

**NOTICE TO COURT APPOINTED COUNSEL OF
PUBLIC DISCLOSURE OF ATTORNEY FEE INFORMATION**

**NEW RULES APPLICABLE TO CASES COMMENCED
ON OR AFTER JANUARY 25, 1998**

The Criminal Justice Act (CJA), 18 U.S.C. § 3006A, now requires that the amounts paid to court appointed attorneys be made publicly available upon the court's approval of the payments. The court may disclose an unredacted copy of a payment voucher submitted by defense counsel, or a redacted copy of a voucher indicating only the amounts approved for payment according to categories of services listed in the statute. (The text of the new statutory provision, 18 U.S.C. § 3006A (d) (4), is set forth on the back of this notice.) The extent of disclosure depends on whether the case is pending and on whether the court determines that certain interests (enumerated in subpart (d)(4)(D) of a CJA and listed below in part B.1) require the redaction of detailed information on the voucher. Upon court approval of a voucher claim, payment information will be made available as follows:

- A. **BEFORE OR DURING THE TRIAL:** After redacting any detailed information provided to justify the expenses, the court shall make available to the public only the amounts approved for payment. Upon the completion of trial, unredacted copies of the vouchers may be released, depending on whether an appeal is being pursued and whether the court determines that one or more of the interests listed in part B.1 require the redaction of information.
- B. **AFTER THE TRIAL IS COMPLETED:** The court shall make available to the public either redacted or unredacted vouchers as follows:
1. If trial court proceedings have been completed and appellate review is not being pursued or has concluded at the time payment is approved: The court shall make an unredacted copy of the payment voucher available to the public unless it determines that one or more of the interest listed below justify limiting disclosure to the amounts approved for payment in the manner described in part A. The interests that may require limiting disclosure include:
 - (1) the protection of any person's 5th Amendment right against self-incrimination;
 - (2) the protection of the defendant's 6th Amendment rights to effective assistance of counsel;
 - (3) the defendant's attorney-client privilege;
 - (4) the work product privilege of the defendant's counsel;
 - (5) the safety of any person; and
 - (6) any other interest that justice may require.
 2. If appellate review is being pursued at the time payment is approved: The court shall make available to the public only the amounts approved for payment in the manner described in part A unless it finds that none of the interests listed above in part B.1 will be compromised.
- C. **AFTER THE APPEAL IS COMPLETED:** The court shall make an unredacted copy of the payment voucher available to the public unless it determines that one or more of the interests listed in part B.1 justify limiting disclosure to the amounts approved for payment in the manner described in part A.

If counsel believes that any of the interests listed above in part B.1 justify limiting disclosure to the amounts approved for payment, counsel should submit to the court a written request, identifying the interests at risk and the arguments in support of providing protection, **AT OR BEFORE THE TIME A CLAIM FOR PAYMENT IS MADE**. Failure to do so could result in the public availability of unredacted copies of your vouchers without further notice.

This constitutes notice as required under 18 U.S.C. § 3006A (d) (4) (E). You may NOT receive additional notice before any payment information is made available to the public.

**Provision of FY 1998 Judiciary Appropriation Act (Public Law 105-119, Nov. 26, 1997)
amending the Criminal Justice Act**

SEC. 308. Section 3006A(d) of title 18, United States Code, is amended by striking paragraph (4) and inserting the following:

“(4) DISCLOSURE OF FEES.--

“(A) IN GENERAL.--Subject to subparagraphs (B) through (E), the amounts paid under this subsection for services in any case shall be made available to the public by the court upon the court’s approval of the payment.

“(B) PRE-TRIAL OR TRIAL IN PROGRESS.-- If a trial is in pre-trial status or still in progress and after considering the defendant’s interests as set forth in subparagraph (D), the court shall--

“(i) redact any detailed information on the payment voucher provided by defense counsel to justify the expenses to the court; and

“(ii) make public only the amounts approved for payment to defense counsel by dividing those amounts into the following categories:

“(I) Arraignment and or plea.

“(II) Bail and detention hearings.

“(III) Motions.

“(IV) hearings.

“(V) Interviews and conferences.

“(VI) Obtaining and reviewing records.

“(VII) Legal research and brief writing.

“(VIII) Travel time.

“(IX) Investigative work.

