

**UNITED STATES DISTRICT COURT  
DISTRICT OF NEW MEXICO**

**CJA INFORMATION MANUAL**



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- Attachment 2 CJA 21/31 Vouchers: Recommended Allowable Hourly Rates**
- Attachment 3 District of New Mexico Per Diem Rates**
- Attachment 4 CJA 20 Appointment of and Authority to Pay Court Appointed Counsel**
- Attachment 5 Instructions for CJA Form 20**
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# DISTRICT OF NEW MEXICO CJA INFORMATION MANUAL

## 1. INTRODUCTION

This CJA Information Manual is provided by the District of New Mexico to assist Criminal Justice Act (“CJA”) panel attorneys in the preparation of CJA vouchers.

Pursuant to the provisions of the Criminal Justice Act of 1964, as amended, 18 U.S.C. § 3006A, and the *Guide to Judiciary Policies and Procedures, Vol. VII, Appointment of Counsel in Criminal Cases*, established by the Judicial Conference of the United States, the United States District Court for the District of New Mexico hereby sets forth this CJA Information Manual. This guide defines panel attorney responsibilities for voucher preparation and the procedures the District of New Mexico uses to implement the guidelines. It is advisable to read this in conjunction with the guidelines.

The *Guide to Judiciary Policies and Procedures, Vol. VII, Appointment of Counsel in Criminal Cases* (“Guide”), is available for review to all members of the Criminal Justice Act Panel through the Tenth Circuit Court Library or the Federal Public Defender’s Office.

Comments and suggestions regarding the topics covered here are welcome by the Court and should be directed to the Clerk of the Court.

## 2. CJA VOUCHER TYPES

The Court processes the following six vouchers.

CCJA 20: Appointment of and Authority to Pay Court Appointed Counsel (Attachment 4);

CCJA 21: Authorization and Voucher for Expert and Other Services (Attachment 6);

CCJA 24: Authorization and Voucher for Payment of Transcript (Attachment 8);

CCJA 30: Death Penalty Proceedings: Appointment of and Authority to Pay Court Appointed Counsel (Attachment 10);

CCJA 31: Death Penalty Proceedings: *Ex Parte* Request for Authorization and Voucher for Expert and Other Services (Attachment 12);

C DOJ Form OBD-3: Fact Witness Voucher (Attachment 14).

### **3. VOUCHER PREPARATION**

3.1. CJA 20/30 Vouchers. The CJA 20 and the CJA 30 vouchers are prepared by the Clerk's Office after the Court orders appointment of counsel and a panel attorney accepts the case. Blocks 1-14 of the CJA 20 and Blocks 1-13 of the CJA 30 are completed by the Clerk's Office and the voucher is then forwarded to the panel attorney along with an instruction package at the time of appointment. The panel attorney has the responsibility for accurately completing Blocks 15-22 of the CJA 20 and Blocks 14-21 of the CJA 30. Various forms have been developed for ease in completing the vouchers and are included in the instruction package given to the panel attorney at the time of appointment. For complete and detailed instructions on how to prepare CJA 20 and 30 Vouchers, please see Attachment 5 and Attachment 11.

3.2. CJA 21/31 Vouchers. The CJA 21/31 vouchers are blank forms utilized by counsel when seeking the services of an expert and are included in the instruction package to counsel. The panel attorney must provide the voucher to the expert or other service provider for completion. The voucher should then be signed by the attorney with the appropriate section completed in compliance with the instruction sheet. All services must be billed consistent with the maximum allowable amounts. Please see Attachment 2 for the current recommended hourly rates. When the services have been completed, the voucher must be certified by the attorney and forwarded to the United States District Court for processing, review, and payment. For complete and detailed instructions on how to prepare CJA 21 and 31 Vouchers, please see Attachment 7 and Attachment 13.

