

CJA VOUCHER & POLICY TRAINING



June 2014

National Criminal Justice Act (CJA) Voucher Training

Criminal Justice Act of 1964



- ❑ The CJA (18 U.S.C. § 3006A):
 - ❑ Establishes a comprehensive system for appointing and compensating lawyers to represent financially eligible defendants in federal criminal proceedings.
 - ❑ Also authorizes payment for investigative, expert, and other services necessary for an adequate defense.
 - ❑ Funded nationally through the Judicial Conference – Committee on Defender Services and through Congress.

Criminal Justice Act of 1964

- ❑ Districts required to create “Plans” on how the requirements of the Act will be enacted in that district.

- ❑ Establishes:
 - ❑ Office of the Federal Public Defender
 - ❑ Panel of Private Attorneys

Attorney Panel Management

- ❑ Appendix I – Plan for the Composition, Administration, and Management of the Panel of Private Attorneys under the CJA
- ❑ 100 Panel Members – Camden – 20; Trenton – 20; Newark – 60
- ❑ Serve 3-year terms and can reapply
- ❑ Rotational assignments to representations

Attorney Panel Management

- ❑ “List Keepers” in each vicinage
- ❑ Assignments “in the interest of justice”, or direct assignments
- ❑ Firms / Associates – assigned counsel expected to perform vast majority of attorney services

Submitter's Role

CJA Panel Attorney



Appointed Counsel - **Submitter**

- ❑ Role Overview
- ❑ Advance Approvals
- ❑ Attorney Voucher Submission Procedures

Appointed Attorney Vouchers - Submitter

- ❑ Appointed attorneys
 - ❑ complete and sign Form CJA 20 that was received at time of appointment and attach supporting documentation
 - ❑ make separate claims to district and appellate courts
 - ❑ should submit voucher no later than 45 days after final disposition of the case, unless good cause is shown in writing

CJA – Statutory Limitations - Submitter

- Hourly Panel Attorney Compensation Rates
 - \$126.00 – Non-Capital
 - \$180.00 – Capital

- Attorney Case Compensation Maximums
 - \$9,800.00 – Non-Capital felony
 - \$2,800 – Misdemeanor (including pre-trial diversion)
 - \$2,100.00 – “Other” Representations (e.g., Grand Jury Target; Supervised Release proceedings, etc.)

Excess Compensation Vouchers

Submitter

- ❑ Submit applicable voucher (Form CJA 20)

- ❑ Attach explanation justifying claim that:
 - ❑ Representation was provided in an extended or complex case, and
 - ❑ Excess payment is necessary to provide fair compensation.

- ❑ Attorney may use:
 - ❑ Certification of Excess Compensation
 - ❑ Form CJA 26 (District Court)

Advance Approvals - Submitter

Advance approvals are required:

- ❑ To claim compensation for work of lawyers who are neither appointed nor a partner or associate of the appointed attorney

Work of Co-Counsel/Associates

Submitter

- ❑ Only appointed counsel may submit vouchers for attorney services.
 - ❑ Co-counsel or other attorneys who are not appointed may not.
- ❑ Appointed counsel may submit claims for services furnished by a partner or associate (or other attorney with prior authorization), within the attorney case compensation maximum.

Reimbursable Attorney Expenses

Submitter

- ❑ Reimbursement is authorized for expenses reasonably incurred for the representation
 - ❑ Claimed on Form CJA 20/30
- ❑ Reimbursement is not limited by attorney case compensation maximums
- ❑ Approvers determine whether amounts claimed are reasonably incurred

Reimbursable Expenses

Submitter

- Reimbursable out-of-pocket expenses:
 - Computer-assisted legal research
 - Travel expenses (itemized on expense worksheet)
 - Telephone toll calls and facsimile transmissions
 - Copying, postage, and messenger services
 - Receipts required for any individual item in excess of \$50.00

Attorney Travel Expenses

Submitter

- ❑ Advanced approval is required if travel is out of state, or if air travel is needed.
- ❑ To avoid issues later about reimbursement for travel expenses, it is *advisable* for counsel to obtain the court's prior authorization for travel – utilize Travel Authorization Form from public website

Non-Reimbursable Expenses

Submitter

- ❑ General office overhead is not reimbursable:
 - ❑ Rent
 - ❑ Telephone service
 - ❑ Secretarial expenses
 - ❑ Supplies
 - ❑ Time spent preparing bill

- ❑ CJA attorneys are expected to use their own office resources, including secretarial help, for work on CJA cases.

