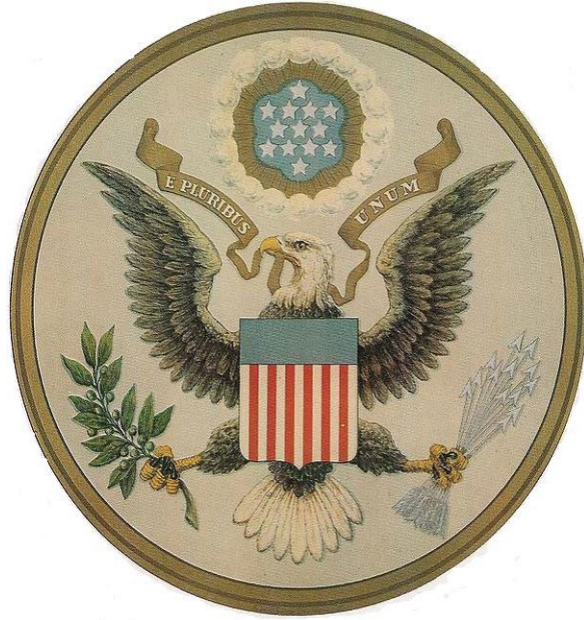


U.S. District Court
District of Maine



Criminal Justice Act
Reference Manual

Attorney Guidance for CJA Vouchers

Updated January 3, 2023

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CJA 20 Appointment & Authority to Pay CJA Counsel

When counsel is appointed under the Criminal Justice Act (CJA), the Clerk's Office will generate a CJA 20 appointment via the Court's web-based eVoucher program to which counsel should have a login and password. Following the completion of all work at the District Court level, counsel will finalize the CJA 20 voucher in eVoucher and submit it therein for processing to the Clerk's Office within 45 days. See the Case Maximums section in this manual for the statutory maximum compensation amounts.

Appointment of Counsel

Criminal Case Appointments

A criminal case begins with the filing of an indictment or information. If a defendant wishes to have court-appointed counsel, they will fill out a financial affidavit before an initial appearance. If approved by the Court, counsel will be appointed, and the Clerk's Office will generate a CJA 20 appointment in eVoucher.

Magistrate Case Appointments

A magistrate case begins with the filing of a complaint. If a defendant wishes to have court-appointed counsel, they will fill out a financial affidavit before an initial appearance. If approved by the Court, counsel will be appointed, and the Clerk's Office will generate a CJA 20 appointment in eVoucher. When a magistrate case is merged into a criminal case, after the filing of an information or indictment, the statutory limit of the new charging offense is applicable. No new appointment is generated in eVoucher; counsel should proceed with the same appointment that was generated for the magistrate case.

Target Letter Appointments

Targets of investigations are miscellaneous cases. If a target of an investigation wishes to have court-appointed counsel, they will fill out a financial affidavit. If approved by the Court, counsel will be appointed, and the Clerk's Office will generate a CJA 20 appointment. Target letter appointments are classified as "other" appointments with an "other" statutory limit. If the target of the investigation **is eventually charged** in a magistrate or criminal case, no new appointment is generated in eVoucher. If the target **is not charged** in a criminal case within 4-6 months, counsel may submit their CJA 20 voucher at that time.

“Other” Appointments

Examples of “other” appointments include supervised release and probation violations, grand jury witnesses and trial witnesses. These appointments must be made by the Court after a financial affidavit has been received and approved. The Clerk’s Office will generate a CJA 20 appointment in eVoucher.

Grand Jury Witness Appointments

A CJA 20 appointment for grand jury witness representation results from an individual being subpoenaed by the U.S. Attorney’s Office. If the individual reports they are unable to retain an attorney for financial reasons, the USAO will direct the individual to the Clerk’s Office where they can complete a financial affidavit. Once the affidavit has been approved by a judge, the Clerk’s Office will generate a CJA 20 appointment in eVoucher. This type of representation concludes the day of the witness’ grand jury testimony. The attorney should submit their CJA 20 voucher at that time. However, if the USAO indicates to the attorney for the witness that the witness will be called again to testify, the representation remains open and the CJA 20 voucher will be submitted following the conclusion of all grand jury testimony.

