

**USING E-VOUCHER FOR THE SERVICES
YOU NEED TO REPRESENT YOUR CLIENT**

Larry M. Dash

NOTES

BUDGETING AND USE OF SERVICE PROVIDERS

WDVA/EDVA CJA/FPD Training

April 11, 2019

Presented By

Larry Dash, 4th Circuit Case Budgeting Attorney

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WHAT WE WILL COVER TODAY

What is a Budget – When You Need One and Why

What are Service Providers and Why you Should Consider Using Them

Authority to Obtain Service Providers

Being an Effective Advocate for your Provider

Mechanics of Your Request

Miscellaneous Issues

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WHEN TO BUDGET

When You Anticipate Your Case Will
Exceed 300 Hours of Attorney Time

When You Anticipate Your Case Will
Exceed \$44,400

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HOW TO BUDGET

Currently Using a Word Based Document
Call me at 804-916-2177 or email me at
Larry_Dash@ca4.uscourts.gov
for an updated copy of the form
Developing a Web-Based Program to be
used later this year (hopefully)

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**HOW TO SUBMIT YOUR
BUDGET**

In WDVA, will submit budget in
eVoucher using the eVoucher CJA 26
Beginning May 1, 2019

In EDVA, will submit budget in
eVoucher using the eVoucher CJA 26

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**USING EVOUCHER FOR
CASE BUDGETING**

eVoucher CJA 26 ONLY for Budgets
I will give you specific instructions on
how to file
Currently working on development of
eVoucher Budget Auth

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USING SERVICE PROVIDERS

Investigators
Paralegals
Interns

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DUTY TO INVESTIGATE

ABA Standard 4-4.1
Defense counsel's duty to make
independent investigation of the
"circumstances of the case"
ABA Standard 4-8.1
Defense counsel's duty to "verify" PSR

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WAYS TO USE AN INVESTIGATOR TO FURTHER YOUR CASE

- Find New Leads / Evidence / Witnesses
- Meetings with Client
- Locate Assets
- Public / Social Media Profile
- Prep for Cross Examination
- Obtain Mitigating Evidence
- Reconstruction

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VOLUME OF DISCOVERY



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ORGANIZATION OF DISCOVERY



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**WAYS TO USE A PARALEGAL
AND/OR INTERN TO FURTHER
YOUR CASE**

Obtain Discovery / Organize, Index and Analyze

Documents and Information

Prepare Summaries, Outlines and Chronologies of

Documents and Information

Create, Update and Maintain eDiscovery Data

Conduct Automated Searches of eDiscovery

Draft Affidavits, Motions, Trial Memorandum, Subpoenas, etc.

Obtain Jury List and Biographical Information on Jurors

Prepare Trial Notebooks, Organize and Mark Trial Exhibits

Work with Experts, Consultants and Witnesses

Gather and Prepare Sentencing Information

Research the Law

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**HOW DO I FIND AN
INVESTIGATOR OR
PARALEGAL**

Fellow CJA Attorneys

Your Panel Representative

Colleges/Universities/Law Schools

Professional Organizations

FPD/CBA

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**GUIDE TO JUDICIARY POLICY
VOLUME 7, CHAPTER 3
(SEE 18 USC § 3006A(E))**

\$900 maximum, without prior approval (all
Service Providers combined)

\$2,600 maximum, with prior approval by District
Court Judge (per Service Provider)

Anything above \$2,600 needs Circuit Court Chief
Judge approval

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**GUIDE TO JUDICIARY POLICY
VOLUME 7A, CHAPTER 6
(SEE 18 USC § 3599(G)(2))**

- \$900 maximum, without prior approval (all Service Providers combined)
-
- \$7,500 maximum, with prior approval by District Court Judge (all Service Providers combined)
-
- Anything above \$7,500 needs Circuit Court Chief Judge approval

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EFFECTIVE REQUESTS



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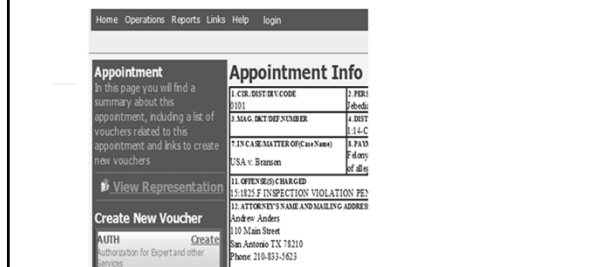
**PRESERVE YOUR RECORD
IF YOU ARE DENIED YOUR
SERVICE PROVIDER**

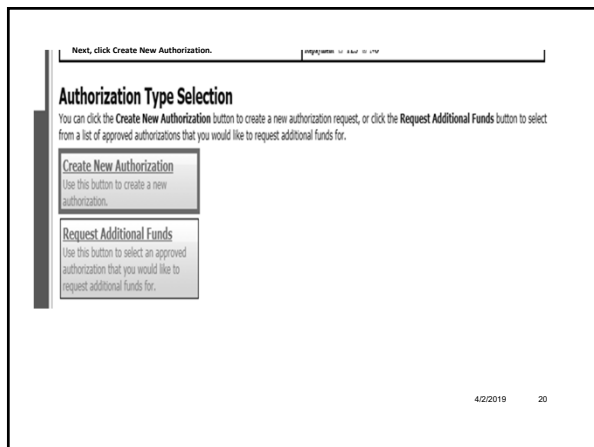
Request Reconsideration in CM/ECF
File it Ex Parte, Under Seal

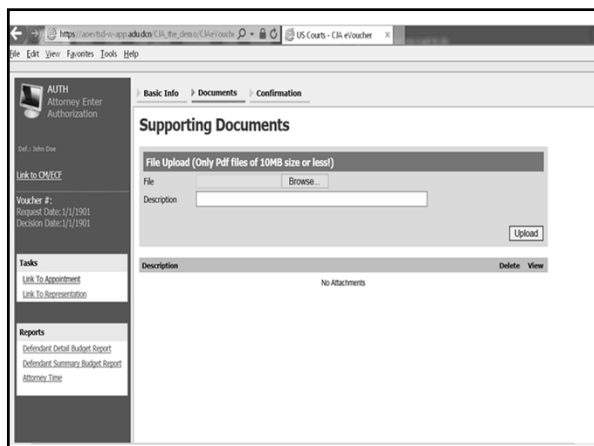
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VOUCHER

Figure 2: Appointment Info Page







**UNITED STATES DISTRICT COURT
EX PARTE REQUEST FORM SEEKING ADVANCE AUTHORIZATION
FOR INVESTIGATIVE, EXPERT, OR OTHER SERVICES**

Name of Attorney: _____ Case No.: _____
Case Name: _____
Name of Service Provider: _____
Hourly Rate Requested: _____
Number of Hours Requested: _____
Total Amount Requested: _____
Justification for Requesting Service: _____

Provider's Relevant Experience and Qualifications (attach a CV if appropriate): _____

Fee Arrangement, if Applicable: _____

Brief Explanation of Services and Expenses to Be Included: _____

Whether You Anticipate Requesting Additional Services/Funding from/for This Provider (if so, please provide details): _____

Attorney's Electronic Signature: _____ Date: _____ 2

MISCELLANEOUS MATTERS

Standard for Voucher Review
Vague Entries (Discovery Review, Research, etc.)
Administrative Work
Copy Costs
Transcripts in Multi-Defendant Cases
Hardware/Software Requests
Handling eDiscovery

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CALL FOR ASSISTANCE

Larry Dash
804-916-2177
Larry_Dash@ca4.uscourts.gov

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UNITED STATES DISTRICT COURT

NON-CAPITAL CASE FUNDING APPLICATION

District Court: _____
Defendant: _____
Case Name: _____
Case Number: _____
Defendant Number: _____ Number of Co-Defendants: _____