3.3. CJA 24 Vouchers. The CJA 24 vouchers are blank forms requesting authorization for transcripts and are included in the instruction package to counsel at the time of appointment. Blocks 1-15 should be completed by the panel attorney and forwarded to the appropriate court reporter. The court reporter will then submit the form to the Court for signature (Block 16). After Block 16 has been signed, the court reporter will prepare the transcript and obtain the signature of the attorney or Clerk of Court certifying that the services were rendered and that the transcript was received. For complete

and detailed instructions on how to prepare a CJA 24 Voucher, please see Attachment 9.

#### **4. PANEL ATTORNEY RESPONSIBILITIES FOR CJA VOUCHER PREPARATION**

4.1. Contemporaneous Timekeeping. Appointed counsel must maintain contemporaneous time and attendance records for all work performed, including work performed by associates, partners, and support staff, as well as expense records. Such records, which may be subject to audit, must be retained for three years after approval of the final voucher.

4.2. Timeliness. **Vouchers must be submitted no later than 45 days after the final disposition of a case unless good cause is shown.**

4.3. Accuracy. The panel attorney has the responsibility to submit accurate and properly documented vouchers. Accurate and properly documented vouchers can be processed promptly. Inaccurate vouchers, or vouchers lacking required receipts, must be corrected before submission to the presiding judicial officer for payment and will result in delayed payment of the voucher.

4.4. Interim Vouchers. Submission of interim vouchers requires court approval, and will be allowed only upon motion and order. Interim vouchers must include a copy of the order approving the interim voucher. The CJA Coordinator will review all interim vouchers to ensure that they do not exceed the statutory maximum allowable amount. The CJA Coordinator will provide a recap of all compensation paid to date on the voucher(s) to the presiding judge.

4.5. Vouchers Exceeding Limit. Any CJA voucher that exceeds the maximum amount set forth by statute **requires prior court approval**, and will be allowed only upon motion and order. The motion will outline the nature of the expense, the itemized estimated excess cost, and the reason the expense is necessary. Counsel must attach the approved order to the CJA 20/30 Voucher at the time of submission for payment. Please see Attachments 1 and 2 for current rates.

4.6. Reimbursable Expenses. Counsel may be reimbursed for out-of-pocket expenses reasonably incurred and incident to their representation. Please note that only expenses incurred by counsel are reimbursable. Work must be case specific. Counsel must show that the circumstances from which the need arose to incur those expenses would have resulted in an additional charge to a fee paying client, above that charged for overhead expenses. **Receipts and/or expense sheets must support all out-of-pocket expenses for which reimbursement is being requested, despite the amount.** Please see Attachment 15 for current in-court and out-of-court expense and worksheets.

4.7. Air Travel. There may be times when panel attorneys, experts, and investigators will need to consult with clients, interview witnesses, or conduct investigations. To assure government rates, panel attorneys, experts, and investigators should schedule such air travel, whenever feasible, through the National Travel Service. To facilitate scheduling of air travel, the CJA Coordinator may be contacted to obtain a "Travel Authorization" form, which allows a panel attorney to charge the air travel directly to the Court's CJA government travel account. Counsel should make the request in writing or by facsimile at least five (5) days before the travel date to allow for adequate processing time. Once the authorization is obtained, counsel is responsible for making the travel arrangements. **Counsel is responsible for notifying the travel agent immediately if the travel is canceled.**

4.8. Other Travel Expenses. The panel attorney must pay and bill all travel expenses such as mileage, meals, lodging, rental cars, parking, taxi services, and telephone calls on a CJA 20 or 21 voucher. Expenditure must not exceed the prevailing per diem locality rates as set forth by the Administrative Office of the United States Courts and the United States District Court for the District of New Mexico. Please see Attachment 3 for current rates. Travel fares that exceed the prevailing rates must include a justification for the judicial officer to review for reimbursement. Travel must be case specific. Under no circumstances can a claim for multiple cases be made on one voucher.

