

**UNITED STATES DISTRICT COURT
DISTRICT OF NEW MEXICO
CJA INFORMATION MANUAL**



Prepared By:

Financial Services Division

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I. Introduction

This manual has been provided as a guide to the billing procedures for CJA panel attorneys in the United States District Court for the District of New Mexico. This manual is written in accordance with the CJA Guidelines as well as the CJA Plan adopted by this Court.

Attorneys wishing to become a member of this panel may obtain an application via the Court's website at www.nmcourt.fed.us or by contacting the Federal Public Defenders Office at (505)346-2489. Once a year the CJA Division provides training for newly appointed attorneys and their staff.

II. CJA Process in Non-Death Penalty Cases

A. Appointment and Types of Representation

CJA panel attorneys are offered appointment to represent criminal defendants by the Magistrate Courtroom Deputies using a rotating list. Upon acceptance of appointment, a CJA20 voucher form, *Appointment of and Authority to Pay Court Appointed Counsel*, is created with the presiding Judges signature and then scanned into the appropriate case. Las Cruces Appointments for Petty Offense¹ and Material Witness cases will only be made to CJA Attorneys whose place of business² is within 10 miles of the Las Cruces Courthouse. Once appointed, attorneys should attempt to hire service providers, such as interpreters (if needed), who would require the least amount of travel time.

There are various types of representation. Each type of representation has a maximum allowable billing rate which is set by the Federal Judicial Conference. The hourly rate for CJA panel attorneys is \$129.00³ per hour for non-death penalty cases and \$183.00 per hour for death penalty cases. The following table shows the different types of representation along with a brief description and the maximum allowable amount for each:

¹ To include Misdemeanors Class B & Class C.

² As indicated by most recent W-9 form submitted by the attorney to the CJA Division.

³ Rates apply to representation on or after January 1, 2016. Please contact the CJA Division for prior rates.

Representation Type/Code	Description	Maximum Rate (On or After January 1, 2015)¹
Bail Presentment (BP)	Representation for individuals for matters regarding presentment of bail.	\$2,100.00
Criminal Case (CC)	Representation for an individual that is facing criminal charges including felonies, misdemeanors and petty offenses.	<i>Felony:</i> \$10,000.00 <i>Misdemeanor:</i> \$2,900.00 <i>Petty Offense:</i> \$2,900.00
Extradition (EX)	Representation for individuals who are facing extradition.	\$2,100.00
Extraordinary Writs (EW)	Representation for individuals in matters regarding Prohibition, Writs of Mandamus.	\$2,100.00
Material Witness (WI)	Representation for individuals who are named in a criminal case as material witness and are in custody.	\$2,100.00
Mental Competency Hearings (CH)	Please refer to Chapter 313 of the Title 18 U.S. Code.	\$2,100.00
Motion to Correct or Reduce Sentence (MC)	Please refer to Fed. R. Crim. P. 35.	\$2,100.00
Other (OT)	Miscellaneous criminal matters.	\$2,100.00
Parole Revocation (PA)	Representation for individuals who face revocation of parole.	\$2,100.00
Pretrial Diversion (PT)	Representation for individuals who have been offered to enter a pretrial diversion program.	<i>Felony:</i> \$10,000.00 <i>Misdemeanor:</i> \$2,900.00
Probation Revocation (PR)	Representation for individuals who face revocation of their probation due to violation of their conditions of probationary release.	\$2,100.00
Supervised Release (SR)	Representation for individuals who have violated their conditions of release.	\$2,100.00
Witness (Other) (WW)	Representation for individuals in any type of case where person is called as witness.	\$2,100.00

¹The current CJA maximum amounts are for representation on or after January 1, 2016. Please contact the CJA Division for prior amounts or for other types of representations types and amounts.

B. Voucher Types and Uses

There are three different types of vouchers which are used for representation in non-death penalty cases. The following table lists and explains the uses.

Form Number	Form Title	Use
CJA20	Appointment and Authority to Pay Court Appointed Counsel	Payment of services by counsel.
CJA21	Voucher for payment for all experts.	Payment of services by experts.
CJA24	Voucher for payment of transcript.	For request and payment of Court transcripts.

