



# POINTS OF INTEREST

## **JAC'S BIENNIAL NEWSLETTER FOR COURT-APPOINTED AND INDIGENT FOR COSTS ATTORNEYS AND DUE PROCESS VENDORS**

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### **A Word from JAC's Executive Director**

Greetings from the Justice Administrative Commission (JAC)! I hope you find this latest edition of Points of Interest (JAC's Newsletter for Court-Appointed and Indigent for Costs Attorneys and Due Process Vendors) helpful and informative. Included is information about updates to JAC's Attorney and Due Process Vendor Contracts, the online billing process, and other pertinent information.

JAC does not anticipate any funding issues related to payment of attorney fees, due process vendors, or related expenses this fiscal year (ending June 30, 2021).



**Alton L. "Rip" Colvin, Jr.**

## **Updates to Fiscal Year 2021-22 JAC Contracts**

For the upcoming fiscal year, JAC has made several changes to JAC's contracts for payment of services provided in court-appointed and indigent for costs cases. The contracts being amended are as follows:

1. Registry Contract (Contract for Payments Related to Attorney Services Related to Indigent Defendants);
2. Capital Collateral Registry Contract (Contract for Payments Related to Attorney Services Provided to Capital Collateral Defendants);
3. IFC Contract (Attorney Contract for Payments Related to Due Process Services Provided to Persons Who Are Indigent for Costs in Criminal Cases and Civil Cases)



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Where There Is a Statutory or Constitutional Right to Appointed Counsel or Due Process Costs);

4. Due Process Vendor Contracts (Contract for Payments Related to Due Process Services Provided to Indigent Defendants (Other than Attorney Fees):
  - a. Type 1 – Due Process Vendors Limited to Established Rates (Court Reporters, Investigators, and Mitigation Specialists); and
  - b. Type 2 – For Vendors Providing Extraordinary Services (Experts).

The substantive amendments are:

### **1. Shift to Annual Capital Collateral Registry Contract**

To facilitate online contract submission and to better manage the capital collateral registry, JAC is shifting from individual single case capital collateral contracts to a single annual capital collateral contract covering all cases that would be executed each year by members of the capital collateral registry. The new annual capital collateral contract would run with the state fiscal year (July 1 through June 30) and would need to be executed each year by members of the capital collateral registry. This ensures that the attorneys listed on the capital collateral registry are willing to accept appointments to capital collateral cases. The use of annual contracts also facilitates online contract submission in the same manner as the regular Registry Contract and the IFC Contract.

***Various provisions of the Capital Collateral Contract have been amended to facilitate the transition to an annual registry contract.***

JAC invites all qualified private criminal defense attorneys to apply for inclusion in the statewide Capital Collateral Registry. Find more information about applying for the Capital Collateral Registry on JAC's Capital Collateral tab or click the link below:

[https://www.justiceadmin.org/court\\_app\\_counsel/capitalcollateral.aspx](https://www.justiceadmin.org/court_app_counsel/capitalcollateral.aspx)

### **2. Requiring Use of Online Case Opening Systems**

JAC has online case opening systems for both court-appointed and indigent for costs cases. These systems streamline the case opening process by requiring attorneys to provide the necessary case opening documents (such as the order of appointment and charging document in court-appointed cases) as well as the related case information in [MyJAC](#). The new language requires attorneys to use these systems to open their cases.

***(Registry Contract II(5); IFC Contract II(5))***

### **3. Acknowledgement that JAC has a Right to an Evidentiary Hearing**

This is a technical change to conform to current practices. The current language only references instances where a billing seeks to exceed statutory limitations. The



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additional language simply states that JAC may have other substantive concerns warranting an evidentiary hearing.

***(Registry Contract III(6); Capital Collateral Contract III(5))***

### **4. Time Frame for Notifying of Disciplinary Action**

The current language requires attorneys to notify JAC and Chief Judges of any disciplinary action where probable cause has been found or where there is a judicial finding of ineffective assistance of counsel. The amended language adds a timeframe of 30 days to provide notification.

***(Registry Contract V(2); Capital Collateral Contract V(2))***

### **5. Amendment to Language Requiring Explanatory Statement**

The current language is being amended to track the language of s. 27.5304(12), F.S. JAC is implementing changes to its online bill submission system that will require attorneys to provide this statement with any billing seeking compensation in excess of the flat fee. The changes to the contract facilitate this requirement by tracking the existing statutory language rather than the phrasing used in case law. The amended language also requires attorneys to attach the explanatory statement to their motions for attorney fees. A model form for the explanatory statement is posted at:

[https://www.justiceadmin.org/court\\_app\\_counsel/Forms/XI\(1\)\\_Explanatory\\_Statement\\_Form\\_052821.pdf](https://www.justiceadmin.org/court_app_counsel/Forms/XI(1)_Explanatory_Statement_Form_052821.pdf)

The Capital Collateral Contract has also been amended to require a similar explanatory statement. The language in this provision tracks the case law because there is no statutory language.

***(Registry Contract XI(1) & (8); Capital Collateral Contract XII(6))***

### **6. Requirement to Indicate Number of Hours Billed or to be Billed Across all Cases**

The contracts currently require attorneys and due process vendors to provide an explanation when billing more than 10 hours on a single date or more than 50 hours in a calendar week. The amended language requires attorneys or due process providers to include the total number of hours billed or to be billed across all cases and the particularized need for billing those hours as part of the explanation.

***(Registry Contract XI(3); Capital Collateral XII(6); Due Process Contracts, Type 1 - VII(9) and Type 2 - VII(10))***

### **7. Record Preservation Requirement during Inspections**

The amended language requires attorneys and due process providers to preserve records during the pendency of an inspection, audit, or review by JAC or other state or federal agency. This language would bar attorneys and due process providers from destroying records during the pendency of such reviews even if the contractual record retention period has concluded.

