

# UNITED STATES DISTRICT COURT

OFFICE OF THE CLERK  
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CHRISTOPHER R. JOHNSON  
CLERK

DATE: January 1, 2010

TO: Counsel Appointed Under the Criminal Justice Act

Thank you for accepting the appointment to represent an indigent defendant. Your appointment has been made pursuant to the Criminal Justice Act, 18 U.S.C. 3006A. You should become familiar with subsections (c), (d), (e), and (f) of the Act.

Subsection (c) of the Act provides that the duration of your representation is from the "initial appearance before the United States magistrate judge or the court through appeal." **The voucher provided by the district court will only be used to claim compensation for services rendered in the district court. If an appeal is filed, the court of appeals will issue another voucher.**

At the conclusion of your representation you must return the completed CJA 20, Appointment of and Authority to Pay Court Appointed Counsel, to the Clerk's office **within 45 days**. If you exceed the time limit you must provide a statement showing good cause for your failure to timely file your voucher.

You must complete items 15 through 22 of the CJA 20. All other items will be completed by court personnel. Instructions for completing the CJA 20 are included as **Attachment A**.

**PLEASE NOTE THAT YOU MUST REPORT YOUR TIME IN INCREMENTS OF HOURS AND TENTHS OF AN HOUR (e.g., 0.1, 0.2, 1.3, etc.).**

**THE CJA PANEL ATTORNEY HOURLY RATE OF \$125.00 WILL APPLY TO IN-COURT AND OUT-OF-COURT WORK PERFORMED ON OR AFTER JANUARY 1, 2010.** Work performed prior to that date will be compensated at the rates of \$110.00 per hour for work performed on or after March 11, 2009; and \$100.00 per hour for work performed on or after January 1, 2008.

**Maximum Compensationn Amounts (The new case compenstation maximums apply to a voucher with any CJA-compensable work on or after January 1, 2010):**

Appeal	\$6,900.00
Felony	\$9,700.00
Misdemeanor	\$2,800.00
Non-capital habeas corpus proceeding	\$9,700.00
Other	\$2,100.00

**The above maximum amounts are exclusive of allowable expenses.**

A payment in excess of the statutory maximums listed above may be granted if the presiding judicial officer certifies that the case was extended or complex and if the fee is then approved by a judge from the Eighth Circuit Court of Appeals. Under the guidelines a case is considered extended "if more time is reasonably required for total processing than the average case, including pre-trial and post-trial hearings." A case is considered complex "if the legal or factual issues in a 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." If you claim payment in an extended or complex case in excess of the statutory maximums, you must execute a CJA 26, Supplemental Information Statement. **Attachment B** is the CJA 26A, Guidance to Attorneys in Drafting the Memorandum Required for a Compensation Claim in Excess of the Case Compensation Maximum.

In order to standardize the itemization and documentation of voucher claims and expedite the audit process the Administrative Office of the United States Courts has devised three worksheets, one for each category of compensation you may claim on the CJA 20. Instructions and worksheets are provided as **Attachment C**. Please utilize these worksheets, or a similar record system, to document the individual services and dates. Totals from the worksheets should be inserted in the appropriate blocks on the CJA 20.

**The completed CJA 20, worksheets, and any required supporting documentation for items 17 and 18, should be mailed to the following address:**

**John R. Stauffer  
Chief Deputy Clerk  
United States District Court  
Western District of Arkansas  
P. O. Box 1547  
Fort Smith, AR 72902**

Subsection (e) of the Act contains information regarding the availability of investigative, expert, or other services (**including interpreter services**) for which payment can be made under the Criminal Justice Act. The CJA 21, Authorization and Voucher for Expert and Other Services, must be used for payment of these services. They cannot be claimed on your CJA 20 Voucher. The CJA 25, Notice to CJA Panel Attorneys Regarding Availability of Investigative, Expert and Other Services, is included as **Attachment D**.

**Attachment E** provides instructions for issuing subpoenas for fact witnesses for a hearing or trial. Witness fees and fees for service of subpoenas cannot be claimed on your CJA 20 Voucher.