Substitute Counsel and Withdrawal of Counsel

If you are substitute counsel in a case, you will be appointed, and the Clerk’s Office will generate a CJA 20 appointment in eVoucher. In cases where a substitute CJA panel attorney replaces another CJA panel attorney, CJA Guidelines at §230.56 require that “the total compensation paid to both attorneys may not exceed the statutory maximum for one defendant, unless the case involves extended or complex representation.” The compensation maximum applies per case/per defendant, not per attorney.

Ancillary Work

Counsel must seek advance approval, through an *ex parte* application to the Court, when representation to be provided in an ancillary matter is appropriate to the principal criminal proceeding and compensable. See CJA Guidelines § 210.20.30(f).

Case Budgeting

It is counsel's responsibility to initiate a case budget when a case has the potential to be extraordinary in terms of costs; but the Court may direct the initiation of a budget.

This Court's CJA Plan at section 11.5.1 states the development of a case budget is required consistent with the Guide to Judiciary Policy, Vol. 7A, Ch. 2, §230.26.10–20 and the Court's case budgeting policy, in representations that appear likely to exceed 300 hours, or total expenditures for counsel and services in addition to counsel (e.g. experts, interpreters, investigators, travel expenses) are expected to exceed 300 times the prevailing CJA panel attorney non-capital hourly rate, rounded up to the nearest thousand (\$49,200 as of 01/01/2023).

Failure to submit a budget in an applicable case could result in the provision of inadequate resources, delays in payment or, ultimately, a voucher reduction.

Counsel is encouraged to monitor ongoing costs and hours as their case proceeds, so that revisions to the budget can be made and re-submitted for approval. Revisions may be submitted at any time throughout the case. Time spent creating and modifying a case budget may be claimed on the CJA20.

Case budgets may be submitted *ex parte* to **eVoucher@med.uscourts.gov**.

The Court's CJA Case Budgeting Policy and Procedure document is available here: [https://www.med.uscourts.gov/sites/med/files/CJA Case Budgeting Policy and Procedure.pdf](https://www.med.uscourts.gov/sites/med/files/CJA%20Case%20Budgeting%20Policy%20and%20Procedure.pdf).

For questions or assistance regarding case budgeting procedures please contact First Circuit CJA Case Budgeting Attorney Michael C. Andrews at (617) 748-9104 or Michael.Andrews@ca1.uscourts.gov.

Billable Rates

Court-appointed counsel will be paid an hourly rate for in-court and out-of-court time. For work performed on or after January 1, 2023 the rate is \$164 per hour. For rates applicable to services performed prior to January 1, 2023, see CJA Guidelines § 230.16 Hourly Rates and Effective Dates in Non-Capital Cases.

Recordkeeping

Counsel must maintain contemporaneous time and attendance records on the CJA 20 voucher for payment in eVoucher for all work performed, in tenths of an hour, including:

- Work performed in-court
- Work performed out-of-court
- Travel and other expense records

Time Calculations and Hourly Conversion Table

Below is the Hourly Conversion Table to be used in the calculation of attorney time on the case. Claims for compensation **must** be in tenths of hours.

Hourly Conversion Table

Minutes	1-6	7-12	13-18	19-24	25-30	31-36	37-42	43-48	49-54	55-60
Tenths	.1	.2	.3	.4	.5	.6	.7	.8	.9	1.0

In-Court Time

Some examples of in-court services that may be claimed on the CJA 20 voucher include time spent:

- Talking with a judicial officer in the courtroom, in chambers, by video hearing or by telephone; Waiting for a hearing to commence due to court delay;
- Waiting for court recesses (being available for Court to begin from a recess); and
- Waiting for Jury deliberations.

Claimed time for in-court services is premised upon counsel's unavailability to perform work on anything other than the CJA case for which the attorney is required to be at the courthouse.

