

**Fee Limitations re: Authorization and Payment for
Investigative, Expert, or Other Services**

Guide to Judiciary Policy

Vol. 7: Defender Services

Pt. A: Guidelines for Administering the CJA and Related Statutes

Ch. 3: Authorization and Payment for Investigative, Expert, or Other Services

§ 310 In General

§ 310.20 Limitations

§ 310.20.30 Without Prior Authorization

(a) 18 U.S.C. § 3006A(e)(2)(A) authorizes the obtaining of investigative, expert, and other services, without prior authorization but subject to subsequent review, providing the cost of the services obtained does not exceed the amounts listed in the following table, plus expenses reasonably incurred. For information regarding obtaining investigative, expert, and other services in capital cases, see: Guide, Vol 7A, § 660.

§ 310.20.30(a) Limitations on Services Without Prior Authorization

<u>If services were performed between...</u>	<u>The compensation maximum is...</u>
05/27/10 to present	\$800

§ 310.20.10 With Prior Authorization

(a) With prior authorization, compensation for investigative, expert, and other services is limited to the amounts in the following table for CJA-compensable work performed on or after the effective date. For guidelines applicable to capital cases, see: Guide, Vol 7A, § 660.10.40 and § 660.20.

§ 310.20.10(a) Waivable Case Compensation Maximums for Investigative, Expert, and Other Services

<u>If services were performed between...</u>	<u>The compensation maximum is...</u>
01/01/16 to present	\$2,500

- (b) The waivable case compensation maximum amounts apply per organization or individual, exclusive of reimbursement for expenses reasonably incurred, and per individual authorization to perform said service, except with regard to capital cases. See: Guide, Vol 7A, § 660.20.
- (c) A separate authorization should be obtained for each type of service for each person served, and for each defendant served, and for each case.

§ 310.20.20 Waiving the Case Compensation Maximums (amounts over \$2,500)

- (a) Payment in excess of the case compensation limit for services authorized prior to the performance thereof may be made when certified by the court or U.S. magistrate judge and **approved by the chief judge of the circuit** (or an active or senior circuit judge to whom excess compensation approval authority has been delegated) as being necessary to provide fair compensation for services of an unusual character or duration.
- (b) If it can be anticipated that the compensation will exceed the statutory maximum, advance approval should be obtained from the court and the chief judge of the circuit

§ 320.20 Psychiatrists, Psychologists

§ 320.20.10 Type of Examinations

Chapter 313 of Title 18, as amended by the Insanity Defense Reform Act of 1984 (Chapter IV of the Comprehensive Crime Control Act of 1984), provides for court-directed psychiatric or psychological examination of individuals in connection with the various proceedings to determine mental condition authorized under that chapter. The functions of these separate proceedings are to determine:

- (a) the mental competency of a defendant to stand trial (18 U.S.C. § 4241);
- (b) insanity at the time of the offense (18 U.S.C. § 4242);

- (c) the mental condition of an acquitted person hospitalized following a finding of not guilty only by reason of insanity (18 U.S.C. § 4243);
- (d) the present mental condition of a convicted defendant (18 U.S.C. § 4244);
- (e) the present mental condition of an imprisoned person who objects to transfer to a treatment facility (18 U.S.C. § 4245); and
- (f) the present mental condition of a hospitalized person due for release (18 U.S.C. § 4246).

In addition, mental condition examinations may be conducted for purposes other than those specified in 18 U.S.C. chapter 313, e.g., to aid the defendant in preparing a defense.

§ 320.20.20 Source of Payment

- (a) CJA funds are used to pay for psychiatric and related services obtained in accordance with 18 U.S.C. § 3006A(e) upon a determination that the services are "necessary for an adequate defense." These are "defense" services, where the defendant selects the expert and controls the disclosure of the expert's report.
- (b) It is important to note that psychiatrists and related experts may be used in many circumstances in which payment is made from a source other than the CJA appropriation. In these situations the court or the government selects the expert and persons other than the defendant also have access to the expert's report. The Department of Justice (DOJ) generally pays for these "non-defense" services.

The chart titled: "Responsibility for Payment of Psychiatric and Related Expert Services." in § 320.20.60 summarizes payment responsibility for the various circumstances in which psychiatric and related services are utilized.

§ 320.20.30 Limitation of Amount

The limitations contained in § 310.20 apply to compensation claims submitted by "defense" psychiatrists and related experts, to be paid out of the CJA appropriation.

For information regarding "dual purpose" examinations, see: § 320.20.50.

For further information see the Guide to Judiciary Policy for Administering CJA Statutes at <http://www.uscourts.gov/rules-policies/judiciary-policies/criminal-justice-act-cja-guidelines>