



District Court of the Virgin Islands

CJA Felony Appointment Manual

April 2022

Introduction

The Judges of the District of the Virgin Islands are grateful for the service provided to indigent defendants by the dedicated CJA panel and other appointed attorneys in the District.

This manual has been prepared and updated in an effort to inform the panel and other appointed counsel of this Court's policies and procedures relating to CJA appointments.

Please remember that funds for CJA representation are limited and must be utilized in the most fiscally responsible fashion. If you have any questions regarding your CJA representation, you may contact:

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I. The CJA Voucher Process

Once you have been appointed to represent an indigent defendant under the Criminal Justice Act (CJA), a series of procedural requirements are triggered to which you must pay particular attention. The failure to follow these procedures may delay payment for your services or, in some cases, may prevent you from being paid for your time or reimbursed for certain expenses. To avoid such problems, please maintain detailed records of your time and expenses, and submit copies of all receipts for expenses you want to claim. When in doubt, before undertaking any task which will result in an incurred expense, please review this manual, then consult available resources, such as the District Court's website (www.vid.uscourts.gov, under the 'Criminal Justice Act' tab), the Office of Defender Services of the Administrative Office of the United States Courts (www.fd.org), and any member of Financial Services.

When you are initially appointed by the Court, the CJA eVoucher program will automatically generate an email to you as the panel attorney confirming your appointment and provide a link to the program. You are required to log-in and accept the appointment within 24 hours of receipt of the email. Occasionally, you may receive a telephone call, notifying you of the appointment. In addition, the Order of Appointment will be filed on the case docket in the Court's CM/ECF system. The Order of Appointment is required to be attached to every voucher that is filed for that case in the CJA eVoucher program. Failure to do so will result in an immediate rejection of the voucher upon its initial review.

***Please Note:** If a new case number is assigned as a result of a change in the charging document (e.g., where an indictment is issued that supersedes a complaint or information case), a new Order of Appointment will be issued. This begins the process of a new CJA20 voucher, and services and expenses that occurred under the new appointment should be submitted under that case number in CJA eVoucher program.

Before accepting an appointment in the CJA eVoucher program, please confirm that the case number and caption, client and attorney information, and the date on the Order of Appointment matches that of the CM/ECF docket entry for the referenced case and that the information at the top of the representation in CJA eVoucher is correct.

Only one voucher should be submitted per case unless an Order granting Interim Payment is issued by the Presiding Judge. Interim payments are only authorized in cases that are particularly complex and are expected to have a long duration.

The CJA Guidelines require that vouchers must be completed and submitted for approval within **45** days after the final disposition of the case, unless good cause is shown.

Financial Services will audit the vouchers and the attachments to ensure compliance with the CJA Guidelines. The review will identify possible non-compensable services or non-reimbursable expenses. Financial Services will also provide notes/observations prior to forwarding the vouchers to the appropriate approver for substantive review. Final approval of all case vouchers within the statutory case maximums will be obtained from the Presiding Judge.

- If the voucher exceeds the statutory case maximum (please see Appendix B), you are

required to submit a CJA26 voucher in support of all claims for excess compensation. Approval will be obtained from the Presiding Judge through the CJA eVoucher program. Once the approval is granted, the excess amount will be added to the representation by Financial Services.

- For services other than counsel, such as investigative, interpreting, expert and other services necessary for adequate representation, a CJA21 must be submitted for payment. Prior authorization from the Presiding Judge is required for services that are expected to exceed \$900. Prior approval is also required by the Chief Judge of the Third Circuit Court of Appeals for services that will exceed the statutory limit of \$2,600.

- Transcript requests must be authorized through an AUTH-24 and paid for via a CJA24 voucher. Transcript requests should be made through CM/ECF as well.

II. Completing the CJA20/CJA30

Attorneys who are members of the CJA Panel shall be paid the full CJA hourly rate in all representations, regardless of whether they are appointed as counsel or serve as non-appointed co-counsel.

A. Attorney Services

The voucher must provide the date of service, a complete detailed description of the service performed, and the time spent performing the service. All individual tasks will be entered in tenths of an hour.

Out of Court Services

- Review of Records- if you are submitting time for reviewing discovery or reviewing documents, please describe the documents that you are reviewing and provide the page/Bates numbers. Simply writing "reviewing discovery" and billing a number of hours is not acceptable.
- Legal Research- similarly, if you are claiming time for Legal Research and Brief Writing, please describe the subject that was researched. Simply writing "research" and billing a number of hours is not acceptable. Each CJA Panel attorney is expected to have basic knowledge of federal criminal practice and procedure.
- Compensable Travel time - compensation will be approved for time spent in reasonable and necessary travel. Compensable time for travel includes only those hours actually spent in/or awaiting transit on a commercial carrier and should be recorded as such. In a case where the client is jailed at a considerable distance from attorney's office, consideration should be given to telephone conferencing with the client when appropriate. As a general rule, travelers on "official business" must exercise the same care in incurring expenses that a prudent person would exercise in conducting personal business using the person's own money.
- Waiting Time - reasonable waiting time will be compensated. Attorneys will not be compensated for "foreseeable" waiting time. If you are aware that you will have to wait for a verdict, please be prepared and bring another matter to work on during the time spent waiting.

