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# CJA Billing and Best Practices

September 1, 2011

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**U. S. District Court  
District of Puerto Rico**



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# 18 U.S.C. §3006A

Plan provides for:

- ❑ **Services of counsel**
- ❑ **Investigative services**
- ❑ **Experts** (Psychologist/Psychiatrist, Investigator, Paralegal, Translator, Fingerprint Expert, etc.)
- ❑ **Other services** (Transcripts)

**Adequate for representation**

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# Services Rendered

- In Court Time
  - Out of Court Time
  - Travel Expenses
  - Other Expenses
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# 3006A Hourly Rate

- In Court: \$125.00
- Out of Court: \$125.00
- Capital Case:
  - In & Out of Court: \$178.00
- Standard: Efforts reasonably related to representation

In Court
Out of Court

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# In Court Time

- 15a Arraignment and/or Plea
  - 15b Bail and Detention Hearings – if joint hearings, allocation or one single entry.
  - 15c Motion Hearings – hearings regarding motions. For motion-filing, go to Section 16c.
  - 15d Trial
  - 15e Sentencing Hearings
  - 15f Revocation Hearings
  - 15g Appeals Court
  - 15h Other (Status and Pretrial Conferences)
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# Local Policy

## Minutes will include:

### In court time

- Status Conferences
- Evidentiary Hearings
- Sentencing
- Hearings on Motions

## CJA Clerk will make reference to Minutes

- Time set, time ended, reasonable waiting time
  - Time meeting with defendant or others: Section 16a
  - Preparation for hearing: Section 16e
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# Out of Court Time

- 16a      **Interviews and Conferences**
    - Interviews/calls with relatives – reasonableness, briefly explain purpose and matter discussed
  - 16b      **Obtaining and Review Records**
    - Grouping entries
  - 16c      **Legal Research and Brief Writing**
    - Boilerplate motions – reasonable time, if not precluded by CMO
    - Sentencing Memorandum – do not copy/paste PSR. Summarize.
    - Motion to Join – no billing of research time
  - 16d      **Travel Time**
  - 16e      **Investigative and Other Work**
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# PACER

- ❑ There is no PACER fee charge for CJA-appointed attorneys when accessing CJA-related cases
  - ❑ Attorneys are advised to contact the PACER Service Center concerning exemption from fees
    - (800) 676-6856
    - [pacer@psc.uscourts.gov](mailto:pacer@psc.uscourts.gov)
    - <http://www.pacer.gov>
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# Travel Expenses - Reasonably Incurred

- Mileage: 2011 (\$0.51/mile)
    - Court 's Distance Computation Chart
    - DTOP Mileage calculator
  - Travel outside Metropolitan Area (when authorized by Judicial Officer)
  - Tolls
  - Parking
  - Lodging and Meals (when authorized by Judicial Officer on travel out of Puerto Rico) – itemized receipts
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# Supporting Guidance Necessary

- **Tolls:**
    - Date of travel and cost
    - Receipts or DTOP Internet Log if single item over \$50.00
  - **Parking:**
    - Date of travel and cost
    - Receipts if single item over \$50.00
  - **Mileage:**
    - Date of travel
    - Municipality (From and To)  
(Court's Distance Computation Chart & DTOP website mileage calculator)
  - **Transcripts**
    - CJA-24 voucher (See procedure in Court's Web Page)
  - **Translation of Documents**
    - Paid directly to expert using a CJA-21/31 voucher
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# Other Expenses (provide receipt for single items exceeding \$50.00)

- **Long distance phone calls** (phone invoice)
  - **Photocopies** (# of pages, rates @ 10¢ b/w & 15¢ color, invoice if copies made by commercial firm) – brief description of use/purpose
  - **Legal Research** (provide electronic research service invoice)
  - **Delivery/Courier Services** (dates)
  - **Any other reasonable expense with proper documentation**
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# Other Expenses: Transcripts

- Cost of Transcripts – Form CJA-24 voucher
  - Miscellaneous Administrative Order 10-mc-132 (JAF) of April 15, 2010 (Court's web page)
  - Request transcript by motion and attach pre-filled Form CJA 24
  - If requested in open court, counsel is responsible for filing in CM/ECF the pre-filled Form CJA 24
  - If requesting a special authorization (Form CJA 24, item 14, daily or expedited), justification for the request shall be provided in the motion or expressed in open court
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# Non-Reimbursable Expenses

## ■ Subpoenas

- US Marshals
- Department of Justice

## ■ General Office Overhead

- % of Rent and Utilities
- Secretarial/clerical work

## ■ Items and Services of Personal Nature

- Purchasing new clothing or having clothing cleaned;
  - Getting a haircut;
  - Furnishing cigarettes, candy or meals, etc.
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# Non-Reimbursable Expenses (Cont.)