Counsel: _____ Hourly Rate: \$ _____
Appointment Date: _____
Co-Counsel (if any): _____ Hourly Rate: \$ _____
Appointment Date: _____

Budget #: _____ Supplement #: _____
Estimated Time Period Covered by this Application: From _____ to _____

*The answers to the following questions are for case management and budgeting purposes only and will not be binding in any respect on substantive issues to be raised in the course of litigation. **IMPORTANT: Use the TAB key to move between entries.***

1. Summary of the government’s allegations against your client:
2. Expected duration of the case, from counsel appointment to case termination (Explain):
3. Trial date, if set: _____ Is this a realistic date?
If not, in what time frame is trial likely to occur (i.e., Spring 2018)?
4. What efforts, if any, have been made to settle the case?
5. If in custody, identify where your client is incarcerated and the time/distance between this facility and your office:
6. Describe the volume and nature of discovery (provide an estimate in terms of page numbers, GB or TB size, and types of digital files):
7. If this case involves a protective order, please explain if it has provisions that will increase CJA costs:

8. Describe any discovery practices that may adversely affect the anticipated complexity or duration of this case (i.e., disorganized, poorly indexed, or delayed disclosure):

9. Describe any complex mental or physical health issues with your client or novel legal issues likely to arise in this case:

10. Describe any efforts to use economy of scale, efficiency, shared tasks, shared service providers (such as a discovery coordinator, objective case paralegal or investigator, etc.):

11. Please provide any additional information you believe would assist the court in determining the reasonableness of your funding request:

12. Are you requesting authorization to submit interim payments and, if so, at what frequency?

13. Are you requesting authorization to utilize associate(s)? YES NO

If YES, answer the following:

- A. Associate name(s):

- B. Is associate an employee of lead or co-counsel’s firm or an independent contractor?

- C. Requested hourly rate:

[Note: The estimated hours to be spent by in-house associates on particular tasks should be included in the Requested Attorney Hours as co-counsel in Question 14 table; the estimated hours to be spent by a contract associate should be included in the table for Requested Service Providers in Question 15.]

14. Please complete the following table for the attorney hours you are requesting (**including in-house associates and all hours already expended since the starting date of this budget period**):

REQUESTED ATTORNEY HOURS

Tasks	Requested Hours		Justification
	Lead Counsel	Co-Counsel	
Pre-trial In-Court Matters			[Estimate time for arraignment; bail, detention, motion, sentencing, and revocation hearings; and status conferences]

Tasks	Requested Hours		Justification
	Lead Counsel	Co-Counsel	
Prepare for and Communicate with Client			[Estimate total time for each in-person meeting, including time for prep, waiting, meeting, and post-meeting memo prep as well as for calls/letters on weekly or monthly basis; identify frequency of in-person meetings for this budget period; describe any communication challenges with client]
Prepare for and Conduct Witness Interviews			[Estimate total time for each witness interview, including time for prep, waiting, interview, and post-interview memo prep; describe any communication challenges with witnesses]
Consult with Co-counsel, Co-defendant Counsel, AUSA, Service Providers			
Obtain and Review Records, including Discovery			
Legal Research and Writing			[Estimate number of documents you expect to prepare]
Trial Prep (only if budget period includes trial)			[Estimate prep time in the weeks immediately preceding trial (include doc review, client meetings, witness prep, etc. here rather than in the separate categories above); identify number of likely prosecution and defense witnesses]
Trial & Possible Sentencing			[Estimate time you will spend in and out of court while in trial]
Travel			[Estimate travel time to see client or potential witnesses and travel to and from court. To request authorization for overnight travel, please see travel table below]
Other (including budget prep)			[Describe specific tasks and estimated time for each]
Total Hours Requested	0	0	
Costs Per Atty for All Tasks	Counsel: \$0		Co-Counsel: \$0

15. In the following table, please identify each previously authorized service provider or expert, the hours requested for that provider (**in the Justification column indicate how many of the requested hours were previously authorized**), and any additional service provider or expert you are requesting for this phase (attaching a copy of a CV or resume to this form):

REQUESTED SERVICE PROVIDERS

(Paralegal, Contract Associate, Investigator(s), Experts)

1	Name and Specialty	Requested		Cost	Justification and Scope of Work (including justification to exceed presumptive hourly rates)
		Hours	Rate		
2			\$	\$0.00	
3			\$	\$0.00	
4			\$	\$0.00	
5			\$	\$0.00	
6			\$	\$0.00	
7			\$	\$0.00	
8			\$	\$0.00	
Total Amount Requested For Service Providers:				\$0.00	

16. Please complete the following table for any non-travel expense in excess of \$500 that counsel or a service provider anticipates incurring:

REQUESTED NON-TRAVEL EXPENSES

Expense Type	Amount	Justification
	\$	
	\$	
	\$	
	\$	
	\$	
	\$	
	\$	
Total Amount Requested for Expenses:		\$0.00

17. Please complete the following table for any travel by counsel or a service provider that occurs outside of the District or that requires overnight lodging:

REQUESTED TRAVEL TRIPS

Traveler	Destination	No. of Nights	No. of Trips	Purpose of Travel

IF ANY PORTION OF YOUR REQUEST IS BEING MADE *NUNC PRO TUNC*, YOU MUST COMPLETE THIS SECTION BEFORE SUBMITTING YOUR FUNDING REQUEST

NUNC PRO TUNC AUTHORIZATION

NOTE: *Counsel is responsible for the oversight of expert services and funding status. Nunc pro tunc requests may be denied absent extraordinary circumstances. Justification provided must be sufficiently persuasive and detailed to overcome failure to obtain timely authorization.*

Nunc Pro Tunc Date: _____

Justification for *nunc pro tunc* request: _____

INSTRUCTIONS:

1. Save completed funding application in Word.
2. Email completed form along with the resume or CV of newly requested service providers to the Fourth Circuit Case Budgeting Attorney:
Larry Dash – Larry_Dash@ca4.uscourts.gov
3. After he reviews it, he will give you further instructions to file the budget with the Court in CM/ECF following the District’s procedures for submission of ex parte, under seal filings.
4. Questions? Contact Larry Dash at 804-916-2177.

UNITED STATES DISTRICT COURT
CAPITAL CASE FUNDING APPLICATION

Defendant's Name: _____
Case No.: _____
Learned Counsel: _____ Hourly Rate: _____
Co-Counsel: _____ Hourly Rate: _____

Budget #: _____ Amendment #: _____
Estimated Time Period Covered by this Application: From _____ to _____

The answers to the following questions are for case management and budgeting purposes only and will not be binding in any respect on substantive issues to be raised in the course of litigation. NOTE: Use the TAB key to move between entries.

1. Date of indictment:
2. Brief summary of the government's allegations against your client:
3. Date, if known, for submitting information to local U.S. Attorney relevant to decision whether to seek the death penalty:
4. Date, if known, for submitting information to Department of Justice relevant to decision whether to seek the death penalty:
5. Date, if known, for Government to file notice of whether it intends to seek the death penalty:
6. Explain whether and how any of the following client considerations are likely to affect case cost during this budget period (client's mental health or substance abuse issues; language or cultural differences with client, client's family, witnesses; etc.).
7. Generally describe how often each counsel will visit the client during this budgeting period:
8. Explain whether the location of your client will significantly increase the cost of representation:
9. If this case involves a protective order, please explain if it has provisions that will increase CJA costs:
10. How much discovery has been produced on the case to date? Please provide an estimate in terms of page numbers, GB or TB count, and describe generally the type of discovery (documents, video recordings, etc.):

11. Please answer the following questions regarding mitigation-related witnesses to be located and interviewed during the budget stage of this case:

- No. of local witnesses to be located/interviewed:
- No. of out-of-area witnesses to be located/interviewed:
- Location(s) of out-of-area witnesses:

12. Please answer the following questions regarding offense-related witnesses to be located and interviewed during this phase:

- No. of local witnesses to be located/interviewed:
- No. of out-of-area witnesses to be located/interviewed:
- Location(s) of out-of-area witnesses:

13. Please describe how you will divide attorney work during the budget stage of this case:

14. Please describe your efforts to coordinate with co-defendant counsel, if any, to conserve CJA costs (e.g., joint of paralegals or investigators):

15. Generally describe the out-of-court services you have performed to date:

16. Are you requesting authorization to submit interim payments and, if so, at what frequency?

17. Are you requesting authorization to utilize associate(s)? YES NO

If YES, answer the following:

- A. Associate name(s):
- B. Is associate an employee of learned or co-counsel's firm or an independent contractor?
- C. Requested hourly rate:

[Note: The estimated hours to be spent by in-house associates as well as contract associates should be included in the table for requested service providers in Question 18.]