Non-Reimbursable Expenses

Submitter

- ❑ PACER fees – (Panel Attorney establishes a CJA Account)
- ❑ Items of a personal nature for defendant (clothes, meals, travel)
- ❑ Preparing your billing invoice

Supporting Documentation

Submitter

- ❑ Attach required supporting documentation:
 - ❑ Split Rate Worksheet
 - ❑ An itemized statement of the services provided; billing sheets should be separated by categories as broken down on voucher form, with subtotals; hours **must** be in tenths (e.g., 2.8 hrs., **not** 2.75 hrs.)
 - ❑ An itemized statement of all expenses
 - ❑ Receipts for single-item expenses exceeding \$50
 - ❑ Utilize correct mileage rate (chart available at www.njd.uscourts.gov)
 - ❑ Certification for excess compensation and/or CJA Form 26

Questions

Submitter



Reviewer



Attorney Submission Procedures

Reviewer

- ❑ Completing and Submitting Voucher Forms
 - ❑ Make separate claims to District and Appellate Courts
- ❑ Attaching Supporting Documentation
- ❑ Common Submission Errors

Attorney Voucher Submission

Reviewer

- ❑ To request payment, appointed counsel:
 - ❑ Completes Form CJA 20/CJA 30
 - ❑ Attaches appropriate supporting documentation
 - ❑ Signs voucher form
- ❑ *To prevent errors, verify accuracy of all data (e.g., dates of service, rates, and calculations) prior to submitting voucher.*
- ❑ Continuous errors will result in returning your voucher for correction and payment will be delayed.

Attorney Voucher Submission Reviewer

- All CJA Vouchers are to be mailed to:

ANNA M. IRWIN
U.S. DISTRICT COURT
CLARKSON S. FISHER
U.S. COURTHOUSE
402 EAST STATE STREET
ROOM 2020
TRENTON, NJ 08608



Common Review Submission Errors

Reviewer

- ❑ Incomplete voucher forms
- ❑ Incorrect hourly rates claimed
- ❑ Incorrect mileage rates claimed
- ❑ Mathematical errors
- ❑ Reporting of hours
- ❑ Missing authentic signatures
- ❑ Incomplete documentation of time or expenses
- ❑ Missing explanations or justifications (excess comp.)

Common Review Submission Errors

Reviewer

- ❑ Excess compensation memorandum required if claimed compensation for the representation exceeds case maximums (CJA 26 Form on website). This is also required and reviewed by Circuit designee.

Time Limit Reviewer

- ❑ Appointed attorneys should submit vouchers no later than 45 days after case disposition.
- ❑ If submission is over 45 days, good cause must be shown in writing.

Miscellaneous Issues

Reviewer

- ❑ Fees not payable out of CJA Appropriations:
 - ❑ Witness fees, travel costs and expenses for *service of subpoenas*

(Rule 17, Fed.R.Crim.P and 28 U.S.C. § 1825)

Non-Reimbursable Claims

Reviewer

- General Office overhead; items of a personal nature purchased on behalf of person
- Preparation of Voucher and Billing Documents
- Filing fees or PACER fees (panel attorney should obtain a login and password as a CJA attorney from the PACER Service Center)
- Travel, housing or subsistence of represented party not in custody (**contact U.S. Marshal's Service for information**)

Miscellaneous Issues

Reviewer

- ❑ Change of Address, Phone numbers, E-mail addresses, Firms or Tax reporting information
 - ❑ Notify CJA Administrator - Immediately
 - ❑ **Supply updated Panel Attorney Information Sheet**
 - ❑ Tax Information will **NOT** be changed without form

Key Points for Reviewers:

- ❑ Are hourly rates applied correctly – current rate \$126. p/hr. for non-capital representations
 - ❑ Verify that all hours are entered in hours and tenths of an hour (we round **down** not up)
- ❑ Are billing sheets and receipts submitted with voucher, mileage rate for travel applied correctly
- ❑ Who billed for time? Other attorneys at firm, or paralegals

Key Points for Reviewers:

- ❑ Mathematical and Technical review of all vouchers submitted for payment PRIOR to submission to Judge for consideration
- ❑ Voucher forms completed and signed; billing records, invoices, receipts (if necessary) supplied; prior authorizations obtained (if required)
- ❑ Do Vouchers have all approvals/signatures
- ❑ Submit to District or Magistrate Judge for review and approval, and to Circuit designee (if required)

