

UNITED STATES DISTRICT COURT

Eastern District of Pennsylvania  
U.S. Courthouse  
Independence Mall West  
601 Market Street  
Philadelphia, PA 19106-1797

Michael E. Kunz  
Clerk of Court

Clerk's Office - Room 2609  
Telephone: (215) 597-9221

TO: MEMBERS OF THE FEDERAL DEFENSE PANEL  
RE: APPOINTMENT OF COUNSEL AND VOUCHERS FOR COMPENSATION

As a member of the Federal Defense Panel for this Court, you have been appointed to represent the defendant, pursuant to the Criminal Justice Act Guidelines. Enclosed is information pertaining to filing vouchers in the United States District Court for the Eastern District of Pennsylvania. This packet includes Instructions, Best Practices, Attorney Statement, and Compliance Notices for CJA appointments with the Eastern District of Pennsylvania.

The appointment is a personal one and shall remain in effect until terminated or a substitute attorney is appointed by this Court or, if a notice of appeal is filed, terminated or substituted by the Court of Appeals (in accordance in Chapter 3.1 of the Criminal Justice Act Plan for the United States Court of Appeals for the Third Circuit). Please note specifically that you will be expected to handle the appeal resulting from any appointment made in the District Court. Please note that a new voucher must be completed for each stage of the case, for example one voucher for Grand Jury work, a separate voucher if an indictment is filed, etc.

If for any reason you are unable to do the work required, please notify the Court promptly and substitute counsel will be appointed.

Counsel is expected to be thoroughly familiar with the Local Rules of Criminal Procedure and with the requirements of the Rule 50(b) Plan for Prompt Disposition of Criminal Cases implementing the Speedy Trial Act of 1974.

In accordance with the recommendation adopted at the September 1984 session of the Judicial Conference of the United States, the presiding judicial officer has the discretion to require submission of a memorandum supporting and justifying compensation claimed in a lesser amount than the statutory maximum. Vouchers submitted in excess of the statutory maximum must be supported by a memorandum setting forth the facts of the particular case which would justify approval of the amount claimed and an itemized breakdown of how time was spent.

Payment in excess of the statutory maximums for extended or complex representation must be certified by the Judge or Magistrate before whom the representation occurred to the Chief Judge of the Circuit Court or delegate for approval.

Very truly yours,



Michael E. Kunz  
Clerk of Court

INSTRUCTIONS FOR  
REIMBURSEMENT FOR EXPENSES FOR CJA VOUCHERS

**Vouchers shall be submitted no later than 45 days after the final disposition of the case, unless good cause is shown (Paragraph 2.21A, *CJA Guidelines*).**

Any individual expense item claim which is over \$50.00, must be accompanied by a copy of the invoice with a notation of payment and check number noted if applicable.

You must prorate among the defendant's time and expenses spent when visiting multiple incarcerated defendants at the same location.

Following are categories of expenses for which you will be reimbursed.

**DO NOT COMBINE CATEGORIES.**

In Court and Out of Court Billing

Each attorney should provide the date the service was performed, a brief description of the service, and the time spent. The time spent performed the service will be reported in tenths of hours. If the time reported is not in tenths, it will be reduced down to the next lowest tenth.

Note: Travel time to and from court (or the place where service is rendered) may not be claimed if the round trip time is less than one hour.

Travel (Attorney Travel)

Travel expenses and other expenses reasonably incurred and necessary for adequate representation on appeal including travel expenses to and from court for presentation of oral argument may be claimed. Travel must be accomplished by the most economical means possible. Bridge, roads and tunnel tolls may be claimed as well as parking fees.

Air Travel - Court-appointed counsel are encouraged to obtain more favorable Government contract travel rates. This applies only to airfare for travel to and from oral arguments before this Court and court-approved visits to incarcerated clients, if travel requires air transportation. Arrangement should be made with National Travel at 1-800-455-0668. State that you are a CJA Attorney needing travel arrangements. An order is required for this travel. If you have any questions concerning this, contact Lucy Chin, Chief Administrative Deputy at 267-299-7112.

Travel by Privately-Owned Automobile - the mileage rates corresponding to the time of travel may be found at [http://jnet.ao.dcn/Travel/Mileage\\_Rates.html](http://jnet.ao.dcn/Travel/Mileage_Rates.html)

Meals and Lodgings

The CJA provides for reimbursement of expenses actually incurred. Counsel's expenses for meals and lodging incurred in the representation of the defendant would constitute reimbursable "out-of-pocket" expenses. In determining whether actual expenses incurred are "reasonable," expenses should not exceed the per diem rates applicable to federal judiciary employees for the particular local where counsel is traveling. Documentation for meals over \$50.00 and lodging is required. Counsel should attach receipts for meals which exceed \$50.00 and a copy of the hotel bill to the voucher.