18. Please complete the following table for the attorney hours you are requesting (including all hours already expended since the starting date of this budget period):

REQUESTED ATTORNEY HOURS

Tasks	Requested Hours		Justification
	Learned Counsel	Co-Counsel	
Prepare for and Attend In-Court Hearings			

Tasks	Requested Hours		Justification
	Learned Counsel	Co-Counsel	
Prepare for and Communicate with Client			[Estimate total time for each in-person visit, including time for prep, waiting, meeting, and post-meeting memo prep]
Prepare for and Conduct Witness Interviews			[Estimate total time for each interview, including time for prep, waiting, interview, and post-interview memo prep]
Consult Service Providers			[Estimate consult time with each provider on weekly or monthly basis]
Review Court Record (i.e., transcripts or ECF)			
Review Documents and Evidence			
Consult Counsel (including Co-Counsel, Co-Def Counsel, Resource Counsel, AUSA)			
Research and Writing			[List motions or other docs you expect to prepare]
Travel			[Also complete Travel table below]
Other (including Budget Prep)			[Describe specific tasks and estimated time for each]
Total Hours Requested	0	0	
Costs Per Atty for All Tasks	Learned: \$0.00		Co-Counsel: \$0.00
Total Cost – Both Counsel	\$0.00		

19. In the following table, please identify each previously authorized service provider or expert, the hours requested for that provider (in the Justification column indicate how many of the requested hours were previously authorized), and any additional service provider or expert you are requesting for this phase (attaching a copy of a CV or resume to this form):

REQUESTED SERVICE PROVIDERS

(Paralegal, In-House Associate, Contract Associate, Investigator(s), Experts)

	Name and Specialty	Requested		Cost	Justification and Scope of Work (including justification to exceed presumptive hourly rates)
		Hours	Rate		
1			\$	\$0.00	
2			\$	\$0.00	
3			\$	\$0.00	
4			\$	\$0.00	

	Name and	Requested		Justification and Scope of Work (including justification
5			\$	\$0.00
6			\$	\$0.00
7			\$	\$0.00
8			\$	\$0.00
Total Amount Requested For Service Providers:				\$0.00

20. Please complete the following table for any non-travel expense that counsel or a service provider anticipates incurring:

REQUESTED NON-TRAVEL EXPENSES

Expense Type	Amount	Justification
	\$	
	\$	
	\$	
	\$	
	\$	
	\$	
	\$	
Total Amount Requested for Expenses:		\$0.00

21. Please complete the following table for any travel by counsel or a service provider that occurs outside of the district or that requires overnight lodging:

REQUESTED TRAVEL TRIPS

Traveler	Destination	No. of Nights	No. of Trips	Purpose of Travel

22. Please provide any additional information you believe would assist the court in determining the reasonableness of your funding request:

IF ANY PORTION OF YOUR REQUEST IS BEING MADE *NUNC PRO TUNC*, YOU MUST COMPLETE THIS SECTION BEFORE SUBMITTING YOUR FUNDING REQUEST

NUNC PRO TUNC AUTHORIZATION

NOTE: *Counsel is responsible for the oversight of expert services and funding status. Nunc pro tunc requests may be denied absent extraordinary circumstances. Justification provided must be sufficiently persuasive and detailed to overcome failure to obtain timely authorization.*

Nunc Pro Tunc Date: _____

Justification for *nunc pro tunc* request: _____

INSTRUCTIONS:

1. Save completed funding application in Word.
2. Email completed form along with the resume or CV of newly requested service providers to Larry_Dash@ca4.uscourts.gov
3. Questions? Contact Fourth Circuit Case Budgeting Attorney Larry Dash at 804-916-2177.

SAMPLE

**UNITED STATES DISTRICT COURT
FOR THE XXXXXXXXXXXX DISTRICT OF XXXXXXXX
XXX DIVISION**

FUNDING AUTHORIZATION

Defendant: XXXX
Counsel: XXXX
Case Number: 2:17-CR-XXX-X
Budget Phase #: Pretrial/Trial
Amendment #: Budget 1
Time Period Covered: From Appointment through 6/1/19

The Court, having reviewed counsel's Pretrial/Trial Budget, hereby authorizes the following CJA funds.

ATTORNEY XXX HOURS:

TASKS	Hrs Req'd	Hrs App'd	LIMITATIONS
Pretrial In Court Hearings	10	10	
Interviews and Conferences with Client	60	60	
Witness Interviews	40	40	
Consultation with Investigators, Experts & Other Services	45	45	
Obtaining & Reviewing Documents and Evidence	504	504	
Legal Research and Writing	20	20	
Trial Preparation (only if budget includes trial)	40	40	
Trial & Possible Sentencing	200	200	
Travel Time	0	0	
Other Activity	32	32	
TOTAL HOURS	951	951	

Total Attorney XXX Funds Approved: \$133,140.00 (For budgeting purposes, all time is calculated at \$140/hour).

SERVICE PROVIDERS:

NAME/TYPE	Hrs Req'd	Hrs App'd	Hourly Rate	Subtotals	LIMITATIONS
Intern	300	300	\$ 25.00	\$ 7,500.00	
Paralegal	200	200	\$ 35.00	\$ 7,000.00	
Investigator	80	80	\$100.00	\$ 8,000.00	
Forensic Accountant	100	100	\$225.00	\$22,500.00	
Accountant Support Staff	75	75	\$ 90.00	\$ 6,750.00	

Total Service Provider Funds Approved: \$51,750.00

EXPENSES:

TYPE	Req'd	App'd	LIMITATIONS
Photocopies	\$400.00	\$400.00	
Hard Drive	\$129.00	\$129.00	

Total Expenses Approved: \$529.00

AUTHORIZATION SUMMARY

Appointed Counsel XXX	\$ 133,140.00
Service Providers	\$ 51,750.00
Expenses	\$ 529.00
TOTAL	\$ 185,419.00

Authorization Conditions:

1. Tracking Hours. Counsel is responsible for keeping track of attorney hours and, if applicable, hours expended by service providers and experts. The court is under no obligation to pay for services rendered in excess or outside the scope of this funding authorization. This advanced approval is subject to a reasonableness review for any voucher, at the time it is submitted.
2. Requests for Additional Funding. If additional funding is needed, counsel must submit a funding application before funding is exhausted and with sufficient time for the Court to review and rule on the request. Nunc pro tunc authorizations will be granted only if counsel can provide a reasonable explanation for exceeding a prior authorization.
3. Attorney Hours Are Fungible. Hours authorized herein for appointed counsel time are fungible between tasks. Additionally, hours authorized herein for associate counsel time are fungible between tasks. However, hours are not fungible between appointed counsel and associate counsel.
4. Must Create AUTH for Experts & Service Providers. If the budget authorized herein includes funding for service providers other than associate counsel, counsel must immediately create an "Authorization for Expert and Other Services" (AUTH) in eVoucher for each provider to create a payment record. A copy of this funding authorization shall be uploaded and attached to the AUTH request.
5. Travel. If travel requires airfare, counsel must contact National Travel Service (NTS) at 1-800-445-0668 to arrange the travel. Please call the Clerk's Office before calling NTS and for any travel-related questions.
6. Expenses. The Court will also authorize reimbursement to counsel and service providers for all miscellaneous expenses, such as mileage, postage and copying, that are reasonably incurred and properly documented, subject to national and district policies and procedures.
7. Interim Voucher Schedule. The Court authorizes submission of interim vouchers for payment of counsel fees and for service providers once every other month unless the compensation accrued for the billable cycle is less than \$1,500, in which case the next interim voucher will not be submitted until the next billing cycle or until the compensation reaches \$1,500 whichever comes later. The final voucher is due no later than 45 days after the court's final disposition of the case.