- Voucher Preparation- Time spent in voucher preparation is not compensable.

Associates

You may use associates under these guidelines: Appointed counsel may not claim compensation for services furnished by an associate, partner, or co-counsel, unless specifically authorized or separately appointed in accordance with [Guide to Judiciary Policy, Vol. 7A, § 230.53.20\(b\)](#). However, if co-counsel is a partner or associate of appointed counsel, no prior authorization is required to receive compensation for up to ten hours of work by the partner or associate. If appointed counsel anticipates requesting compensation for more than ten hours of work by a partner or associate, appointed counsel should promptly request authorization. If co-counsel is not a partner or associate of appointed counsel, prior authorization is required to receive compensation for any work by co-counsel.

The hourly rate for non-appointed co-counsel who are not members of the CJA Panel shall not exceed 80% of the hourly rate for CJA Panel Attorneys, except when the Presiding Judge determines that there are special circumstances justifying a higher hourly rate, such as when co-counsel possesses specialized knowledge or skills relevant to the case.

Please Note:

- Associate time may not be billed for time in meetings, conferences or in court
- Excessive research or copying by associates will not be reimbursed.

Paralegals

Paralegal time is not compensable on a CJA20. Paralegals are treated as ‘service providers’, subject to a maximum limit, and their time is accounted for on a CJA21 voucher, discussed in further detail in Section III.B.

B. Expenses

Reasonable out-of-pocket expenses incurred in connection with your representation may be claimed on your CJA20/CJA30 voucher subject to the following requirements:

- Expenses must be itemized and thoroughly documented.
- Receipts are required for any expense in excess of \$50.
- Receipts are required for all travel expenses, including daily parking fees, and travel must be deemed essential and connected to your representation under CJA.
- Prior authorization from the Presiding Judge is required for travel where expenses are expected to exceed \$800. Permission for out of district or overnight travel must be obtained from the Presiding Judge. You do not need to obtain approval to visit your client in Guaynabo, PR.

- Travel to visit multiple clients must be pro-rated. The travel time that appears on each CJA 20 must cross reference the cases.
- Reimbursement for meals is prohibited unless you have received prior authorization for overnight travel. Meals obtained must be in accordance with existing government travel regulations. Alcoholic beverages and entertainment are not reimbursable.
- Mileage claims for travel by privately-owned automobile must be itemized and classified under expenses and include: date of travel, destination, number of miles, and the amount due. Effective January 1, 2020, the mileage rate is \$0.575 cents per mile. Always check for the applicable mileage for the time period covered by your claim.
- The most fiscally responsible method of travel must be selected. Each attorney should consider the amount of travel time as well as the travel fares in making their selection.
- Attorneys may not claim experts, paralegals or other service providers as an expense on their CJA20/CJA30. Experts, paralegals and other service providers are claimed on a CJA21/CJA31.
- Research – To claim charges for Computer-Assisted Legal Research (CALR), the appointed 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). This may be allowed as a reimbursable out-of-pocket expense, provided that the amount claimed is reasonable. 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.
- Telephone -reimbursement may be claimed for the actual cost of case related telephone toll calls, but not for local calls or surcharges. Your billing record must be attached with the case related toll call expense highlighted.
- Facsimile transmissions- reimbursement is limited to the actual cost of transmissions of facsimile documents (but not general office overhead expenses). An attorney may, however, submit a compensation claim for the time the attorney spent preparing a facsimile.
- Photocopying - counsel is expected to use the most fiscally responsible method for discovery duplication. In some instances, this may require coordination among co-counsel and use of a commercial duplication firm.

Please note:

- a. Receipts must be attached for reimbursement of any commercial duplication expense.
- b. In-office copying will be reimbursed at the actual cost and in no event more than 15 cents per page.