Counsel cannot bill in-court time for partners or associates unless such counsel is specifically appointed. "In an extremely difficult case where the court finds it in the interest of justice to appoint an additional attorney, each attorney is eligible to receive the maximum compensation allowable under the CJA." See CJA Guidelines § 230.53.20(a).

Out-of-Court Time

Some examples of out-of-court services include time spent:

- Preparing pleadings and correspondence;
- Conferring with counsel, client, or witnesses;
- Traveling;
- Researching;
- Attending proffers.

Appointed counsel can claim time for services furnished by a partner or associate for occasional out-of-court services by identifying on the CJA 20 voucher the partner or associate and the work performed.

Non-Payable Time

Time spent preparing the CJA 20 voucher and lunch breaks are examples of non-payable time.

Travel

Appointed counsel and other authorized service providers may be reimbursed for the actual cost of reasonably incurred travel expenses for case-related travel.

Extraordinary travel or any travel involving an overnight stay related to CJA representation **must** be discussed in advance with the Clerk's Office and a written authorization should be issued by the presiding judicial officer.

Travel Time and Prorated Travel Time

Travel time may be claimed only when travel is greater than 20 miles in distance. (In eVoucher, use Out of Court Service Type "d. Travel Time".) When traveling to visit clients in jail, consider combining trips if you have multiple clients in the same facility – especially distant facilities. In such situations, the attorney is required to prorate travel **time** between defendants. However, **mileage and other expenses cannot be divided** between defendants, therefore mileage must be submitted on a single defendant's voucher. See CJA Guidelines § 230.50 (d-f).

Mileage Reimbursement

Mileage may be claimed as a travel expense (eVoucher Expense "Travel Miles"). Any claims for mileage must indicate the date, number of miles traveled, start and end location. The eVoucher system automatically determines the government rate per mile for the travel date. As of January 1, 2023, the rate is 65.5 cents per mile.

Expenses

Reimbursement will be allowed for actual (not estimated) expenses. Supporting documentation, such as receipts, must be submitted as an attachment in eVoucher for single item expenses in excess of \$50. Contact the Clerk's Office for guidance on what incurred expenses are reasonable.

Telephone

Toll and long-distance charges for out-going, case-related facsimiles and telephone calls, and collect toll calls accepted from incarcerated clients are reimbursable; local charges are not. Telephone charges should be supported by submitting a telephone bill highlighting the calls pertaining to the defendant.

Postage

Reimbursement will be made for the actual cost of case-related regular U.S. postage.

Medical Records

Maine State law limits what can be charged for copies of medical records provided by a health care provider. The maximum that can be charged is \$5 for the first page and \$0.45 per page for additional pages up to a maximum of \$250. See 22 M.R.S.A. § 1711-A.

Copies

Any claim for photocopying must clearly indicate the date, the source (e.g. in-house, FedEx Office, Staples, etc.), the number of pages copied and the actual cost per page. The presumptively reasonable reimbursement rate for photocopies is \$0.15 per page. Any claim for copy costs that exceeds \$0.15 per page must include with it a justification for reimbursement at a higher rate.

Reimbursement for printing briefs, regardless of the printing method utilized, is not reimbursable. However, the cost of photocopying or similar copying service is reimbursable. See CJA Guidelines § 230.66.40.

Discovery

Most discovery is now provided electronically. Before printing all material, consider, whether it is truly necessary or if reading the material electronically may be more efficient.

Paralegal Services

Paralegals often bill at rates below the current compensable rate for CJA counsel. Consider procuring the services of a paralegal when combing through voluminous discovery, listening to or taking notes in wire intercepts, and reading transcripts. Paralegal expenses must be billed on a CJA 21 voucher. Counsel should also bill for

law student time on a CJA 21 voucher. Please see the chart for Presumptive Maximum Rates for Expert Services in this manual.

Computer-Assisted Legal Research

The cost of computer-assisted legal research services such as Lexis may be allowed as a reimbursable out-of-pocket expense provided the amount claimed is reasonable. Whenever charges for computer-assisted legal research are incurred, counsel must include a copy of the invoice and receipt for the use of the legal research services and an explanation of the precise basis of the charge (e.g., indicating the extent to which it was derived by proration of monthly charges, or by charges identifiable to the specific case).