§ 310 In General

§ 310.10 Availability

§ 310.10.10 Overview

- (a) Investigative, expert, or other services necessary to adequate representation, as authorized by subsection (e) of the Criminal Justice Act (CJA) ([18 U.S.C. § 3006A](#)), are available to persons who are eligible under the CJA, including persons who have retained counsel but who are found by the court to be financially unable to obtain the necessary services.
- (b) In this connection, a person with retained counsel is financially unable to obtain the necessary services even if the person's resources are in excess of the amount needed to provide the person and the person's dependents with the necessities of life, provide defendant's release on bond, and pay a reasonable fee to the person's retained counsel, but are insufficient to pay for the necessary services.

§ 310.10.20 Retained Counsel and Fee Arrangements

- (a) In responding to requests for services under [18 U.S.C. § 3006A\(e\)](#) by a person represented by retained counsel, the court should inquire into the fee arrangement between the retained attorney and the client.
- (b) If the court finds the fee arrangement unreasonable in relation to fees customarily paid to qualified practitioners in the community for services in criminal matters of similar duration and complexity, or that it was made with a gross disregard of the defendant's trial expenses, the court may order the retained attorney to pay out of such fees all or such part of the costs and expenses as the court may direct.
- (c) The procedure outlined in [Guide, Vol. 7A, § 210.40.40](#) applies to such persons who are financially able to pay some, but unable to pay all, the costs of necessary services.

§ 310.10.30 Pro Se Representation

- (a) Persons who are eligible for representation under the CJA, but who have elected to proceed pro se, may, upon request, be authorized to obtain investigative, expert, and other services in accordance with [18 U.S.C. § 3006A\(e\)](#).
- (b) The court should authorize subsection (e) services for pro se litigants and review and approve resulting claims in the same manner as is its practice with respect to requests made by CJA panel attorneys. However, in

matters for which appointment of counsel is discretionary under [18 U.S.C. § 3006A\(a\)\(2\)](#), the court should make a threshold determination that the case is one in which the interests of justice would have required the furnishing of representation.

- (c) Although a federal defender organization may be requested to provide administrative assistance to pro se litigants who wish to arrange for subsection (e) services, the investigative, paralegal or other services or resources of the organization should ordinarily be employed only when the organization is appointed as counsel of record, responsible for the conduct of the litigation.

§ 310.20 Limitations

§ 310.20.05 Engaging Relatives for Compensable Services

- (a) Prior to engaging any relative (as the term is defined in [5 U.S.C. § 3110](#)) to perform CJA compensable services, other than as associate counsel in the same law firm (**see:** [Guide, Vol. 7A, § 230.53.10](#)), counsel should first provide notification of the relationship and potential services to the presiding judicial authority.
- (b) The court may, in the interest of justice, and upon finding that timely procurement of necessary services could not await prior notification, approve payment for such services up to the dollar threshold for obtaining services without prior authorization under [18 U.S.C. § 3006A\(e\)\(2\)](#) and the [CJA Guidelines \(Guide, Vol. 7A, § 310.20.30\)](#).

§ 310.20.10 With Prior Authorization

- (a) With prior authorization, compensation for investigative, expert, and other services is limited to the amounts in the following table for CJA-compensable work performed on or after the effective date. For guidelines applicable to capital cases, **see:** [Guide, Vol. 7A, § 660.10.40](#) and [§ 660.20](#).

§ 310.20.10(a) Waivable Case Compensation Maximums for Investigative, Expert, and Other Services	
If services were performed between...	The compensation maximum is...
02/15/2019 to present	\$2,600
01/01/16 to 02/14/2019	\$2,500
05/27/10 to 12/31/15	\$2,400

§ 310.20.10(a) Waivable Case Compensation Maximums for Investigative, Expert, and Other Services	
If services were performed between...	The compensation maximum is...
12/8/04 to 5/26/10	\$1,600
11/14/86 to 12/7/04	\$1,000

- (b) The waivable case compensation maximum amounts apply per organization or individual, exclusive of reimbursement for expenses reasonably incurred, and per individual authorization to perform said service, except with regard to capital cases. **See:** [Guide, Vol. 7A, § 660.20](#).
- (c) A separate authorization should be obtained for each type of service for each person served, and for each defendant served, and for each case.
- (d) While the service provider may be compensated separately for each person served, care should be taken to ensure that duplicate charges are not being made for the same services.
- (e) If, under [18 U.S.C. § 3006A\(e\)](#), such services are rendered by members of an organization such as a corporation, unincorporated association, or partnership (other than those created under [18 U.S.C. § 3006A\(g\)](#)), in their capacities as members of that organization, compensation is deemed to have been earned by the organization and is paid to it only once, per CJA client served, in an amount not to exceed the statutory maximum, exclusive of reimbursement for expenses reasonably incurred.

§ 310.20.20 Waiving the Case Compensation Maximums

- (a) Payment in excess of the case compensation limit for services authorized prior to the performance thereof may be made when certified by the court or U.S. magistrate judge and approved by the chief judge of the circuit (or an active or senior circuit judge to whom excess compensation approval authority has been delegated) as being necessary to provide fair compensation for services of an unusual character or duration.
- (b) If it can be anticipated that the compensation will exceed the statutory maximum, advance approval should be obtained from the court and the chief judge of the circuit (or the active or senior circuit judge to whom excess compensation approval authority has been delegated). **See:** [Appx. 3A \(Sample Request for Advance Authorization for Investigative, Expert, or Other Services\)](#).

§ 310.20.30 Without Prior Authorization

- (a) [18 U.S.C. § 3006A\(e\)\(2\)\(A\)](#) authorizes the obtaining of investigative, expert, and other services, without prior authorization but subject to subsequent review, providing the cost of the services obtained does not exceed the amounts listed in the following table, plus expenses reasonably incurred. For information regarding obtaining investigative, expert, and other services in capital cases, **see:** [Guide, Vol. 7A, § 660](#).

§ 310.20.30(a) Limitations on Services Without Prior Authorization	
If services were performed between...	The compensation maximum is...
02/15/2019 to present	\$900
05/27/10 to 02/14/2019	\$800
12/8/04 to 05/26/10	\$500
11/14/86 to 12/7/04	\$300

- (b) The limitation noted above in § 310.20.30(a) may be waived, however, if the presiding judge or U.S. magistrate judge (if the services were rendered in a case disposed of entirely before the U.S. magistrate judge), in the interest of justice, finds that timely procurement of necessary services could not await prior authorization. **See:** [18 U.S.C. § 3006A\(e\)\(2\)\(B\)](#).

§ 310.20.40 Periodic Increases to the Waivable Case Compensation Maximums

The Federal Judiciary Administrative Improvements Act of 2010, Pub. L. No. 111-174, enacted on May 27, 2010, amended the CJA to increase the waivable case compensation amounts listed in [§ 310.20.10](#) and [§ 310.20.30](#) simultaneously with any subsequent, cumulative adjustments under [5 U.S.C. § 5303](#) in the rates of pay under the General Schedule (currently calculated based on the determination of the annual Employment Cost Index adjustment), rounded to the nearest hundred dollars. The Administrative Office of the U.S. Courts (AO) will provide notice when new threshold amounts are effective under this provision.