### Briefs and Appendices

The cost of photocopying, if any, as well as the appendix may be claimed as an expense. Photocopying by outside establishments must be supported by an itemized bill copy. If photocopying is done "in house," then court-appointed counsel must certify the itemization. Itemization of photocopying costs claimed must be broken down into the following categories:

- a) number of documents copied;
- b) number of pages per copy;
- c) cost per page

### Telephone

Telephone toll calls may be reimbursed where it is determined that the calls were reasonable and necessary for proper handling of the case. Requests for reimbursement of such expenses should be submitted in the form of an itemized list indicating the date of each call, the charge for the call and the purpose of the call.

### Computer Assisted Legal Research (CALR)

The cost of use of computer assisted legal research by court-appointed counsel may be claimed as an expense provided that the total amount of this item expense does not exceed \$500. Whenever counsel wishes to claim this expense item, a separate document containing the following must be attached to the voucher:

- 1) A brief statement indicating the issue or issues that were the subject matter of the research.
- 2) An estimate of the number of hours of attorney time that would have been needed to perform manual research.
- 3) A copy of the bill and receipt for use of the CALR or an explanation of the precise basis of the charge (e.g. indicating the extent to which it was derived by proration of monthly charges, or by charges identifiable to the specific research).

### Postage and Other Delivery Charges

Postage is considered a reimbursable expense. Express delivery charges will be allowed on rare occasions.. Also, if an amount for any one category exceeds \$50.00, documentation in the form of receipted invoices must be provided.

### **EXPENSES NOT COVERED:**

#### Printing

Printing of briefs (either by Standard Typographic Printing or Offset Printing) cannot be claimed and will not be reimbursed. Only photocopying expenses (limited to 10 cents per page) will be reimbursed.

#### General Office Overhead

General Office Overhead may not be claimed as an expense. This would include but, is not limited to personnel costs, rent, telephone service and secretarial help (whether regularly or specially employed, performing normal, overtime, or supplemental work, even if counsel has no regularly employed secretary).

### Personal Nature

Items purchased on behalf of the person represented (new clothing, haircut, furnishing meals, etc.) are not reimbursable. Also, any legal service performed that is not related to the court appointed representation is not reimbursable.

### Transcripts

Payment for transcripts under the Criminal Justice act is the responsibility of the government; therefore, as with filing fees, counsel should not pay for this expense. Counsel should file a CJA Form 24 with the appointing court in order to obtain transcripts. Don't purchase more than one transcript from the court reporter in multi-defendant cases involving CJA defendants. (Necessary duplicates should be obtained at a reasonable copying cost.) Court Reporters should seek payment for transcript production also on the CJA Form 24.

### COURT REDUCTION OF VOUCHER

The Guide to Judiciary Policies and Procedures Volume 7, Chapter II, Section 2.22 has been amended to provide counsel notice when the Court reduces the amount claimed and to permit counsel an opportunity to respond. The Guide now directs that:

If the court determines that a claim should be reduced, appointed counsel should be provided (a) prior notice of the proposed reduction with a brief statement of the reason(s) for it, and (b) an opportunity to address the matter. However, notice need not be given to appointed counsel where the reduction is based on mathematical or technical errors.

**Questions concerning completion of the CJA Form 20/30 which are not answered in these Instructions should be addressed to the Clerk's Office CJA eVoucher Help Desk at [evoucher@paed.uscourts.gov](mailto:evoucher@paed.uscourts.gov).**

### Best Practices

*For efficient processing of CJA vouchers, please make sure the following directions are followed and that the following items are attached to each voucher.*

1. Attorney Statement
2. Also ensure that the Attorney certification is completed in the "Claim Status" section.
3. Invoices and receipts for all expenses over \$50.00
4. Expert Invoices
  - a. *All CJA 21/31 vouchers must show line by line services and expenses provided by the service provider. Expert invoices must be signed and attached as a PDF document to the CJA 21/31 voucher. If the service provider sends you an invoice for work or amounts that you cannot certify as accurate for payment, do not enter the information in eVoucher, but contact the service provider for a revised invoice. Review pages 34-37 of the attorney manual for additional details.*
5. Interim Payment Requests require a copy of the Order or Letter showing Judicial Approval for Interim Payments.

## **NOTICE TO CJA PANEL ATTORNEYS REGARDING AVAILABILITY OF INVESTIGATIVE, EXPERT AND OTHER SERVICES**

All attorneys appointed to provide representation under the Criminal Justice Act (CJA), 18 U.S.C. § 3006A, may request, under subsection (e) of the Act, authorization to obtain investigative, expert, and other services necessary for adequate representation to be paid from funds appropriated for the administration of the CJA. In death penalty cases (federal capital prosecutions and capital post-conviction proceedings), 18 U.S.C. § 3599 provides additional statutory authority to appoint counsel (also see 18 U.S.C. § 3005) and authorize investigative, expert, and other services (referred to as “subsection (e) services,” below).

