

Appendix for the Implementation and Management of the Criminal Justice Act Panel

This Appendix sets forth the procedures for implementation and management of the District of Colorado CJA Plan, as instructed in the Guide to Judiciary Policy's Model Plan for Implementation and Administration of the Criminal Justice Act, Vol. 7A.

I. ASSIGNMENT OF CASES TO THE PANEL

- A. **Solicitations and Responses:** The CJA Supervisory Attorney will generate a randomized list of Panel attorneys from the eVoucher program to solicit acceptance of CJA appointments. The selected attorney must respond to the solicitation as soon as possible. If the selected attorney does not respond promptly, another attorney will be selected.
- B. **Initial Appearances:** No defendant unable to afford counsel should be required to appear without counsel. Every effort will be made to have a lawyer available for the initial appearance once the Supervisory Attorney's office is made aware of the need for counsel from the Panel.
- C. **Entry of Appearance:** The court will review each defendant's Form CJA 23 (application for court appointed counsel) at the initial appearance. Once the Order Appointing Counsel is docketed, counsel will be expected to file an Entry of Appearance.

II. BILLING AND PAYMENT PROCEDURES

Attorneys and authorized professionals must submit all requests for funding approval and payments through the eVoucher system. Reference should be made to the Guide to Judiciary Policy, Vol. 7A, found at <http://www.uscourts.gov/rules-policies/judiciary-policies/criminal-justice-act-cja-guidelines>, or at www.cocja.org.

- A. **Panel attorneys:** The rate of Panel attorney compensation is found in the Guide to Judiciary Policy, Vol. 7A, §230.16.
- B. **Commonly used support services:**
 - 1. **Investigator:** The investigator is responsible for the investigation, from inception to conclusion of the representation. General areas of investigation include obtaining documents and records, collection and inspection of evidence, interviewing witnesses and clients, reporting

findings, and assisting in the preparation and management of witnesses and evidence in court.

2. **Paralegal:** The paralegal provides paper and electronic discovery management, exhibit management, ESI and litigation platform management, preparation for hearings/trial, and in-court litigation support.
3. **Interpreters:** The Administrative Office of the United States Courts recognizes three skill levels of interpreters: 1) federally certified interpreters; 2) professionally qualified interpreters, and 3) language skilled interpreters. Rates of pay will follow the rate of pay set through the AO. See <http://www.uscourts.gov/services-forms/federal-court-interpreters>.
4. **Experts:** Experts are professionals educated and trained in matters outside the expertise of the Panel attorney. Expertise may also include other areas of the law not practiced by the Panel attorney.

C. **Other Professional Support Services:**

1. **Co-counsel:** Panel attorneys may seek authorization for appointment of co-counsel. When seeking co-counsel, a motion must be filed and approved with the presiding judge. Co-counsel must be a member of the Panel. Once approved, co-counsel will enter an appearance and function in every capacity as the primary attorney. Because the government has no standing or right to be informed of a request for co-counsel, a motion seeking appointment of co-counsel should be filed as a restricted document.
2. Authorized co-counsel must enter an appearance and bill separately for hours through an eVoucher Form CJA 20 as a separate representation.
3. **Research and writing attorney:** The research and writing attorney is a licensed attorney who researches legal issues and drafts motions and briefs, regardless of whether those motions and briefs are ultimately filed. The research and writing attorney does not enter an appearance and may not serve as a substitute for co-counsel. Requests for a research and writing attorney must be submitted by the Panel attorney as a request for professional services through an eVoucher AUTH, and must identify the hourly rate and a cap on fees.

D. Requests for Service Providers:

1. Other than requests for co-counsel, requests for service providers must be made through the eVoucher AUTH form.
2. To ensure timely and accurate communications with non-English speaking clients, Panel attorneys should, upon appointment, immediately submit an eVoucher AUTH seeking interpreter services. Additionally, attorneys are strongly advised to propose a preliminary budget for interpreter services over the life of a case.
3. When seeking authorization of any service provider, Panel attorneys must include the proposed hourly rate. Attorneys are also encouraged to submit a preliminary cap on the fees of each service provider.

E. Billing in Excess of the Statutory Cap: Attorneys must seek authorization to bill in excess of a statutory cap on fees. Requests to exceed the statutory cap must be made through eVoucher Form CJA 26. Attorneys are advised to track billing and submit the CJA 26 before a cap is exceeded. As a matter of established practice, and in cases not governed by a budget through the Tenth Circuit Case Budgeting Attorney, requests to exceed the existing cap should propose a new cap on fees. To that end, attorneys are strongly encouraged to propose new caps in \$10,000.00 increments.

