



**INSTRUCTIONS AND INFORMATION
FOR COUNSEL APPOINTED TO DEFEND INDIGENT CRIMINAL DEFENDANTS
UNDER THE CRIMINAL JUSTICE ACT (18 U.S.C. § 3006A)**

January 28, 2009

1. **CJA 20 and 21 Vouchers.** The court gave you a CJA Form 20, *Appointment of and Authority to Pay Court Appointed Counsel*, and a CJA Form 21, *Authorization and Voucher for Expert and other Services*, at the time of your appointment. These forms and the documentation supporting your time and expense entries constitute your vouchers for services and reimbursement for expenses.

2. **Filing Deadline.** Your completed vouchers, together with the supporting time-and-expense worksheets, must be filed with the Federal Public Defender's (FPD) Office within **45 days** following the completion of your representation. If you want to file your vouchers beyond the 45-day limit, you should submit for consideration to the presiding judge a proposed *Order Granting Leave to File CJA Voucher Out of Time*. Your motion should justify the untimeliness for filing your vouchers. File the motion in accordance with the court's *Administrative Procedures Governing Electronic Case Filing*. Attach the judge's order to your voucher.

3. **Submission.** Mail the vouchers and the worksheets (and, if applicable, the judge's *Order Granting Leave to File CJA Voucher Out of Time*) to:

**Federal Public Defender's Office
200 S. Lamar St., Suite 200-N
Jackson, Mississippi 39201**

4. **Review by FPD and the Presiding Judge.** The FPD Office staff will audit your vouchers to ensure that the claims are allowable under the Criminal Justice Act [CJA] and the *Guidelines for the Administration of the Criminal Justice Act* [Guidelines] adopted by the Judicial Conference of the United States. The presiding judge will review your claims for reasonableness and will set the amount of your compensation, consistent with the compensation ceilings appearing in paragraph 7, below.

5. **Compensation Rates:** You may bill for your professional time at rates up to the following limits:

| | |
|---------------------------|------------------------|
| In-Court Time: | \$100 per hour* |
| Out-of-Court Time: | \$100 per hour* |

***after 01/01/2008. See Attached for history of rates prior to 01/01/2008.**

6. **Time Reporting Standard.** The Criminal Justice Act and the Guidelines require you to report your time in **tenth-of-hour increments** (e.g., 6 minutes = 0.1 hour). **Do not report your time in hundredths-of-hours or in quarter-hour increments**—such reports usually will be rounded-down during the audit processes.

7. **Compensation Limits.** You are limited by the CJA and the Guidelines to the following maximum charges for professional services (in-court time and out-of-court time), excluding your out-of-pocket expenses:

For cases in which you provided any CJA compensable work on or after October 13, 2008:

\$7800 Felonies (\$3500 in felony guilty plea cases), with exceptions for *extended or unusually complex* cases.

\$2200 Misdemeanors and petty offenses.

\$1700 Proceedings to revoke supervised release or probation, for material witness in custody proceedings, for civil or criminal contempt proceedings (where person faces loss of liberty), for mental condition examinations under 18 U.S.C. § 313, for international extradition proceedings under 18 U.S.C. § 209, and other proceedings required or authorized by the Criminal Justice Act.

For cases in which an investigator, expert, or other provider of allowable services performed any CJA compensable work on or after December 8, 2004:

\$1600.

If you seek payments exceeding these limits, you must submit with your CJA 20 a memorandum, motion, or letter addressed to the presiding judge stating that your representation was in an *extended* or *unusually complex* case and that the excess payment is *necessary to provide reasonable compensation*. These are terms of art. The prudent attorney will draft a supporting document that incorporates these terms where appropriate, consistent with the following considerations:

If the legal or factual issues in a case are unusual, thus requiring the expenditure of more time, skill, and effort than would normally be required in an average case, the case is *complex*. If more time is reasonably required for total processing than would be required by the average case, including pre-trial and post-trial proceedings and traveling to the court's divisions (your travel time is allowable as out-of-court professional time), the case is *extended*.

In reviewing claims for compensation in excess of the limits, the trial judge will consider, among other factors, the responsibilities involved as measured by the magnitude and importance of the case; the manner in which your duties were performed; the knowledge, skill, efficiency, professionalism, and judgment required of and used by you; the nature of your practice and any injury thereto; any extraordinary pressure of time or other factors under which representation was rendered; and any other circumstances relevant and material to a determination of a fair and reasonable fee.

The following topics are offered to assist you in drafting a document supporting and justifying your claims that the case was *extended* or *complex* and that the excess payment is necessary to provide fair compensation:

- ✎ Length of appointment to case: total number of in-court hours, specifying pre-trial hearings, trial, sentencing hearings, and other proceedings; and total number of out-of-court hours.

