

UNITED STATES DISTRICT COURT FOR THE DISTRICT OF NEVADA

Guidelines for the Administration and Management of the Criminal Justice Act

I. Composition, Administration, and Management of the Panel of Private Attorneys under the Criminal Justice Act

A. Composition of Panel of Private Attorneys.

1. CJA Panel.

(a) Approval. The court shall establish a panel of private attorneys, (hereinafter referred to as the CJA Panel), who are eligible and willing to be appointed to provide representation under the CJA. The court shall approve attorneys for membership on the panel after receiving recommendations from the "Panel Selection Committee," established pursuant to §I(A)(2) of this Plan. Members of the CJA Panel shall serve at the pleasure of the court with the advice of the CJA Panel Selection Committee.

(b) Size. The court shall periodically approve the size of the CJA Panel. The panel shall be large enough to provide a sufficient number of experienced attorneys to handle the CJA caseload, yet small enough to ensure that panel members will receive an adequate number of appointments, thereby maintaining their proficiency in federal criminal defense work and providing a high quality of representation.

(c) Eligibility. Attorneys who serve on the CJA Panel must be members in good standing of the bar of this court, and have demonstrated experience in, and knowledge of, the Federal Rules of Criminal Procedure, the Federal Rules of Evidence, and the Guidelines promulgated by the United States Sentencing Commission.

Attorneys on the CJA Panel also must have demonstrated an interest in providing criminal defense services and a reputation for competent and vigorous representation.

However, when a judicial officer determines that the appointment of an attorney, who is not a member of the CJA Panel, is in the interest of justice, judicial economy or continuity of representation, or there is some other compelling circumstance warranting appointment, the attorney may be admitted to the CJA Panel *pro hac vice* and appointed to represent the CJA client. Consideration for preserving the integrity of the panel selection process suggests that such appointments should be made only in exceptional circumstances. Further, the attorney, who may or may not maintain an office in the district, should possess such qualities as would qualify the attorney for admission to the district's CJA Panel in the ordinary course of panel selection and must comply with all local rules of practice for the district.

(d) Terms. Attorneys readmitted to membership on the CJA Panel will each serve for a term of three years. New appointees shall serve a one year probationary term.

(e) Training and Continuing Education. Each member of the panel shall be required to participate in six hours of training in federal criminal practice per year, which shall be provided through the Federal Public Defender's Office or other court approved provider of Continuing Legal Education. At least three of the six hours of training shall be on the Federal Sentencing Guidelines. For those attorneys assigned to the appellate or habeas panels, at least three hours shall be appellate and/or habeas. Failure to attend such training will be considered by the Panel Selection Committee in determining whether the attorney should be reappointed to the panel upon the expiration of the attorney's term or should be replaced on the panel prior to the expiration of said term.

Training received shall be recorded by the attorney via the CJA eVoucher system.

(f) Reappointment. Any member of the CJA Panel shall be eligible for reappointment following expiration of that member's term, provided

they remain in good standing and continue to meet the eligibility requirements.

(g) Withdrawal/Removal. A member of the CJA Panel may withdraw from the panel by submitting a letter to the Chief Judge. The letter shall include a list of pending appointments. Counsel, however, will remain responsible for the representation of those individuals until the court enters an order appointing substitute counsel.

A panel member may be suspended from receiving new appointments at any time if one or more judges determine a panel member has not demonstrated the integrity, professional competence, adherence to the rule of law or applicable rules of professional conduct required of a member of the panel. A judge who determines a panel member should be suspended from receiving new appointments should bring the matter to the attention of the Chief Judge who shall act with the advice and consent of the court as a whole to take action deemed appropriate under the circumstances.

(h) Application. Application forms for membership on the CJA panel shall be made available, upon request, by the Clerk of Court. Completed applications shall be submitted to the Clerk of Court who will transmit the applications to the Chairperson of the Panel Selection Committee. At the time of the submission of recommendations to the court for appointment for new attorneys to the panel, the Panel Selection Committee shall provide a description of the method utilized to advertize the application process, a list of all applicants, a description of the method used to select the persons recommended, and comments by the Committee as to the need for expansion or reduction of the size of the panel.