In addition to investigators, psychiatrists, psychologists, and reporters, services other than counsel may include, but not necessarily be limited to, interpreters, computer systems and automation litigation support personnel and experts, paralegals and legal assistants, including law students, neurologists, and laboratory experts in the areas of ballistics, fingerprinting, and handwriting.

Requests for authority to obtain subsection (e) services should be made to the presiding judge or magistrate judge (see cautionary note below). In order to prevent the possibility that an open hearing concerning a request for subsection (e) services may cause a defendant to reveal his or her defense, these requests should be made by *ex parte* application. The Guidelines for Administering the CJA and Related Statutes (CJA Guidelines), Volume 7A, *Guide to Judiciary Policy*, provide that the *ex parte* applications must be heard *in camera* and must not be revealed without the consent of the defendant. The CJA Guidelines further state that such applications must be placed under seal until the final disposition of the case in the trial court, subject to final order of the court. In death penalty cases, 18 U.S.C. § 3599 provides that counsel must make a proper showing concerning the need for confidentiality.

### **CAUTIONARY NOTE**

There are, however, limitations that apply to the obtaining of these services. **PRIOR AUTHORIZATION SHOULD BE SECURED** from the presiding judicial officer for all subsection (e) services, in a non-death or death penalty representation, where the total cost (exclusive of reimbursement for expenses) of all services combined will exceed \$800. In addition to prior authorization, once the services have been provided, the claims for compensation must be approved by the presiding judicial officer. The limitation of \$800 may be waived if the presiding judicial officer, in the interest of justice, finds that timely procurement of necessary services could not await prior authorization.

In addition, in non-death penalty proceedings, claims for compensation by a service provider in a representation in excess of \$2,500 (excluding reimbursement for expenses) may be paid when the presiding judicial officer certifies that payment in excess of the amount is necessary to provide fair compensation for services of an unusual character or duration, and the amount of the excess payment is approved by the chief judge of the circuit (or the active or senior circuit judge to whom the chief judge has delegated excess compensation approval authority). In death penalty cases, there is a different waivable limit of \$7,500 (the \$2,500 amount does not apply). The \$7,500 limit applies to the total payments (including expenses) for all investigative, expert, and other services combined in a representation, not to each type of service or service provider individually. For payments in excess of \$7,500, the presiding judicial officer must certify the payments as necessary to provide fair compensation for services of an unusual character or duration.

Payment for subsection (e) services should be claimed directly by the service provider on the CJA Form 21, “Authorization and Voucher for Expert and Other Services,” or, in death penalty proceedings, on the CJA Form 31, “Death Penalty Proceedings: *Ex Parte* Request for Authorization and Voucher for Expert and Other Services.”

Counsel should review both the Criminal Justice Act and the CJA Guidelines, which are accessible through [www.uscourts.gov](http://www.uscourts.gov).

## NOTICE TO COURT-APPOINTED COUNSEL OF PUBLIC DISCLOSURE OF ATTORNEY FEE INFORMATION

The Criminal Justice Act (CJA), 18 U.S.C. § 3006A, was amended in 1998 to require that the amounts paid to court-appointed attorneys be made publicly available upon the court's approval of the payments. Although the amended paragraph of the statute, § 3006A(d)(4), expired after two years and thus only applies to cases commenced between January 25, 1998, and January 24, 2000, the corresponding guideline (paragraph 5.01 of the Guidelines for the Administration of the Criminal Justice Act and Related Statutes, Volume VII, *Guide to Judiciary Policies and Procedures*) continues as a matter of Judicial Conference policy. The court may disclose an unredacted copy of a payment voucher submitted by defense counsel, or a redacted copy of a voucher indicating only the amounts approved for payment according to categories of services listed in the statute. The extent of disclosure depends on whether the case is pending and on whether the court determines that certain interests (listed below in part B.1) require the redaction of detailed information on the voucher. Upon court approval of a voucher claim, payment information will be made available as follows:

**A. BEFORE OR DURING THE TRIAL:** After redacting any detailed information provided to justify the expenses, the court shall make available to the public only the amounts approved for payment. Upon the completion of trial, unredacted copies of the vouchers may be released, depending on whether an appeal is being pursued and whether the court determines that one or more of the interests listed in part B.1 require the redaction of information.

