

United States Court of Appeals - Tenth Circuit

CRIMINAL JUSTICE ACT (CJA) CLAIMS FOR HOURLY COMPENSATION AND EXPENSE REIMBURSEMENT

ADVICE TO CJA COUNSEL REGARDING NON-CAPITAL CASES

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CRIMINAL JUSTICE ACT (CJA) CLAIMS FOR HOURLY COMPENSATION AND EXPENSE REIMBURSEMENT

ADVICE TO CJA COUNSEL REGARDING NON-CAPITAL CASES

I. General Statutory Provisions and Procedures. Counsel should be familiar with the Criminal Justice Act (18 U.S.C. § 3006A) (“CJA”), the *Guidelines for Administering the CJA* (<http://www.uscourts.gov/FederalCourts/AppointmentOfCounsel/CJAGuidelinesForms/GuideToJudiciaryPolicyVolume7.aspx>) (“*Guidelines*”), the Court’s Criminal Justice Act Plan (found as Addendum I to the Court’s Rules, at <http://www.ca10.uscourts.gov>), and this *Advice to CJA Counsel* letter.

Counsel appointed to provide appellate representation under the Criminal Justice Act may be compensated for time “reasonably expended” and expenses “reasonably incurred.” 18 U.S.C. § 3006A(d)(1). For presumptive compensation maximums see Page 13 or the *CJA Forms and Links* portion of the court’s website at <http://www.ca10.uscourts.gov/clerk/showcja.php> for the most current rates. However, these presumptive maximums may be exceeded if the representation provided was “extended or complex” and there is a judicial certification that excess payment is necessary to afford fair compensation. Excess payment must also be approved by the chief circuit judge or his delegate. *See* § 3006A(d)(3).

II. When to File. Generally, one voucher must be submitted on a CJA 20 voucher within 45 days of final disposition of the case, unless good cause is shown for delay. “Final disposition” is the later of: (a) the date a petition for certiorari, if any is filed; (b) the date the decision becomes final or the appeal is otherwise terminated, if no petition for certiorari will be filed; or (c) the date an order is filed granting counsel permission to withdraw if no subsequent CJA counsel will be appointed (i.e., defendant will proceed with retained counsel, with the Federal Public Defender as counsel, or *pro se*). Once any petition for certiorari is filed, counsel need not wait for disposition of the petition and should file their appellate CJA voucher immediately. Should certiorari be granted, the Supreme Court will provide counsel a CJA voucher for work before that court.

III. How to File a CJA 20 Voucher

A. Submission as E-Mail Attachment. Effective July 1, 2009 all appellate voucher requests must be by e-mail using the court’s forms available at <http://www.ca10.uscourts.gov/clerk/showcja.php> or by contacting the court’s CJA staff. Because rates change, counsel should always download and use the

most recent forms. Failure to provide sufficient detail on these forms to permit meaningful review of a claim may result in delay or denial of approval of the claim.

B. Submission Format. The CJA 20 form, time and expense worksheets and the voucher summary page must be submitted in the original calculating format (i.e., either .xls or .wpd/.pdf). MSEXcel (.xls, 2003) is the preferred format, but calculating WordPerfect and Adobe forms are also provided. All supporting materials (e.g., receipts, explanatory memoranda, petitions for certiorari) must be submitted as Adobe .pdf files.

C. Send as E-Mail Attachments to CJA_Vouchers@ca10.uscourts.gov. Completed voucher worksheets, forms and all supporting materials must be submitted as e-mail attachments to CJA_Vouchers@ca10.uscourts.gov.

D. Follow with Hard Original of Signed CJA 20 by Mail. After answering all questions in Claim Status Box 22 of the CJA 20 form, counsel must mail a signed original of the CJA 20 form created using the court's calculating format to Tenth Circuit Court of Appeals, Attn: CJA, 1823 Stout Street, Denver, CO 80257. The court cannot process a voucher request without this original.

E. Complete and send a revised CJA 5/Attorney Data Form, if needed. See page 11 below for more information.

IV. Excess Compensation Claims. If hourly compensation is sought in excess of the statutory maximum, counsel must submit a concise memorandum or a completed CJA 27 form explaining why (1) the representation was extended or complex, (2) excess payment is necessary for fair compensation, and (3) the time and expenses were "reasonable and necessary" to the particular appeal. If the legal or factual issues in a case are unusual, thus requiring the expenditure of more time, skill and effort by the lawyer than would normally be required in an average case, the case is "complex." If more time is reasonably required for total processing than the average case, the case is "extended."