“(X) Experts.

“(XI) Trial and appeals.

“(XIII) Other.

“(C) TRIAL COMPLETED.--

“(i) IN GENERAL.--If a request for payment is not submitted until after the completion of the trial and subject to consideration of the defendant’s interests as set forth in subparagraph (D), the court shall make available to the public an unredacted copy of the expense voucher.

“(ii) PROTECTION OF THE RIGHTS OF THE DEFENDANT.--If the court determines that defendant’s interests as set forth in subparagraph (D) require a limited disclosure, the court shall disclose amounts as provided in subparagraph (B).

“(D) CONSIDERATIONS.--The interests referred to in subparagraphs (B) and (C) are--

“(i) to protect any person’s 5th amendment right against self-incrimination;

“(ii) to protect the defendant’s 6th amendment rights to effective assistance of counsel;

“(iii) the defendant’s attorney-client privilege;

“(iv) the work product privilege of the defendant’s counsel;

“(v) the safety of any person; and

“(vi) any other interest that justice may require.

“(E) NOTICE.--The court shall provide reasonable notice of disclosure to the counsel of the defendant prior to the approval of the payments in order to allow the counsel to request redaction based on the considerations set forth in subparagraph (D). Upon completion of the trial, the court shall release unredacted copies of the vouchers provided by defense counsel to justify the expenses to the court. If there is an appeal, the court shall not release unredacted copies of the vouchers provided by defense counsel to justify the expenses to the court until such time as the appeals process is completed, unless the court determines that none of the defendant’s interest set forth in subparagraph (D) will be compromised.

“(F) EFFECTIVE DATE.--The amendment made by paragraph (4) shall become effective 60 days after enactment of this Act, will apply only to cases filed on or after the effective date and shall be in effect for no longer than 24 months after the effective date.:

This title may be cited as “The Judiciary Appropriations Act, 1998”.

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

READ THESE INSTRUCTIONS CAREFULLY BEFORE COMPLETING THE FORM. ACCURACY AND THOROUGHNESS WILL AID IN THE PROMPT PAYMENT OF THE CLAIM. USE A TYPEWRITER IF POSSIBLE. OTHERWISE WRITE LEGIBLY WITH BALLPOINT PEN AND BE SURE THAT WRITING GOES THROUGH TO THE LAST COPY. IF ADDITIONAL SPACE IS NEEDED TO COMPLETE ANY ITEM ON THE FORM, ATTACH CONTINUATION SHEETS. FOR ADDITIONAL GUIDANCE, SEE THE *GUIDELINES FOR THE ADMINISTRATION OF THE CRIMINAL JUSTICE ACT (CJA GUIDELINES)*, VOLUME VII, *GUIDE TO JUDICIARY POLICIES AND PROCEDURES*, WHICH IS AVAILABLE FOR REFERENCE IN THE CLERK OF COURT'S OFFICE.

VOUCHERS SHALL BE SUBMITTED NO LATER THAN 45 DAYS AFTER THE FINAL DISPOSITION OF THE CASE, UNLESS GOOD CAUSE IS SHOWN (§ 2.21 A, *CJA GUIDELINES*.) ALL PAYMENTS MADE PURSUANT TO THIS CLAIM ARE SUBJECT TO POST-AUDIT; CONTEMPORANEOUS TIME AND ATTENDANCE RECORDS AS WELL AS EXPENSE RECORDS MUST BE MAINTAINED FOR THREE YEARS AFTER APPROVAL OF THE FINAL VOUCHER. (§ 2.32, *CJA GUIDELINES*.) ANY OVERPAYMENTS ARE SUBJECT TO COLLECTION, INCLUDING DEDUCTION OF AMOUNTS DUE FROM FUTURE VOUCHERS.

ITEM 1: JURISDICTION — Check the box that categorizes the type of court in which the appointment is made. If you check the box "Other", be sure to specify the forum in the space provided (e.g., Parole Commission).

ITEMS 2, 3, 4: DOCKET NUMBERS — If two or more cases are heard or tried together, a separate voucher should be filed for each case, and the separate docket number listed. The total time spent should be prorated among the cases.

ITEM 6: LOCATION CODE — Obtain this number from the clerk of court. (Location codes appear at Appendix B of the *CJA Guidelines*.)