Questions

Reviewer



Approvers/Excess Approvers

- ❑ CJA Statutory Limitations
- ❑ Approver Role Overview
- ❑ Excess Approver Role Overview
- ❑ Appointment of Counsel
- ❑ Prior Approvals (Attorney Claims)
- ❑ Prior Authorizations (Other Services)
- ❑ Case Budgeting
- ❑ CJA Voucher Reviews

Approver – U.S. District Judge/U.S. Magistrate Judge

- ❑ CJA Vouchers (Payment Claims)
 - ❑ Approvers are judges (or delegates) who approve/disapprove CJA voucher amounts for payment within the level of their statutory or delegated authority
 - ❑ Presiding Judge (Approver) determines whether the compensation claimed should be approved as necessary and *reasonable* to provide adequate representation
 - ❑ Approver also determines whether claimed expenses should be reimbursed as reasonably incurred
 - ❑ for amounts within (or not limited by) a statutory attorney case compensation maximum
 - ❑ for claims submitted by appointed panel attorneys and service providers
 - ❑ for representation of eligible CJA clients

Approver – Role Overview

- ❑ Approvers make other related decisions (within their statutory or delegated authority):
 - ❑ Approval/disapproval of requests to obtain “other necessary services” on behalf of an eligible client
 - ❑ Approval/disapproval of proposed case budgets
 - ❑ Approval/disapproval of interim payment requests
 - ❑ Ensuring that required prior notifications are made for proposed reductions of CJA attorney vouchers, and that the attorney is given an opportunity to address the matter

Proposed Voucher Reductions - Approver

- ❑ It is Judicial Conference policy that courts should provide the attorney with prior notice of a proposed reduction, a brief statement of the reasons for it, and an opportunity to address the matter (unless based on mathematical or technical errors).
- ❑ Reviewers may assist the court in providing these notifications and in communicating with the attorneys.

Approver – Role Overview

- ❑ CJA Vouchers (Excess Payment Claims)
 - ❑ Approvers evaluate CJA claims that exceed statutory limits, certify the excess amounts are authorized and reasonable, and make recommendations to the Excess Approver.
 - ❑ The Excess Approver is the chief judge of the circuit or circuit judge delegate.

Excess Approver – Role Overview

- ❑ Excess Approvers are chief circuit judges (or judge delegates) who approve/disapprove:
 - ❑ CJA voucher amounts that exceed statutory limits
 - ❑ Proposed case budget amounts – was a budget considered?
 - ❑ Was interim billing requested?

Questions

Approvers / Excess Approvers



CJA 21'S/31'S

AUTHORIZATION AND PAYMENT

FOR SERVICES

OTHER THAN COUNSEL

Authorization and Payment for Services Other Than Counsel

- ❑ Authorization Requests
- ❑ Voucher Completion and Submission
- ❑ Reimbursable and Non-Reimbursable Expenses
- ❑ Common Issues

Investigative, Expert and Other Services -- Contrast with Counsel Claim

- ❑ The costs of obtaining necessary investigative, expert, or other services under the CJA, subsection (e), are **NOT** considered appointed attorney out-of-pocket expenses.
- ❑ Attorneys request authorization for the services using the Form CJA 21/31.
- ❑ Claims for payment are submitted by the service providers on the Form CJA 21/31.
- ❑ The appointed attorneys should not claim these costs on the Form CJA 20/30.

Investigative, Expert and Other Services

- ❑ Services necessary for an adequate representation, paid for out of appropriated funds (CJA 21/31 Forms)
- ❑ If **anticipated** costs for **services** exceeds \$800.00, prior authorization must be obtained from presiding judge.
- ❑ If total compensation to **a** service provider exceeds \$2,400.00, payment requires Circuit review and approval

Authorization Requests - **Submitter**

- ❑ Attorneys must obtain prior authorization for investigative, expert, or other necessary services, where the cost exceeds \$800.
- ❑ Unless waived by the presiding judge, upon a finding that, in the interest of justice, timely procurement of necessary services could not await prior authorization.
- ❑ The attorney uses the Form CJA 21 or Form CJA 31 to request prior approval.