- c. Claims for reimbursement of in-office copying must be itemized and contain an affidavit describing (1) the nature of the items copied, (2) the number of pages copied, and (3) the actual cost per page for duplication.
 - d. Excessive duplication of case law is strongly discouraged.
 - e. Excessive duplication of discovery materials for associate review will not be reimbursed.
 - f. The expense of printing briefs, regardless of the printing method utilized, is not reimbursable. The cost of photocopying or similar copying service is reimbursable.
 - g. In multi-defendant cases involving CJA defendants, only one transcript should be purchased from the court reporter on behalf of the CJA defendants. One of the appointed counsel or the Clerk of Court should arrange for the duplication, at commercially competitive rates, of enough copies of the transcript for each of the CJA defendants for whom a transcript has been approved. The cost of such duplication will be charged to the CJA appropriation. This policy would not preclude the furnishing of duplication services by the court reporter at the commercially competitive rate.
- Postage – Payments for the actual cost of regular U.S. postage are reimbursable. The cost of other postal services or the use of non-federal carriers (such as overnight or two-day delivery) is reimbursable where necessary and reasonable under the circumstances. Reimbursement for rush/overnight mail service will not be granted unless justification for the use of the services is provided.
 - Messenger or Courier Services are **not reimbursable**.
 - Transcripts - To obtain court approval for the court reporter to produce a transcript, the panel attorney must submit an Auth-24 in the CJA eVoucher system as well as file the transcript request in CM/ECF.
 - a. Payment is made directly to the court reporter with the CJA24 voucher.
 - b. Expedited or daily copies are discouraged. Any requests for expedited or daily copies must be justified.
 - c. Only necessary portions of the transcript should be ordered. Justification should be made to the Presiding Judge explaining the need for any special authorizations.
 - d. It is the attorney's responsibility to prepare the necessary Auth-24 voucher for each court reporter and to obtain the Presiding Judge's approval prior to ordering the preparation of any transcripts.

- e. Each transcript request must contain the date(s) of the necessary testimony.
- f. Upon approval of the transcript request, whether through CJA eVoucher or CM/ECF, the attorney will email the court reporter a copy of the approval along with the request for the transcripts. Court Reporters are not to provide transcripts without prior approval from the Presiding Judge.

C. Non-reimbursable Out-of-Pocket Expenses

- General office overhead items such as personnel, rent, telephone, and secretarial services are not reimbursable.
- Expert or investigative services to include paralegal services, legal assistants and non-secretarial support personnel are not considered a reimbursable expense for the appointed attorney. These fees are paid directly to the service provider.
- Filing fees are waived for attorneys proceeding under the CJA. Fees for deeds of trust to secure a defendant's release on bail are not reimbursable under the CJA. These fees must be paid by the person securing the collateral.
- Personal items and services for the client such as clothing for court, haircuts, travel or lodging are not reimbursable under the CJA. Payments for such items or expenses by appointed counsel will not be reimbursed.
- Books, journals, publications, and supplies for the law office are not reimbursable.
- Costs related to educational seminars or continuing legal education are not reimbursable.
- Fact witness fees, witness travel costs and expenses for service of subpoenas are **not** reimbursable under the CJA. These expenses may be paid for by the United States Marshal Service. Travel vouchers for fact witnesses can be obtained on the U.S Marshals website. The procedures for securing subpoenas and fact witness fees are explained below in Section II.E.

D. Interim Payment Requests

- Where it is considered necessary and appropriate in a specific case, the Presiding Judge may approve periodic or interim payments to counsel.
- In extended cases, a request for interim payments may be granted. Requests for interim payment must be in writing with sufficient detail to support the request and must be submitted through CM/ECF.
- The interim payment request must be approved by the Presiding Judge.

E. Special Cases

1. Subpoenas and Fact Witness Reimbursement

a. Subpoenas

- Subpoenas will be served by the United States Marshal upon Order of the Court. The motion is filed *ex parte*. You may request that the Motion and Order be sealed.
- Subpoenas are to be issued on a certified subpoena. Certified blank subpoenas can be obtained from the Clerk's Office. Please call 24 hours in advance if you require a large number of subpoenas.
- The original certified subpoena, a copy of the subpoena and the court order, must be delivered to the United States Marshals Service. Before subpoenas can be served, a certified court order (in compliance with the terms of Federal Rules of Criminal Procedure 17 (b)), must list the names of the witnesses to be subpoenaed and their addresses.
- The United States Marshals Service requests that subpoenas be filed fourteen days before the scheduled trial date.
- Travel arrangements for out-of-state witnesses must be approved by the Presiding Judge.

b. Fact Witness Reimbursement

- Fact witness vouchers (form DOJ-3) are obtained from the United States Marshals Service.
- All expenses over \$75.00 must have a receipt. If receipts are not provided for expenses over \$75.00, a Verification without Receipt Form must be submitted.
- A copy of the subpoena and court order is required.
- When the form is filled out and signed by the witness, forward the voucher to the Presiding Judge. When the voucher had been signed by the Presiding Judge, please forward the voucher to the United States Marshals Service for payment.
- The United States Marshals Service will process the Fact Witness Voucher and the payment will be made directly from U.S. Treasury. International witnesses and international travel companions are paid prior to their departure from the United States
- All out of district witnesses travel must be approved by the Presiding Judge.

*Note: Attorneys should never pay witness transportation, lodging, meals or fees, etc. because these expenses are not reimbursable through the CJA.