4.9. Non-reimbursable Items. Counsel may not claim non-reimbursable items, such as general office overhead, as defined in *Chapter II Guidelines, Appointment and Payment of Counsel*. Counsel may not contract for legal research or appoint co-counsel without prior approval of the presiding judicial officer. In addition, counsel may not claim expenses incurred by defendants, witnesses, or traveling companions. This would include, for example, clothes, meals, taxi services, books, movies, and other items of a personal nature. Counsel may not bill for time expended in dealing with voucher matters with the Court, the presiding judge's staff, or Clerk's Office staff. Counsel should be aware that experts and investigators may not charge overhead expenses. Only those costs specific to their expertise are reimbursable. The hourly rate is intended to include compensation for general office expenses. Further examples of non-recoverable overhead items include:

- C Filing Fees, which are waived for persons proceeding under the CJA;
- C Printing of briefs;
- C Service of process fees for serving subpoenas;
- C Secretarial and typing services;
- C Office supplies;
- C Courier services;
- C Basic telephone service.

4.10. Appeal Vouchers. Counsel will submit CJA vouchers for cases on appeal to the CJA Coordinator only up to and including the filing date of the Docketing Statement. Thereafter, counsel must submit all billing time incurred after the filing of the Docketing Statement to the Tenth Circuit Court of Appeals.

## **5. PROCESSING VOUCHERS: A SUMMARY OF CLERK'S OFFICE PROCEDURES**

5.1. Submission of Vouchers. All vouchers must be submitted to the United States District Court, Clerk's Office, Attention: CJA Coordinator, 333 Lomas Boulevard, NW, Suite 270, Albuquerque, New Mexico 87102.

5.2. Screening. Upon receipt, the CJA Coordinator screens all vouchers for technical accuracy as follows:

- C Mathematical correctness;

- C Attorney's name and signature;
- C Attorney's Social Security Number or federal tax ID number;
- C Attorney's (or firm's) mailing address;
- C Name of defendant;
- C Criminal case number;
- C Name of case;
- C Offense charged;
- C Date of attorney's appointment;
- C Correct rates;
- C Time sheets for work performed;
- C Expense sheets;
- C Receipts;
- C Copies of all relevant motions and orders;
- C Compliance with the Guide and Instruction sheets.

5.3. CJA 20/30 Review. After a voucher has been screened for technical and mathematical accuracy, the CJA Coordinator reviews the "Claim For Services And Expenses" section of the CJA 20/30 voucher for compliance with the Guide and the instruction package. In-court and out-of-court categories are reviewed with the time sheet for mathematical accuracy. Travel time is reviewed to ensure that current travel rates have been applied. Work sheets are reviewed for authorized and unauthorized claims.

5.4. CJA 21/31 Review. First, as stated above, the CJA Coordinator will screen and review the vouchers for technical and mathematical accuracy. Following that, the CJA Coordinator will specifically review the following areas:

a. Claim for Services and Expenses. Mathematical computations and compensation claims must be consistent with the Guide. Time sheets reflecting exact billable hours, travel, phone calls, etc., must be attached to the voucher along with receipts. Only fees specific to the expert's or investigator's expertise are reimbursable. Counsel must obtain prior written approval for requests exceeding the recommended allowable statistical average hourly rates. (Attachment 2.)

b. Prior Approval. Prior approval for requests exceeding the maximum allowable is obtained by completing the top half of the CJA 21/31 form and attaching an itemized estimate of fees or costs. The presiding judicial officer may approve the voucher up to the delegated authority. See

Attachment 2 for current rates. Prior authorization from the presiding judicial officer is required for all investigative, expert, or other services where the cost (excluding reimbursement for reasonable expenses) will exceed \$300.00. In special circumstances, the presiding judicial officer may seek a delegation of authority from the Chief of the Circuit to approve payments beyond the maximum allowable. In this instance, only the final voucher with total cost will be forwarded to the Chief Circuit Judge for review and certification.

c. Travel Expenses. The expert or investigator must pay and bill all travel expenses such as mileage, meals, lodging, rental cars, parking, taxi services, and telephone calls on a CJA 21/31 voucher. Expenditure must not exceed the prevailing per diem locality rates as set forth by the Administrative Office of the U.S. Courts and the United States District Court for the District of New Mexico. See Attachment 3 for current per diem rates. Travel must be case specific. Under no circumstances can a claim for multiple cases be made on one voucher. In other words, if you are traveling to one location to see several defendants, you may only be reimbursed for one trip.