The following criteria, among others and as applicable, should be discussed to aid the court in determining if excess payment is necessary to provide fair compensation: the complexity/novelty of the issues and whether any of these issues were briefed at the district court; matters researched but not briefed; responsibilities involved measured by the magnitude and precedential importance of the case; manner in which duties were performed; special skills, knowledge, efficiency, professionalism, judgment and experience required of or used by counsel; the nature of counsel's practice and any injury thereto resulting from the representation; any unusual pressure of time or other factors under which professional services were delivered; and any other circumstance relevant and material to a determination of a fair and reasonable fee.

V. Interim Compensation/Case Budgeting. Interim compensation is unlikely to be authorized by the 10th Circuit unless the appeal is extraordinary. Please also refer to the *Guidelines* § 230.73.10 (interim compensation), § 230.63.50, and § 310.60.10 (interim reimbursement) for more information. The court adheres strictly to the requirements of these sections when evaluating motions for interim payments. In addition to meeting the criteria set out in those sections relative to interim fees, expenses, or both, (1) the appeal must be complex and/or extended, (2) payment over the cap must be necessary to provide fair compensation, and (3) the payment(s) requested must be for time and/or expenses reasonably and necessarily incurred. Counsel is reminded that cases which are complex or extended at the trial level are not necessarily so on appeal.

Case budgeting is appropriate in complex or extended representations that appear likely to become or have become extraordinary in terms of potential cost (ordinarily, a representation in which counsel expects to exceed 300 hours). If the court determines that case budgeting is appropriate (either on its own or upon request of counsel), counsel must submit a proposed initial litigation budget for court approval, subject to modification in light of facts and developments that emerge as the case proceeds.

Counsel should carefully review the case budgeting information found at <http://www.uscourts.gov/FederalCourts/AppointmentOfCounsel/CJAGuidelinesForms/GuideToJudiciaryPolicyVolume7.aspx>, *Guidelines*, §§ 230.26, 640. Please use the proposed budget form found at <http://www.ca10.uscourts.gov/clerk/showcja.php> at the *CJA Forms and Links* portion of the court's website. The court will review, modify where necessary, and approve the proposed budget. A case management conference may also be held.

In budgeted, extraordinary cases, counsel may also request interim payments at logical intervals (e.g., after filing the opening brief and/or the reply brief and after oral argument). ***Counsel should note, however, that the court will retain 20% of all approved interim compensation (but not approved expenses) subject to release after final disposition of the appeal.*** After any petition for writ of certiorari is filed, counsel should request release of the retainage on a final CJA 20 voucher by inserting the total retained from all interim compensation on the "Other Expenses" worksheet. This information will then appear in Block No. 18 (Other Expenses) of the final CJA 20 voucher form. Counsel should also support the final fee request with a written explanation describing how the total time spent on this appeal meets the "reasonable and necessary" test. The panel rendering the decision will consider the final voucher and release of retained amounts.

VI. What to File with CJA 20 Voucher

A. Completed CJA 20 Voucher. A CJA 20 voucher is automatically created (excepting Boxes 8, 9, 10, 21 and 22) using the MSExcel billing workbook. Otherwise, counsel must complete a calculating Adobe .pdf CJA 20 voucher form

available at <http://www.ca10.uscourts.gov/clerk/showcja.php>, completing all boxes as provided in the form instructions. This single document, once Box 22 has been completed and signed, is the *only* hard copy that must be mailed to the court at: Tenth Circuit, Attn: CJA, 1823 Stout St., Denver, CO 80257.

B. Pleadings and Other Explanatory Material. An Adobe .pdf copy of any petition for certiorari, as well as any explanations of unusual circumstances (e.g., voucher filed more than 45 days after final disposition, unusual expenditures, etc.) should be attached to your e-mail voucher submission.

C. Compensation and Expense Worksheets, and Voucher Summary Page. Attorney time must be documented in one of the two court-provided calculating formats found at <http://www.ca10.uscourts.gov/clerk/showcja.php>. No other formats for voucher worksheets will be accepted. The MSExcel (.xls, 2003) billing format is preferred because it incorporates all needed forms in one file and information pre-fills from one page to the next. Multiple WordPerfect calculating forms are required to document time and expenses. Submit time and expense worksheets, and the voucher summary page, in the original calculating format (i.e., .xls or .wpd), *not* in Adobe .pdf.