If you have any questions, or need assistance in completing the voucher or worksheets, please contact **John R. Stauffer at (479) 709-5419.**

**INSTRUCTIONS FOR CJA FORM 20  
APPOINTMENT AND AUTHORITY TO PAY COURT APPOINTED COUNSEL**

Read these instructions carefully before completing the form. Accuracy and thoroughness will aid in the prompt payment of the claim. If possible, use a typewriter to complete the form; otherwise, write legibly with a ball point pen (preferably black or dark blue ink). If the form is system generated, Items 1 through 12 and 14 will be preprinted on the form. Attach an itemized statement of the services provided and expenses incurred. Give the date and the number of hours claimed for each service provided. Provide dates for and a description of the expenses incurred. For additional guidance, see the *Guidelines for the Administration of the Criminal Justice Act and Related Statutes (CJA Guidelines)*, Volume VII, *Guide to Judiciary Policies and Procedures*, which is available for reference in the Clerk's office.

Appointed counsel may obtain investigative, expert, and other services necessary for adequate representation in accordance with the procedures set forth in subsection(e) of the Criminal Justice Act (CJA), 18 U.S.C. §3006A. Prior authorization from the presiding judicial officer is required for all such services where the cost, excluding expenses, will exceed \$500. Failure to obtain prior authorization will result in the disallowance of any amount claimed for compensation in excess of \$500, unless the presiding judicial officer, in the interest of justice, finds that timely procurement of necessary services could not await prior authorization. Payment for these services should be claimed directly by the service provider on a CJA Form 21, "Authorization and Voucher for Expert and Other Services."

**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). All payments made pursuant to this claim are subject to post-audit; contemporaneous time and attendance records as well as expense records must be maintained for three years after approval of the final voucher (paragraph 2.31, CJA Guidelines). Any overpayments are subject to collection, including deduction of amounts due from future vouchers.**

**Item 15. IN-COURT SERVICES:** Enter the total number of hours claimed (in hours and tenths of an hour) for each applicable in-court service category. To support the totals entered in each category, attach to the voucher an itemization of services, by date, and indicate the number of hours for each service. Enter the total in-court hours where required on the form, and multiply the total number of in-court hours claimed by the hourly rate in effect for the place of holding court in which the representation is provided or the attorney maintains his or her principal office. If the case is an appeal to the court of appeals, enter the higher of the rates per hour in effect for the place of holding court in which the attorney maintains his or her principal office or the place of holding court out of which the case arose. Enter the total amount claimed in the appropriate box on the form.

**Item 16. OUT-OF-COURT SERVICES:** Complete according to the instructions above for in-court time, using the applicable out-of-court hourly rate of compensation.

**NOTE:** The "FOR COURT USE ONLY" column will reflect any mathematical or technical adjustments to the claim during the judicial approval process or changes during a required additional review of the chief judge of the court of appeals (or delegate).

**Item 17. TRAVEL EXPENSES:** Travel related expenses that are incidental to the representation (e.g., transportation, lodging, meals, car rental, parking, bridge, road and tunnel tolls, etc.) must be itemized on a separate sheet, indicating dates the expense was incurred. Attach supporting documentation (receipts, canceled checks, etc.) for all travel expenses. Travel expenses by privately owned automobile, motorcycle, or aircraft should be claimed at the rate in effect for federal employees at the time of travel. For overnight travel, reasonable expenses for lodging and meals will be reimbursed on an actual expense basis; per diem is not allowed. Counsel should be guided by prevailing limitations for travel and subsistence expenses of federal employees. The clerk of court can advise you of applicable rates and federal government travel regulations.

**Item 18. OTHER EXPENSES:** Itemize all reimbursable out-of-pocket expenses incidental to representation. Provide dates and a brief description of the expense. Enter the total claimed where required on the form. Submit supporting documentation (receipts, canceled checks, etc.) for single item expenses in excess of \$50. Reimbursable expenses may include, in some circumstances, payments to law students or law clerks for legal research and assistance and the cost of computer assisted legal research (CALR) when conducted by counsel. See paragraphs 2.27 B and 3.15 of the *CJA Guidelines* for an explanation. The following are not reimbursable expenses, and should not be claimed:

1. General office overhead, such as rent, telephone services, and secretarial services.
2. Expenses for items of a personal nature for the client (e.g., clothes, haircuts).
3. The cost of printing briefs. However, the cost of photocopying or similar copying service is reimbursable.
4. Fact witness fees, witness travel costs, and expenses for service of subpoenas. These expenses are not paid out of the CJA appropriation, but instead are paid by the Department of Justice pursuant to Fed. R. Crim. P. 17, and 28 U.S.C. § 1825. Contact the United States Marshal for payment procedures. See paragraph 3.13 of the *CJA Guidelines* for guidance on payment of witness fees generally.
5. Filing fees. These fees are waived for persons proceeding under the CJA.
6. The cost of allowable investigative, expert, or other services. (See Chapter III of the *CJA Guidelines*). Such services should be requested using a CJA Form 21.
7. Compensation taxes. Taxes paid on attorney compensation, whether based on income, sales or gross receipts are not reimbursable expenses.