- Deposition Taking
    - Usually Fees, Expenses, Deposition Transcripts: DOJ
  - Trial and 2255 Proceedings
    - Travel funds, Fees, Expenses of Factual witnesses: DOJ
  - Services of Guardian At Litem under 18:5034 (juveniles)
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# Personal Nature Items:

## Non-Reimbursable

- Disposition of personal property
  - INS (unless previously authorized by the Court)
  - Arranging placement of minors
  - Assisting defendant in executing probation conditions (exigent circumstances)
  - Matters unrelated to case, although incidental to defendant's arrest (unless previously authorized by the Court)
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# Maximum Amounts per Attorney

## 3006A(d)(2)

■ Felonies	\$9,700
■ Misdemeanors	\$2,800
■ Appellate	\$6,900
■ Non-Capital Habeas (Same as Felonies)	
□ District Court	\$9,700
□ Appellate Court	\$6,900
■ Parole Commission	\$2,100
■ Any other representation	\$2,100
□ Including, but not limited to probation violation, supervised release hearing, material witness	
□ Appellate Court (for each level of appeal)	\$2,100

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# Claims for Payment

- Shall include:
    - **If statutory maximum is exceeded: CJA-26 & Excess Memorandum (MANDATORY)**
    - Cover letter indicating why amounts claimed are fair and justified; complexity issues and/or extended case; particular issues/events justifying amounts claimed  
Re: Discovery, Plea Bargaining, Sentencing, Particular defenses
    - Sworn statement – specify time, services rendered, expenses
    - Trial time
    - Supporting data: receipts, bills, toll or phone
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# Maximum Amounts Waived

## §3006A(d)(3)

- **District Court Certification Regarding**
    - Complexity of issues/case
    - Extended Representation
    - Excess payment is necessary to provide fair compensation
    - Approval Circuit Judge
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# Expert/Investigative Services

- Without Prior Court Authorization
    - Fees – up to \$800
    - Expenses – reasonably incurred
    - Letter with voucher – brief explanation why service is needed
  - Requires Prior Court Authorization
    - Over \$800 in fees
    - Non-Capital maximum: \$2,400 compensation plus reasonable expenses
    - Capital maximum: \$7,500 compensation cumulative per defendant including all experts
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# Experts: Motion Practice (Cont.)

- Include:

- What makes services necessary
  - Type of Tests/Evaluations to be conducted
  - Applicable statute defines who pays: DOJ, CJA, USPO
  - Scope of its intended use
  - Expert's:
    - Curriculum Vitae
    - Address/ Phone No.
    - Fee per hour (In/Out court)
    - Estimated No. hours
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# Experts: Motion Practice (Cont.)

- ❑ Where will testing/examination be conducted
    - Need to provide notice to MDC
  - ❑ Estimated Completion Time: Expert's Report
  - ❑ Proposed Form of Order for the Court
  - ❑ For psychological/psychiatric expert services:  
indicate applicable statute (See CJA Guide § 320.20)
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# Experts: Motion Practice (Cont.)

- You are responsible for:
    - Certifying expert services were rendered
    - Providing necessary/relevant information
      - The expert may need
        - Indictment
        - Medical Records
        - Mental Evaluation Reports
        - Academic/ Employment History
    - Filing of Expert Report
    - Indicating if an Evidentiary Hearing is necessary
      - Ex: Mental Competency
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# Motion For Investigative Services

- Name of Investigator
    - Curriculum Vitae for Investigator
    - Detailed Description of tasks to be performed
    - Fee per hour
    - No. of hours (estimate)
    - If information is to be shared with any co-counsel
    - Proposed Form of Order for the Court
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# Investigator shall not:

- Be your employee
  - Provide legal advice to defendant
  - Provide legal advice or talk to co-defendants w/o other counsel present
  - Recruit clients on your behalf
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# Attorneys are responsible for:

- Supervising the investigator's efficient performance of tasks assigned
  - Certifying any fees or expenses claimed
  - Not exceeding the Court's authorization
    - If fees invoiced by expert exceed the Court's authorization, counsel shall seek Court's approval for additional funds
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# Experts: Psychiatrist/Psychologist

- Some of the psychological, psychiatric, and related services involving CJA clients are paid for from CJA funds, in limited circumstances, when used for defense purposes, requested *ex-parte*, and the examination is not disclosed to the government.
- Some services are paid by the Department of Justice (DOJ), regardless of whether the services were requested by defense counsel, especially those used to determine mental competency.
- In some cases involving dual purpose examinations, the costs are shared, and paid with CJA and DOJ funds.

*Source: National CJA Voucher Reference Tool*

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# Experts: Psychiatrist/Psychologist

- **Motion Requesting Expert shall include:**

- Scope and purpose of evaluation
- Statute under which services are requested
- Who will perform the service
- Who will use the examination
- If information is to be disclosed to or shared with the government
- Fee per hour
- No. of hours (estimate)

- **Attachments:**

- Curriculum Vitae
  - Proposed Form of Order for the Court
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# Experts: Psychiatrist/Psychologist

## ■ Proposed Order

- Should not specify source of funds (DOJ / CJA)
  - Purpose & statute under which services are requested according to CJA Guide, Vol. 7 Part A, § 320.20.60
  - If information is to be disclosed to or shared with the government
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## Required Authorizations (from District Court)

- Interim Vouchers
  - Substitution of Counsel (interim vouchers submitted when withdrawal from representation is granted by the Court prior to disposition of case)
  - Travel and Lodging out of Puerto Rico
  - Travel outside of Metropolitan area
  - Any (General) Expense \$500 or over
  - Experts (Investigators, Medical Professionals, Translators, Paralegals, Fingerprint Expert, etc.) invoicing over \$800.00 in fees
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# First Circuit Approvals

- **Interim Vouchers** (excluding substitution of counsel vouchers)
  - **Criminal Cases exceeding \$9,700**
  - **Other Cases exceeding \$2,100**
  - **Experts exceeding \$2,400 (CJA 21) (Instructions)**
  - **Experts exceeding \$7,500 on CJA 31 (total of all experts together)**
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# Substitution of Counsel

- Attorneys substituted during the course of a case:
    - Vouchers will not be processed until the conclusion of the case for the defendant represented **unless prior Court approval is obtained.** *CJA Guide, § 230.56*
  
  - Attorneys wishing to be compensated before the disposition of the case:
    - Shall file a “Motion Requesting Authorization to Submit Interim CJA Voucher”; or
    - Include their request to submit their vouchers together with their “Motion to Withdraw”; or
    - Make the request in open Court if the withdrawal is requested during a hearing (Minutes)
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# Forty-Five (45) Days Letter

- ❑ Vouchers should be submitted no later than 45 days after the final disposition of the case, unless good cause is shown. *CJA Guide*, § 230.13
  - ❑ Include explanatory letter with voucher, if submission time exceeds 45-days from the date of Sentencing/Judgment
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# Multiple Defendants in a Single Case

- ❑ When a single counsel is appointed to represent multiple defendants, separate vouchers should be submitted. *CJA Guide*, § 220.40(b), § 230.50(c)
  - ❑ Time spent in common on more than one defendant must be prorated and those entries must be cross-referenced on the voucher. *CJA Guide*, § 230.50(d)
  - ❑ Time spent exclusively on any one defendant may properly be charged on the voucher for that defendant. *CJA Guide*, § 230.50(d)
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# Boilerplate Motions

## **MOTION REQUESTING COP HEARING**

### **TO THE HONORABLE COURT:**

COMES NOW the defendant of caption thru his undersigned court-appointed attorney and respectfully requests the Court to schedule his case for a COP hearing. The undersigned submits that the Court schedule hearing as trial scheduling may allow in Criminal ), in which the undersigned is an attorney.

CERTIFICATE OF SERVICE: I hereby certify that on this date, I have electronically filed the foregoing with the Clerk of the Court using the CM/ECF system which will send notification to all attorneys of record.