2. Depositions

- a. Depositions are covered by Federal Rule of Criminal Procedure 15.

- b. Expenses incurred in the taking of fact witness depositions (notarial fees, interpreters, transcripts, etc.) are paid for by the Department of Justice, regardless of which party requested the deposition.
- c. Costs of Attending Deposition:
 - i. Fact Witnesses – are paid by the Department of Justice under F.R.Cr.P. 17(b).
 - ii. Expert Witnesses – if the defendant is the requesting party, the cost is paid under the CJA.
 - iii. Expenses of counsel and the defendant to attend the deposition: (a) If the government is the party requesting the deposition, the Department of Justice bears the costs of attending or (b) If the defense is the requesting party, the CJA bears the cost of attending the deposition.
- d. In habeas corpus and 28 U.S.C. §2255 cases, the Judge may order the state or the government to pay "the expenses of travel and subsistence and fees of counsel" to attend the taking of a deposition at the request of the state or government. See rules governing Sections 2254 and 2255 cases in United States District Courts, Rule 6.

III. Completing a CJA21/CJA31: Authorization and Payment for Service Providers

A. Procedure for Obtaining Approval of Investigative, Expert and Other Services.

- Requests for authorization of funds for investigative, expert and other services must be submitted in an *ex parte* application to the Court (using the docket and the Court's eVoucher system). This motion will be addressed by the Magistrate Judge. The request for investigative, expert and other services must contain: (i) the service provider's name, address, telephone number, (ii) the service provider's hourly rate; (iii) the estimated number of hours to complete the work; (iv) justification for the use of the service provider, and (v) a comprehensive background of the service provider's education and/or credentials.
- Prior authorization must be obtained through the CJA eVoucher system by filing an AUTH for any investigative, expert, or other services where the cost will exceed \$900. Failure to obtain prior authorization may result in the disallowance of any claim for any compensation in excess of \$900.00. **This policy will be strictly enforced.** Claims for investigative, paralegal, or expert compensation in excess of \$900.00 without prior authorization will only be approved if the Presiding Judge finds, in the interest of justice, that timely procurement of necessary services could not await prior authorization.
- Excess compensation exceeding the statutory limit (\$2,700) for investigative, expert or other services must have prior approval from the Presiding Judge and the Chief Judge of

the Third Circuit. Expenses should not exceed \$2,700 unless approval is given by the Presiding Judge and the Chief Judge of the Third Circuit.

- If you obtain prior approval for expert or investigative services and it later becomes apparent that the cost will exceed the initial approved amount, additional approval for funds must be requested and approved from the Presiding Judge before any further service is provided.
- A request for compensation in excess of \$2,700 must be approved by the Chief Judge of the Third Circuit Court of Appeals.
- Appointed counsel should advise the service provider not to exceed the amount approved for compensation without additional approval of the Court.
- Once the services have been rendered, the attorney must submit the CJA21 voucher within **30** days of receipt of the invoice from the service provider. Payment will be made directly to the service provider.
- The voucher should contain the mandatory documents: (1) Order of Appointment; (2) Order approving hiring of Expert (if applicable); (3) Order Granting Interim Payment (if applicable); (4) Itemized Invoice for Services; (5) Itemized Receipts for expenses more than \$50; and (6) any other documents to support any expense claims.
- It is the responsibility of the attorney to review the itemized invoice and all supporting receipts for accuracy.
- Upon submission to the Court, the voucher will be audited for mathematical errors, non-compliance with circuit policy, district court policies or the *Guide to Judiciary Policy*, Volume 7, Part A, or if the services claims are unreasonable either in terms of the work performed or the amount of time and expenses submitted. Vouchers that are under \$2,700 will be approved by the Presiding Judge. Vouchers in excess of \$2,700 will be forwarded to the Chief Judge of the Third Circuit Court of Appeals for approval.

B. Paralegals, Legal Assistants, and Other Non- Secretarial Support

- For services of paralegals, legal assistants, and other non-secretarial professional support personnel employed by appointed counsel, the court will determine a reasonable hourly compensation rate that may not exceed the lesser of the rate paid to counsel under the CJA or the rate typically charged by counsel to a fee-paying client for such services.
- Services are billed on a CJA21 voucher. The use of these services cannot be billed as an expense of counsel.
- The limits on service providers are applicable. You may expend up to \$900.00 without prior approval. The Presiding Judge may approve funding up to the statutory maximum of \$2,700.00. Any expenditure over that amount must be approved by the Chief Judge of the Circuit or his designee. Prior approval must be obtained before services exceed the maximum payment amount authorized by the Court.

C. Interpreters

The selection of an interpreter should be handled in the same manner as the selection of any other service provider. There is no requirement that a call must be made to a certified interpreter.