Authorization Requests - Submitter

- ❑ Prior authorization should be obtained when it is anticipated the cost of other services will exceed statutory limits (\$800.00)
 - ❑ If not obtained, submit detailed explanation why timely procurement could not await prior authorization
- ❑ Statutory Limits for Circuit approval:
 - ❑ Non-capital: \$2400, excluding expenses
 - ❑ Capital: \$7500, total per case for costs (fees and expenses) for other service providers

Authorization Requests - Submitter

- ❑ The request should include:
 - ❑ Reasons for requesting service
 - ❑ Provider's relevant experience and qualifications
 - ❑ Hourly rate requested
 - ❑ Specific service and expenses to be included
 - ❑ Whether additional services/funding may be requested from/for this provider (as applicable)
- ❑ Counsel should communicate the specific terms of the approval to the service provider.

Attorney's Role - Submitter

- ❑ Upon receiving a provider's voucher, the submitting attorney should:
 - ❑ Review the voucher, including attachments
 - ❑ Communicate with the service provider as appropriate regarding the services provided
 - ❑ Certify the services were provided as claimed, by signing the voucher
 - ❑ Provide the voucher to the designated reviewer
 - ❑ It is the panel attorney's responsibility to ensure that the CJA 21/31 voucher form is completed correctly and that the claimed amounts are reasonable and accurate

Service Provider's Non-Reimbursable Expenses - Submitter

- ❑ Non-reimbursable items (examples):
 - ❑ alcoholic beverages
 - ❑ entertainment (e.g., movies, sporting events, and sightseeing tours)
 - ❑ parking fines or fees for traffic violations
 - ❑ personal automobile expenses (e.g., Personal Accident Insurance and Personal Effects Coverage)

Common Errors - Reviewer

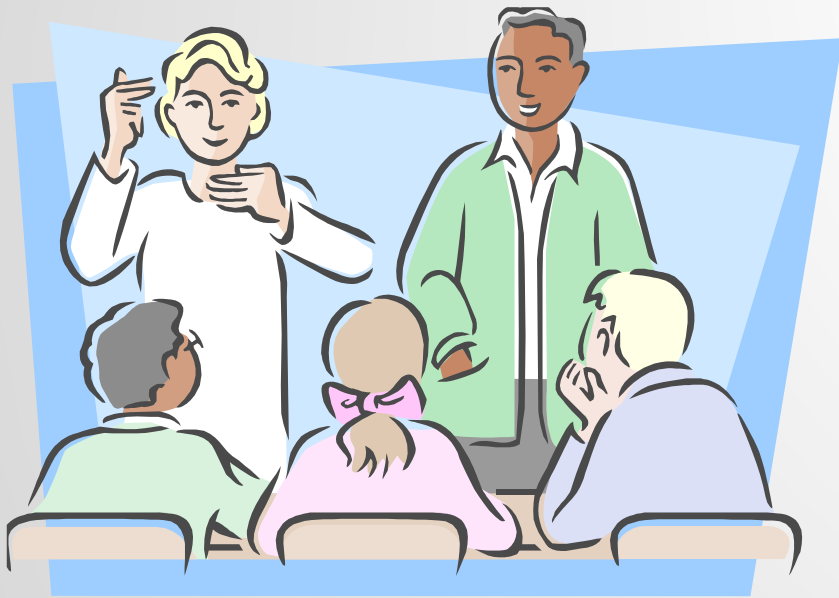
- ❑ No prior authorization executed on form (Sections 12-15) or no copy of order attached
- ❑ Incomplete voucher forms
- ❑ Incorrect mileage rates claimed
- ❑ Mathematical errors
- ❑ Missing authentic signatures
- ❑ Incomplete documentation of time or expenses
- ❑ Invoices of Service Provider are often not attached to CJA 21
- ❑ Invoices should be detailed (hours, travel, expenses, including mileage, etc.

Questions

CJA 21's/31's



Miscellaneous – Service Provider’s, Experts, etc.



Psychiatric or Psychological Evaluations

- ❑ Not always funded by CJA
- ❑ Required to be “defense related” to be paid by CJA
 - ❑ Example: If a defendant is being evaluated to determine his ability to stand trial, that is not considered “defense related” and should be paid for by Department of Justice

Interpreters

- ❑ Panel attorneys should not pre-sign the CJA 21/31 certification (Box 21) that services have been rendered **BEFORE** the interpreter enters the payment claim information
- ❑ Try to agree to rates on half-day or full day basis, compensation based on their qualifications (included in attorney information package)
- ❑ Double billing for interpreter services for half or full day work for different court units (Panel Attorneys, Court, Probation, Pretrial and Public Defender)

Computer Hardware/Software

- ❑ Purchase of computer hardware/software or payment for related services with CJA funds requires advance approval.
- ❑ Consult with the AO's Office of Defender Services (and, as part of the request, attach the ODS recommendation) regarding:
 - ❑ Computer hardware/software exceeding \$500 or
 - ❑ Utilization of computer resources with an expected combined cost exceeding \$10,000.
- ❑ Purchases remain U.S. property and must be returned (includes hardware AND software).