- ✎ Offense(s) charged; number of counts charged; and other pending cases of defendant during the representation.

- ✎ Number of co-defendants.

- ✎ Sentencing guideline range found by the court and whether a mandatory minimum was found or at issue at sentencing.

✎ Discovery materials (nature and volume) and/or discovery practices.

✎ Motions, legal memoranda, jury instructions, and sentencing documents, or legal research not resulting in such, which were drafted originally for this case.

✎ Investigation and case preparation (e.g., number and accessibility of witnesses interviewed, record collection, document organization).

✎ Use of investigative, expert, or other expert services (CJA 21 voucher).

✎ Communications with client, with client's family, language difficulties, accessibility of client, other.

✎ Any expense over \$500.

✎ Any other noteworthy circumstances regarding the case and the representation provided to support this compensation request. Include, if applicable, negotiations with the U.S. Attorney's staff or law enforcement agencies; complexity or novelty of legal issues and factual complexity; responsibilities involved measured by the magnitude and importance of the case; manner in which duties were performed and knowledge, skill, efficiency, professionalism, and judgment required of and exercised by you; nature of your practice and hardship or injury resulting from the representation; any extraordinary pressure of time or other factors under which services were rendered.

Claims-in-excess of the statutory limits approved by the presiding judge will be submitted to the Chief Judge of the United States Court of Appeals for the Fifth Circuit (or the circuit judge designated by the chief judge) for final approval.

8. Mileage Allowances: 55¢ per mile for travel performed after February 1, 2009;
58.5¢ per mile for travel performed after August 1, 2008;
50.5 ¢ per mile for travel performed after March 19, 2008;
48.5¢ per mile for travel performed after February 1, 2007;
44.5¢ per mile for travel performed between January 1, 2006 and January 31, 2007;
48.5¢ per mile for travel performed between September 1 and December 31, 2005.

9. Other Reimbursable Expenses.

Lodging and Subsistence. Per diem in lieu of subsistence is not allowed. The CJA provides for reimbursements of out-of-pocket expenses for meals and lodging when such are reasonable and necessary. You must attach to your CJA 20 voucher copies of hotel bills; the bills should clearly disclose the single-occupancy rate.

Telephone Tolls. Charges for *necessary* long-distance telephone calls are reimbursable. Your claims must be itemized to show the date of the call(s), the person(s) called, and the charges.

Photocopying. Claims for *necessary* photocopying must be itemized to show the date of the copy work, the total number of copies made, the charge per page (not to exceed 25¢ per page), and the total charge. Non-itemized photocopying claims will be stricken. Claims for commercial photocopying—but not for commercially-printed briefs—are reimbursable if *necessary*, if itemized as above, and a paid receipt is attached.

Computer-Assisted Legal Research [CALR]. The cost of CALR services, may be allowed as a reimbursable out-of-pocket expense, provided that the amount claimed is reasonable. Whenever appointed counsel incurs charges for CALR, counsel should attach to the compensation voucher a copy of the bill and receipt for the use of the legal research services 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). If the amount claimed is in excess of \$500 or if it includes costs for downloading or printing, counsel should include a brief statement of justification.

10. **Claims Not Allowed.** This is not an exhaustive, all-inclusive catalog of claims not allowed. It is offered as guidance.

- ✍ Fees and expenses, including travel, of fact witnesses.
- ✍ Court filing fees and expenses for service of subpoenas.
- ✍ Gasoline, oil, and other transportation expenses.

- ✍ Personal expenses of counsel and clients, including haircuts, laundry and dry-cleaning, assisting the defendant in the disposition of his or her property or making arrangements for the care of the defendant's child or other family members, assisting the defendant in executing the conditions of his or her release, or otherwise providing legal assistance in matters unrelated to the litigation of the case although incidental to the defendant's arrest.
- ✍ Counsel's travel in transporting the client to and from court.
- ✍ Costs of commercially printed briefs—photocopying expenses only are recoverable.
- ✍ Courier charges and charges for private deliveries, such as Federal Express and UPS, except in extraordinary situations when an overnight delivery is required by the exigencies and importance of the event; counsel must justify the claim in documentation supporting his or her CJA 20 voucher.
- ✍ General office overhead.
- ✍ Time spent preparing the CJA 20 voucher and supporting documents.

11. Special Instructions Governing CJA 21 Vouchers. Prior authorization from the trial judge (or magistrate judge) *must* be obtained for all investigative, expert, or other services where the cost (excluding reimbursement for reasonable expenses) will exceed \$500.

Failure to obtain prior authorization will result in the disallowance of claims in excess of \$500, unless the trial judge finds that, in the interest of justice, timely procurement of necessary services could not await prior authorization.