ALWAYS DOWNLOAD AND USE THE MOST RECENT VERSION OF THE CALCULATING FORMAT TO SUBMIT YOUR VOUCHER. Time and expenses recorded on an outdated version can easily be copied and pasted to the most current version. Hourly and mileage rates change regularly. Using an outdated version may result in receiving less compensation and reimbursement than are available.

Time must be itemized by date, description of services, amount of time spent in tenths of hours, and categorized by column as established for payment on the CJA 20 voucher, Lines 15g and 16a-e. If more than one attorney worked on the appeal, each attorney's initials *for each task* should be inserted in the column after the time description. If billing records are not reported in tenths of an hour, the court will round down the total hours claimed.

Failure to provide sufficient detail to permit meaningful review of a claim may result in delay or denial of approval of the claim.

Note: Records must be retained by counsel for three years after approval of the voucher.

D. Expense Receipts. With certain exceptions (*see* meals, lodging, CALR, commercial copying), counsel must provide documentation (such as itemized bills, receipts, or invoices) to support claims for reimbursement *only* for single-event expenses that exceed \$50.00. Credit card slips and credit card statements may not be sufficient because they lack detail that would permit approval of the expense as reasonable and reimbursable. *See* Sections VII and VIII below for

further instructions and information. Expenses not properly documented may be disallowed in their entirety.

E. Excess-Fee Memorandum/Letter or Completed CJA 27 Form. If your compensation request (excluding expenses) exceeds the applicable statutory maximum (*see* Rates, page 13, or for the most current information, *see* the court's website at <http://www.ca10.uscourts.gov/clerk/showcja.php>, *CJA Forms and Links*), you must submit a concise memorandum/letter or a completed CJA 27 form explaining why (1) the appeal is complex and/or extended, (2) payment over the cap is necessary to provide fair compensation, and (3) the payment(s) requested is for time and/or expenses reasonably and necessarily incurred. A blank CJA 27 form is incorporated in the MSExcel workbook, and available as a separate Adobe .pdf form on the court's website.

VII. Claims for Hourly Compensation - General Rules

A. Hourly and Mileage Rates. Download and use the most recent version of the calculating format from <http://www.ca10.uscourts.gov/clerk/showcja.php> to complete your voucher. Time and expenses recorded on an outdated version can easily be copied and pasted to the most current version. Hourly and mileage rates change regularly, and using an outdated version may result in receiving less compensation and reimbursement than are available. Submit completed time and expense worksheets in the original calculating format (i.e., .xls or .wpd).

B. In-Court Time. In-court time is limited to one hour or the actual time of argument. Time spent waiting for oral argument should be claimed as *out-of-court* "other" time.

C. Partners and Associates (Within Firm). Compensation may be claimed for services provided by a partner or associate in the appointed counsel's law firm, but extra tasks or other work inefficiencies resulting from such division of labor (e.g., attorney conferencing) are not compensable. The amount must be within the maximum compensation allowed by the Act. Compensation worksheets must separately identify the provider of *each* service with counsel's initials in the column after the time description.

D. Compensation of Counsel (Outside Firm). With prior authorization by the court, appointed counsel may claim compensation for services furnished by counsel who works outside of the appointed counsel's law firm. Extra tasks or other work inefficiencies resulting from such division of labor (e.g., attorney conferencing) are not compensable. The amount must be within the maximum compensation allowed by the Act. Compensation worksheets must separately identify the provider of *each* service with counsel's initials in the column after the time description.

E. Withdrawal of Counsel. A CJA attorney appointed to represent a defendant in the lower court may continue representation on appeal. After ordering the necessary transcript(s) using CJA 24 form(s), and filing completed transcript order form, docketing statement, and designation of record for the appeal, an attorney who does not desire to continue representation may file a motion to withdraw with the clerk of this court in accordance with 10th Cir. R. 46.4. Failure to comply with this rule will result in denial of the motion. If substitute CJA counsel is appointed, no vouchers will be considered for payment until after final disposition of the appeal (*see* Section II above, page 1).

F. Substitution of CJA Counsel/Excess Compensation. If a CJA attorney is substituted for a previous CJA attorney appointed in the same case, the total CJA compensation to both attorneys will not exceed the statutory maximum for one attorney, unless the court determines that the tests for excess compensation are met (*see* Section IV above, page 2). Vouchers for both counsel will be considered together after final disposition (*see* Section II above, page 1). The final CJA attorney must submit the requisite excess-fee memorandum or CJA 27 form, but prior counsel may supplement such information.