**B. AFTER THE TRIAL IS COMPLETED:** The court shall make available to the public either redacted or unredacted vouchers as follows:

**1. If trial court proceedings have been completed and appellate review is not being pursued or has concluded at the time payment is approved:** The court shall make an unredacted copy of the payment voucher available to the public unless it determines that one or more of the interests listed below justify limiting disclosure to the amounts approved for payment in the manner described in part A. The interests that may require limiting disclosure include:

- (1) the protection of any person's 5<sup>th</sup> Amendment right against self-incrimination;
- (2) the protection of the defendant's 6<sup>th</sup> Amendment right to effective assistance of counsel;
- (3) the defendant's attorney-client privilege;
- (4) the work product privilege of the defendant's counsel;
- (5) the safety of any person; and
- (6) any other interest that justice may require (with the exception that for death penalty cases where the underlying alleged criminal conduct took place on or after April 19, 1995, the amount of the fees shall not be considered a reason justifying any limited disclosure).

**2. If appellate review is being pursued at the time payment is approved:** The court shall make available to the public only the amounts approved for payment in the manner described in part A unless it finds that none of the interests listed above in part B.1 will be compromised.

**C. AFTER THE APPEAL IS COMPLETED:** The court shall make an unredacted copy of the payment voucher available to the public unless it determines that one or more of the interests listed in B.1 justify limiting disclosure to the amounts approved for payment in the manner described in part A.

**If counsel believes that any of the interests listed above in part B.1 justify limiting disclosure to the amounts approved for payment, counsel should submit to the court a written request, identifying the interests at risk and the arguments in support of providing protection, AT OR BEFORE THE TIME A CLAIM FOR PAYMENT IS MADE. Failure to do so could result in the public availability of unredacted copies of your vouchers without further notice.**

**This constitutes notice under CJA Guideline 5.01. You may NOT receive additional notice before any payment information is made available to the public.**

## NOTICE ON COMPLIANCE WITH THE GUIDE TO JUDICIARY POLICY FOR DEFENDER SERVICES

Whereas, the Administrative Office of the United States Courts and the United States Court of Appeals for the Third Circuit seek our cooperation and increased vigilance in ensuring compliance with Chapter 2 of the Guidelines for Administering the CJA and Related Statutes (Guide to Judiciary Policy, Vol. 7, Pt. A),

Pending review of this Court's CJA Plan, this Court expects appointed counsel and service providers to fully comply with the Criminal Justice Act ("CJA") and its corresponding Guidelines. Counsel is advised that the Court will require such compliance by closely scrutinizing CJA 20 and 21 vouchers, particularly in the following areas<sup>1</sup>:

### 1. Compensation Approval without Prior Authorization for Services

No prior authorization is required for a request of \$800 or less in compensation for investigative, expert, or other services. When counsel fails to obtain preapproval and submits a bill in excess of \$800, the Court may authorize such payment only if it determines, in the interest of justice, that timely procurement of necessary services could not await prior authorization. In all other circumstances, the Court must deny the portion of the request in excess of \$800.

### 2. Compensation Approval with Prior Authorization for Services

With prior authorization, service providers are generally limited to \$2,400 in compensation for services performed after May 27, 2010. The Court may waive this \$2,400 limit only when (a) counsel obtains preapproval for the investigative, expert, and other services, (b) the trial judge certifies that the requested payment is necessary to provide fair compensation for services of an unusual character or duration, *and* (c) the chief judge of the circuit or his or her designee determines that this payment is necessary.

Counsel shall seek early judicial review of anticipated defense expenditures. Counsel shall also request judicial authorization of anticipated work by service providers. Service providers shall submit invoices clearly indicating their hourly rates,<sup>2</sup> proposing maximum spending limits for future invoices, and explicitly acknowledging that they will not be compensated for services performed beyond those preapproved by the Court, absent additional advance judicial authorization.

### 3. Computer-Related Support Services

Counsel in need of computer-related litigation support services shall seek preapproval from the Court for such services. Where the expected combined cost of these services exceeds \$10,000, appointed counsel shall first consult the National Litigation Support Team in the Defender Services Office, Administrative Office of the United States Courts for guidance. Counsel shall also inform the Court in writing of the Defender Services Office's advice and recommendation regarding counsel's proposed expenditure. Once counsel has obtained the Court's preapproval for support services, counsel must still satisfy the requirements outlined above, including securing Third Circuit approval, to receive more than \$2,400 for these services.

By the Court,



Petrese B. Tucker  
Chief Judge

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<sup>1</sup> We note that these limitations do not apply in capital cases or cases in which the Third Circuit has approved case budgeting plans.

<sup>2</sup> Medical professionals, however, may continue to submit invoices charging flat fees for services.

UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

UNITED STATES OF AMERICA vs. \_\_\_\_\_

Case Number: \_\_\_\_\_

**ATTORNEY'S STATEMENT**

Has the defendant paid any money to you since his/her arrest, or to your knowledge, to anyone else, in connection with the offense for which you were appointed to defend him/her?

YES \_\_\_\_\_

NO \_\_\_\_\_

If yes, please explain: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_  
Attorney Signature

\_\_\_\_\_  
Date