ITEM 7: CHARGE/OFFENSE — Enter the offense with which the defendant is charged. Use the U.S. Code or other code citation. If multiple offenses are charged in one indictment, enter only the offense which carries the highest maximum penalty. If other than federal code citation is indicated, state the maximum period of confinement authorized.

ITEM 7A: CASE CODE — Obtain this number from the clerk of court.

ITEM 8: IN THE CASE OF — In criminal cases, enter U.S. vs. the defendant's name. If there is more than one defendant, enter only the name of the defendant who is the person represented. If the person represented is not a defendant (e.g., a material witness), enter the first named defendant in the court's recording of the case. If this is a civil case (e.g., habeas corpus, NARA), enter the name of the petitioner vs. the name of the respondent and include the respondent's title.

ITEM 9: PERSON REPRESENTED (NAME) — Enter the full name of the person for whom representation is being provided. Only one "person represented" should be entered on each voucher.

ITEM 9A: NUMBER REPRESENTED — Enter "1" for all cases, *except* if you are representing more than one material witness. In that event, enter the number of material witnesses represented and attach a sheet listing each witness' full name. If you are representing two or more persons who are not material witnesses, enter "1" and use a separate voucher for each person represented, with the total time spent in common prorated among the cases.

ITEM 10: PERSON REPRESENTED (STATUS) — Check the box which categorizes the legal status of the person represented.

ITEM 11: PROCEEDINGS — Enter the proceedings (e.g., "preliminary hearing", "trial", "all proceedings", etc.) for which the appointment was made.

ITEM 12: PAYMENT CATEGORY — Check the box which categorizes the highest offense charged.

ITEM 13: COURT ORDER — Check the appropriate box to indicate appointment as counsel, appointment as co-counsel, appointment as substitute for a CJA panel attorney, appointment as substitute for the Federal Defender, or appointment as substitute for retained counsel.

If appointed as co-counsel, a separate court order should be attached containing the court's finding that the case is an extremely difficult one for which the appointment of an additional attorney is necessary and in the interest of justice. This finding is required by paragraph 2.11 of the *CJA Guidelines*.

If appointed as substitute for a CJA panel attorney, attach a copy of the CJA Form 20 appointing the prior attorney and enter the name of the attorney, the appointment date and the voucher number.

The court order must be signed and dated by the presiding judicial officer, or by the clerk of the court (to reflect court order). If representation was provided prior to the date of the order, and the presiding judicial officer wishes to ratify such service, a *nunc pro tunc* order date should be entered.

ITEMS 14, 15: Self-explanatory.

ITEMS 16A-D: SOCIAL SECURITY NUMBER/EMPLOYER IDENTIFICATION NUMBER — Each appointed attorney must supply his or her personal social security number unless the attorney has an agreement, in effect prior to the representation provided pursuant to the CJA, with his or her law firm or corporation, including a professional corporation, that CJA earnings belong to the law firm or corporation rather than to the attorney/payee ("preexisting agreement"). If the appointed attorney has such a preexisting agreement with a law firm (but not a corporation, including a professional corporation), the attorney must instead supply the law firm's employer identification number. If the appointed attorney has such a preexisting agreement with a corporation, including a professional corporation, neither the social security number nor the employer identification number should be provided.

As required by the CJA, payment will be made to the appointed attorney. Where applicable, the appointed attorney is required to furnish his or her social security number or law firm's employer identification number so that the Administrative Office may file information returns with the Internal Revenue Service in accordance with 26 U.S.C. §6041. The authority for disclosure of the social security number and employer identification number is 26 U.S.C. §6109(a)(2) and 26 CFR §301.6109-1(c).

ITEM 16A: If you have a preexisting agreement with a corporation, including a professional corporation, that CJA earnings belong to the corporation, check the box "Yes", leave Items 16B-D blank, and proceed directly to Item 17. If you do not have such a preexisting agreement with a corporation, check the box "No" and enter either your social security number or your law firm's employer identification number pursuant to the instructions below.

ITEM 16B: Enter your social security number *except* if you have a preexisting agreement with a law firm or corporation, including a professional corporation, that CJA earnings belong to the law firm or corporation. If the social security number is entered, leave Items 16C and D blank and proceed directly to Item 17.