G. Time Spent on District Court Matters or Matters Unrelated to Appeal. Time spent on district court matters, or other matters unrelated to appellate representation, even if incidental to arrest, incarceration, or on remand, is not compensable on an appellate voucher. Compensation for preparation and submission of preliminary appellate pleadings (e.g., notice of appeal, designation of record, transcript order form) may be claimed on the appellate voucher, but not if compensated on the district court voucher.

H. Travel Time. Necessary and reasonable travel time is compensable. Time spent in travel by car over long distances ordinarily traversed by air is not reasonable, unless required by special circumstances. If a trip requires overnight lodging, compensable travel time includes time traveling from counsel's office or home to the place of accommodation, as well as travel time returning directly to counsel's office or home. Ordinarily, professional time spent traveling to the court to file a pleading is not compensable.

I. Petition for Writ of Certiorari. Counsel's time and expenses involved in the preparation of a petition for a writ of certiorari, or responding to a petition for writ of certiorari filed by the government, are considered applicable to the case before the United States Court of Appeals, and should be included on the voucher for services performed in this court.

See Section II, page 1, regarding when to file your voucher in relation to filing a petition for writ of certiorari.

J. Voucher Preparation. Time spent preparing the voucher is not compensable.

VIII. Expenses Generally. Reimbursement is limited to reasonable actual expenditures. To determine whether travel expenses are reasonable, counsel should be guided by current limitations on travel expenses applicable to federal judiciary employees found at the GSA website, <http://www.gsa.gov>.

Expenses incurred must be properly documented in a calculating format provided by the court (available to counsel at <http://www.ca10.uscourts.gov/clerk/showcja.php> or by contacting the court's CJA staff). Submit completed time and expense worksheets in the original calculating format (i.e., .xls or .wpd). With certain exceptions (*see*, meals, lodging, CALR, commercial copying), counsel must provide documentation (such as itemized bills, receipts, or invoices) to support claims for reimbursement *only* for single-event expenses that exceed \$50.00. Credit card slips and credit card statements lack sufficient detail to permit approval of expenses as reasonable and reimbursable. *See* Sections IX and X below for further instructions and information. Expenses not properly documented may be disallowed.

IX. Travel Expenses - General Rules

A. Itemization/Proration. Claims for travel expenses must be itemized by date and charge and reported on the travel expense portion of the calculating forms (available at <http://www.ca10.uscourts.gov/clerk/showcja.php>) provided by the court. If travel involves time spent on more than one case, then expenses must be prorated by the number of cases to which the travel relates.

B. Supporting Documentation for General Travel Expenses. Itemized receipts must always be submitted to support reimbursement of meals and lodging. Counsel need only provide itemized receipts to support other single-event travel expenses that exceed \$50.00 (e.g., cab fare from DIA to downtown Denver). Credit card slips and credit card statements lack sufficient detail to permit approval of expenses as reasonable and reimbursable. Expenses not properly documented may be disallowed.

C. Supporting Documentation for Lodging. Receipts for lodging must be sufficiently itemized to establish that reimbursement is not being sought for safe deposit boxes, hotel safes, in-room movies, or other expenses that are not reimbursable under the Criminal Justice Act. For this reason, itemized hotel bills must be submitted. Credit card slips and credit card statements lack sufficient detail to permit approval of expenses as reasonable and reimbursable. Expenses not properly documented may be disallowed.

D. Supporting Documentation for Meals. Receipts for meals must be sufficiently itemized to establish that reimbursement is not being sought for alcoholic beverages, charges for persons other than appointed counsel or other expenses that are not reimbursable under the Criminal Justice Act. Hotel restaurant, in-room beverages and room-service meals must also be supported by

an itemized receipt. Credit card slips and credit card statements lack sufficient detail to permit approval of expenses as reasonable and reimbursable. Expenses not properly documented may be disallowed.

E. Travel Reservations. Air travel, lodging and rental car arrangements should be made at government rates through either Omega World Travel or Travel Company of Montana, Inc. (Travco). Contact Omega at 1-866-450-0401, Monday through Friday from 7:00 a.m. to 9:00 p.m., Eastern Standard Time, or Travco at 1-877-890-5474, Monday through Friday from 8:30 a.m. to 8:00 p.m., Eastern Standard Time. Counsel must provide a credit card number to make reservations. However, airfare will be paid directly by the government. Lodging and rental car charges must be paid directly by counsel, and reimbursed on a voucher request. All reservations needed (airline, hotel, rental car) should be made at the same time. There is a charge for itinerary changes and all itinerary changes *must* be made through the same company. Reimbursement for travel not made through Omega or Travco is limited to the government rates.