Questions



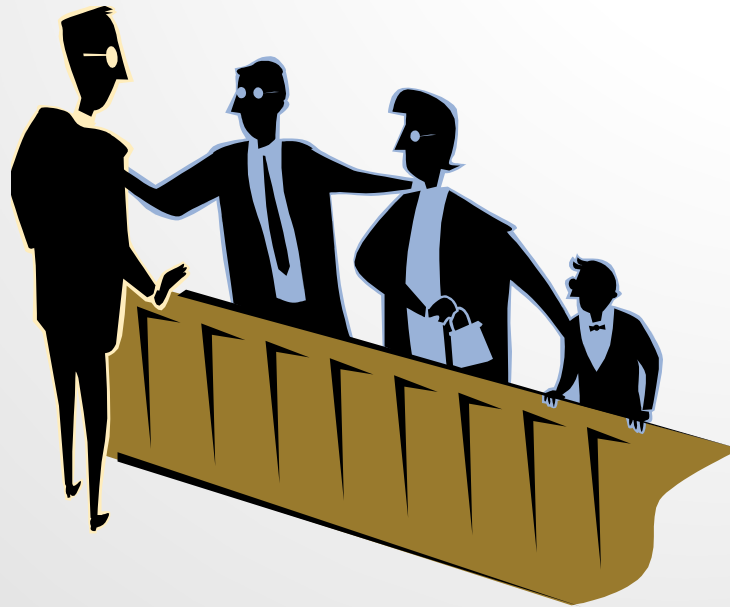
CJA 24's TRANSCRIPTS



CJA Transcripts

- ❑ Transcripts must be authorized by presiding judge on a CJA 24 Form
- ❑ Counsel should not claim transcript expense on CJA 20
- ❑ Special Authorizations for delivery other than ordinary (14 day; Expedited; Daily; Hourly; Real time) and for certain trial transcripts (Opening Statement, Voir Dire, etc.)
- ❑ Panel Attorney's obligation to obtain authorizations and to certify that the page rate and delivery schedules referenced on voucher are accurate and were adhered to. Only 1 copy (original or copy) can be requested.