**Totals. Enter the Grand Totals where required by adding "in-court" and "out-of-court" totals, "travel" and "other expenses."**

**Item 19. CERTIFICATION OF ATTORNEY/PAYEE FOR PERIOD OF SERVICE:** The person appointed by the court must certify dates of service for the representation. Indicate, where required, the date range for the services claimed on the voucher.

**Item 20. APPOINTMENT TERMINATION DATE, IF OTHER THAN CASE COMPLETION:** If the appointment is discontinued by order of the court (*i.e.*, substitute counsel or reasons other than disposition of the defendant's case, such as fugitive defendant, appointment of federal defender, or retention of counsel by a defendant), give the effective date for termination of appointment.

**Item 21. CASE DISPOSITION:** Indicate case disposition for the person represented (*e.g.*, dismissed, convicted/final plea guilty, probation revoked, other, *etc.*). Select a code from the table below.

	Type of Disposition	Code
District Court Criminal and Other Proceedings	Dismissed	1
	Acquitted by court, or government motion for judgment of acquittal granted	2
	Acquitted by jury	3
	Convicted/final plea guilty	4
	Convicted/final plea nolo	5
	Convicted/court trial	8
	Convicted/jury trial	9
	Mistrial	C
	Not Guilty/insane/court trial	E
	Guilty/insane/court trial	F
	Not Guilty/insane/jury trial	G
	Guilty/insane/jury trial	H
	Other (PTD matters, other reps, Transfers)	X
Probation/Parole/Supervised Release	Revoked	RV
	Restored	RS
Habeas/Petitions/Writs	Granted	GR
	Denied	DE

**Item 22. CLAIM STATUS:** Indicate, by checking the appropriate box, whether the voucher is (1) the final payment for the services, (2) an interim payment, or (3) a supplemental payment (an additional claim submitted after a final payment is made). If an interim payment, indicate the interim payment number. Complete the remaining portion of Item 22, and sign and date the affirmation statement before submitting the claim for court approval.

**GUIDANCE TO ATTORNEYS IN DRAFTING THE MEMORANDUM REQUIRED FOR A COMPENSATION CLAIM IN EXCESS OF THE CASE COMPENSATION MAXIMUM: DISTRICT COURT**

Paragraph 2.22C(2) of the *Guidelines for the Administration of the Criminal Justice Act (CJA Guidelines)*, Volume VII, *Guide to Judiciary Policies and Procedures*, provides:

In any case in which the total compensation claimed is in excess of the statutory case compensation maximum, counsel shall submit with the voucher a detailed memorandum supporting and justifying counsel's claim that the representation given was in an extended or complex case, and that the excess payment is necessary to provide fair compensation.

Paragraph 2.22B(3) of the *CJA Guidelines* states that a case is complex if the "legal or factual issues. . . are unusual, thus requiring the expenditure of more time, skill and effort by the lawyer than would normally be required in an average case," and that a case is extended if "more time is reasonably required for total processing than the average case". Paragraph 2.22B(3) lists the following criteria as useful in determining fair compensation in extended or complex cases: responsibilities involved measured by the magnitude and importance of the case; manner in which duties were performed; knowledge, skill, efficiency, professionalism, and judgment required of and used by counsel; nature of counsel's practice and injury thereto; any extraordinary pressure of time or other factors under which services were rendered; and any other circumstances relevant and material to a determination of a fair and reasonable fee.

To assist counsel in writing a "detailed memorandum supporting and justifying counsel's claim that the representation given was in an extended or complex case, and that the excess payment is necessary to provide fair compensation," the following topics are provided for counsel's consideration. Some of these issues may not apply to a particular case or may not be noteworthy for this memorandum. Counsel, of course, may address topics other than those listed below.