ITEM 16C: Enter the law firm's employer identification number if you have a preexisting agreement with a law firm (but not a corporation, including a professional corporation) that CJA earnings belong to the law firm.

ITEM 16D: If the employer identification number has been provided in Item 16C, enter the name and mailing address of the law firm.

ITEM 17: CLAIM FOR IN COURT SERVICES — On the applicable lines (a) through (h) enter the actual time spent in hours and tenths of hours, as well as the dates on which the services were rendered. For the rates per hour, both for in court and out of court service, you should enter the higher of the rates in effect for the place of holding court in which the representation is provided or the place of holding court in which the attorney maintains his or her principal office. If the case is an appeal to the circuit court, you should enter the higher of the rates per hour in effect for the place of holding court in which the attorney maintains his or her principal office or the place of holding court out of which the case arose. Multiply the total number of hours spent in court by the hourly rate. Enter this figure in Item 17A.

ITEM 18: CLAIM FOR OUT OF COURT SERVICES — Complete according to the instructions above for in court time, using the applicable out of court hourly rate of compensation. Enter the total out of court compensation in Item 18A.

NOTE: Reasonable and necessary travel time during normal business hours is compensable at the out of court hourly rate.

ITEM 19: EXPENSES — Itemize all reimbursable out-of-pocket expenses incurred incident to representation. Expenses for travel (e.g., transportation, lodging, meals, car rental, etc.) must be itemized in the "Travel" column, and totaled in Item 19A. All other expenses must be itemized in the "Other Expenses" column, and totaled in Item 19B. Attach supporting documentation (receipts, cancelled checks, etc.) for all travel expenses and for any other expense in excess of \$50. Attach a continuation sheet if necessary.

Travel by privately owned automobile should be claimed at the rate currently prescribed for federal employees. The clerk of court can advise you of this rate. Parking fees, ferry fares, and bridge, road and tunnel tolls also may be claimed. Transportation other than by privately owned automobile should be claimed on an actual expense basis. Reasonable expenses for lodging and meals will be reimbursed on an actual expense basis; per diem is not allowed. Counsel should be guided by prevailing limitations for travel and subsistence expenses of federal employees. The clerk of court can advise you of these limitations.

Reimbursable expenses may include, in some circumstances, payments to law students or law clerks for legal research and assistance, and the cost of computer assisted legal research when conducted by counsel. See paragraphs 2.31 and 3.15 of the *CJA Guidelines* for an explanation.

The following are *not* reimbursable expenses, and should *not* be included on the CJA 20:

1. General office overhead, such as rent, telephone services and secretarial services. Telephone toll calls and telegrams are reimbursable.
2. Expenses for items of a personal nature for the client (e.g., clothes, haircuts).
3. The cost of *printing* briefs. The cost of mimeographing, photocopying or similar copying service is reimbursable.
4. Fact witness fees, witness travel costs and expenses for service of subpoenas. These expenses are not paid out of the CJA appropriation, but instead are paid by the Department of Justice pursuant to Fed. R. Crim. P. 17 and 28 U.S.C. §1825. Contact the United States Attorney's office for payment procedures.
5. Filing fees. These fees are waived for persons proceeding under the CJA.

6. The cost of investigative, expert or other services allowable under 18 U.S.C. §3006A(e). The organization or person providing the service should file a claim on the CJA Form 21 or 24 (for transcripts).

ITEM 20: GRAND TOTAL CLAIMED — Enter the total amount of Items 17A, 18A, 19A and 19B.

ITEM 21: CERTIFICATION OF ATTORNEY/PAYEE — This certification must be made by the attorney appointed by the court. Enter the dates covered by the voucher. Indicate whether this is the final payment for representation, or an interim payment (if interim payment, enter the number of the payment). Complete the rest of this section, being sure to sign and date the voucher.

ITEM 22-29: PAYMENT CERTIFICATION AND APPROVAL (to be completed by the court) — Every claim for compensation for services rendered and/or reimbursement for expenses incurred must be reviewed for both reasonableness and compliance with the CJA and the *CJA Guidelines* by the court in which, or on whose behalf, the services were rendered. After review, the amounts approved will be entered in the spaces provided: Item 22 for in court compensation, Item 23 for out of court compensation, Item 24 for travel expenses, Item 25 for other expenses, and Item 26 for the total amount. The presiding judicial officer must sign and date Item 27. The appropriate judge or magistrate code should be entered in Item 27A.