Guide to Interpreter's Fees and Payment:

- All interpreting services require the permission of the Court if the interpreter's fee will exceed \$900.00. If the total claim will exceed \$2,700.00, the expenditure must be approved by the Chief Judge of the Third Circuit Court of Appeals or his designee.
- All interpreters are paid with CJA21 vouchers. Please review the interpreter's invoice for completeness and accuracy prior to submitting the voucher for payment.
- Interpreters will follow the fee structure instituted by the Court and bill accordingly. The current District Court fee structure is set forth in Appendix A.
- An interpreter billing on a half- or full-day rate basis, hourly basis, or other unit of time under the CJA must not charge any other federal court unit, federal public defender, community defender, CJA panel attorney, or other person or entity otherwise authorized by the court to obtain the services of an interpreter under the CJA or related statutes for any services rendered within the same time period.
- An interpreter who is traveling must pro-rate his or her bill to provide services for more than one CJA client. If claims are pro-rated, the vouchers must cross-reference the cases.
- Interpreters must maintain contemporaneous time and attendance records, including expense receipts, for all work performed. Such records, which may be subject to audit, must be maintained for three years after the completion of the case. Expenses must be itemized for all services provided. Interpreter's invoices should include dates and a brief description of the expense and should include supporting documentation for expenses in excess of \$50.
- Travel related expenses that are incidental to providing services (e.g., transportation, lodging, meals, car rental, parking, etc.) must be itemized. 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. Claims for mileage reimbursement must include the starting location, the destination, and the number of miles traveled. For overnight travel, reasonable expenses for lodging and meals will be reimbursed on an actual expense basis; per diem is not allowed. Service providers are limited to the travel and subsistence expenses of federal employees.

D. Hourly Rate for Service Provider Travel Time

Service providers shall be compensated for travel time and expenses. Unless otherwise approved by the Presiding Judge, investigators, experts, and other service providers should bill travel time at 50% of the approved normal billing rate, subject to the exceptions (1) and (2) below:

(1) The first six hours traveling by automobile to, and the first six hours traveling by automobile from, a case-related destination (i.e., a destination relevant to the responsibilities or duties assigned to the expert or service provider by the attorney for the defendant).

(2) Reasonable travel time at or around the case-related destination in order for the expert or service provider to complete the responsibilities or duties assigned to the expert or service

provider by the attorney for the defendant.

Time spent performing case-related work while traveling, by any mode of transportation, is not “travel time” and should be compensated at the full (i.e., not reduced) hourly rate. Case-related work is work relevant to the responsibilities or duties assigned to the expert or service provider by the attorney for the defendant.

The Presiding Judge, upon application by counsel, may authorize payment at the full hourly rate for travel in appropriate circumstances. Examples of such instances may include when a medical doctor is retained and must leave his or her practice to fly to a prison to examine a defendant, or when service providers have to travel because of the requirements of the government (for example, prosecutors might not release evidence, such as photographs or computer hard drives, to be sent to service providers, instead requiring the service provider to travel to the prosecutor’s office or to a laboratory).

E. Engagement Letter for Service Providers

In all capital representations and all non-capital representations that appear likely to become or have become extraordinary in terms of potential cost (i.e., attorney hours are expected to exceed 300 or total expenditures are expected to exceed \$30,000), attorneys shall use written retainer agreements for investigators, experts, and other service providers setting forth the details of their engagement, including the hourly rate, the maximum number of authorized hours or compensation amount, and the requirement of contemporaneous time record-keeping.

Retained counsel shall also use written engagement letters when they seek to use CJA funds to engage service providers.

The written engagement letter shall also specify that service providers shall bill travel time at 50% of their hourly rate, except for the first six hours traveling by automobile to, and the first six hours traveling by automobile from, a case-related destination, or reasonable travel time at or around the case-related destination in order for the expert or service provider to complete the responsibilities or duties assigned to the expert or service provider by the attorney for the defendant.

IV. Voucher Payment Process and Guidelines

- Once you have completed your representation, or in a case where interim vouchers have been authorized, you must submit your CJA20/CJA30 voucher to the Court.

*Note: If interim payments have been approved and this will be the last voucher for the case, the attorney will click ‘**Final**’ on the voucher under the Status tab located in the CJA20/CJA30. To release the withheld funds from the interim payments, attorneys must submit a CJA20/CJA30 voucher and click ‘Withheld’ on the voucher under the Status tab. No services or expenses need to be entered on a voucher for withheld funds.

- The final claim for payment must include all services and expenses associated with the final work period, along with the mandatory documents required to support the voucher.
- If the total compensation claimed is in excess of the statutory case compensation maximum, a CJA26 must be submitted for approval prior to submitting the CJA20.

Attorneys are encouraged to submit a CJA26 as soon as it is apparent that the total compensation will be in excess of the statutory amount. A complete copy of the itemized CJA20/CJA30 must be included as an attachment to the CJA26.