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

The 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 (do not include standardized motions, *etc.*, unless content was modified significantly).

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

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

The following client considerations: communication with client/family, language difference, accessibility of client, other.

Any expense (see Items 17 and 18 of the CJA 20 voucher) greater than \$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 office or law enforcement agency; 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 used by counsel; nature of counsel's practice and hardship or injury resulting from the representation; any extraordinary pressure of time or other factors under which services were rendered.

**IN-COURT HOURLY WORKSHEET**

This Worksheet is recommended to standardize the itemization and documentation of Hourly Totals of In-Court Services performed by Court Appointed Counsel in defense of a client under the Criminal Justice Act. The following information should be provided on the worksheet:

1. The Case Number pertaining to the claim.
2. Provide the following information for each In-Court Service performed:
  - a. date the service was performed;
  - b. brief description of the service performed;
  - c. time spent performing the service.

The time spent performing the service should be reported in hours and tenths of an hour (*e.g.*, 0.1, 0.2, 1.3, *etc.*), listed under the appropriate In-Court Service Category (*e.g.*, Arraignment and/or Plea, Bail and Detention Hearings, *etc.*).

Once all the In-Court Services have been documented the hours column for each service category should be totaled. If more than one page is required, a total should be provided for each page, with a grand total indicated on the final page. The grand total hours for each In-Court Service Category should be transferred to Item 15 of the CJA 20, listed across from the applicable In-Court Service Category, and totaled to arrive at the Total Hours claimed for all In-Court Services. The Total Amount Claimed for In-Court Compensation should then be calculated by multiplying the total number of in-court hours claimed by the applicable rate per hour.

3. Each page should be numbered (*e.g.*, Page 1 of 2, Page 2 of 2, *etc.*).

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

## IN-COURT HOURLY WORKSHEET

ENTER IN HOURS AND TENTHS OF AN HOUR

[illegible]



**OUT-OF-COURT HOURLY WORKSHEET**

This Worksheet is recommended to standardize the itemization and documentation of Hourly Totals of Out-of-Court Services performed by Court Appointed Counsel in defense of a client under the Criminal Justice Act. The following information should be provided on the worksheet:

1. The Case Number pertaining to the claim.
2. Provide the following information for each Out-of-Court Service performed:
  - a. date the service was performed;
  - b. brief description of the service performed;
  - c. time spent performing the service.

The time spent performing the service should be reported in hours and tenths of an hour (e.g., 0.1, 0.2, 1.3, *etc.*), listed under the appropriate Out-of-Court Service Category (e.g., Interviews and Conferences, Obtaining and Reviewing Records, *etc.*).

Once all the Out-of-Court Services have been documented the hours column for each service category should be totaled. If more than one page is required, a total should be provided for each page, with a grand total indicated on the final page. The grand total hours for each Out-of-Court Service Category should be transferred to Item 16 of the CJA 20, listed across from the applicable Out-of-Court Service, and totaled to arrive at the Total Hours claimed for all Out-of-Court Services. The Total Amount Claimed for Out-of-Court Compensation should be calculated by multiplying the total number of out-of-court hours by the applicable rate per hour.

3. Each page should be numbered (e.g., Page 1 of 2, Page 2 of 2, *etc.*).

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

## OUT-OF-COURT HOURLY WORKSHEET

ENTER IN HOURS AND TENTHS OF AN HOUR

[illegible]

## **GENERAL INFORMATION FOR OTHER EXPENSES**

Out-of-pocket expenses reasonably incurred may be claimed on the CJA 20, and must be itemized and reasonably documented. Expenses for investigative, expert, or other services under subsection (e) of the Act are not considered out-of-pocket expenses, and cannot be claimed on the CJA 20. Out-of-pocket expenses include:

1. **Travel Expenses**

Travel by a privately owned automobile should be claimed at the rate prescribed for federal judiciary employees who use a private automobile to conduct official business, plus parking fees, ferry fares, and bridge, road and tunnel tolls. **Current mileage rates are listed on the Court's website, [www.arwd.uscourts.gov](http://www.arwd.uscourts.gov).** Transportation other than by privately owned automobile should be claimed on an actual expense basis.