***(Registry Contract XII(9); Capital Collateral Contract XIII(9); IFC Contract VIII(8); Due Process Contracts VIII(8))***



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### **8. Requirement to Provide Case Information in Dependency Cases**

The amended language requires attorneys in dependency cases to provide additional case-related information necessary for JAC to claim reimbursement under Title IV-E. Based on discussions with the Department of Children and Families (DCF), JAC will be required to track and maintain certain case-related information as part of seeking reimbursement for attorney fees for representation of parents and children allowable under Title IV-E. The amended language simply requires the attorneys to provide that information to JAC.

***(Registry Contract XVIII(24); IFC Contract XIV(11))***

Please be aware that JAC's Online Contracting System in [MyJAC](#) will be unavailable starting June 1, 2021, through June 15, 2021, to allow for the posting of the Fiscal Year 2021-22 Contracts (FY 2021-22 Contracts) and other system updates. Please know that attorneys and due process vendors will still have the ability to submit their invoices through [MyJAC](#) during this time period.

## **Opening Cases in MyJAC**

To facilitate billing in new indigent for costs cases, JAC has created a new indigent for costs (IFC) case opening system in [MyJAC](#) similar to the case opening system for court-appointed cases. Once an attorney has logged into [MyJAC](#), click on the **“Open a New IFC Case”** to open an IFC case. Please use this system to open new IFC cases. When using the case opening system, an attorney does not need to provide JAC with an additional copy of the motion to declare the defendant IFC and supporting documents via email or the Eportal.

To open a court-appointed case, click on the **“Open a New Appointed Case”** in [MyJAC](#). Please know that use of these case opening systems has become mandatory with JAC's FY 2021-22 Attorney Contracts. Additional instructions and information are available at:

<https://www.justiceadmin.org/FAQ/Training%20Modules/New%20Case%20Opening%20Instructions.pdf>

## **Requirement to Use Attorney Residual Voucher Form**

JAC has implemented a new online Attorney Residual Voucher Form in [MyJAC](#) to facilitate payment of the carry forward balance in lengthy criminal cases paid on an interim basis. When interim payments are made in criminal cases, typically 20 percent of the amount awarded is carried forward until final disposition. ***When the case reaches final disposition, the attorney must submit the new billing form to receive payment of the carry forward amount.*** Submission of this form will also allow the attorney to receive payment without having to wait until the fee hearing on the final billing.





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## Updates to Billing Checklists

JAC recently updated its billing checklists to offer attorneys and vendors a simple tool to help prevent mistakes and omissions when billing. The checklists provide basic information and documentation needed during the billing process and can be accessed on the JAC website at:

<https://www.justiceadmin.org/FAQ/index.aspx?faqview=0#PP>

## Updates to Investigator Billings

JAC is excited to announce system updates to Investigator Billings went into operation on May 12, 2021. The system enhancements streamline the billing process by helping investigators create uniform hourly statements, prevent billing errors, and ensure contractual and statutory compliance.

Under the updated system, investigators upload a detailed hourly statement listing and describing the activities billed. The new system will prompt investigators to enter their description of services provided by date directly into the online billing system. The system will also allow investigators to save their time on [MyJAC](#), edit it, and submit it when a billable point is reached. Like before, after a billing is submitted, it will still need to be reviewed and approved by the attorney before it is reviewed by JAC. Additional information about the new system is available through a video tutorial available at:

<https://youtu.be/Jox3e0cgqeA>

## Child Information in Dependency Case

JAC is currently pursuing Title IV-E reimbursement of costs associated with legal representation of parents and children in dependency proceedings (Ch. 39, F.S.). In order to seek Title IV-E reimbursement, JAC will need to gather certain information about each child subject to a dependency case when attorneys and due process vendors submit their billings. The information includes: (1) the name and date of birth of each child which will remain confidential; (2) the current placement of each child (e.g., in-home placement or foster care/out-of-home placement); and (3) the date and time of the last hearing. JAC is in the process of updating the billing process in [MyJAC](#) to gather this information.



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## Civil Commitment Expert Registry

Section 394.932, F.S., requires the Justice Administrative Commission (JAC) to maintain a registry of mental health and other experts who are available and willing to provide examinations and expert testimony in involuntary civil commitment of sexually violent predator proceedings. JAC invites all qualified mental health and other relevant experts to apply for inclusion in JAC's statewide Civil Commitment Expert Registry. Instructions and the form to apply to the Registry are available at:

<https://www.justiceadmin.org/registry/mregistry.aspx>

## Dispositions in Criminal Cases

When seeking final payment for attorney's fees, an attorney must provide JAC with a document showing the case has reached final disposition or other billable point. For final dispositions involving a sentence, the document must include: the date; documentation the defense attorney was present at the hearing; the sentence; and a court order. An attorney cannot bill for the final payment until the defendant has been sentenced. Documents that are not sufficient include: plea agreements; docket entries; and judgments without the sentencing documents. When a case concludes with a "No Information" or *nolle prosequere*, the document filed by the state attorney should be submitted. If announced in open court, the attorney may submit the clerk's notes or similar document.

If the case ends at another billable point prior to final disposition, then the attorney must submit a court order or other document showing that the case has reached an alternative billable point such as an order granting withdrawal because the defendant retained private counsel; a *capias* because the defendant failed to appear; an order finding the defendant incompetent; or an order placing the defendant in a pre-trial intervention program.

For final dispositions, JAC must be able to verify: the attorney was present at the dispositional hearing; the final adjudication and sentence; and the date of disposition.