A. Approval for payment:

- Vouchers under the statutory case compensation maximum are checked for compliance and accuracy, forwarded for substantive review, and then approved by the Presiding Judge.
- Excess compensation vouchers, including interim vouchers, are checked for compliance and accuracy, forwarded for substantive review, then approved by the Presiding Judge and then forwarded for certification from the Chief Judge of the Third Circuit Court of Appeals or his designee.

B. Voucher Reduction Procedures

- Prior to the significant reduction of any voucher or the denial of certification, a Judge will notify the attorney of the reason for the denial or reduction, and allow the attorney to submit a revised voucher, or a written request for reconsideration.
- The Court will review a timely submitted request for reconsideration and may grant it in full, in part, or not at all, and will communicate the decision to the attorney.

V. Case Budgeting- See *Guideline to Judiciary Policies Volume 7, Section 230.26*

Courts are encouraged to use case-budgeting techniques in representations that appear likely to become or have become extraordinary in terms of potential cost (ordinarily, a representation in which attorney hours are expected to exceed 300 hours or total expenditures are expected to exceed 300 times the prevailing CJA panel attorney non-capital hourly rate, rounded up to the nearest thousand, for appointed counsel and services other than counsel for an individual CJA defendant). Guides to case budgeting can be found [here](#).

VI. Appointments and Compensation under the Civil Asset Forfeiture Reform Act of 2000 (CAFRA) - See *Guideline to Judiciary Policies Volume 7, Section 210.20.40*

(a) Under [18 U.S.C. § 983\(b\)\(1\)](#), if a person with standing to contest the forfeiture of property in a judicial civil forfeiture proceeding under a civil forfeiture statute is financially unable to obtain representation by counsel, and the person is represented by counsel appointed under [18 U.S.C. § 3006A](#) in connection with a related criminal case, the court may authorize counsel to represent that person with respect to the claim.

(b) In determining whether to authorize counsel to represent a person in a judicial civil forfeiture proceeding under a civil forfeiture statute, the court must take into account such factors as:

- the person's standing to contest the forfeiture; and
- whether the claim appears to be made in good faith.

Permission of the court is required for appointments under this section. If you are CJA appointed in a criminal matter and your client has a pending civil forfeiture proceeding, has standing and wishes in good faith to contest the forfeiture, you may write to the Presiding Judge seeking appointment under this section. Counsel will not be compensated for work in a civil forfeiture proceeding absent authorization by the Court.

The case compensation maximum for appointments under this Section currently is \$10,300.00. Counsel must not claim time on the CAFRA appointment for work related to the criminal case.

VII. Ancillary Matters

The Court determines what constitutes an ancillary matter. Reproduced below is the section on ancillary proceedings from the *Guide to Judiciary Policies and Procedures*, [Vol. 7, Section § 210.20.30](#).

- (a) Representation may be furnished for financially eligible persons in “ancillary matters appropriate to the proceedings” under [18 U.S.C. § 3006A\(c\)](#).
- (b) In determining whether a matter is ancillary to the proceedings, the court should consider whether the matter, or the issues of law or fact in the matter, arose from, or are the same as or closely related to, the facts and circumstances surrounding the principal criminal charge.
- (c) In determining whether representation in an ancillary matter is appropriate to the proceedings, the court should consider whether such representation is reasonably necessary to accomplish, among other things, one of the following objectives:
 - 1. to protect a Constitutional right;
 - 2. to contribute in some significant way to the defense of the principal criminal charge;
 - 3. to aid in preparation for the trial or disposition of the principal criminal charge;
 - 4. to enforce the terms of a plea agreement in the principal criminal charge;
 - 5. to **preserve** the claim of the CJA client to an interest in real or personal property subject to a civil forfeiture proceeding under [21 U.S.C. § 881](#), [19 U.S.C. § 1602](#) or similar statutes, which property, if recovered by the CJA client, may be considered for reimbursement under [18 U.S.C. § 3006A\(f\)](#) and Guide, Vol. 7A, § 210.40.30; or
 - 6. to effectuate the return of real or personal property belonging to the CJA client which may be subject to a motion for return of property under Fed. R. Crim. P. 41(g), which property, if recovered by the CJA client, may be considered for reimbursement under 18 U.S.C. § 3006A (f) and Guide, [Vol. 7A, § 210.40.30](#).
- (d) The scope of representation in the ancillary matter should extend only to the part of the ancillary matter that relates to the principal criminal charge and to the **correlative objective sought** to be achieved in providing the representation (e.g., a CJA defendant in a criminal stock fraud case should be represented by CJA counsel at the defendant’s deposition in a parallel civil fraud action for the limited purpose of advising the defendant concerning the defendant’s Fifth

Amendment rights).

(e) Representation in an ancillary matter is compensable as part of the representation in the principal matter for which counsel has been appointed and is not considered a separate appointment for which a separate compensation maximum would be applicable under [§230.23.10\(g\)](#).