Upon completion of the screening process, the voucher is then forwarded to the presiding judge.

5.5. Cure Defect Letter. Inaccurate or incorrect vouchers, or vouchers lacking proper documentation, will be returned to the claimant for correction with a Cure Defect Letter and will result in a delay of the payment of the voucher.

## **6. JUDICIAL REVIEW**

6.1. Review. The presiding judicial officer reviews in-court and out-of-court time, expenditure claims, and appropriateness of expenditure claims and supporting documentation. The CJA Coordinator will flag questionable expenditures to assist the judge in the review. If Circuit review is required, chambers will mail the voucher with a letter to the Chief Circuit Judge. Upon approval, the voucher is returned to the CJA Coordinator for processing and payment.

6.2. Complex Litigation: Waiving Case Compensation Maximums. Prior approval by the presiding judicial officer and by the Chief Circuit Judge, or by an active circuit judge to whom excess

compensation approval authority has been delegated, is required to exceed the maximum allowable amount. Payments in excess of CJA compensation maximums may be made to provide fair compensation in cases involving complex representation. In making a determination if a case is "complex," the presiding judicial officer considers if the legal or factual issues in a case are unusual, thus requiring the expenditure of more time, skill and effort by the attorney than would normally be required in an average case.

6.3. Determining Excess Payment. Once a case has been deemed complex, the judicial officer determines how much excess payment is necessary to provide fair compensation. The judicial officer may require counsel to submit a proposed budget to the Court. The criteria that may be applied in this regard may include responsibilities measured by the magnitude and importance of the case, the manner in which duties were performed, the knowledge, skill, efficiency, professionalism, and judgment required and used by counsel. Other factors considered include the nature of counsel's practice, the extraordinary pressure of time or other factors under which services are rendered, and any other circumstances relevant and material to a determination of a fair and reasonable fee. An order by the judicial officer will be filed with the Court outlining the amount allowable that exceeded the maximum allowable rate for counsel and their experts. (Attachments 1 and 2.)

6.4. Inappropriate Claims. A judicial officer who determines that a claim is inappropriate may issue an order curing the defect, deny the claim, or contact the attorney directly.

6.5. Multi-Defendant Cases.

a. Experts. Defense attorneys are encouraged to share expert services whenever feasible. The judicial officer may issue an order in this regard.

b. 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 the attorney providing the copies on a CJA 20/30.

c. Expedited Transcripts. Requests for expedited, daily, hourly or realtime transcripts require a special authorization by the judicial officer. The attorney must attach a request to the presiding judge explaining the necessity to incur this expense when submitting the CJA 24 form to the court reporter.

## **7. FACT WITNESS VOUCHERS**

These guidelines pertain only to Fact Witness Vouchers, DOJ Form OBD-3, submitted by CJA appointed attorneys in criminal cases for the United States District Court, District of New Mexico. Once this form is completed by the witness with the assistance of the CJA attorney, it is submitted with all appropriate documentation for review to the U.S. Marshal's Service in Albuquerque, New Mexico. The panel attorney should obtain an Order For Free Process signed by a judge. Subpoenas are attached to the voucher. A designated person in the Marshal's office screens the voucher. When the review is completed, the voucher is routed back to the United States District Court Clerk's Office for signature. The Clerk's Office then returns the voucher to the Marshal's office for payment to the witness.