Compensation for investigative, expert, or other authorized services may not exceed \$1600, excluding reasonable expenses, unless the excess amount is certified by the trial judge as necessary to provide fair compensation for services of an unusual character or duration, and the amount exceeding the statutory limit is approved by the Chief Judge of the United States Court of Appeals for the Fifth Circuit.

If prior authorization is obtained for investigative, expert, or other services and later it is determined that the cost of the service will exceed the initial estimate, you should seek, from the trial judge, further prior authorization for the additional amount.

12. Review Your Claims. Most errors on CJA 20 vouchers arise from inattention to details and from claims for expenses not allowable. Examine your claims carefully; review the extensions and footings and ensure that all entries comport with the time and expense entries on your worksheets.

13. Public Disclosure of Amounts Paid to Appointed Counsel. Under 18 U.S.C. § 3006A(d)(4), the amounts paid to appointed counsel under the Criminal Justice Act are disclosable to the public, subject to considerations and limitations appearing in the statute.

14. Prompt Claims Processing. The FPD Office will audit and submit your voucher promptly. To expedite this process please ensure that your voucher and supporting documentation are complete, correct, legible, signed, and dated.

15. Call for Assistance. If you have questions not answered by these instructions or those on the CJA 20 voucher, please call the FPD Office, in Jackson, at (601) 948-4284.

| | | Amount Per Item | | | | | | |
|---------------------|------------------------------|-----------------|---------|---------|--------------|---------|-------------------------|-------|
| Date | Brief Description of Expense | Mileage | Parking | Lodging | Photocopying | Postage | Long Distance Telephone | Other |
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| Total for Each Item | | | | | | | | |

| <i>Compensation Rates for CJA 20 Vouchers</i> | | |
|---|------------------------|----------------------------|
| Dates | In-Court Rate Per Hour | Out-of-Court Rate Per Hour |
| January 1, 2008 - present | \$100.00 | \$100.00 |
| May 20, 2007 - December 31, 2007 | \$94.00 | \$94.00 |
| January 1, 2006 - May 19, 2007 | \$92.00 | \$92.00 |
| May 1, 2002 - December 31, 2005 | \$90.00 | \$90.00 |
| April 1, 2001-April 30, 2002 | \$75.00 | \$55.00 |
| January 1, 2000-March 31, 2001 | \$70.00 | \$50.00 |
| October 1, 1987-January 1, 2000 | \$65.00 | \$45.00 |
| Prior to October 1, 1987 | \$65.00 | \$45.00 |

The statutory case compensation maximum for a case involving one or more felonies is \$7,000 for the trial court and \$5,000 for the appeal. The case compensation maximum for a case in which only a misdemeanor is charged is \$2,000 for the trial court and \$5,000 for the appeal. In any case in which the total compensation claimed is in excess of the statutory case compensation maximum, an attorney **must** submit a completed CJA Form 26 with the voucher to support and justify the attorney's claim that the representation given was in an extended or complex case, and that the excess payment is necessary to provide fair compensation, along with any other supporting documentation required by the reviewing judge. A case is "complex" if the legal or factual issues in the case are unusual, thus requiring the expenditure of more time, skill and effort by the lawyer than would normally be required in an average case. A case is "extended" if more time is reasonably required for total processing than the average case, including pre-trial and post-trial hearings. The amount of fees to be awarded in excess of the statutory maximum will be determined by the chief judge of the circuit or the chief judge's designee.

| <i>Compensation Rates for CJA 30 Vouchers</i> | | |
|---|------------------------|----------------------------|
| Dates | In-Court Rate Per Hour | Out-of-Court Rate Per Hour |
| January 1, 2008 - present | \$170.00 | \$170.00 |
| May 20, 2007 - December 31, 2007 | \$166.00 | \$166.00 |
| January 1, 2006 - May 19, 2007 | \$163.00 | \$163.00 |
| February 1, 2005 - December 31, 2005 | \$160.00 | \$160.00 |
| January 18, 1991-January 31, 2005 | \$125.00 | \$125.00 |

| | | |
|-----------------------------------|---------|---------|
| April 15, 1988 - January 17, 1991 | \$75.00 | \$75.00 |
| Prior to April 14, 1988 | \$60.00 | \$40.00 |

In federal capital prosecutions, any request for compensation in excess of \$100,000 is presumptively excessive. In 28 U.S.C. 2254 or 2255 cases, any request for compensation in excess of \$35,000 is presumptively excessive. Any request that is presumptively excessive must be justified by the requesting attorney in a written submission filed with the presiding judge. The amount of fees to be awarded will be determined by the chief judge of the circuit or the chief judge's designee.