and/or submissions for the
next bi-annual newsletter,
please contact:

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Tracking Hours Across Cases

As provided in the JAC Registry Contract and the JAC Due Process Contracts, attorneys and due process vendors are required to track the amount of time worked on court-appointed cases on a daily and weekly basis. When a person works more than ten (10) billable hours on a single date, or more than fifty (50) billable hours in a calendar week across all JAC cases, each billing must provide an explanation justifying the need to work these additional hours. Failure to provide an explanation may result in serious consequences including, but not limited to, issuance of a notice of inspection of contemporaneous records, contractual suspension or termination, and recoupment of overpayments.

Please be aware that an attorney or due process vendor is not barred from working more than ten hours on a single date, or more than fifty hours in a calendar week. The contracts simply require that the person provide an explanation justifying the need for working these hours. The explanation for billing additional hours in a day or week is in addition to the submission of an hourly statement and maintenance of detailed contemporaneous records required to support the work in an hourly statement.

Because the contracts require that attorneys and vendors only bill “actual time” worked on the case and administrative tasks are not billable, JAC does not anticipate that an attorney or due process vendor should accrue more than ten billable hours on a single date or more than fifty billable hours in a calendar week, absent extraordinary circumstances justifying those hours. JAC acknowledges that there may be instances where such extra work is necessary, such as immediately before or during a complex trial or evidentiary hearing. However, JAC does not anticipate that an attorney or due process vendor should regularly bill more than ten billable hours on a single date or more than fifty billable hours in a calendar week on a regular basis.

Please be aware that the time billed to JAC must constitute billable hours and does not include the time unrelated to the case, such as administrative time related to running the business and assigning tasks to paralegals or other staff. This also includes any time necessary to keep and maintain detailed contemporaneous records as required by s. 27.40(7)(b), F.S., and the JAC Registry and JAC Due Process Contracts. Because attorneys and due process vendors are independent contractors, only time actually spent working on the merits of a case is billable time. Other time is not billable such as lunch and dinner breaks, coffee breaks, reviewing general correspondence, attending business meetings, managing staff, completing continuing legal education courses, and other time associated with running a law practice or other business. In order to accrue ten billable hours on a single date, the work day for an attorney or due process vendor is likely to exceed twelve or more hours.

Please make sure to provide an explanation in any billing where the number of billable hours exceeds ten (10) hours on a single date or exceeds fifty (50) hours in a calendar week across all JAC cases.