If the total amount approved for compensation (both in and out of court), not including any expenses, is less than or equal to the statutory case limitation, the claim will be forwarded to the clerk of court for processing for payment.

Counsel claiming compensation in excess of the statutory case limitation must submit with the voucher a detailed memorandum supporting and justifying counsel's claim that representation was provided in a complex or extended case and that the excess payment is necessary to provide fair compensation. Upon preliminary approval of such claim, the presiding judicial officer will (1) signify approval by circling the word "certified" in Item 26 ("Total Amount Approved/Certified"), and (2) forward the voucher to the chief judge of the court of appeals for approval of the excess amount under 18 U.S.C. §3006A(d)(3), along with a memorandum containing a recommendation and a detailed statement of reasons.

If the chief judge of the court of appeals (or the active circuit judge to whom the chief judge has delegated excess compensation approval authority) approves the excess compensation, the judge will enter the amount approved in Item 29 and sign and date Item 28. If approval is not granted, compensation will be limited to the statutory case compensation limitation, together with the amount of expenses approved by the presiding judicial officer in Items 24 and 25. The voucher will be forwarded to the clerk of court for processing for payment.

A Note on Investigative, Expert and Other Services

Appointed counsel may obtain investigative, expert and other services necessary for adequate representation in accordance with the procedures set forth in subsection (3) of the Criminal Justice Act, 18 U.S.C. §3006A. *Prior authorization* from the presiding judicial officer should be obtained for all such services where the cost, exclusive of reimbursement for expenses, will exceed \$300. Failure to obtain prior authorization will result in the disallowance of any amount claimed for compensation in excess of \$300, unless the presiding judicial officer, in the interest of justice, finds that timely procurement of necessary services could not await prior authorization. Compensation may not exceed \$1,000, exclusive of reasonable expenses, unless payment in excess of that amount is certified by the court as necessary to provide fair compensation for services of an unusual character or duration and the amount of the excess payment is approved by the chief judge of the court of appeals (or the active circuit judge to whom the chief judge has delegated the authority to approve excess compensation claims). Compensation for these services should be claimed directly by the service provider on the CJA Form 21, "Authorization and Voucher for Expert and Other Services."

		DISPOSITION	
		PRIOR TO VOUCHER APPROVAL	AFTER SERVICE RENDERED AND VOUCHER APPROVED
Disposition of CJA Form 20 Copies	Original	Retained by attorney during time service is being performed.	Retained by financial deputy clerk
	Copy 1		Placed in court's case file
	Copy 2		Retained by attorney
	Copy 3		Filed in court's case file after clerk enters appointment data
	Copy 4		

MEMORANDUM TO CJA APPOINTED COUNSEL

INSTRUCTIONS FOR COMPLETING THE CJA 20 WORKSHEETS

In Court Hourly Worksheet:

The attached worksheet must be filled out by the appointed counsel for all *time spend in court*. The worksheets must be submitted with your completed CJA-20 Voucher. Please make additional copies of the blank forms on which to record your services, if necessary. (Please include the following information)

1. The Case Number and CJA-20 Voucher Number pertaining to the claim.
The Name of the Defendant that you are representing.
The Voucher Number - Refer to the CJA-20 Voucher (upper right-hand corner)
2. For each in court service rendered provide the following:
 - a. The date that the service was performed
 - b. A brief description of the service performed
 - c. The time spent performing the service

The time spent performing the service must be reported in hours and *tenths of hours*, using percentages. *Examples - .1, 2.2, 3.5, 1.6, etc. (Tenths of hour)*
The time reported must be listed under the appropriate *in court* service category, such as Arraignment and/or Plea, Motions and Requests, Bail Hearings, etc.

Once all *in court* services have been documented, the hours column pertaining to each service category must be totaled. If more than one page is required, a page total should be provided on each page. A grand total of all page totals should be provided on the final page. The grand total for each service category will then be transferred to Item #17 on the CJA-20 Voucher Form. Please list each category separately to arrive at the total hours for all *in court* services. The *in court* compensation should then be calculated by multiplying the applicable rate per hour by the total hours. (Currently the *in court* compensation rate is **\$90.00** per hour for work completed on or after May 1, 2002.)