F. Travel by Private Automobile. Mileage is reimbursable at the rate prescribed for federal judiciary employees conducting official business. *See* rate sheet on *CJA Forms and Links* portion of the court's website at <http://www.ca10.uscourts.gov/clerk/showcja.php>. Claims must be supported by a statement showing the date, distance, origin and destination of travel. Absent an emergency or other unusual circumstance, if travel is by automobile, reimbursement of mileage expense will not exceed the airfare charge had Omega or Travco made counsel's travel arrangements. Counsel should contact Omega or Travco *before* driving to determine then-current government airfare rates.

G. Hotel Telephone and Internet. Hotel telephone charges will be reimbursed up to \$5.00 per day. Hotel internet charges will be reimbursed up to \$10.00 per day. If any additional charges are sought, counsel must submit a brief statement of how such charge is incidental to representational duties.

H. Non-Reimbursable Travel Expenses. Personal items (e.g., alcoholic beverages, in-room movies) are not reimbursable. Charges that exceed then-current government rates are not reimbursable.

X. Reimbursement of Other Expenses - General Rules

A. Itemization. Claims for other expenses incurred must be itemized by date and charge and reported on the "other expense" worksheet of the calculating forms provided by the court at <http://www.ca10.uscourts.gov/clerk/showcja.php>.

B. Prior Approval for Expenses Totaling More Than \$800.00. If single-category services (expert counsel, paralegals, law clerks, interpreters, etc.) totaling more than \$800.00 are necessary for adequate representation, counsel

must obtain prior court approval to incur such costs by filing a sealed, ex parte motion explaining the need and giving the provider's qualifications and the rate to be charged. Time for service providers must be tracked in tenths of hours and described in the same manner as attorney time (i.e., with specificity). If the total services will exceed \$2,400.00, counsel must also obtain a court order certifying the expense as "necessary to provide fair compensation for services of an unusual character or duration." When the services are complete, counsel should submit a CJA 21 form accompanied by the provider's itemized invoice. The provider will be paid directly. Reimbursement for charges related to in-firm providers should be detailed on the "other expenses" portion of counsel's own CJA 20 voucher.

Similarly, if counsel expects to incur other, single-category expenses totaling more than \$800.00, such as for computer-assisted legal research (CALR, i.e., Westlaw/Lexis), counsel should obtain prior court approval to incur such charges.

All charges are evaluated under the reasonableness standard. Failure to obtain prior approval may limit reimbursement for such expenses to \$800.00.

C. Supporting Documentation for Other Expenses. With certain exceptions (*see* commercial copying and computer-assisted legal research), counsel need only provide itemized receipts or copy logs to support single-event other expense charges exceeding \$50.00 (e.g., in-house copying of final opening brief and all attachments). Credit card slips and credit card statements lack sufficient detail to permit approval of expenses as reasonable and reimbursable. Expenses not properly documented may be disallowed.

D. Copying and Binding. Reimbursement for in-house copying is limited to actual per-page cost not to exceed 20¢ per page. If a higher rate is sought, counsel must submit a statement justifying such rate. If counsel incurs single-event in-house copying expenses exceeding \$50.00 (e.g., in-house copying of final opening brief and all attachments), then logs or other information should be provided identifying what was copied, how many copies were made and the rate. Expenses not properly documented may be disallowed.

All claims for commercial copying and binding services must be supported by an itemized invoice. Credit card slips and credit card statements lack sufficient detail to permit approval of expenses as reasonable and reimbursable. Expenses not properly documented may be disallowed.

Commercial copying charges to prepare 40 copies of a petition for certiorari in booklet format will not be reimbursed because this requirement may be waived upon proper filing of a motion to proceed *in forma pauperis*, *see* S. Ct. Rules 12, 33.2 and 39.

E. Long-Distance Telephone Calls. Itemized statements must be submitted to support claims for long-distance telephone calls that total more than \$50.00. The supporting documentation must contain the date, cost, and recipient of each call.

F. Facsimile Transmissions. In-house facsimile logs must be submitted in support of claims for reimbursement of fax charges that total more than \$50.00. Claims for facsimiles transmitted at a commercial establishment must be supported by an itemized receipt. Costs in excess of \$1.00 per page will not be reimbursed.