2. Panel Selection Committee.

(a) Membership. A Panel Selection Committee shall be appointed by the court. The Committee shall consist of the Chief Judge of the District Court or designees, the Federal Public Defender and up to three private criminal defense attorneys. One of the private attorneys shall not be a member of the CJA Panel at the time of appointment or during his or her term of service, and one of the private criminal

defense attorneys shall have been a member of the CJA Panel for at least three years at the time of the appointment. The terms of the private attorneys shall be at the discretion of the Chief Judge. The Chief Judge of the District Court or designee shall be designated as the Chairperson of the Committee. The designees may be changed at any time, at the discretion of the Chief Judge of the District Court. Separate selection committees shall be established for the unofficial Northern and Southern divisions of the court. The Committee shall be staffed by the Clerk of Court and/or designees.

(b) Duties.

(1) The Panel Selection Committee shall meet at least once a year to consider applications for the vacancies created by the terms expiring each year. The Committee shall meet more frequently if deemed necessary by the chairperson. The Committee shall review the qualifications of applicants and recommend, for approval by the court, those applicants best qualified to fill the vacancies. The Committee may consider identifying certain specialized sub-panels of attorneys in order to attract attorneys with specialties such as tax or securities to membership in the panel. If such sub-panels are formed, the members of those panels may be selected for cases within the identified specialties and need not be available on other cases in order to remain on the panel.

At its annual meeting, the committee shall also review the operation and administration of the panel over the preceding year, and report to the Chief Judge of the District Court any changes deemed necessary or appropriate by the Committee regarding the appointment process and panel management.

The Committee shall also inquire annually as to the continued availability and willingness of each panel member to accept appointments. The Committee shall receive any comments with regard to the functioning of the panel, or of individual attorneys on the panel, from the judiciary, the bar, defendants or members of the public in order to make recommendations to the court.

(2) If, at any time during the course of a year, the number of

vacancies due to resignation, removal, or death significantly decreases the size of the panel, the Committee shall solicit applications for the vacancies, convene a special meeting to review the qualifications of the applicants, and select prospective members for recommendation to the court for approval. Members approved by the court to fill mid-term vacancies shall serve until the expiration of the term that was vacated.

3. CJA Mentor Program/Training Panel.

The Panel Selection Committee may establish a CJA Mentor Program designed to train attorneys interested in serving on the CJA Panel who do not have the federal criminal experience required for membership on the CJA Panel. The mentorship program may consist of a series of specialized CLE classes in federal criminal law and procedure. The mentorship program may also consist of practical training by pairing one or more experienced panel members or attorneys from the Federal Public Defender's Office to serve as mentors, and allowing the mentorship program participating attorney to serve in a "second chair" capacity. Each attorney participating in the CJA mentorship program will be expected to complete activities expected of a CJA Panel member which include:

- (a) bail hearing; (b) motion hearings; (c) trial; (d) sentencing hearings;
- (e) motion preparation; (f) client contact; (g) sentencing guideline analysis; and (h) plea negotiations.

The mentorship program attorney shall be expected to perform each of these activities with the assigned mentor(s). The program will culminate in a federal criminal mock trial in which all of the mentorship program participating attorneys participate.

Mentorship program attorneys are not eligible to receive appointments independently, and shall not be eligible to receive compensation for their services in assisting CJA Panel members.

Prior service in the CJA mentorship program-training panel is not a requirement for membership in the CJA Panel, nor will service in the mentorship program-training panel guarantee admission of an attorney to the CJA Panel.

B. Selection for Appointment.

1. Maintenance of List and Distribution of Appointments. The court, or designee under the court's supervision, shall maintain a current list of all attorneys included on the CJA Panel together with current office addresses and telephone numbers, as well as a statement of qualifications and experience. The Clerk of Court shall also maintain a public record of assignments to CJA Panel members, and statistical data reflecting the proration and appointments between attorneys from the Federal Public Defender office and CJA Panel members.

2. Method of Selection.

(a) Appointments from the list of private attorneys shall be made on a random/rotational basis, subject to exceptions due to the nature and complexity of the case, an attorney's experience, and geographical considerations. This procedure should result in a balanced distribution of appointments and compensation among the members of the CJA Panel, and quality representation for each CJA client.