RESPECTFULLY SUBMITTED, In San Juan, PR, this,

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# Boilerplate Motions

## INFORMATIVE MOTION RE: ABSENCE FROM JURISDICTION

TO THE HONORABLE COURT:

**NOW COMES**, \_\_\_\_\_, CJA Counsel for \_\_\_\_\_, and most respectfully Informs:

1. Subscribing attorney will be on-travel outside of this jurisdiction from \_\_\_\_\_ through \_\_\_\_\_ both dates inclusive, and asks that this Honorable Court, as well as all attorneys of record, take notice of these dates for all pertinent purposes.

**WHEREFORE**, it is most respectfully Prayed that this Honorable Court be so Informed.

**I CERTIFY** that on this date I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system which will send notification of such filing to the U.S. Attorney's Office for the District of Puerto Rico and to all Defense Attorneys of record.

**RESPECTFULLY SUBMITTED.**

In San Juan, Puerto Rico, this

# Boilerplate Motions

## **MOTION REQUESTING GOVERNMENT NOTICE OF INTENT TO INTRODUCE RULE 404(B) EVIDENCE**

**TO THE HONORABLE DISTRICT COURT:**

**COME NOW** Defendant \_\_\_\_\_, through her attorney of record and very respectfully States, Alleges and Prays as follows:

**1. That appearing defendant requests the Court to Order the Government to provide appearing defendant prior to trial with notice of the general nature of any evidence which they intend to use at trial pursuant to Rule 404(b) of the Federal Rules of Evidence.**

**WHEREFORE**, the appearing defendant respectfully prays from this Honorable Court to take notice of the aforesaid and order the United States to notify the requested evidence subject of discovery.

**RESPECTFULLY SUBMITTED**

In San Juan, Puerto Rico this

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# Time for Review of Electronic Entries/ Docket

## ■ Standard

- ❑ Tasks and Time Reasonably Related to Representation
- ❑ Relevance and Need
- ❑ Grouping of Entries Reviewed

## ■ Techniques

- ❑ Search for Specific Client vs. Search of all Docket
  - ❑ Notices (not all) (relevant)
  - ❑ Scrolling
  - ❑ Time for reviewing docket entry and reading of motion
-

# Billing Practices: Detail of a Cover Letter

Counsel's time in obtaining/reviewing records and discovery total **9.0 hours**. Since counsel previously represented, under CJA, defendant # \_\_\_\_\_; in the same criminal case, **it was not necessary for counsel to conduct a full review of discovery, which would have been duplicitous. As such, counsel reviewed only the discovery and records specific to the defendant.** Additionally, there was coordination efforts and review with regard to Dr. \_\_\_\_\_ evaluation of the defendant and review of defendant's juvenile records in chambers. Further, counsel personally traveled to "Escuela \_\_\_\_\_ in \_\_\_\_\_ to hand-deliver court order for defendant's school records. Counsel felt it necessary to make this effort since it was close to the end of the school semester and counsel feared the production of school records would otherwise be delayed. However, **since counsel inadvertently neglected to receive prior Court approval to travel to \_\_\_\_\_, counsel is not billing for this activity** (0.3 hours with the School Director) **nor the associated travel expenses** (3.4 hours travel time; 84 round trip miles; \$5.50 in tolls). Counsel also attended the physical evidence inspection on 3/16/2010. Other document review consisted of reading court documents, Dr. \_\_\_\_\_ assessment report, e-mail communications received from AUSA and USPO. In an effort to minimize the drain on CJA funds, **it is counsel's practice not to bill for the review of records that took counsel 5 minutes or less to read/review.**

Legal research was not necessary in this case. Counsel billed **6.9 hours** for various pleadings written and filed and e-mails sent to SAUSA \_\_\_\_\_, Dr. \_\_\_\_\_ PH.D.and USPO. Counsel submitted a sentencing memorandum (**Docket \_\_\_\_\_**). Again, **any activity that took counsel 5 minutes or less to compose and submit is not billed.**