G. Postage/Expedited Mail/Courier. Single-event postage, expedited mail, and courier expenses exceeding \$50.00 (e.g., FedEx charge for delivery of opening brief and copies) must be supported by itemized receipts. The receipt must include the date, nature of service, and cost. Absent extraordinary circumstances, expedited mail (e.g., FedEx, Priority Mail) and courier charges will be reimbursed only for delivery of principal briefs, a petition for rehearing en banc, or a petition for writ of certiorari.

H. Legal Research Services by Law Student, Law Clerk, or Paralegal. Time incurred by these individuals is claimed as an “other expense” on counsel’s voucher. Claims for the actual cost of legal research by a qualified law student, law clerk, legal assistant, or paralegal must be itemized. Descriptions of time spent by such personnel must be tracked in tenths of hours and must be sufficiently descriptive to allow the court to apply the “reasonably necessary” standard. Time not properly documented may be disallowed. If the amount claimed for this service will total more than \$800.00, prior court approval must be sought (*see* Section X.B. above, page 8).

I. Computer Assisted Legal Research (CALR) (e.g., Westlaw/Lexis). If charges for computer-assisted legal research total more than \$50.00, an Adobe .pdf copy of *each* vendor bill itemized *by date* must be included with counsel’s payment request. Counsel should include a brief statement of justification. If the amount for such services will total more than \$800.00, prior court approval must be sought (*see* Section X.B. above, page 8). Reimbursement for CALR is sought on counsel’s own CJA 20 voucher request as an “other expense.”

J. Interpreter/Translating Services. Time incurred by these individuals may be claimed as an “other expense” on the forms provided by the court or by separate submission of a properly completed CJA 21 form. Descriptions of time spent by such personnel must be tracked in tenths of hours and must be sufficiently descriptive to allow the court to apply the “reasonably necessary” standard. Time not properly documented may be disallowed. If the amount for this service will total more than \$800.00, prior court approval must be sought (*see* Section X.B. above, page 8).

K. General Office Overhead and Clerical Work. General office overhead is not reimbursable. This includes, but is not limited to: supplies; overtime; rent; telephone services; mailers/envelopes; secretarial services; and other administrative/clerical services. Nor is professional time spent on secretarial or clerical tasks compensable as part of counsel's fee.

L. Other Expenses of a Personal Nature for Individual Represented. The cost of items of a personal nature purchased for or on behalf of the person represented is not reimbursable.

M. Expenses Related to District Court Matters or Matters Unrelated to Appeal. Expenses related to district court matters, or otherwise unrelated to appellate representation, even if incidental to arrest, incarceration, or remand, are not reimbursable on an appellate voucher. Reimbursement for preparation and submission of preliminary appellate pleadings (e.g., notice of appeal, designation of record, transcript order form) may be claimed on the appellate voucher, but not if reimbursed on the district court voucher.

N. Filing Fees, Court Admission Fees and PACER Charges. Filing fees and court admission fees are not reimbursable. This includes filing fees related to a petition for certiorari because such fees may be waived upon proper filing of a motion to proceed *in forma pauperis*, see S. Ct. Rules 12, 33.2 and 39. PACER charges are not reimbursable because upon proper application, CJA counsel is entitled to a free PACER account for use in CJA cases only.

O. Transcript Fees. The cost of court-authorized transcripts should be claimed by the court reporter or reporting service on a properly completed CJA 24 form. If counsel elects to pay for transcripts, counsel should likewise seek reimbursement using a CJA 24 form, not on a CJA 20 form.

XI. General Information

A. Public Disclosure. CJA 20 vouchers filed by counsel may be subject to public disclosure unless disclosure should be limited based upon: (1) protection of any person's Fifth Amendment right against self-incrimination; (2) protection of the defendant's Sixth Amendment right to effective assistance of counsel; (3) the defendant's attorney-client privilege; (4) the work-product privilege of defendant's counsel; (5) the safety of any person; or (6) any other interest that justice may require. **If counsel wishes to request redaction or non-disclosure of any portion of the voucher based upon one of these interests, counsel should seek such relief by motion at the time the CJA 20 voucher is filed.** Absent such a motion, the face of the voucher will be made available to the public upon request.

B. CJA5/Attorney Data Form. Counsel must submit a CJA5/Attorney Data

Form (ADF) to the court. This form provides the address to which payment will be mailed *and* the person or entity to which the tax consequences of payment (and an annual 1099) will be assigned. **IF YOU MOVE, OR CHANGE THE ASSIGNMENT OF TAX CONSEQUENCES FOR CJA PAYMENTS, YOU ARE RESPONSIBLE FOR UPDATING THIS FORM.** Download the form at <http://www.ca10.uscourts.gov/clerk/showcja.php>. Every form must be completed with the social security number and contact information for appointed counsel, including a current e-mail address.