3. Each page should be numbered. Examples - Page 1 of 2, Page 2 of 2, etc.

Once all necessary information has been completed and transferred to the CJA-20 Voucher, the *in court* worksheet(s) must be attached to the CJA-20 Voucher Form.

Out of Court Hourly Worksheet:

The attached worksheet must be filled out by the appointed counsel for all *out of court* time. The worksheets must be submitted with your completed CJA-20 Voucher. Please make additional copies of the blank forms on which to record your services, if necessary. (Please include the following information)

1. The Case Number and CJA-20 Voucher Number pertaining to the claim.
The Name of the Defendant that you are representing.
The Voucher Number - Refer to the CJA-20 Voucher (upper right-hand corner)
2. For each *out of court* service rendered provide the following:
 - a. The date that the service was performed
 - b. A brief description of the service performed
 - c. The time spent performing the service

The time spent performing the service must be reported in hours and *tenths of hours*, using percentages. *Examples - .1, 2.2, 3.5, 1.6, etc. (Tenths of hour)*

The time reported must be listed under the appropriate *out of court* service category. Example - Interview and Conferences, Obtaining and Reviewing Records, Legal Research and Brief Writing, etc.

Note: Travel time to and from court (or the place where service is rendered) may not be claimed if the round trip is less than one hour.

Once all *out of court* services have been documented, the hours column pertaining to each service category must be totaled. If more than one page is required, a page total should be provided on each page. A grand total of all page totals should be provided on the final page. The grand total for each service category will then be transferred to Item #18 on the CJA-20 Voucher Form. Please list each category separately to arrive at the total hours for all *out of court* services. The *out of court* compensation should then be calculated by multiplying the applicable rate per hour by the total hours. (Currently the *out of court* compensation rate is **\$90.00** per hour for work completed on or after May 1, 2002).

3. Each page should be numbered. Examples - Page 1 of 2, Page 2 of 2, etc.

Once all necessary information has been completed and transferred to the CJA-20 Voucher, the *out of court* worksheet(s) must be attached to the CJA-20 Voucher Form.

Other Expense Worksheet:

The attached worksheet must be filled out by the appointed counsel for all *other expenses* incurred in the defense of a client under the CJA.

The worksheets must be submitted with your completed CJA-20 Voucher. Please make additional copies of the blank forms to record your services on if necessary.

(Please include the following information)

1. The Case Number and CJA-20 Voucher Number pertaining to the claim.
The Name of the Defendant that you are representing.
The Voucher Number - Refer to the CJA-20 Voucher (upper right-hand corner)
2. For each *Expense Item* claimed please provide the following:
 - a. The date that the service was performed
 - b. A brief description of the service performed
 - c. The time spent performing the service

Attach supporting documentation. Example - receipts, canceled checks and invoices for all expenses in excess of \$50.00. Such expense items as mileage and copying should show the total miles (mileage rate is 37.5 cents per mile as of 1/1/2004). The expenses incurred should then be listed under the appropriate other expense category. IE. Mileage, Parking, Meals, etc.

Once all *other expenses* have been itemized, total each column listing the total amount on the bottom of the worksheet. Transfer and list *other expense* categories and the applicable totals under item #19 on the CJA-20 Voucher Form. The *other expense* worksheet(s) must be attached to your CJA-20 Voucher when it is submitted to the court for payment.



IN COURT HOURLY WORKSHEET

Defendant Name: J. Doe

Case 95-CR-100
Voucher 823498
Page 1 of 1

Date	Brief Description of Services	Arraignment and/or Plea	Motions and	Bail Hearings	Sentence Hearings	Trial	Revocation Hearings	Appeals	Other
YR- 96									
1/10	Arraignment on Indictment (Mag. Smith)	.50							
3/10	Trial (Judge Scullin)					5.00			
3/11	Trial (Judge Scullin)					5.00			
3/12	Trial (Judge Scullin)								
3/14	Trial (Judge Scullin)								
3/18	Sentence (Judge Scullin)				1.00				
3/19	Preparation of Appeal							2.00	
	Page Total	.50			1.00	16.2		2.00	
	Grand Total	.50			1.00	16.2		2.00	

SAMPLE