These forms and complete instructions and the court approved worksheets are available through the Court's website.

You may contact the Financial Section with any questions you may have at (505)348-2145. Counsel may also seek assistance from an on-duty attorney at the Defender Services Division in Washington, D.C. at (202)502-3030.

C. Submitting Vouchers for Payment

1. Time Limits

Once the judgment is scanned into the case the attorney will be noticed via email with their 45 day deadline. All vouchers should be submitted for payment no later than the date given unless good cause is shown. (*Vol. 7, Part A, Chap. 2, Sec. 230.13 of the CJA Guidelines*). In cases where the voucher exceeds the time limit, counsel must attach a detailed letter addressed to the presiding Judicial Officer explaining the reason for the delay. This letter should be attached to the voucher. The CJA Division will then forward all the information to chambers for review. The presiding Judicial Officer will then determine whether or not to certify the late voucher for payment. They will have up to 90 days to review a voucher.

2. Termination and Substitution of Counsel

In cases where counsel has been terminated, the attorney may not bill their time or expenses until after the date of termination. If counsel is terminated as a result of a motion to withdraw or is substituted, new counsel will be appointed by the Court. When counsel is retained, the defendant may be required to reimburse some or all of the services provided by the CJA Panel attorney. This determination will be made by the presiding Judicial Officer.

3. Exceeding the Statutory Maximums

Once counsel determines that the cost of legal representation and the use of experts will exceed the statutory maximum (\$10,000.00 for attorneys and \$2,500.00 for experts) an ex-parte motion and proposed order to exceed the maximum amount must be filed with the Court. In this motion, it is highly recommended that a budget be set in place. Interim billing should be addressed at this time (if needed). The proposed budget should include the estimated hours that counsel expects to work on the case, and list the type of experts they expect to use detailing their hourly rate and hours. Please note that expert claims from \$800.00, up to \$2,500.00, require prior approval by the presiding Judicial Officer and compensation greater than \$2,500.00 will also require prior approval from the Tenth Circuit Court of Appeals. A copy of the order granting the motion must be attached to every single voucher submitted for payment.

4. Motion for Interim Billing

Volume 7, Part A, Chapter 2, Section 230.73 of the CJA Guidelines provides information for interim billing in cases *where it is considered necessary and appropriate in relieving court-appointed attorneys of financial hardships in extended and complex cases.* The issue of interim billing should be addressed at the same time as requesting to exceed the maximum amount. Counsel may request interim billing by filing a motion explaining the need for interim payments. It is recommended that a budget be established at this time (if needed). Should delegation of authority be sought by the Court, it must be granted by the Tenth Circuit Court of Appeals, only the final vouchers will be sent to receive approval by the Tenth Circuit Court of Appeals. Orders allowing interim billing or allowing the cost to exceed the statutory maximum amounts must be attached to every single voucher submitted for payment. If the order is not attached, the voucher will be returned to counsel and asked to submit a copy in order to properly process the voucher. Interim payments for counsel and service providers, once approved by the court, must be submitted on a monthly basis. You may not request payment for a partial month unless it is the first or the final voucher.

5. Travel Expenses

CJA appointed attorneys and their experts are required to obtain government rates when traveling. Counsel may bill for travel expenses such as airfare, lodging (**prior authorization must be obtained for both air travel and overnight stays**) meals, car rental, parking, and mileage. (Mileage occurring before August 13, 2007, will be reimbursed so long as the distance traveled is greater than thirty miles one way.) All travel expenses must be reasonable and fully documented on the court approved Other Expenses worksheet and with legible itemized receipts attached to the voucher. Credit card slips or statements are not acceptable. Mileage must be properly documented and the appropriate rates billed for the date the travel took place. Reimbursement for meals does not include the purchase of meals for anyone other than counsel and it should never include **alcoholic beverages**. To be reimbursed for meals you must be on travel status for 10 hours or more. Per diem in lieu of subsistence is not allowable, since the CJA provides for reimbursement of expenses actually incurred. To determine whether actual expenses are reasonable travelers should be guided by the prevailing limitations placed upon travel subsistence expenses of federal judiciary employees in accordance with existing government travel regulations.

