

Guide to Judiciary Policy

Vol 7: Defender Services

Pt A: Guidelines for Administering the CJA and Related Statutes

Appx 2D: Procedures for Interim Payments to Counsel in Death Penalty Cases

1. The district court issues a Memorandum Order to counsel, outlining payment procedures and specifically addressing payment for actual expenses, travel, and compensation of counsel. **See:** Sample Memorandum Order.
2. A copy of the Memorandum Order should be furnished to the CJA claims coordinator.
3. [Form CJA 30](#) should be submitted with full documentation of all expenses claimed on the voucher.
4. Assign a number to each voucher processed for payment.
5. Item 18 of [Form CJA 30](#) must be completed to indicate the time period covered by the voucher and whether it is for the final payment or for an interim payment.
6. The final voucher should:
 - (a) set forth in detail the time and expenses claimed for the final interim period;
 - (b) set forth in detail the time and expenses claimed for the entire case; and
 - (c) reflect all compensation and reimbursement previously received.

**Sample Memorandum Order
(To Be Used Only In Death Penalty Cases)**

Memorandum to All Counsel Appointed Under the Criminal Justice Act (CJA), [18 U.S.C. § 3006A](#), and [18 U.S.C. § 3599](#), in the Case of _____

Number _____

RE: Interim Payments for Representation of Counsel

Because of the expected length of the trial in this case and the anticipated hardship on counsel in undertaking representation full-time for such a period without compensation, under the *Guide to Judiciary Policy* (Guide), Volume 7, Part A, § 230.73.20, the following procedures for interim payments apply during the course of your representation in this case:

1. Submission of Vouchers

Counsel should submit to the court clerk, twice each month, an interim [Form CJA 30](#), Death Penalty Proceedings: Appointment of and Authority to Pay Court Appointed Counsel. Compensation earned and reimbursable expenses incurred from the first to the fifteenth days of each month should be claimed on an interim voucher submitted no later than the twentieth day of each month, or the first business day thereafter. Compensation earned and reimbursable expenses incurred from the sixteenth to the last day of each month should be claimed on an interim voucher submitted no later than the fifth day of the following month, or the first business day thereafter. The first interim voucher submitted should reflect all compensation claimed and reimbursable expenses incurred from the date of appointment to _____, and should be submitted no later than _____; thereafter, the vouchers should be submitted twice each month according to the schedule outlined above. Each voucher will be numbered when processed for payment. Counsel should complete Item 18 on the form for each interim voucher. Interim vouchers should be submitted in accordance with this schedule even though little or no compensation or expenses are claimed for the respective period. All interim vouchers must be supported by detailed and itemized time and expense statements. Guide, Volume 7A, Chapter 6, and Chapter 2, § 230, outlines the procedures and rules for claims by CJA attorneys and should be followed on each voucher.

I will review the interim vouchers when submitted, particularly with regard to the amount of time claimed, and will authorize compensation to be paid for the approved number of hours. I will also authorize for payment all reimbursable expenses reasonably incurred.

At the conclusion of the representation, each counsel should submit a final voucher seeking payment for representation provided during the final interim period. The final voucher should also set forth in detail the time and expenses claimed for the entire case, including all documentation. Counsel should reflect all compensation and reimbursement previously received on the appropriate line of the final voucher.

2. Reimbursable Expenses

Counsel may be reimbursed for out-of-pocket expenses reasonably incurred incident to the representation. While the statute and applicable rules and regulations do not place a monetary limit on the amount of expenses that can be incurred, counsel should incur no single expense item in excess of \$ _____ without prior approval of the court. Such approval may be sought by filing an *ex parte* application with the clerk stating the nature of the expense, the estimated dollar cost, and the reason the expense is necessary to the representation. An application seeking such approval may be filed *in camera*, if necessary. Upon finding that the expense is reasonable, I will authorize counsel to incur it. Recurring expenses, such as telephone toll calls, photocopying and photographs, which aggregate more than \$ _____ on one or more interim vouchers are not considered single expenses requiring court approval.

With respect to travel outside of the city/county of _____ for the purpose of consulting with the client or his or her former counsel, interviewing witnesses, etc., the \$ _____ rule should be applied in the following manner. Travel expenses, such as air fare, mileage, parking fees, meals, and lodging, can be claimed as itemized expenses. Therefore, if the reimbursement for expenses relating to a single trip will aggregate an amount in excess of \$ _____, the travel should receive prior approval of the court.

The following additional guidelines may be helpful to counsel:

- (a) Case related travel by privately owned automobile should be claimed at the rate of ___ cents per mile, plus parking fees, ferry fares, and bridge, road, and tunnel tolls. Transportation other than by privately owned automobile should be claimed on an actual expense basis. Air travel in "first class" is prohibited. Counsel and persons providing services under the CJA are encouraged to contact the clerk for air travel authorization at government rates.
- (b) Actual expenses incurred for meals and lodging while traveling outside of the city/county of _____ in the course of this representation must conform to the prevailing limitations placed upon travel and subsistence expenses for federal judiciary employees in accordance with existing

government travel regulations. For specific details concerning high cost areas, counsel should consult the clerk.

- (c) Telephone toll calls, telegrams, photocopying, and photographs can all be reimbursable expenses if reasonably incurred. However, general office overhead, such as rent, secretarial help, and telephone service, is not a reimbursable expense, nor are items of a personal nature. In addition, expenses for service of subpoenas on fact witnesses are not reimbursable, but rather are governed by [Fed.R.Crim.P. 17](#) and [28 U.S.C. § 1825](#).

3. Further Guidance

Answers to questions concerning appointment under the CJA can generally be found in (1) [18 U.S.C. § 3006A](#); (2) the Plan of the United States District Court for _____, available through the clerk; and (3) the Guide, Vol 7A (Guidelines for Administering the CJA and Related Statutes), published by the Administrative Office of the U.S. Courts, also available through the clerk. Should these references fail to provide the desired clarification or direction, counsel should address their inquiries directly to me or my staff.

United States District Judge

Date