(f) A private panel attorney appointed under the CJA may obtain, through an *ex parte* application to the court, a preliminary determination that the representation to be provided in an ancillary matter is appropriate to the principal criminal proceeding and compensable under [18.U.S.C. §3006A\(c\)](#) and this guideline. However, failure to obtain such a preliminary determination does not bar the court from approving compensation for representation in an ancillary matter provided that the services and compensation related thereto are justified in a memorandum submitted by the attorney to the court at the conclusion of the principal criminal matter and the presiding judicial officer finds that such representation was appropriate.

Please remember that representation in an ancillary matter is considered part of your original appointment. The statutory case compensation maximum will apply. Counsel are strongly urged to obtain a preliminary determination from the Court that the representation in the ancillary matter is appropriate to the principal criminal proceeding and thus compensable under the Criminal Justice Act

VIII. Appeal Process

- The appeal is a new appointment. Time spent perfecting the appeal may not be included on your District Court voucher.
- You are required to file the appeal. Please make sure you file the notice of appeal.
- After the notice of appeal is filed, jurisdiction lies with the United States Court of Appeals for the Third Circuit. The District Court **cannot** grant your motion to withdraw from representation at the appellate level. Any motion to withdraw from representation must be sent to the Third Circuit.
- If you are appointed for the appeal, you will receive a new voucher for your work on the appeal from the United States Court of Appeals for the Third Circuit.
- A Rule 35 or a probation/parole matter constitutes a new case and requires a new appointment. Please have the AUSA advise the court to issue a new appointment for the Rule 35 or Violation of Supervisory Release (VOSR).
- If a mistrial is declared, please submit your CJA20 voucher for final payment of services. After the re-trial is completed, a supplemental voucher will be used for payment of services.

IX. Pacer

A. Pacer is available to attorneys appointed under the CJA.

- The Judicial Conference approved an amendment to the Miscellaneous Fees Schedule exempting CJA appointed attorneys in the performance of services authorized by the CJA

from fees for the use of Public Access to Court Electronic Records (PACER) effective Jan. 1, 1995.

- CJA attorneys who use Pacer in connection with their CJA appointments can obtain an exempt login and password with a CJA appointment by contacting the PACER Service Center at 1-800-676- 6856 or by emailing them at pacer@psc.uscourts.gov. If you inadvertently use the service in connection with your appointment without your exempt login and password, a request for credit may be made in writing to Pacer Service Center after receipt of the quarterly statement; however, this should be the exception and may only be used in unusual circumstances.

X. Public Release of Information Pertaining to Activities under the CJA and Related Statutes:

Neither the Freedom of Information Act ([5 U.S.C. §552](#)) nor the Privacy Act ([5 U.S.C. §552a](#)) applies to the Judiciary and neither is applicable to requests for release to the public of records and information pertaining to activities under the CJA and related statutes.

Generally, such information which is not otherwise routinely available to the public should be made available unless it is judicially placed under seal, or could reasonably be expected to unduly intrude upon the privacy of attorneys or defendants, compromise defense strategies, investigative procedures, attorney work product, the attorney-client relationship or privileged information provided by the defendant or other sources, or otherwise adversely affect the defendant's right to the effective assistance of counsel, a fair trial, or an impartial adjudication. ([See 5 U.S.C. §522\(b\)](#)).

Upon request, or upon the court's own motion, documents pertaining to activities under the CJA and related statutes maintained in the clerk's open files, which are generally available to the public, may be judicially placed under seal or otherwise safeguarded until after all judicial proceedings, including appeals, in the case are completed and for such time thereafter as the court deems appropriate. Interested parties should be notified of any modification of such order.

Requests for release of information pertaining to activities under the CJA and related statutes in the custody of the Administrative Office will be reviewed of in accordance with internal directives of that office.

Public Release of Payment Information

The Guide to Judiciary Policies and Procedures, Volume 7, Part A:520 Disclosure of Information on Payments to Attorneys

§ 520.10 Timing

The CJA, as amended in 1998, mandates disclosure of amounts paid to court appointed attorneys **upon the court's approval of the payment.**

§ 520.20 Documents

- (c) To satisfy the requirements of the CJA, courts may release copies of the payment vouchers (the top sheets of completed forms CJA20 or CJA30), redacted or unredacted, depending on the stage of the particular case and the statutory considerations involved.

(d) **Documentation submitted in support of, or attached to, payment claims is not covered by the CJA and need not be disclosed at any time.**§ 520.30 Notice

- (d) Before approving payments, courts are required to provide reasonable notice of disclosure to counsel to allow the counsel to request the redaction of specific information based on the considerations set forth in [18 U.S.C. § 3006A\(d\)\(4\)\(D\)](#) and [Guide, Vol. 7A, § 520.50](#).
- (e) To comply with this notice requirement, it is recommended that, contemporaneously with the issuance to counsel of the forms [CJA20](#) or [CJA30](#), courts give appointed counsel a copy of [Form CJA19 \(Notice to Court Appointed Counsel of Public Disclosure of Attorney Fee Information\)](#).