Effective Date	Rate Per Mile
01/01/2016	\$0.540
01/01/2015	\$0.575
01/01/2014	\$0.560
01/01/2013	\$0.565
04/17/2012	\$0.555
01/01/2011	\$0.510
01/01/2010	\$0.500

6. Air Travel

If air travel is required to provide proper legal representation for the defendant, counsel must file a motion requesting prior authorization. The motion should specify the travelers name(s), dates of travel, destination and the purpose for travel.

Once the motion is granted by the Judge, counsel must submit the order to the CJA division. Once they receive the order, counsel may contact National Travel (current nationwide travel management contractor for the Judiciary) at (800)445-0668 for their travel arrangements. National Travel will bill the Court's CJA travel account directly and counsel will not need to seek reimbursement for the airfare on their voucher. The request should be made at least five days in advance to allow for adequate processing time.

NOTE:

COUNSEL IS RESPONSIBLE FOR NOTIFYING NATIONAL TRAVEL (1-800-445-0668) OF ANY CANCELLATIONS. FAILURE TO DO SO WILL REQUIRE REIMBURSEMENT TO THE COURT BY THE TRAVELER.

7. Reimbursable Out of Pocket Expenses

Counsel and service providers may be reimbursed for any out of pocket expenses reasonably incurred. The following is a list of items which may be reimbursed:

- Copies
- Faxes
- Postage
- Long distance telephone calls.

These expenses must be specific to the representation, the number of pages must be fully documented on the court approved worksheets and must be supported with receipts and/or logs only if the expense is in excess of \$50.00.

Expense Item	Rate Per Page
Copies	\$0.15
Faxes	\$0.50

8. Non-Reimbursable Expenses:

Volume 7, Part A, Chapter 2, Sec. 230.66 of the CJA Guidelines states that the following may **NOT** be reimbursed and apply to counsel as well as service providers.

- **General Office Overhead** includes any general office expenses which would normally be reflected in the fee charged to the client. Time spent downloading, opening, emailing, faxing, renaming, saving, filing, printing, and/or forwarding a Notice of Electronic Filing (NEF) is considered to be clerical/secretarial functions performed in an office. Preparing your voucher, preparing a motion and order for CJA issues (budgets and interim orders, etc.) unrelated to the disposition of the case. The statutory fee is intended to include compensation for these types of expenses and therefore not compensable.
- **Items of a Personal Nature** purchased on behalf of the client and/or extended family. Charges for clothing for the defendant or yourself, shipping costs of personal property, time spent making and taking to doctor appointments, meals and travel expenses, etc. are not reimbursable.
- **Filing Fees** are waived for you when conducting CJA representation so your voucher should not include any amount in this category.
- **Printing of Briefs** The expense of printing briefs, regardless of the printing method used is not reimbursable.
- **Service of Process** is the fee paid to process servers serving subpoenas. Service of Subpoena(s) and payment of fact witnesses fees are not reimbursable through the CJA system. (see rule 17b and information provided re: Fact Witness Vouchers)
- **Taxes** paid on attorney or expert compensation is not reimbursable.
- **Time expended** refers to receiving NEF's, phone calls, email exchanges that you and the CJA Division/Court Staff share regarding any CJA issues and claiming time for acceptance of your CJA appointment are not reimbursable.
- **Contract Help** refers to hiring a co-counsel or someone to do legal research on your behalf without prior approval by the Judge.

9. Transcripts

Counsel may purchase no more than one transcript from the court reporter on behalf of the court appointed attorneys. Accordingly, one of the attorneys will arrange for preparation of the transcript and will share the transcript with other defense counsel by having the transcript duplicated. The cost of duplication will be reimbursed to counsel on the CJA20 form. However, the transcription will be billed on a CJA24 form by the court reporter. If counsel has paid for the transcript as an out of pocket expense, the reimbursement must also be submitted on a CJA24 form.

Expedited transcripts require prior authorization by the presiding Judicial Officer. A memorandum explaining the necessity to incur this expense must be attached to the CJA24 form when submitting for authorization.