§ 310.30 Ex Parte Applications

Ex parte applications for services other than counsel under [18 U.S.C. § 3006A\(e\)](#) must be heard *in camera*, and must not be revealed without the consent of the defendant. The application must be placed under seal until the final disposition of the case in the trial court, subject to further order of the court. Maintaining the secrecy of the application prevents the possibility that an open hearing may cause defendants to reveal their defense. Appointed counsel may not be required to submit evidence of a prior attempt to enter into a stipulation with the U.S. attorney as a prerequisite to

obtaining services under 18 U.S.C. § 3006A(e). The court may encourage counsel to enter into stipulations, in the interest of expedition and economy, without, however, disclosing the contents or otherwise compromising the secret nature of the *ex parte* application.

§ 310.40 Claims for Services Other than Counsel

All claims for services other than counsel, under [18 U.S.C. § 3006A\(e\)](#), should include the following:

- (a) a statement as to the type of, dates of, and time expended for, the services provided;
- (b) an explanation of the fee arrangement (e.g., hourly rate, etc.);
- (c) an itemized statement of all expenses for which reimbursement is claimed; and
- (d) supporting documentation, where practicable, for all expenses of lodgings and subsistence, and for any expenses in excess of \$50.

§ 310.50 Forms for the Authorization and Payment for Services Other than Counsel

Forms for the authorization and payment for services other than counsel, together with instructions for the execution and distribution thereof, can be found on the [judiciary's public website](#).

§ 310.60 Interim Payments

§ 310.60.10 Non-Death Penalty Cases

- (a) Where it is considered necessary and appropriate in a specific case, the presiding trial judge may arrange for periodic or interim payments to an individual whose services are obtained under [18 U.S.C. § 3006A\(e\)](#). For instructions on the procedures for effecting interim payments to persons other than counsel, as well as a sample memorandum order on this subject which provides for two alternative payment methods, **see:** [Appx. 3B \(Procedures for Interim Payments to Service Providers in Non-Death Penalty Cases\)](#).
- (b) The payment options provided in Appx. 3B are designed to strike a balance between the interest in relieving [subsection \(e\)](#) service providers of financial hardships in extended and complex cases, and the practical application of the statutorily imposed responsibility of the chief judge of the circuit to provide a meaningful review of claims for excess compensation.

Other interim payment arrangements which effectuate this balance may be devised in consultation with the AO's Defender Services Office.

§ 310.60.20 Death Penalty Cases

Presiding judicial officers are urged to permit interim payment in death penalty cases. Because the CJA compensation maximums for investigative, expert, and other services set out in [§ 310.20.10\(a\)](#) do not apply in capital cases, different procedures and memorandum orders must be used in those cases. **See:** [Guide, Vol. 7A, § 660.20](#). These procedures and sample memorandum orders are also set forth in [Appx. 3C \(Procedures for Interim Payments to Service Providers in Capital Proceedings\)](#).

§ 310.65 Proration of Claims

§ 310.65.10 In General

- (a) If services were provided for more than one CJA representation, the time spent in common, including travel time, must be represented on the voucher forms by:
- prorating the service time among the representations on separate vouchers; or
 - billing the entire service time on a voucher pertaining to one of the representations

The supporting materials to the vouchers must explain the method of billing and, when applicable, cross-reference the other CJA representations (**see:** [§ 310.65.20](#)).

- (b) When a service provider incurs travel or other expenses applicable to more than one CJA representation, the entire amount of the expenses must be billed on one voucher.

Time or expenses "spent in common" includes work performed simultaneously or within the same unit of time, or expenses incurred, for more than one representation (e.g., travel for more than one client). Double billing of time or expenses is prohibited (e.g., billing the same travel time or expenses applicable to more than one representation on more than one voucher).

- (c) A "CJA representation" is one in which the attorney is:
- a federal public or community defender providing representation under the CJA or related statutes, or
 - a CJA panel attorney or other attorney or entity authorized to obtain services for a particular representation under the CJA or related statutes.

Reference to a “voucher” in this section includes invoices submitted to a federal public or community defender organization for work performed for that entity.

For information regarding the overlap of billing time periods in the interpreter context specifically, **see:** [§ 320.15.30](#).

§ 310.65.20 Cross-Referencing Vouchers

- (a) Whenever a service provider submits a voucher, as provided by this section, that includes time spent in common, if the time is prorated then each CJA representation must be cross-referenced on the supporting documentation to each voucher. If the time is billed to one representation, the other representations must be cross-referenced on the supporting documentation to that voucher. However, to ensure that an appointed attorney does not receive inappropriate information as to another attorney’s use of the service provider, the CJA representations that are cross-referenced should not be identified by name and case number if the work was performed for an attorney other than the one who will be certifying the voucher, although the number of other representations should be listed.
- (b) After the attorney certifies the service provider’s voucher, the service provider, upon the request of the court’s designated CJA voucher review personnel, must provide the name, case number, and any other identifying information for such representations.

§ 310.65.30 Prorating Time Limitation

Proration of time among CJA representations must not result in a service provider billing a larger amount than would have been billed if all the time was assigned to one voucher.

§ 310.65.40 Application of the Case Compensation Maximum

Where compensation is claimed on a voucher for time spent in common on more than one CJA representation, the compensation will be applied to the pre-authorized and case compensation maximum amounts for the representation on that voucher.

§ 310.65.50 Time Spent in Common with Non-CJA Representations

- (a) If the service provider is billing under the CJA for time or expenses, including travel, that were spent in common for a purpose other than a CJA representation, the service provider must report such information so that the court can determine whether, in fairness to the provider, the time or expenses should be apportioned and the provider compensated for the time or expenses reasonably attributable to the CJA.

Note: There is no apportionment between a contract court interpreter's work for a court unit and the CJA, **see:** [§ 320.15.30](#).

- (b) The service provider should explain the rationale for billing under the CJA, and the court may conduct a further inquiry.
- (c) In determining whether time or expenses spent in common for a purpose other than a CJA representation should be apportioned, the court should consider:
 - the time or expenses reasonably expended in the performance of the service provider's duties under the CJA in relation to the time and expenses expended furthering other purposes;
 - the significance to the representation of the duties performed or expenses incurred; and
 - the likelihood that the service provider would have performed the services or incurred the expenses under the CJA in the absence of the other purposes.

§ 310.70 Review of Vouchers

Absent extraordinary circumstances, judges should act upon claims for compensation for investigative, expert, or other services within 30 days of submission.

§ 320 Authorization of Investigative, Expert, and Other Services

§ 320.10 Investigators

When necessary to an adequate representation as described above, the court may authorize, under [18 U.S.C. § 3006A\(e\)](#), the services of an investigator.

§ 320.15 Interpreters

§ 320.15.10 Terms of Compensation

- (a) Interpreting services provided under the CJA may be compensated:
 - according to the terms and conditions set forth in the court interpreter services contract;
 - on an hourly rate basis; or
 - on another appropriate basis.
- (b) Interpreters should be compensated consistently throughout the district or, if applicable, in individual court locations.

§ 320.15.20 Reviewing the Rate of Compensation

- (a) In determining the reasonableness of rates paid to interpreters under the CJA, courts should utilize either:
 - (1) the half- and full-day rates established by the Director for contract court interpreters performing in-court services; or
 - (2) an hourly rate. The half- and full-day rates (prorated hourly) or the hourly overtime rate should be used as a guidepost for the reasonableness of the hourly rate.
- (b) Justification should be submitted to the presiding judicial officer if compensation is sought for an interpreter by a method different from or in an amount in excess of presumptive or maximum rates adopted by a court.
- (c) Appointed counsel may negotiate rates with the interpreter consistent with the guidance contained in this section.