(b) The court or designee under the court's supervision shall be promptly notified whenever the United States Marshal or other arresting agency receives a person in custody. As soon as possible after such notification, the court or designee under the court's supervision, shall contact either the Federal Public Defender and/or a panel attorney who shall conduct an interview to advise the arrestee or defendant of their legal rights and to ascertain what financial resources are available for legal representation.

The court or designee under the court's supervision shall then either assign the case to the Federal Public Defender or select the next available panel attorney. The Clerk of Court shall keep a record of the contacts made with panel attorneys for the purpose of case assignment, in order to advise the Panel Selection Committee of the willingness and availability of each panel attorney. If a panel attorney is unable to accept an assignment, the reason for unavailability shall be recorded.

C. Temporary Suspension of Appointments.

A member of the CJA Panel may temporarily suspend appointment to new

cases by providing the court with the time period of the temporary suspension of appointments and the reason for the suspension.

D. Reporting Requirements.

The Clerk of Court shall provide, upon request, the following reports to the Chief Judge of the District Court or designee:

1. A cumulative report, listing the total number of assignments made to each member of the CJA Panel. This report shall also include reasons for assignments and any explanations for disparities in assignments, including the number of refusals, where applicable.
2. A cumulative report of the total fees paid to each member of the CJA Panel shall be provided to the court.
3. A final report containing a summary of the total number of appointments made under the Criminal Justice Act and the total number of appointments to panel attorneys.
4. The Federal Public Defender shall, upon request, provide the court with a listing and description of all training provided to the panel and the attendance of each member of the panel at such training as provided by § I(A)(1)(e) of this Plan and any other matters of significance to management of the panel.

II. Payment for Representation by Private Counsel

A. In Non-Death Penalty Cases.

1. Hourly Rates. Any private attorney appointed under this Plan shall, at the conclusion of the representation, or on such interim basis as may be granted by the court, be compensated at a rate not to exceed the hourly rates prescribed by subsection (d) of the CJA, unless the Judicial Conference of the United States determines that higher maximum rates, not to exceed the current statutory maximum, are justified for particular places of holding court. Such attorney shall also be reimbursed for expenses reasonably incurred as allowed under the CJA.

2. Maximum Amounts Absent Waiver. For representation provided

pursuant to the CJA, compensation shall be paid to any private attorney appointed under this Plan in an amount which shall not exceed the maximum amount prescribed by subsection (d)(2) of the CJA and set forth in the “Guidelines for the Administration of the Criminal Justice Act.”

3. Waiving Maximum Amounts. Payment in excess of the maximum amounts authorized by the CJA may be made for extended or complex representation whenever the presiding judicial officer certifies that the amount of the excess payment is necessary to provide fair compensation and the payment is approved by the Chief Judge of the Court of Appeals or designee.

- B. Associates.** A member of the panel may use the services of an associate counsel only with the advance approval of the court. When services have been approved, associate counsel shall work under the direction of the panel member. The panel member shall review, approve and certify all time billed on behalf of the associate. The associate shall bill an hourly rate as approved by the court. The fees billed for an associate’s time shall be paid to the panel member.
- C. Filing Claims.** Claims for compensation shall be submitted to the court, via the CJA eVoucher program. The claim shall be reviewed for technical errors before being forwarded for the consideration and action of the judicial officer. The “Guidelines for the Administration of the Criminal Justice Act” state: “Vouchers should be submitted no later than 45 days after the final disposition of the case, unless good cause is shown.” Counsel are directed to seek prior approval from the court to submit vouchers later than 90 days after the final disposition of the appointment.
- D. Interim Vouchers.** The court hereby authorizes submission of “interim” vouchers for compensation, without prior court approval, so long as the interim vouchers exceed \$500 and are submitted to the court no more than on a monthly basis. Interim vouchers for compensation shall be submitted no later than ninety days after the initial appointment and at 90-day intervals as long as the interim vouchers exceed \$500, and at 90-day intervals for the duration of the appointment as long as the interim vouchers exceed \$500.
- E. Rates and Standards.** The court shall establish rate guidelines and billing standards (Attachment 1) to which counsel shall abide. The presiding judicial officer may waive the rates and/or standards as necessary to provide fair

compensation. The rates and standards shall be reviewed and adjusted by the court as needed. Current rates and standards shall be provided to counsel.