C. Additional Resources. Counsel is encouraged to review the court's website at <http://www.ca10.uscourts.gov/clerk/showcja.php> (*Criminal Justice Act Forms and Links*) to obtain current forms, rates, and general CJA information. You may also find that the following websites provide substantial assistance: <http://www.uscourts.gov/defenderservices/mission.html> (The Defender Services Training Branch website); and the Federal Public Defenders' website at <http://www.fd.org>. You should also carefully review the *Criminal Justice Act Guidelines* at <http://www.uscourts.gov/FederalCourts/AppointmentOfCounsel/CJAGuidelinesForms/GuideToJudiciaryPolicyVolume7.aspx>, and the Tenth Circuit's Criminal Justice Act Plan, found as Addendum I to the Local Rules at <http://www.ca10.uscourts.gov/clerk/rulesandforms.php>.

D. Contacts. Before submitting a CJA 20 voucher, counsel is encouraged to contact the court's CJA staff by telephone as set out below or by e-mail at CJA_Vouchers@ca10.uscourts.gov with any questions:

CJA Supervising Attorney
303.335.2846

CJA Case Analyst
303.844.5306

Questions regarding the completion of vouchers are welcome.

XII. Retain CJA Billing Records for Three Years. CJA billing records must be retained by counsel for three years after approval of the voucher.

XIII. Note to Counsel. This letter addresses only subjects of repeated error or frequent inquiry and is not inclusive.

Source: Guide to Judiciary Policy, *Guidelines for Administering the CJA and Related Statutes*, Volume 7, Part A (*Guidelines*),
<http://www.uscourts.gov/FederalCourts/AppointmentOfCounsel/CJAGuidelinesForms/GuideToJudiciaryPolicyVolume7.aspx>

CJA PAYMENT RATES

Statutory Attorney Hourly Rates

<i>(non-capital cases)</i>	5/1/02 and after	1/1/06 and after	5/20/07 and after	1/1/08 and after	3/11/09 and after	1/1/10 and after
	\$90	\$92	\$94	\$100	\$110	\$125

<i>(capital cases only)</i>	2/1/05 and after	1/1/06 and after	5/20/07 and after	1/1/08 and after	3/11/09 and after	1/1/10 and after
	\$160	\$163	\$166	\$170	\$175	\$178

Statutory Maximum Compensation for Appellate Attorney Fees <i>(non-capital appeals only)</i>	Work completed on or after:			
	12/8/04	10/13/08	3/11/09	1/1/10
Appeal	\$5000	\$5600	\$6100	\$6900
Other Proceedings <i>(including a USSG crack-powder amendment resentencing appeal)</i>	\$1500	\$1700	\$1800	\$2100

Voucher requests over the applicable maximum must be accompanied by an excess-fee memo or letter.

10th Circuit Requirements for Reimbursement of Certain Expenses

(e.g., paralegal, legal assistants, translators/interpreters and computer-assisted legal research (e.g. Westlaw, Lexis))

	Cost of work completed:	
	On or before 5/26/10	5/27/10 and after
(a) Expense must be properly documented	≤\$500	≤\$800
(a) + (b) Also requires prior authorization <i>unless</i> the court finds that “in the interest of justice, timely procurement of other necessary services could not await prior authorization.”	>\$500 to \$1600	>\$800 to \$2400
(a) + (b) + (c) Also requires a court finding that such payment is “necessary to provide fair compensation for services of an unusual character or duration.”	> \$1600	> \$2400

Mileage Rates (Travel Expenses Incurred)

2/4/05- 8/31/05	9/1/05- 12/31/05	1/1/06- 12/31/06	1/1/07- 3/18/08	3/19/08- 7/31/08	8/1/08 - 12/31/08	2/1/09- 12/31/09	1/1/10 - present
\$.405/ mile	\$.485/ mile	\$.445/ mile	\$.485/ mile	\$.505/ mile	\$.585/ mile	\$.550/ mile	\$.50/ mile

Subsistence (Lodging & Meals / Per Deim)

Counsel should be guided by prevailing limitations placed upon travel and subsistence expenses of federal judiciary employees with existing government travel regulations. For per diem allowance see the GSA website, <http://www.gsa.gov>