F. When to Bill: Interim billing is permitted in all cases. Requests for payment may be submitted every 90 days or every \$3,000.00, whichever occurs first. As a best practice, requests for final payments should be entered into eVoucher within 45 days of the final disposition of the case. However, it is recognized that the “final disposition” of a case may not always be definitive. Additionally, press of other immediate business may also cause unavoidable billing delays. Attorneys should be prepared to provide, without violating client confidences, reasons for billing delays.

G. Approved Expenses: CJA Panel attorneys may seek reimbursement for out-of-pocket expenses reasonably incurred. Expenses must be itemized and reasonably documented in eVoucher. For guidance on reimbursable expenses, attorneys must review the Guide to Judiciary Policy, Vol. 7A, §230.63. Panel attorneys and other professionals may not seek payment for or reimbursement of general office overhead or clerical expenses. For guidance on non-reimbursable expenses, attorneys must review the Guide to Judiciary Policy, Vol.7A, §230.63.

- H. Travel:** CJA Panel attorneys and other professionals may be reimbursed only for necessary and reasonable travel for those hours actually spent in or awaiting transit. Attorneys must review the detailed instructions on reimbursable travel expenses found in the Guide to Judiciary Police, Vol. 7A, §230.60. Additionally, attorneys must follow the following practices related to travel arrangements and billing:
1. Travel to the courthouse, jail, or other location for more than one case should be pro-rated and divided among the cases. Indication of the proration should be noted on the bill and in eVoucher.
 2. Reimbursement for mileage shall be at the rate established by the Administrative Office of the U.S. Courts.
 3. Travel by airline must be arranged through National Travel after approval in eVoucher is processed.
 - a. When booking reservations, National Travel must be notified of the voucher number for the approved funds.
 - b. Approval for airline travel must be sought as soon as practicable.
 4. Attorneys are responsible for timely cancellation of any flight and hotel when the travel commitment cannot be met.
 5. Attorneys shall provide written notice to the CJA Supervisory Attorney of any travel reservations missed and not cancelled.

III. TRAINING REQUIREMENTS

CJA Panel attorneys are expected to remain current with developments in federal criminal defense law, practice, and procedure. The District of Colorado Criminal Justice Act Plan (eff. 7/20/2016) requires:

During each year of a three-year term, a CJA Panel attorney shall attend at least six hours of continuing legal education instruction presented by either the Federal Public Defender or the Standing Committee.

1. For this section, terms begin June 1 and end May 31.
2. Training offered in whole or part by the Federal Defender Organization will be honored as training sponsored by the Federal Public Defender or Standing Committee.
3. To ensure accurate recording of training required by the District of Colorado CJA Plan, attorneys should upload certifications of attendance to eVoucher, and enter the hours attended in the User Profile.

4. In addition to the above requirements, Panel attorneys are strongly encouraged to attend training programs sponsored by the Defender Services Training Division, the United States Sentencing Commission, and other entities offering training relevant to federal criminal defense practices.

IV. ESTABLISHMENT OF PANEL MENTORING PROGRAM

A mentoring program is established to provide opportunities for attorneys seeking exposure and training under the Criminal Justice Act.

A. Mentee Attorneys

1. A mentee attorney must be admitted to practice and in good standing in the United States District Court for the District of Colorado. Mentee Attorneys are not members of the Panel and therefore will not be compensated under the Criminal Justice Act.
2. The mentee attorney will not enter her or his appearance and shall not sign pleadings as primary counsel or appear in court without the presence of the mentor attorney.
3. A mentee attorney may not address the court or actively participate in court proceedings without the permission of the presiding judge and the Panel attorney.
4. The CJA Supervisory Attorney will oversee assignments of mentee attorneys to Panel attorneys. A mentee attorney will not be assigned to the Panel attorney without the Panel attorney's consent.

B. Mentor Panel Attorneys

1. The mentor Panel attorney will supervise all work performed by the mentee attorney.
2. The CJA Supervisory Attorney will maintain a list of Panel attorneys willing to participate in this program.

V. MISDEMEANOR PANELS

A misdemeanor and petty offense Panel will be established to serve the docket in Denver. Misdemeanor and petty offense Panels in Grand Junction, Colorado Springs, and Durango are already in existence and will be maintained.

APPROVED BY THE COURT in Denver, Colorado this 10th day of July 2019.