Counsel's expenses for meals and lodgings incurred in the representation of a defendant constitute reimbursable out-of-pocket expenses. In determining whether actual expenses incurred are "reasonable," counsel should be guided by the prevailing limitations placed upon travel and subsistence expenses of federal judiciary employees in accordance with existing government travel regulations. To obtain such rates, attorneys should contact the clerk's office.

Travel expenses must be adequately explained. Include the date, destination, and purpose of the travel. Attach supporting documentation (e.g., receipts, cancelled checks, invoices) for all lodging expenses, and for any expense in excess of \$50.00.

2. **Other Expenses**

This would include items such as telephone toll calls, telegrams, copying (except printing), postage, and photographs. Provide supporting documentation where practicable. Other expenses in excess of \$50.00 must be substantiated by proof of payment (e.g., receipts, cancelled checks, invoices). For telephone toll calls, show the date, person called, and cost of each call.

3. **Non-Reimbursable Items**

- a. General office overhead;
- b. Items and services of personal nature for or on behalf of the person represented;
- c. Filing fees;
- d. Printing of briefs;
- e. Service of process; and
- f. Taxes

**OTHER EXPENSE WORKSHEET**

This Worksheet is recommended to standardize the itemization and documentation of other reimbursable expenses incurred by Court Appointed Counsel in defense of a client under the Criminal Justice Act. The following information should be provided on the worksheet:

1. The Case Number pertaining to the claim.
2. For each item of Other Expense incurred provide the following:
  - a. date expense incurred;
  - b. brief explanation of expense;
  - c. amount of expense incurred.

Attach supporting documentation (e.g., receipts, cancelled receipts, invoices) for single item expenses in excess of \$50.00. Such expense items as mileage and copying should show the total miles and pages, respectively, multiplied by the applicable rate, to arrive at the expense incurred. If copies are procured out of your office, a receipt for those copies should be attached. The expenses incurred should be listed under the appropriate Other Expense category (e.g., Mileage, Parking, Meals, *etc.*).

Once all the Other Expenses have been itemized, total each column listing the Total Amount. Transfer and list Other Expense Categories and their applicable totals, using the space provided on Items 17 and 18 of the CJA 20.

3. Each page should be numbered (e.g., Page 1 of 2, Page 2 of 2, *etc.*).



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

All attorneys appointed to provide representation under the Criminal Justice Act, 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 Act.

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 will cause a defendant to reveal his or her defense, these requests should be made by *ex parte* application. Guidelines promulgated by the United States Judicial Conference, *Guidelines for the Administration of the Criminal Justice Act*, Volume VII, *Guide to Judiciary Policies and Procedures (CJA Guidelines)*, provide that the applications shall be heard *in camera* and not be revealed without the consent of the defendant. The *Guidelines* further state that such applications shall be placed under seal until the final disposition of the case in the trial court, subject to final order of the court.

**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 where the cost (exclusive of reimbursement for expenses) will exceed \$500. In addition to prior authorization, once the services have been provided, the claims for compensation must be approved by the presiding judicial officer. Failure to obtain prior authorization will result in the disallowance of any amount claimed for compensation in excess of \$500, unless the presiding judicial officer, in the interest of justice, finds that timely procurement of necessary services could not await prior authorization. Except in death penalty proceedings, claims for compensation in excess of \$1,600 (excluding reimbursement for expenses) may be paid only if 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 circuit judge to whom the chief judge has delegated excess compensation approval authority). 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*. A copy of the *CJA Guidelines* is located in the office of the Clerk of Court.

**FACT WITNESSES**

Prior approval by the Court is required if witnesses are to be subpoenaed and paid on behalf of a defendant represented under the Criminal Justice Act. An application (*ex parte*, if preferred) must be made to the presiding judge. The application must be made far enough in advance of the hearing or trial to allow time for the judge to consider the request, enter appropriate orders and obtain service on the witnesses.

The application must list the names and addresses of potential witnesses and include a brief description of their anticipated testimony. All matters related to the *ex parte* application, including an *in camera* hearing, will be maintained under seal.

Upon Order of the Court a subpoena will be issued for each named witness and presented to the United States Marshal Service for service. All witness fees, including travel advances when required, will be paid by the Marshal Service.

If you subpoena witnesses without an Order of the Court, they will not be paid by the government. You cannot be reimbursed if you pay a sheriff or other process server to serve the subpoenas.