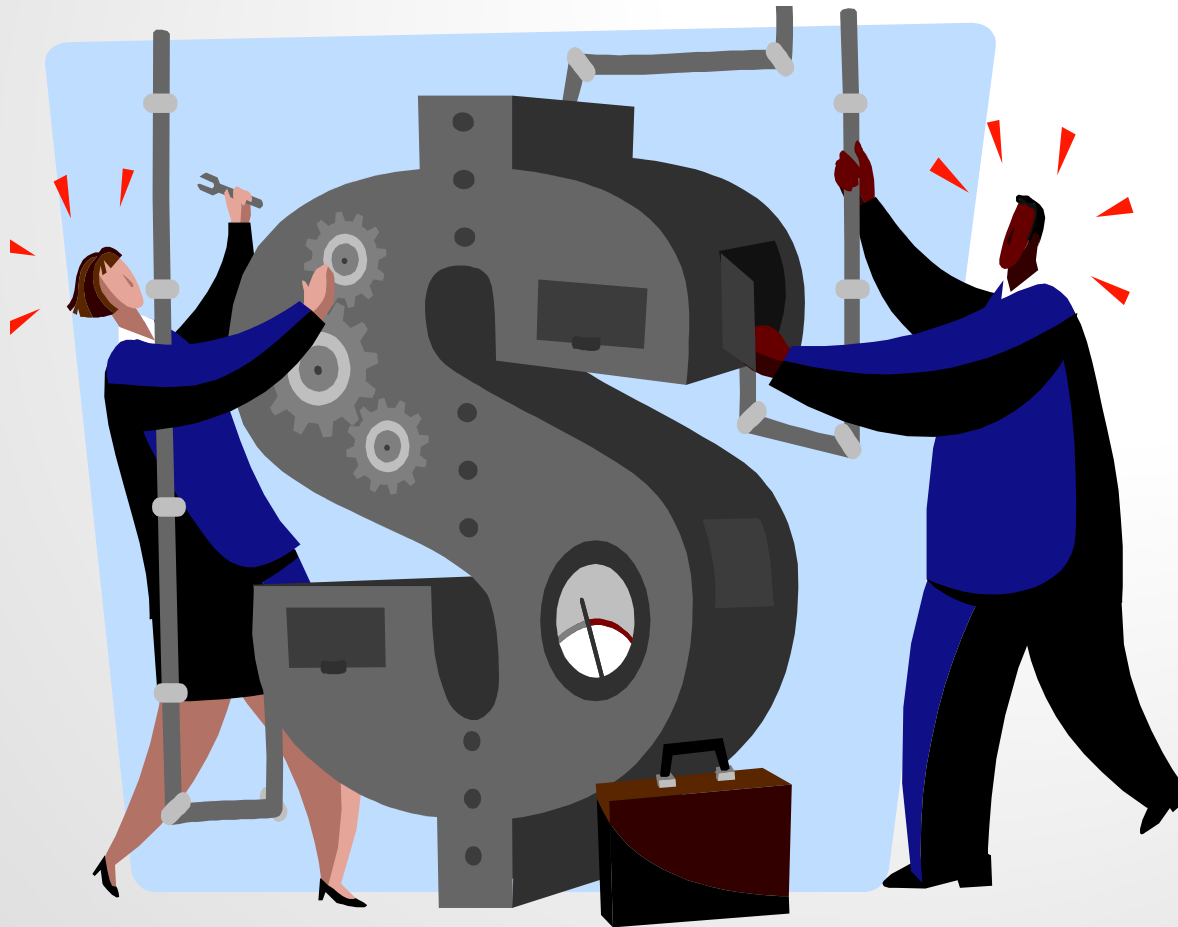
Capital Case Representations



Capital Case Representations

- ❑ CJA 30/31 Forms utilized
- ❑ Interim Billing / Capital Case Interim Order required
- ❑ No 20% withholding or Circuit approvals needed for attorney vouchers (CJA 30)
- ❑ If the total costs of ALL expert, investigative and other services combined are anticipated to exceed \$7,500, advanced authorization from District Judge and certification by Chief Judge of U.S.C.A. required

Case Budgeting



What is a “Mega Case?”

- ▶ More than 300 hours
- ▶ More than \$30,000



Case Budgeting

- ❑ With Judge's approval, counsel submits initial litigation budget.
 - ❑ Proposed costs of attorney work
 - ❑ Use of investigative, expert, and other services
- ❑ Budgets should be submitted *ex parte*.
- ❑ Courts may approve requests to obtain other services before the budget is submitted and approved, where prompt authorization is necessary for adequate representation.

Case Budgeting – Submission

- ❑ Budget Approval Process:
 - ❑ Presiding judicial officer sends the budget to the chief judge of the court of appeals (for approval consistent with statutory limits or specific court policies).
- ❑ Counsel should advise the court of significant changes to the estimates.

Case Budgeting – Worksheets

- ❑ AO case-budgeting worksheets and instructions are available at www.fd.org for:
 - ❑ non-capital cases (Forms CJA 28A - 28H)
 - ❑ federal capital prosecutions

- ❑ There are Ninth Circuit Excel Worksheets for:
 - ❑ federal capital prosecutions
 - ❑ capital habeas corpus § 2254 representations

- ❑ Contact the ODS Legal and Policy Branch Duty Day Attorney at (202) 502-3030.

Case-Budgeting Assistance

- ❑ Case-budgeting expert services for judges
 - ❑ The AO's Office of Defender Services has secured the services of expert litigators to help judges assess proposed case budgets.
- ❑ Circuit case-budgeting attorneys (Second, Sixth, Ninth) assist judges and CJA attorneys
- ❑ Federal Death Penalty Resource Counsel Projects assist judges and CJA attorneys
- ❑ Other Online Resources
 - ❑ Federal Judicial Center (www.fjc.gov)

Administrative Office Audits



Administrative Office Audit of CJA Claims for Payment

- ❑ All claims for payment under the CJA are subject to an audit by the Administrative Office of the U.S. Courts.
- ❑ Maintain contemporaneous time and attendance records and expense records for three (3) years.
- ❑ Additional information on auditing is in a memo available through the online reference tool (ORT).

Questions



“TIME IS MONEY”



“The Future” – CJA E-Vouchering



TRAINING IS ADJOURNED