10th Circuit Court of Appeals Voucher Instructions Summary 6/2010

MSExcel 2003 (.xls) Method (PREFERRED) 1 file + .pdf receipts + cert petition	WordPerfect/Adobe (.wpd, .pdf) Method 5 files + .pdf receipts + cert petition
<p>Download and save the MS Excel (2003) form. Fully complete the workbook following instructions available at: www.ca10.uscourts.gov/clerk/showcja.php including Boxes 8, 9, 10, & 21 of the CJA20 voucher (or Boxes 8, 9, 14 & 20 of the CJA30). IF CJA20 fees exceed the statutory maximum, prepare an excess-fee memo/letter OR use the CJA27 form included in the MSExcel CJA20 billing workbook. Carefully complete Box22 (CJA 20) or Box 21 (CJA 30). Save the file as a .xls file (2003, not 2007). Print out the voucher.</p>	<p>Download and save the calculating WordPerfect (.wpd) Time and Expense Billing Worksheets (in-court, out-of-court, travel and other expenses) AND Voucher Summary page from: www.ca10.uscourts.gov/clerk/showcja.php Fully complete the worksheets and save the worksheet file as a .wpd file.</p> <p>Fully complete the Voucher Summary form by transferring the necessary information from the worksheets. Save the Voucher Summary file as a .wpd file.</p> <p>IF fees exceed statutory maximum, create an excess-fee memo/letter or download, save and complete an Adobe CJA27 found at www.ca10.uscourts.gov/clerk/showcja.php. Save the excess-fee memo file as Adobe .pdf file.</p>
<p>Compose a new e-mail to this e-ddress: CJA_Vouchers@ca10.uscourts.gov In the subject line reference the <i>appellate</i> caption and case number. In the body of the e-mail explain any issues (delay) and state you will send a hard original of the signed CJA voucher by mail (and a revised CJA5 if necessary, see below).</p>	<p>Transfer information from the Voucher Summary to an Adobe .pdf CJA 20/30 voucher downloaded from http://www.uscourts.gov/forms/forms_CJA.cfm. You must use a different form for each hourly rate. Complete boxes 8, 9, 10, & 21 of the CJA20 voucher (or Boxes 8, 9, 14 & 20 of the CJA30). Carefully complete Box22 (CJA20) or Box 21 (CJA30). Print out voucher(s) in hard copy. Sign, date.</p>
<p>Attach to the e-mail your (#1) MSExcel billing workbook <i>in the original format (.xls 2003)</i>. Attach to the same e-mail (#2) pdf copies of itemized receipts (over \$50 single-item, commercial copying, Westlaw/Lexis & travel incl meals) and (#3) a pdf copy of any cert petition. Also attach any (#4) separate excess-fee memo/letter you created rather than using the CJA27 in the Excel Workbook.</p>	<p>Compose a new e-mail to this e-dress, CJA_Vouchers@ca10.uscourts.gov In the subject line reference the <i>appellate</i> caption and case number. In the body of the e-mail explain any issues (delay) and state you will send a hard original of the signed CJA voucher by mail (and a revised CJA5 if necessary, see below).</p> <p>Attach to the e-mail your WordPerfect (#1) time and billing worksheets and (#2) voucher summary, <i>both in the original format (.wpd)</i>. (#3) Attach to the e-mail your Adobe .pdf (3) CJA 20/30 voucher (scanned, unsigned and electronically signed all acceptable), (#4) excess-fee memo/letter or CJA 27 in .pdf format, (#5) pdf copies of itemized receipts (over \$50 single-item, commercial copying, Westlaw/Lexis & travel incl meals) and (#7) a pdf copy of any cert petition.</p>
Send e-mail.	
<p>IF the information on the CJA5/Attorney Data Form you previously sent to the court has changed (your address or where the tax consequences of the CJA payment should be assigned), download, save and complete a new CJA5 from http://www.ca10.uscourts.gov/clerk/showcja.php. Complete it and print it out in hard copy.</p>	
<p>Mail hard copy of CJA 20/30, with counsel's pen-and-ink signature in Box 22 (CJA20) or Box 21 (CJA30), along with any revised CJA5 (providing new address or new tax consequences assignment), to : Tenth Circuit Court of Appeals, Attn: CJA, 1823 Stout St., Denver, CO 80257</p>	

Questions? Contact:

CJA_Vouchers@ca10.uscourts.gov
CJA Supervising Attorney: 303.335.2846
CJA Case Analyst: 303.844.5306
303.844.3733 (fax)