Prohibited Expenses

Entertainment such as movies, sightseeing tours, alcoholic beverages, parking fines/fees for traffic violations, personal automobile expenses or personal accident insurance.

Items of a personal nature purchased for or on behalf of the person represented is not reimbursable under the CJA. Such items include new clothing or having clothing cleaned, getting a haircut, or furnishing cigarettes, candy or meals.

General office overhead including personnel, rent, telephone service, secretarial services are not reimbursable. See CJA Guidelines § 230.66.

PACER

PACER is available free of charge to all panel attorneys when a fee-exempt account is set up through the PACER Service Center. To establish your fee-exempt PACER account, call the PACER Service Center at (800) 676-6856 or e-mail pacer@psc.uscourts.gov. This login should be used for court-appointed cases only and will be deactivated when the attorney is no longer a member of the panel.

Reimbursement for PACER charges is not permitted.

Witness Subpoenas

Expenses related to the testimony of a witness, including service of subpoenas, witness fees and witness travel costs, **are not** paid out of the CJA appropriation. Instead, these expenses are paid by the Department of Justice through the United States Marshals Service.

The USMS serves subpoenas for CJA court-appointed counsel. Counsel must first file a motion for subpoena at government expense, attaching the proposed

subpoena. This must be filed *ex parte* in paper. For detailed information concerning the manner in which the USMS assists court-appointed counsel with witness subpoenas and reimbursement issues, see the USMS publication Public Defender's Handbook.

CJA funds are not available to pay for private process servers, and attorneys should not hire a process server to serve these subpoenas.

Proration of Claims

There may be times when proration of claims is appropriate, below is a table outlining appropriate prorations. Whenever appointed counsel submits separate vouchers:

- Time spent in common on more than one case must be prorated among the indictments or cases on which the time was spent. Each case must be cross-referenced on the vouchers.
- Time spent exclusively on any one case may properly be claimed on the voucher for that indictment or case.

IF	THEN	AND UNDER (d)(2) OF CJA
A defendant is charged in one indictment with severable counts whether or not the counts are severed for trial	one voucher must be submitted	one maximum is applied
A defendant is charged in two or more indictments or informations (other than a superseding indictment or information) whether or not the indictments are consolidated for trial	a separate voucher must be submitted for each case	a separate maximum is applied for each case
A single counsel is appointed to represent multiple defendants	a separate voucher must be submitted for each defendant represented	a separate maximum is applied for each defendant

Case Maximums

- The case maximum applies **per defendant**.
- Maximum amounts do not include allowable expenses.

Maximum compensation allowed for various types of representations:

Type of Representation	Representation furnished from 02/15/2019 to 12/31/2019	Representation furnished from 01/01/2020 to 12/31/2020	Representation furnished from 01/01/2021 to 12/31/2021	Representation furnished on or after 01/01/2022	Representation furnished on or after 01/01/2023
Felony	\$11,500	\$11,800	\$12,100	\$12,300	\$12,800
Misdemeanor	\$3,300	\$3,400	\$3,400	\$3,500	\$3,600
All Others, including but not limited to: <ul style="list-style-type: none"> • Probation Violations • Supervised Release Violations • Material Witness • Grand Jury Witness • Trial Witness • Rule 5 Proceedings 	\$2,500	\$2,500	\$2,600	\$2,600	\$2,700

Claims in Excess of the Statutory Maximum

If the amount of compensation claimed exceeds the statutory maximum, a written statement (Memorandum in Support of Excess Compensation briefly describing the nature of this case) to justify waiver of the maximum and to explain (1) how the case was “extended” and/or “complex” and (2) how the excess payment is “necessary to provide fair compensation” must accompany the voucher (attach as a document to eVoucher CJA 20). Any voucher submitted in excess of the statutory maximum must be reviewed at the District Court level and approved by the Chief Judge of the First Circuit or their designee.