§ 320.15.30 Overlap of Billing Time Periods

- (a) Contract court interpreters must not bill or receive funds from any other federal court unit, federal public defender, community defender organization, or other attorneys or entities obtaining interpreting services under the CJA or related statutes for any services rendered during the same half- or full-day for which the contract court interpreter is being compensated pursuant to the court interpreter services contract. **See:** [Guide, Vol. 5, § 220.30.20](#). Thus, an interpreter retained by the court under the court contract for a one-half or full-day period may not bill the CJA for any work performed during that same half-day or full-day period even if the court no longer requires the interpreter's services.
- (b) 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.
- (c) When an interpreter is invoicing under the CJA on a half-day rate basis and works one half-day for a court unit and another half-day for a CJA representation, or is invoicing two separate half-days for different CJA representations, then the first half-day should be billed at the half-day rate and the second at the difference between the half-day and full-day rates, unless otherwise negotiated.

- (d) It is permissible to prorate compensation among more than one CJA representation (but expenses must be invoiced to one CJA representation) or to apportion compensation, including expenses, between a CJA representation and a non-CJA purpose (not including a federal court unit).
See: [§ 310.65](#).

§ 320.20 Psychiatrists, Psychologists

§ 320.20.10 Type of Examinations

[Chapter 313 of Title 18](#), as amended by the Insanity Defense Reform Act of 1984 (Chapter IV of the Comprehensive Crime Control Act of 1984), provides for **court-directed** psychiatric or psychological examination of individuals in connection with the various proceedings to determine mental condition authorized under that chapter. The functions of these separate proceedings are to determine:

- (a) the mental competency of a defendant to stand trial ([18 U.S.C. § 4241](#));
- (b) insanity at the time of the offense ([18 U.S.C. § 4242](#));
- (c) the mental condition of an acquitted person hospitalized following a finding of not guilty only by reason of insanity ([18 U.S.C. § 4243](#));
- (d) the present mental condition of a convicted defendant ([18 U.S.C. § 4244](#));
- (e) the present mental condition of an imprisoned person who objects to transfer to a treatment facility ([18 U.S.C. § 4245](#)); and
- (f) the present mental condition of a hospitalized person due for release ([18 U.S.C. § 4246](#)).

In addition, mental condition examinations may be conducted for purposes other than those specified in [18 U.S.C. chapter 313](#), e.g., to aid the defendant in preparing a defense.

§ 320.20.20 Source of Payment

- (a) CJA funds are used to pay for psychiatric and related services obtained in accordance with [18 U.S.C. § 3006A\(e\)](#) upon a determination that the services are “necessary for an adequate defense.” These are “defense” services, where the defendant selects the expert and controls the disclosure of the expert’s report.
- (b) It is important to note that psychiatrists and related experts may be used in many circumstances in which payment is made from a source **other** than the CJA appropriation. In these situations the court or the government selects the expert and persons other than the defendant also have access

to the expert's report. The Department of Justice (DOJ) generally pays for these "non-defense" services. The chart in [§ 320.20.60](#) summarizes payment responsibility for the various circumstances in which psychiatric and related services are utilized.

§ 320.20.30 Limitation of Amount

The limitations contained in [§ 310.20](#) apply to compensation claims submitted by "defense" psychiatrists and related experts, to be paid out of the CJA appropriation. For information regarding "dual purpose" examinations, **see:** [§ 320.20.50](#).

§ 320.20.40 Procedures for Payment

- (a) CJA Appropriation – Defense Services
 - (1) [Form CJA 21 \(Authorization and Voucher for Expert and Other Services\)](#) should be used for all payments for "defense" services in non-capital cases.
 - (2) [Form CJA 31 \(Death Penalty Proceedings: Ex Parte Request for Authorization and Voucher for Expert and Other Services\)](#) should be used for all payments for "defense" services in death penalty cases.
 - (3) The form CJA 21 or CJA 31 should clearly describe the purpose of the expert's service.
 - (4) If separate vouchers are submitted for examination and testimony, they should be cross-referenced by voucher number.
- (b) DOJ

Compensation claims for psychiatric and related services to be paid for by the DOJ should be referred to the U.S. attorney or assistant U.S. attorney.

§ 320.20.50 Dual Purpose Examinations

- (a) On occasion, a psychiatrist or related expert will be asked to examine an individual for both a "defense" purpose and a "non-defense" purpose. In these cases, the defense has waived the confidentiality of the "defense" portion of the examination. In such dual purpose examinations, for the convenience of the expert providing the service, the entire compensation claim may be submitted on [Form CJA 21](#), or, in a death penalty proceeding, [Form CJA 31](#). The CJA will pay the expert the total amount approved and obtain reimbursement to the CJA appropriation from the DOJ for one-half of the cost. As a result of the AO's need to seek reimbursement from the DOJ, claims submitted for dual purpose

examinations must be accompanied by separate court orders that indicate:

- who requested the examination;
 - the specific purpose(s) of the examination;
 - to whom the examination is directed; and
 - to whom copies of the report are to be given.
- (b) The limitation in [§ 320.20.30](#) applies to 50 percent of the claim for a dual purpose examination in which a portion of the examination is for “defense” purposes.
- (c) In some “dual purpose” examinations both portions of the examination are chargeable to the same payment source. For instance, if the examination included evaluation of competency to stand trial under [18 U.S.C. § 4241](#) and evaluation of sanity at the time of the offense under [18 U.S.C. § 4242](#), the DOJ would be responsible for both portions of the examination and the entire compensation claim should be submitted to the U.S. attorney or assistant U.S. attorney.

§ 320.20.60 Summary Chart: Responsibility for Payment of Psychiatric and Related Expert Services		
Type of Service	CJA	DOJ
(a) To determine mental competency to stand trial, under 18 U.S.C. § 4241		
(1) Examination costs		Yes, regardless of which party requests, including examination on court’s own motion
(2) Testimony costs for examiner if called at hearing		Yes, regardless of which party calls
(3) Testimony costs for examiner if called at trial	If witness appears on behalf of defense	If witness appears on behalf of government
(b) To determine existence of insanity at time of offense, under 18 U.S.C. § 4242		
(1) Examination costs		Yes
(2) Testimony costs for examiner if called at trial		Yes, regardless of which party calls
(c) To determine existence of insanity at time of offense, under CJA subsection (e)		
(1) Examination costs	Yes	

§ 320.20.60 Summary Chart: Responsibility for Payment of Psychiatric and Related Expert Services		
Type of Service	CJA	DOJ
(2) Testimony costs for examiner if called at trial	Yes	
(d) To determine mental condition of hospitalized person found not guilty only by reason of insanity, under 18 U.S.C. § 4243		
(1) Examination costs		Yes
(2) Testimony costs for examiner if called at hearing		Yes, regardless of which party calls
(e) To determine mental condition of convicted person suffering from mental disease or defect, under 18 U.S.C. § 4244		
(1) Examination costs		Yes
(2) Testimony costs for examiner if called at hearing		Yes, regardless of which party calls
(f) To determine mental condition of imprisoned person, under 18 U.S.C. § 4245		
(1) Examination costs		Yes, including costs of additional examiner selected by imprisoned person in accordance with 18 U.S.C. § 4247(b)
(2) Testimony costs for examiner if called at hearing		Yes, regardless of which party calls, including additional examiner selected by imprisoned person in accordance with 18 U.S.C. § 4247(b)
(g) To determine mental condition of hospitalized person due for release, under 18 U.S.C. § 4246		
(1) Examination costs		Yes, including costs of additional examiner selected by hospitalized person in accordance with 18 U.S.C. § 4247(b)

§ 320.20.60 Summary Chart: Responsibility for Payment of Psychiatric and Related Expert Services		
Type of Service	CJA	DOJ
(2) Testimony costs for examiner if called at hearing		Yes, regardless of which party calls, including additional examiner selected by hospitalized person in accordance with 18 U.S.C. § 4247(b)
(h) Examination of a person in custody as a material witness		Yes, under all circumstances
(i) Examination and testimony costs for expert witnesses not appointed under 18 U.S.C. §§ 4241, 4242, 4243, 4244, 4245, 4246	If requested by the defense	If requested by the government, or if appointed as an independent expert on court's own motion under Fed. R. Evid. 706

