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To: All United States Judges
Clerks, United States Courts
Federal Public/Community Defenders
CJA Supervising Attorneys
Circuit Case-Budgeting Attorneys

From: Theodore J. Lidz 

RE: OBTAINING CRIMINAL JUSTICE ACT SUBSECTION (E) SERVICES WITHOUT
PRIOR AUTHORIZATION (**INFORMATION**)

I write to clarify the application of 18 U.S.C. § 3006A(e)(2), regarding counsel obtaining investigative, expert, and other services without prior judicial authorization.¹ Some CJA voucher reviewers have interpreted this section of the statute to mean that the \$800 limitation for obtaining subsection (e) services without prior authorization applies to each *category* of service provider (*i.e.*, \$800 for investigators, interpreters, etc.). Consistent with the plain language of the statute, however, **the total cost of services obtained without prior authorization may not exceed \$800 and expenses reasonably incurred** (see also CJA Guidelines § 310.20.30). Once the \$800 limitation has been met by any one or combination of service providers, prior authorization must be obtained from the court, unless counsel meets the exigency requirements of § 3006A(e)(2)(B).

¹ This provision of the Criminal Justice Act states:

(2) Without prior request.— (A) Counsel appointed under this section may obtain, subject to later review, investigative, expert, and other services without prior authorization if necessary for adequate representation. Except as provided in subparagraph (B) of this paragraph, the total cost of services obtained without prior authorization may not exceed \$800 and expenses reasonably incurred.

(B) The court, or the United States magistrate judge (if the services were rendered in a case disposed of entirely before the United States magistrate judge), may, in the interest of justice, and upon the finding that timely procurement of necessary services could not await prior authorization, approve payment for such services after they have been obtained, even if the cost of such services exceeds \$800.

CJA Forms 21 and 31, the instructions to the forms, and the on-line reference material for CJA voucher processing have been revised. If you have any question regarding this information, please contact the Administrative Office's Office of Defender Services at 202-502-3030 and ask for the Legal and Policy Branch's duty day attorney.