## **8. DISBURSAL OF VOUCHER PAYMENTS**

When the Court has returned a voucher with either the presiding judicial officer's approval or the Circuit Court's approval, data entry, verification, and certification for approval are performed by authorized members of the Clerk's Office. All payment checks are then generated and disbursed by the Administrative Office of the United States Courts in Washington, D.C.

## **9. DISCLOSURE OF VOUCHER DOCUMENTATION**

All original vouchers, along with supporting documentation and any other attachments submitted

by CJA panel attorneys in support of their claims for payment, are archived locally and may be reviewed only by the claimant. To review an original voucher, it is necessary to contact the CJA Coordinator for an appointment.

## **10. CONCLUSION**

This CJA Information Manual is not intended to be all inclusive. In this respect, the *Guide to Judiciary Policies and Procedures, Vol. VII, Appointment of Counsel in Criminal Cases*, is very detailed and has considerably more information than is possible to place within this manual.

This manual is effective immediately and will be revised on an as-needed basis. In this respect, it is suggested that the manual be kept in a looseleaf form to provide convenient amendment.

Date Issued: November 12, 1997.

Dates Revised: March 24, 2000;  
May 1, 2002;  
August 1, 2003.

Approved By:

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ROBERT M. MARCH, CLERK OF COURT

**CJA 20/30 VOUCHERS  
MAXIMUM ALLOWABLE HOURLY RATES\***

**CJA 20 VOUCHER**

<b>ALBUQUERQUE ATTORNEY RATE</b>	
In Court	\$90.00
Out of Court	\$90.00
Travel	\$90.00
<b>LAS CRUCES ATTORNEY RATE</b>	
In Court	\$90.00
Out of Court	\$90.00
Travel	\$90.00
<b>**MAXIMUM ALLOWABLE RATE WITHOUT CIRCUIT APPROVAL</b>	
Felony	\$5,200.00
Misdemeanor	\$1,500.00
Other	\$1,200.00

**CJA 30 VOUCHER**

<b>DEATH PENALTY RATE</b>	
In Court	\$90.00 - \$125.00
Out of Court	\$90.00 - \$125.00
Travel	\$90.00

\*Current Rate as of May 1, 2002 (AO Memorandum dated 3/22/02).

\*\*New case compensation maximums effective 11/13/00.

**CJA 21/31 VOUCHERS  
RECOMMENDED ALLOWABLE HOURLY RATES**

Psychiatrist/Psychologist	\$110.00
Neuro-Psychologist	\$110.00 - \$150.00
Investigator	\$35.00 - \$50.00
Mitigation Expert	\$65.00 - \$110.00
Ballistics Expert	\$40.00
Jury Consultant	\$80.00 - \$110.00
Interpreter	\$20.00
Certified Interpreter	\$50.00
Chemist	\$75.00
Accountant	\$80.00 - \$100.00
Law Clerk	\$35.00
Paralegal	\$25.00
Polygraph Examiner	\$80.00 - \$110.00
Physician, M.D.	\$110.00
Statistician	\$80.00 - \$100.00
Facsimile Charges	50¢ per page
Copying Charges	12¢ per page

**UNITED STATES DISTRICT COURT  
DISTRICT OF NEW MEXICO  
PER DIEM RATES\***

Albuquerque	\$114.00
Santa Fe (no seasonal rates)	\$145.00
Las Cruces	\$94.00
Roswell	\$85.00
Farmington	\$85.00
Mileage for travel on or before January 13, 2000	\$0.31 per mile
Mileage for travel on or after January 14, 2000	\$0.325 per mile
Mileage for travel on or after January 22, 2001	\$0.345 per mile
Mileage for travel on or after January 21, 2002	\$0.365 per mile
**Mileage for travel on or after January 1, 2003	\$0.36 per mile (decrease)

\*Current rates as of December 15, 2002.

\*\*New mileage rate current as of January 1, 2003 (Memorandum from the Administrative Office of the U.S. Courts dated 1/9/03).