§ 320.30 Transcripts

§ 320.30.10 Authorization and Payment

- (a) For panel attorneys, the preferred method for payment of transcripts authorized by the court is for the court reporter or reporting service to claim compensation directly on a [Form CJA 24 \(Authorization and Voucher for Payment of Transcript\)](#). Alternatively, the panel attorney may pay for the court-authorized transcript and obtain reimbursement as an "out-of-pocket expense," using Form CJA 24. **See:** [Guide, Vol. 7A, § 230.63.20](#). Regardless of which method is used, the limitations set forth in [§ 310.20](#) and the \$7,500 limitation set forth in [Guide, Vol. 7A, Ch. 6](#) are inapplicable with regard to the cost of transcripts.
- (b) In a direct appeal in a case in which counsel is assigned under the CJA, neither the CJA nor [28 U.S.C. § 753\(f\)](#) requires the signing of a pauper's oath or certification by the court that the appeal is not frivolous in order to obtain a transcript.
- (c) For procedures regarding federal defender organization transcript payments, **see:** [Guide, Vol. 7A, § 430.10](#).

§ 320.30.20 Accelerated Transcript Costs

Routine apportionment of **accelerated** transcript costs among parties in CJA cases is prohibited. The following resolution was adopted by the Judicial Conference in March 1980, and modified in September 1986:

That the furnishing of accelerated transcript services in criminal proceedings should be discouraged; however, recognizing that there are some circumstances in which such transcript services are necessary and required by either the prosecution or the defense, or both, accelerated transcript services may be provided.

That in those cases where accelerated transcript services are provided, the party from whom the request or order emanates shall pay for the original, and if the requesting or ordering party is other than defense counsel appointed under the Criminal Justice Act, the CJA counsel shall be entitled to a copy at the copy rate.

That the present practice, in some districts, of routinely apportioning the total cost of accelerated transcript services equally among the parties should be abandoned.

See: [JCUS-SEP 86](#), p. 90.

§ 320.30.30 Commercial Duplication in Multi-Defendant Cases

- (a) In multi-defendant cases involving CJA defendants, no more than one transcript should be purchased from the court reporter on behalf of 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.
- (b) In individual cases involving requests for **accelerated** transcripts, the court may grant an exception to the policy set forth in (a) of this subsection based upon a finding that application of the policy will unreasonably impede the delivery of accelerated transcripts to persons proceeding under the CJA. Such finding should be reflected on the transcript voucher.

§ 320.30.40 Standards for Transcripts of Other than Federal Court Proceedings

In negotiating agreements and contracts for providing transcripts of other than federal court proceedings, including, for example, transcription or translation of wiretap

recordings, it is recommended that the standards for the size and format of a page be the same as those used for transcripts of federal court proceedings.

§ 320.40 Fact Witnesses and Depositions

§ 320.40.10 Fees and Expenses of Fact Witnesses

- (a) Generally speaking, fees and expenses of fact witnesses for defendants proceeding under the CJA are paid by the DOJ. **See:** [Fed. R. Crim. P., Rule 17\(b\)](#); [28 U.S.C. § 1825](#).
- (b) Section 1825 of 28 U.S.C. specifically provides for the payment of witness fees by the DOJ in all federal criminal proceedings, and in proceedings for a writ of habeas corpus or in proceedings under section 2255 of that title upon certification of a federal public defender or assistant federal public defender, or clerk of court upon the affidavit of other counsel appointed under the CJA.
- (c) If advance witness travel funds are required, the court should issue the subpoena order, so stating, to authorize the travel advance by the marshal. These expenses will not be paid from CJA funds.

§ 320.40.20 Depositions

Depositions are covered by [Fed. R. Crim. P., Rule 15](#), rather than 18 U.S.C. § 3503 (repealed).

- (a) Expenses incurred in the taking of fact witness depositions (notarial fees, interpreters, transcripts, etc.) are paid by the DOJ, regardless of which party requested the deposition.
- (b) The costs of attendance of fact witnesses for either party at the deposition are paid by the DOJ under Rule 17 (b).
- (c) The costs of attendance of expert witnesses for the defense at the deposition are paid under the CJA.
- (d) Reasonable travel and subsistence expenses incident to attendance of counsel and the defendant at the deposition are paid by the DOJ (1) if the government is the requesting party, or (2) if the defendant is the requesting party and is unable to bear the deposition expenses, based on resources that would be used to determine financial eligibility for appointed counsel. However, it should be noted that the presence of the defendant is not essential to defense depositions since the confrontation clause only requires the defendant's presence if the depositions are intended to be used against the defendant.

§ 320.40.30 Travel Expenses, Subsistence, and Fees of Counsel in Habeas Corpus Cases

In habeas corpus and [28 U.S.C. § 2255](#) cases, the court 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 §§ 2254 and 2255 Cases in U.S. District Courts, Rule 6](#).

§ 320.50 Guardian Ad Litem

§ 320.50.10 Proceedings Involving Juveniles

A guardian ad litem appointed under [18 U.S.C. § 5034](#) is not eligible for compensation under the CJA or any other authority. Any person who is appointed as both counsel and guardian ad litem in one case under § 5034 should prorate time spent fulfilling the duties of these two offices. Only time spent as counsel on a case is compensable and should be reflected on the CJA claim.

§ 320.50.20 Prisoner Transfer Proceedings

A guardian ad litem appointed in proceedings to verify consent of a minor or incompetent prisoner to transfer from the United States to a foreign country is eligible for compensation under the CJA under [18 U.S.C. § 4109\(b\)](#). **See:** [Guide, Vol. 7A, § 230.23.20\(d\)](#) on compensation limits and [Guide, Vol. 7B \(International Prisoner Transfer Proceedings\)](#).

§ 320.60 Commercial Computer-Assisted Legal Research Services

- (a) The court may authorize counsel to obtain computer-assisted legal research services, where the research is performed by employees of a commercial legal research firm or organization rather than by appointed counsel, provided that the total amount charged for computer-assisted legal research services is reasonable. Requests by counsel for authority to obtain such computer-assisted legal research services should include: a brief explanation of the need for the research services; and an estimate of the charges.
- (b) Claims for compensation for such services should be submitted on [Form CJA 21 \(Authorization and Voucher for Expert and Other Services\)](#), or, in a death penalty proceeding, [Form CJA 31 \(Death Penalty Proceeding: Ex Parte Request for Authorization and Voucher for Expert and Other Services\)](#). For information concerning reimbursement for the cost of direct use, by appointed counsel, of computer-assisted legal research services, **see:** [Guide, Vol. 7A, § 230.63.30](#).

§ 320.70 Other Services and Computer Hardware and Software

§ 320.70.10 Other Services

In addition to investigators, psychiatrists, psychologists, and reporters, services other than counsel may include, but are not necessarily limited to:

- interpreters;
- computer systems and automation litigation support personnel and experts;
- paralegals and legal assistants, including law students;
- neurologists and other medical experts; and
- laboratory experts in such areas as ballistics, fingerprinting, and handwriting.

§ 320.70.20 Notarial and Stenographic Expenses

The use of CJA funds is authorized to pay expenses of eligible defendants for stenographic and notarial expenses required to perpetuate and authenticate testimony of expert witnesses for such defendants.

§ 320.70.30 Extraordinary Office Expenses

- (a) CJA attorneys are expected to use their own office resources, including secretarial help, for work on CJA cases. **See:** [Guide, Vol. 7A, § 230.66.10](#).
- (b) However, unusual or extraordinary expenses of these types may be considered “other services necessary for an adequate defense” and may be paid from CJA funds under [18 U.S.C. § 3006A\(e\)](#).
- (c) In determining whether the expense is unusual or extraordinary, consideration should be given to whether the circumstances from which the need arose would normally result in an additional charge to a fee-paying client over and above that charged for overhead expenses. **See:** [Decision of the Comptroller General, B-139703, Feb. 28, 1974, 53 Comp. Gen. 638](#).