III. Investigative, Expert, and Other Services

A. In Non-Capital Cases.

1. With Prior Authorization. Counsel (whether or not appointed under the CJA) for a party who is financially unable to obtain investigative, expert, or other services necessary for adequate representation may request such services.

Upon finding, after appropriate inquiry in such ex parte proceedings, that the services are necessary, and that the person is financially unable to obtain them, the judicial officer may authorize counsel to obtain the services. The maximum which may be paid to a person or organization for services so authorized shall not exceed the maximum amount prescribed by subsection (e)(3) of the Criminal Justice Act, exclusive of reimbursement for expenses reasonably incurred, unless payment in excess of that limit is certified by the judicial officer as necessary to provide fair compensation for services of an unusual character or duration, and the amount of the excess payment is approved by the Chief Judge of the Court of Appeals for the Circuit or designee. 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 Court of Appeals or designee

2. Without Prior Authorization. Counsel appointed under the Criminal Justice Act may obtain, subject to later review, investigative, expert, or other services without prior authorization, if necessary for adequate representation. However, the total cost for services obtained without prior authorization may not exceed the maximum amount prescribed by subsection (e)(2)(A) of the CJA, and expenses reasonably incurred. This limit may be waived, however, if the presiding judicial officer in the interest of justice finds that the services were necessary, the client is financially unable to obtain them, and timely procurement of necessary services could not await prior authorization.

B. In Death Penalty Cases.

1. Case Budgeting in Federal Capital Habeas Corpus Proceedings and

Federal Death Penalty Cases. Counsel are required to submit a proposed initial litigation budget for court approval which will be subject to modification in light of facts and developments that emerge as the case proceeds. Case budgets shall be submitted in compliance with the court's eVoucher system.

2. With or Without Prior Authorization. Upon a finding that investigative, expert or other services are reasonably necessary for the representation of the defendant in a federal capital case or in a federal death penalty habeas corpus proceeding, the presiding judicial officer shall authorize counsel to obtain such services on behalf of the defendant. Upon a finding that timely procurement of necessary investigative, expert or other services could not await prior authorization, the presiding judicial officer may authorize such services *nunc pro tunc*.

- C. Filing Claims.** Claims for compensation of persons providing investigative, expert, and other services under the Act shall be submitted to the court via the CJA eVoucher program. The claim shall be reviewed for technical accuracy and for conformity with the "Guidelines for the Administration of the Criminal Justice Act", and the guidelines and standards established by this court. If correct, the claim will be forwarded for the consideration and action of the presiding judicial officer.

The "Guidelines for the Administration of the Criminal Justice Act" state: "Vouchers should be submitted no later than 45 days after the final disposition of the case, unless good cause is shown." Counsel are directed to seek prior approval from the court to submit vouchers later than 90 days after the final disposition of the appointment.

- D. Federal Public Defender Organization.** The Federal Public Defender Organization may obtain investigative, expert, or other services without regard to the requirements and limitations of the title, provided that total expenditures of the organization for investigative ,expert, and other services do not exceed its budget authorization for these specific categories.
- E. Interim Vouchers.** The court hereby authorizes submission of "Interim" vouchers for compensation, without prior court approval, so long as the interim vouchers exceed \$500 and are submitted to the court no more than on a monthly basis. Interim vouchers for compensation shall be submitted no later than ninety days after the initial appointment and at ninety-day intervals as long as the interim vouchers exceed \$500.

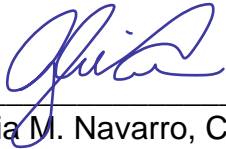
- F. Rates and Standards.** The court shall establish rate guidelines and billing standards (Attachment 1) to which counsel shall abide. The presiding judicial officer may waive the rates and/or standards as necessary to provide fair compensation.

The rates and standards shall be reviewed and adjusted by the court as needed. Counsel shall have access to the court's rates and standards and shall be notified of any changes made by the court.

IV. CJA eVoucher Program

All CJA related requests, documents and claims must be submitted to the court using the automated CJA eVoucher program.

Dated this 3rd day of November, 2014



Gloria M. Navarro, Chief Judge
United States District Judge