§ 520.40 Attorney Payments Approved Before or During Trial

- (a) **After redacting any detailed information provided to justify the expenses,** the court will make available to the public a copy of the voucher showing **only the amounts approved for payment.**
- (b) On the completion of trial, an unredacted copy of the voucher 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 [Guide, Vol. 7A, § 520.50](#) require the redaction of information.

Appendix A

Rates

CJA counsel are responsible for using the appropriate rates for services and expenses that are in effect from time to time. Information as to the rates applicable for specific time periods is available through the District Court's website (www.vid.uscourts.gov, under the "Criminal Justice Act" tab) and the Office of Defender Services of the Administrative Office of the United States Courts (www.fd.org).

A. Effective January 1, 2022, the mileage rate is \$0.585 permile.

B. Hour Rates for CJA Panel Attorney, for services on or after January 1, 2022:

Non-Capital- \$158.00

Capital- \$202.00

C. Interpreters - Fee rates to be paid to interpreters:

Certified & Professionally Qualified Interpreters:

Full Day - \$418

Half Day - \$226

Overtime- \$59 per hour or part thereof

Language Skilled (Non-Certified) Interpreters:

Full Day- \$202

Half Day- \$111

Overtime \$35 per hour or part thereof

Case Maximums

Care should be taken not to exceed case maximums as these are not simply suggested maximums— substantial justification must be provided to warrant compensation in excess of the maximum.

The case maximum if a case is a...

	10/13/08 - 3/10/09	3/11/09 - 12/31/09	1/1/10 - 2/28/14	3/1/14 - 12/31/14	1/1/15 - 12/31/15	1/1/16- 5/4/17	5/5/17- 3/22/18	3/23/18- 2/14/19	2/15/19- 12/31/19	1/1/20- 12/31/20	1/1/2021- 12/31/2021
Felony (including pre-trial diversion of alleged felony)	\$7,800	\$8,600	\$9,700	\$9,800	\$9,900	\$10,000	\$10,300	\$10,900	\$11,500	\$11,800	\$12,100
Misdemeanor (including pre-trial diversion of alleged misdemeanor)	\$2,200	\$2,400	\$2,800	\$2,800	\$2,800	\$2,900	\$2,900	\$3,100	\$3,300	\$3,400	\$3,400
Proceeding under 18 U.S.C. § 4106A (link is external)	\$1,700	\$1,800	\$2,100	\$2,100	\$2,100	\$2,100	\$2,200	\$2,300	\$2,500	\$2,500	\$2,600
Proceeding under 18 U.S.C. § 4107 (link is external) or § 4108 (link is external) (for each verification proceeding)	\$2,200	\$2,400	\$2,800	\$2,800	\$2,800	\$2,900	\$2,900	\$3,100	\$3,300	\$3,400	\$3,400
Proceeding under 18 U.S.C. § 983 (link is external)	\$7,800	\$8,600	\$9,700	\$9,800	\$9,900	\$10,000	\$10,300	\$10,900	\$11,500	\$11,800	\$12,100
Post-conviction proceeding under 28 U.S.C. § 2241 (link is external) , § 2254 (link is external) or § 2255 (link is external)	\$7,800	\$8,600	\$9,700	\$9,800	\$9,900	\$10,000	\$10,300	\$10,900	\$11,500	\$11,800	\$12,100

The case maximum if a case is a...

Proceeding under 28 U.S.C. § 1875 (link is external)	\$7,800	\$8,600	\$9,700	\$9,800	\$9,900	\$10,000	\$10,300	\$10,900	\$11,500	\$11,800	\$12,100
Appeal from felony, misdemeanor, proceeding under 18 U.S.C. § 4106A (link is external) , 18 U.S.C. § 983 (link is external) , post-conviction proceeding under 28 U.S.C. § 2241 (link is external) , § 2254 (link is external) or § 2255 (link is external) , and 28 U.S.C. § 1875 (link is external)	\$5,600	\$6,100	\$6,900	\$7,000	\$7,100	\$7,200	\$7,300	\$7,800	\$8,200	\$8,400	\$8,600
Other representation required or authorized by the CJA (including, but not limited to probation, supervised release hearing, material witness, grand jury witness)	\$1,700	\$1,800	\$2,100	\$2,100	\$2,100	\$2,100	\$2,200	\$2,300	\$2,500	\$2,500	\$2,500
Appeal of other representation	\$1,700	\$1,800	\$2,100	\$2,100	\$2,100	\$2,100	\$2,200	\$2,300	\$2,500	\$2,500	\$2,500