## Section 16b – Obtaining & Reviewing Records (NO ADJUSTMENT)

8/24/10	-CM/ECF <b>Doc</b> : Minutes of 8/16/2010 status conferences (4pp)/ attendance list received and reviewed.	-0-
9/02/10	-E-mail received from US Probation Office informing that USPO Magaly Irizarry is assigned to defendant's PSI/PSR	-0-
9/22/10	-CM/ECF <b>Doc</b> : Order adopting R&R ( )	-0-
10/27/10	-CM/ECF <b>Doc</b> : Order setting Sentencing Hearing before Judge Aida M. Delgado-Colón	-0-
1/27/11	-CM/ECF <b>Doc</b> : Notice of Disclosure of PSR. Careful reading of same (40pp). Counsel will visit with defendant at MDC to discuss and translate same.	0.7 ✓

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11-5-10	Reviewed docket to date (Nos. 3589-3617).	.10 ✓
11-20-10	Reviewed docket to date (Nos. 3621-3713).	.20 ✓
12-4-10	Reviewed docket to date (Nos. 3735-3769).	.10 ✓
12-22-10	Reviewed docket to date (Nos. 3780-3809).	.10 ✓

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## Section 16-B – Obtaining & Reviewing Records (ADJUSTED)

-05-

Review of informative motion by co-defendant

-08-

Review of CJA 20 as to co-defendant #1  
notice of arrest of co-defendant #2, minutes of  
initial appearance as to co-defendant #2, CJA  
23 as to co-defendant #2, order setting  
conditions of release as to co-defendant #2.  
notice of arrest of co-defendant #3, CJA  
23 as to co-defendant #4, CJA 23 as to  
co-defendant #3, CJA 20 as to co-defendant  
#5, minutes of initial appearance as to  
three co-defendants, order of temporary detention as to  
co-defendant #3, order of temporary  
detention as to co-defendant #4, motion  
for de novo hearing as to co-defendant #6

No docket  
numbers

No grouping:  
.10 per day  
regardless of  
relevance,  
length,  
complexity, or  
number for  
entries reviewed

-09-

Review of CJA 23 as to co-defendant #7  
notice of arrest as to co-defendant #7  
minutes of initial appearance as to co-defendant  
#7, order of temporary detention as to  
co-defendant #7, minutes of arraignment  
as to co-defendant #8, minutes of bail  
hearing #8, CJA 20 as to co-defendant  
#9, CJA 20 as to co-defendant #10  
CJA 20 as to co-defendant #11  
response by gov't as to request for de novo hearing by  
co-defendant #12, order setting conditions  
of release.

Irrelevant  
(CJA-20s) &  
Restricted  
(CJA-23s)

-10-

Review of order of detention as to co-defendant  
#13, order of detention as to co-defendant

## Section 16-B – Obtaining & Reviewing Records (Grouping)

8/1/2011	co-deft Orders, Motions 325-334, 337	0.0	*
8/2/2011	co-deft Order 336	0.0	*
8/5/2011	co-deft Orders, Motions 338-343	0.0	*
8/5/2011	345 USA response to deft Motion to Suppress 335	0.2	Separate entry for relevant documents
8/8/2011	co-deft Orders 344-349, 352-355	0.0	*
8/8/2011	co-deft Plea Agreements 350-351, 353	0.2	Separate entry for relevant documents
8/11/2011	Grouped entries 8/1-8/8	0.2	**Group co-deft Notices**
8/11/2011	Order 352 re deft motions 335, 345 (suppression), co-deft Plea Agreement 354	0.1	Separate entry for relevant documents



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# Factors that Delay Voucher Processing/Reduction

- Lack of proper documentation: 45-days letter, CJA-26 & Excess Memorandum, Motion & Order Authorizing Interim Voucher (Substitution of Counsel), Motion & Order granting additional funds for expert services
  - No supporting data for expenses claimed
  - Un-explained entries
    - Ex: Research, Wrote Motion, Reviewed various docket entries, Call, Interview, Copies
  - Lack of allocation
  - Need for Scrutiny regarding:
    - Repeated reviews of entire file before every single meeting with defendant
    - Boilerplate 404 motions, Omnibus Discovery, Motion to Join
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# Factors that Delay Voucher Processing/Reduction (Cont.)

- Violations of CMO regarding:
    - Informative Motion (Prohibited by Local Rule)
    - Informative Motion to Report Vacation Schedules
    - Sentencing Memorandum (Cut/Paste of PSR)
    - Substitution of Counsel at hearings
  - Non Allocation among cases (MDC visits, Travel time & mileage)
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# Factors that Delay Voucher Processing/Reduction

(Cont.)