Interim Payments to Counsel

Interim payments are allowed where “necessary and appropriate” to relieve counsel of financial hardship in extended and complex cases. Counsel seeking interim payment must select “Interim Payment” on the CJA 20 voucher (on the Claim Status page in eVoucher) and attach a document (addressed to the presiding judge) stating what makes the case “extended or complex” and why payment before the conclusion of the case is necessary to avoid financial hardship. Where counsel seeks interim payment in excess of the statutory maximum, the letter must also address why the excess claimed is necessary to provide fair compensation.

Approval & Payment

Upon receipt of a CJA 20 voucher in eVoucher, the Clerk’s Office reviews the CJA 20 information for accuracy, completeness, and appropriate attachments. The voucher is then routed for approval at the District Court level and the First Circuit Court of Appeals (as needed). Checks are mailed directly from the U.S. Treasury in Washington, D.C.

Voucher Reduction Procedures

Prior to the reduction of any voucher, other than for mathematical or technical errors, the Court will notify the CJA panel attorney of the proposed reduction. The CJA attorney then can address the matter or agree to the suggested reduction. See the CJA Plan §12.2.7.

CJA 21 Authorizations and CJA 21 Vouchers for Expert and Other Services

All attorneys appointed to provide representation under the Criminal Justice Act, 18 U.S.C. § 3006A(e), may request authorization to obtain investigative, expert and other services necessary for adequate representation, to be paid from funds appropriated for the administration of the Act.

CJA 21 Authorization

When a court-appointed attorney determines that expert services are required to represent their client, the attorney must first obtain court authorization before the expert provides services. Court authorization is obtained *ex parte* by counsel via the submission of a CJA 21 Authorization (AUTH) in eVoucher.

While the national CJA Guidelines allow obtaining expert services without prior authorization when those services do not exceed \$900, **this Court requires that counsel seek prior authorization in each instance expert services are required.** The Court may disallow any claim for expert services that has not received prior authorization.

When seeking authorization, submit a request *ex parte* by completing a CJA 21 Authorization (AUTH) indicating:

- why the service is necessary;
- the expert's hourly rate; and
- the estimated cost of services.

Once the CJA 21 Authorization (AUTH) in eVoucher has been approved by the Court, counsel will be notified in eVoucher.

CJA 21 Authorizations are “Not-to-Exceed” Approvals

Authorizations signed by the Court for CJA 21 expert services should be viewed as “not to exceed” contracts between the CJA attorney and the expert. Advise your expert that the Court has only approved the amount authorized and that, if the expert is going to need to exceed the approved amount for any reason, the attorney must first seek additional approval from the Court. Counsel should submit a supplemental CJA 21 pre-authorization (AUTH) that explains why the supplemental request is either (1) necessary to provide fair compensation for services above the initial amount sought or (2) necessary because of circumstances of an unusual character, complexity or duration. Approval must be obtained from the presiding judge **before** any further service is provided. Counsel are advised to proactively manage their expert's costs by monitoring ongoing costs and making the

expert aware that the court-approved amounts are considered “not-to-exceed” contracts.

The final CJA 21 is submitted for payment *ex parte* via eVoucher and shall not be revealed without the consent of the defendant.

Counsel **should not** pay any expert service provider directly.

Presumptive Maximum Rates for Expert Services

The Court has established the following **presumptive maximum rates** for expert service providers. As lower rates are readily available in Maine, counsel is encouraged to negotiate rates lower than the following:

<u>Type of Provider</u>	<u>Maximum Hourly Rate Allowed</u>
Paralegal	\$50
Investigator	\$90
Legal Analyst/Consultant/Mitigation Expert	\$100
Computer Forensics Expert	\$250
Mental Health Professional/Psychologist	\$250
Psychiatrist/Medical Doctor/Pathologist	\$300
Certified Interpreter for actual hours worked	\$80
Non-certified Interpreter for actual hours worked	\$44

The maximum compensation, excluding allowable expenses, for expert services (per expert per defendant) since January 1, 2023 is \$2,800.