Description	Original ³	First Copy to	Each Add=1 Copy to
Ordinary Transcript A transcript to be delivered with 30 calendar days after receipt of an order.	\$3.65	\$.90	\$.60
14-Day Transcript A transcript to be delivered within 14 calendar days after receipt of an order.	\$4.25	\$.90	\$.60
Expedited Transcript A transcript to be delivered with 7 calendar days after receipt of an order.	\$4.85	\$.90	\$.60
Daily Transcript A transcript to be delivered following adjournment and prior to the normal opening hour of the court on the following morning whether or not it actually is a court day.	\$6.05	\$1.20	\$.90
Hourly Transcript A transcript of proceedings ordered under unusual circumstances to be delivered within 2 hours.	\$7.25	\$1.20	\$.90
Realtime Transcript A draft unedited transcript produced by a certified realtime reporter as a byproduct of realtime to be delivered electronically during proceedings or immediately following adjournment.	\$3.05 p/pg 2-4 Feeds, \$2.10 p/pg		

³Maximum Transcript Rates - All Parties Per Page

10. Responsibilities of Appointed Counsel

Appointed counsel must maintain contemporaneous time and attendance records for all work performed. This includes work performed by an associate counsel, paralegal or other court approved staff. These records may be subject to audit and must be retained for three years after approval of the final voucher.

It is recommended that the attorney update his/her worksheets for the case on a daily basis and should not wait until the case is over. Counsel is responsible for submitting accurate and properly documented vouchers within the required time limit, which is 45 days after the date of final disposition, unless good cause is shown. It is required that the attorney time is billed in tenths. Prompt payment is ensured when vouchers are complete and correct. Vouchers which are inaccurate, or lack proper supporting documentation, will be returned to counsel requiring correction. Vouchers will not and cannot be processed until they are in full compliance.

Counsel is also responsible for vouchers submitted by the service provider as well. By signing any CJA forms, counsel certifies that the services were rendered and that the billing conforms to the CJA Guidelines. Please refer to *Attachment 1* in this manual for the recommended allowable hourly rates. Inaccuracies and lack of proper documentation for all service providers/experts will be returned to the appointed counsel.

11. Compliance with the CJA Guidelines

All vouchers are reviewed by the CJA Division prior to being reviewed by the presiding Judicial Officer. The CJA Division reviews the voucher and court approved worksheets to check for compliance with the guidelines and mathematical accuracy. Any entries which do not appear to comply with the Guidelines are pointed out to the presiding Judicial Officer, who will, in turn, determine whether or not these entries will be paid. In cases where the required documentation is not provided, the voucher will be returned to counsel for correction. If the presiding Judicial Officer determines that a voucher will be reduced or denied (for anything other than mathematical and non-technical errors) counsel will be notified and given 10 days to respond. Attorneys and service providers must keep in mind that the presiding judge has discretion to reduce or deny a voucher. Examples for reductions and/or denial of payment would be 1) non-compliance with the CJA Guidelines; 2) mathematical errors; and 3) a determination that the services claimed are unreasonable either in terms of the work performed or the amount of the time and costs submitted. The Judges decision is final on such reductions or denial of payment.

E. Payment for Services

Once the voucher is finalized approved for payment by the presiding Judicial Officer, payments are mailed from the Administrative Office of the United States Courts in Washington, D.C.

III. CJA Process in Death Penalty Cases

For death penalty cases, the procedure is much the same as that for non-death penalty cases; however, there are some differences which should be pointed out. These differences are as follows:

- A budget must be set in place by all counsel and approved by the presiding Judicial Officer for all death penalty cases.
- At the outset of every capital case, courts may appoint two attorneys for each defendant, at least one of whom is experienced and knowledgeable about the defense of death penalty cases. Appointed counsel may, with prior authorization, use the services of attorneys who work in association with them, provided that the employment of such additional counsel (at a reduced hourly rate) diminishes the total cost of representation or is required to meet time limits. (*CJA. Guidelines, Volume 7, Part A, Chapter 6, Sec 630.30.20*)
- The hourly rate for compensation for counsel ranges from \$183.00 p/h for hours worked to \$129.00 p/h for travel time and is set by the Judicial Conference and the presiding Judicial Officer.
- There is neither a statutory case compensation maximum for appointed counsel nor provision for review and approval by the Chief Judge of the Circuit of the case compensation amount in capital cases. (*CJA. Guidelines Volume 7, Part A, Chapter 6, Sec 630.10.20*)
- Counsel should obtain prior authorization for the contracting of services by experts. In instances where this process may hinder effective legal representation, counsel may procure services and the presiding Judicial Officer may approve the services on a *nunc pro tunc* basis.
- The statutory maximum amount for service providers in death penalty cases is \$7,500.00 as of April 24, 1996. Amounts which exceed this maximum and are approved by the presiding Judicial Officer must also be approved by the Tenth Circuit Court of Appeals.
- Consulting services may be authorized by the Court at an hourly rate which does not exceed the amount for appointed counsel.

There are three different types of vouchers which are used for representation in death penalty

cases. The following table lists and explains the uses:

Form Number	Form Title	Use
CJA30	Death Penalty Proceedings: Appointment of and Authority to Pay Court Appointed Counsel	Payment of services by counsel.
CJA31	Death Penalty Proceedings: Voucher for experts and other service providers	Payment of services by experts/service providers.
CJA24	Payment of Transcripts	For request and payment of Court transcripts.

These forms and the related court approved worksheets are available through the Court's website. For detailed instructions on filling out these forms, you can contact the CJA Division with any questions you have.

IV. Conclusion

The information in this manual is not intended to be all inclusive. It is highly recommended that Chapter 2 of *The Guide to Judiciary Policies and Procedures, Vol. 7, Appointment of Counsel in Criminal Cases* be reviewed by the CJA Panel. This literature, along with the current CJA Attorney Manual for the District of New Mexico and the related Adopted CJA Plan, may be accessed via the Court's website.

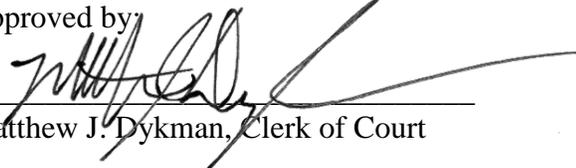
In addition to this literature, counsel may contact the Financial Section at (505)348-2145, the Defender Services Division in Washington, D.C., at (202)502-3057, or the local Federal Public Defenders Office at (505)346-2489 for questions or guidance.

This manual is effective immediately and will be revised on an as-needed basis.

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May 1, 2002
August 1, 2003
June 3, 2005
June 1, 2006
August 17, 2007
January 21, 2010
February 29, 2012
January 1, 2015
January 1, 2016

Approved by:



Matthew J. Dykman, Clerk of Court

Attachment 1

CJA 21/31 VOUCHERS

CJA Recommended Allowable

Hourly Rates for Service Providers

Type of Expert	Hourly Rate
<i>Accountant</i>	<i>\$65.00</i>
<i>Ballistics Expert</i>	<i>\$40.00</i>
<i>Certified Interpreter (Federal Certification)</i>	<i>\$60.00</i>
<i>Chemist</i>	<i>\$95.00</i>
<i>Interpreter (non-certified)</i>	<i>\$30.00</i>
<i>Investigator</i>	<i>\$50.00 - \$65.00</i>
<i>Jury Consultant</i>	<i>\$80.00</i>
<i>Law Clerk</i>	<i>\$35.00</i>
<i>Mitigation Expert</i>	<i>\$85.00</i>
<i>Neuropsychologist</i>	<i>\$150.00 - \$175.00</i>
<i>Paralegal</i>	<i>\$25.00</i>
<i>Physician</i>	<i>\$135.00</i>
<i>Polygraph Examiner</i>	<i>\$80.00 - \$110.00</i>
<i>Psychiatrist/Psychologist</i>	<i>\$150.00</i>
<i>Research Attorney</i>	<i>\$75.00</i>
<i>Statistician</i>	<i>\$80.00 - \$100.00</i>