## ■ Double Billing

- Within Case, single defendant if total time is 1.0

Ex:           Arrestment       7/12/11  1.0 hr.

                  Bail                   7/12/11  1.0 hr.

- Same Case, vouchers for multiple defendants at same hearing if total time is 2.0

Ex:           Voucher Deft. #20           Status Conf. 8/15/11  2.0 hr.

                  Voucher Deft. #27           Status Conf. 8/15/11  2.0 hr.

- Across Cases same trip to DOJ

Ex:           Case A Picked up Discovery – 7/14/11

                  Case B Picked up Discovery – 7/14/11

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# Reminders

- **45 days to submit Voucher** (explanatory letter if voucher submitted after 45 days)
  - **CJA-26 & Excess Memorandum**
  - **Motion requesting authorization to submit interim voucher** (substitution of counsel)
  - **Court Web site for Updated Notices**
  - **PACER (Free Access)**
  - **Record Keeping: 3 years**
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# Additional Information

- National CJA Voucher Reference Tool

<http://www.uscourts.gov/uscourts/cjaort/index.html>

- Provides quick access to the policies and procedures related to Criminal Justice Act (CJA) cases
  - Information is organized by "topics" and "roles"
  - Specific information by entering a "word" or "phrase" in the search box
  - "Resources" tab includes frequently asked questions (FAQs), quick reference sheets, and contact information for staff assistance.
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# Useful Links and Resources

- PR District Court CJA Online Resource Link: (Contains important information & useful forms)

[http://www.prd.uscourts.gov/CourtWeb/a\\_cja.aspx](http://www.prd.uscourts.gov/CourtWeb/a_cja.aspx)

- National CJA Voucher Reference Tool:

<http://www.uscourts.gov/uscourts/cjaort/index.html>

- Office of Federal Defender Services:

[http://www.fd.org/odstb\\_CJAPanelInfo.htm](http://www.fd.org/odstb_CJAPanelInfo.htm)

- Criminal Justice Act Guidelines and Related Statutes:

<http://www.uscourts.gov/FederalCourts/AppointmentOfCounsel/CJAGuidelinesForms/GuideToJudiciaryPolicyVolume7.aspx>



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# Useful Links and Resources (Cont.)

- E-Voucher Training Manual:  
[http://www.prd.uscourts.gov/Courtweb/pdf/cja/Attorney\\_Training\\_Manual.pdf](http://www.prd.uscourts.gov/Courtweb/pdf/cja/Attorney_Training_Manual.pdf)
  - Voucher Payment Status:  
[http://www.prd.uscourts.gov/CourtWeb/a\\_cja\\_payment.aspx](http://www.prd.uscourts.gov/CourtWeb/a_cja_payment.aspx)
  - CJA Rate Chart: [http://www.prd.uscourts.gov/CourtWeb/cja\\_rates.htm](http://www.prd.uscourts.gov/CourtWeb/cja_rates.htm)
  - Distance Computation Chart:  
<http://www.prd.uscourts.gov/CourtWeb/mileage.xml>
  - Millage Calculator PR Department of Transportation and Public Works: [http://www.dtop.gov.pr/carretera/det\\_content.asp?cn\\_id=24](http://www.dtop.gov.pr/carretera/det_content.asp?cn_id=24)
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# Useful Links and Resources (Cont.)

- Puerto Rico Association of Criminal Defense Lawyers:  
<http://pracdl.typepad.com/pracdl>
  
  - National Association of Criminal Defense Lawyers:  
<http://www.nacdl.org>
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# Contacts

- For voucher payment status enter the Court's website at: [www.prd.uscourts.gov](http://www.prd.uscourts.gov), click on CJA Panel
  
  - For other voucher-related matters:
    - Mayra Meléndez, CJA Clerk (787)772-3057 or email [Mayra\\_Melendez@prd.uscourts.gov](mailto:Mayra_Melendez@prd.uscourts.gov)  
[PRDdb\\_cja@prd.uscourts.gov](mailto:PRDdb_cja@prd.uscourts.gov)
  
  - Carmen Serrano, Assistant to Chief Deputy Clerk (787)772-3016 (Panel Membership & Mentoring Program)
-