Special Instructions for Interpreter Services

When first contacting an interpreter, a CJA attorney is encouraged to negotiate reasonable hourly rates for interpreting and/or translation services. In no event may the rates exceed those set forth below, without Court approval. Counsel seeking Court authorization to obtain interpreter services should submit an *ex parte* CJA 21 pre-authorization (AUTH) in eVoucher.

Interpreters will be permitted to bill only for actual hours worked. For work performed on or after October 1, 2015, unless otherwise ordered by a judge of this Court, AO Certified or Professionally Qualified interpreters may be paid up to \$80.00 per hour, not to exceed the current "full day rate" for such interpreters as established by the Administrative Office of the U. S. Courts. Non-certified or language-skilled interpreters may be paid up to \$44.00 per hour, not to exceed the current "full day rate" for such interpreters as established by the Administrative Office of the U. S. Courts.

Certified: \$80/hour, not to exceed the full-day rate of \$566
Non-Certified: \$44/hour, not to exceed the full-day rate of \$350

Compensation Rates for Translation

The U.S. District Court in Maine has adopted as reasonable the following rate schedule recommended by the Administrative Office of the U.S. Courts and set by the United States Department of State. Translation of documents is to be billed on a per-word basis only.

Type of Material	Cost/Words	Description
General	16.5¢ per word	Fairly rapid translation containing little or no specialized terminology.
Semi-technical	17¢ per word	Some specialized terminology & requires a fair amount of research by an experienced translator.
Technical	18.5¢ per word	Replete with highly specialized or esoteric terminology requiring special expertise and/or painstaking & lengthy research by an experienced translator.

Submitting the CJA 21 voucher for payment of services

At the conclusion of the case, or when the CJA attorney is certain the expert service provider's services are complete and will not be used again in the case, the attorney will submit a final CJA 21 voucher for payment, attaching the expert's invoice. The attorney will certify that the services were rendered for this case via eVoucher.

The attorney will review the expert's invoice and information for accuracy. The invoice should describe in detail:

- The dates of service and the service provided;
- The amount of time spent and the rate charged; and
- Itemized expenses, if any.

Reimbursement will be allowed for actual (not estimated) expenses. Supporting documentation, such as receipts, must be submitted for single item expenses in excess of \$50.

Approval and Payment

Upon receipt by the Clerk's Office of a complete and accurate CJA 21 voucher with appropriate attachments, the voucher is reviewed for accuracy and then routed for approval at the District Court level and the First Circuit Court of Appeals (as needed). Checks are mailed directly from the U.S. Treasury in Washington, D.C.

CJA 24 – Request and Authorization for Transcripts

Payment for transcripts is not payable on a CJA 20 voucher. CJA counsel must request a transcript using the eVoucher CJA 24 voucher for Authorization and Payment of Transcript. The District of Maine's Official Court Reporters are Lori Dunbar (207-749-4072), Tammy Martell (207-272-5566), and Cathy Ford (609-367-2777).

CJA - In General

Congress has mandated that the amounts paid to court-appointed counsel and experts may be disclosed to the public, subject to the consideration of special circumstances. The Criminal Justice Act, as amended in 1998, mandates disclosure of amounts paid to court appointed attorneys **upon the Court's approval of the payment.**

- (a) To satisfy the requirements of the CJA, courts may release copies of the payment vouchers (the top sheets of completed forms CJA 20 or CJA 30), redacted or unredacted, depending on the state of the particular case and the statutory consideration involved.
- (b) Documentation submitted in support of, or attached to, payment claims is not covered by the CJA and need not be disclosed at any time.

For further information:

<http://www.uscourts.gov/FederalCourts/AppointmentOfCounsel/CJAGuidelinesForms/vol7PartA/vol7PartAChapter5.aspx>

The CJA Plan is on the Court website:

https://www.med.uscourts.gov/sites/med/files/CJA_Plan_2020.pdf

Panel members who have support staff are encouraged to add secondary e-mail accounts to ECF so support staff can review Notifications of Electronic Filings (NEFs).

Contact Us

Please feel free to contact the Clerk's Office with any questions:

Email: eVoucher@med.uscourts.gov

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