§ 320.70.40 Computer Hardware, Software, or Litigation Support Services

- (a) Overview
 - (1) Providing an adequate defense may require CJA panel attorneys to utilize computer hardware, software, or litigation support services

not typically available in a law office. In such cases, following the standards in [§ 320.70.30](#), counsel may apply to the court for authorization of CJA funds for the acquisition of such property or services.

- (2) Before seeking court approval for any computer hardware or software with a cost exceeding the limitations in [§ 310.20.30\(a\)](#), or for the utilization of computer systems, litigation support products, services, personnel, or experts with an expected combined cost exceeding \$10,000, appointed counsel must consult the National Litigation Support Team in the AO's Defender Services Office (phone number: 510-637-3500) for guidance. Counsel must inform the court in writing of the Defender Services Office's advice and recommendation regarding counsel's proposed expenditure. **See also:** [Appx. 3D \(Sample Order Authorizing the Acquisition of Computer \[Hardware and/or Software\] under the CJA\)](#).

(b) Acquisition of Computer Hardware and/or Software

- (1) The request for acquisition of the computer hardware and/or software, or for the procurement of litigation support services should be submitted on a [Form CJA 21 \(Authorization and Voucher for Expert and Other Services\)](#), or, in a death penalty proceeding, [Form CJA 31 \(Death Penalty Proceedings: Ex Parte Request for Authorization and Voucher for Expert and Other Services\)](#).
- (2) Property purchased with CJA funds is the property of the United States and remains so after the case is completed.
- (3) When property is purchased, counsel must provide the Defender Services Office with a copy of the following documents to ensure the property is properly accounted for: a copy of the court's order approving the request; a copy of the completed [Form CJA 21](#) (or [Form CJA 31](#)); the purchase order from the vendor and any receiving documents, such as a copy of the packing slip or the company's invoice.
- (4) Because computer hardware or storage devices being used by counsel may contain confidential or privileged information, all case-related materials must be removed before the hardware is returned as described below. Unless otherwise required by the court or by law, counsel should retain copies, electronic or otherwise, of the case-related materials for the client's file.

Note: When large amounts of electronic information are placed on drives or storage devices purchased with CJA funds, counsel may

apply to the court to retain the drive or an alternative drive as the most cost-effective and efficient method for preserving the data.

- (5) Upon the completion of the case, counsel must contact the National Litigation Support Team in the Office of Defender Services at (510) 637-3500 for instructions on returning any software, and directions for deleting case-related material from any hardware and returning it to the National Litigation Support Team for the permanent removal of case-related material. If appointed counsel has acquired software, then counsel should provide all accounting information for the software, including any serial numbers, activation codes, or other identifying information, and remove the software from his or her machines. If appointed counsel acquired computer hardware, it must be returned in good condition.

§ 320.70.50 Paralegals, Legal Assistants, and Other Non-Secretarial Support

- (a) 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.
- (b) Authorizing compensation at such rates should result in greater efficiency and lower costs for the CJA program than would occur if counsel performed and charged for these services.

§ 320.80 Reimbursement of Expenses

§ 320.80.10 Determination of Reasonableness

In determining the reasonableness of expenses of persons furnishing investigative, expert, or other services, claimants and the court should be guided by the provisions of these Guidelines regarding reimbursement of expenses of counsel. **See:** [Guide, Vol. 7A, § 230.63](#) and [§ 230.66](#). Gross receipts or other taxes levied on fees for expert services rendered under the CJA are not reimbursable expenses.

§ 320.80.20 Government Travel Rates

Government travel rates at substantial reductions from ordinary commercial rates may be available from common carriers for travel authorized by the court in connection with representation under the CJA. To obtain such rates, investigators and other service providers must contact the clerk of court and obtain prior approval from the presiding judicial officer.

§ 320.90 Record Keeping

- (a) Investigative, expert, and other service providers must maintain contemporaneous time and attendance records for all work billed by them, as well as expense records.
- (b) Such records are subject to audit and must be retained for three years after approval of the appointed counsel's or the service provider's final voucher, whichever is later, for a representation.

Sample Engagement Letter: Contents of Financial Arrangements

Case name: _____

Case number: _____

The engagement of your services for this case is subject to the following:

- (1) You will be compensated at a rate of \$ _____ per hour [or specify other fee arrangement], and [\$ _____ per hour for long-distance travel-related time that will be explained in correspondence to you]. The maximum payment amount authorized by the court as of this date for your services in \$ _____, which includes any expenses incurred by you.
- (2) You will submit your voucher(s) (CJA Form 21 in a non-capital representation and CJA Form 31 in a capital representation) to me, and it is my responsibility as counsel to certify to the court that the services were rendered. Payment for your services is subject to approval by the presiding judge and, in certain circumstances, the chief judge of the court of appeals. Approved payments are made by the Department of the Treasury out of the federal judiciary's Defender Services account, not by me or my law firm.
- (3) The presiding judge (and the circuit chief judge, if applicable) has discretion to reduce a voucher. Specific reasons include: (a) a mathematical error; (b) non-compliance with the Guidelines for Administering the CJA and Related Statutes (CJA Guidelines), *Guide to Judiciary Policy*, Volume 7, Part A, or court policies; and (c) a determination that the services claimed are reasonable either in terms of the work performed or the amount of time and expenses submitted. Accordingly, this Engagement Letter is not a guarantee of payment for all services rendered or expenses incurred.
- (4) **Do not perform services or incur expenses that would result in an invoice in excess of the maximum payment amount authorized by the court** (as set forth in paragraph (1)). Doing so creates a risk that the court will not authorize the payment for the work done or expenses incurred in excess of the maximum authorized amount, even if the services performed or expenses incurred are necessary. You must advise me **before** you exceed the court's maximum authorized payment amount, and if I determine such additional work and/or expenses are necessary for the representation, I will seek approval from the court for a new maximum authorization level, before such work is performed or expenses incurred.
- (5) Travel expenses will be reimbursed on the basis of actual expenses incurred. Please consult with me regarding the maximum reimbursement amounts for travel expenses. Airline travel must be authorized by the court by my application. If airline travel is authorized, I will provide guidance to you regarding the purchase of a ticket.

- (6) Record Keeping – Consistent with Guidelines § 320.90, you are required to maintain contemporaneous time and attendance records for all work/services billed, including work performed by associates, partners, and support staff, as well as expense records. These records should be submitted with your CJA voucher for payment and must be retained for three years after approval of the appointed counsel’s or the service provider’s final voucher, whichever is later.

- (7) Unless otherwise authorized by the court, a voucher for services performed and expenses incurred for the representation will be submitted at the conclusion of your services. While the court attempts to process invoices as quickly as possible, there may be delays in payment due to workload and other factors.

- (8) Scope of Work – You are authorized to do the following work:

Accepted by: _____

Date: _____

UNITED STATES DISTRICT COURT
***EX PARTE* REQUEST FORM SEEKING ADVANCE AUTHORIZATION**
FOR INVESTIGATIVE, EXPERT, OR OTHER SERVICES

Name of Attorney:

Case Name:

Case No.:

Name of Service Provider:

Hourly Rate Requested:

Number of Hours Requested:

Total Amount Requested:

Justification for Requesting Service:

Provider's Relevant Experience and Qualifications (attach a CV if appropriate):

Fee Arrangement, if Applicable:

Brief Explanation of Services and Expenses to Be Included:

Whether You Anticipate Requesting Additional Services/Funding from/for This Provider (if so, please provide details):

Attorney's Electronic Signature:

Date:

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