

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 Office of the CJA Coordinating Attorney will use the eVoucher program to select counsel from the Panel. The eVoucher program randomly selects counsel from a "wheel." The selected attorney must respond to the notice 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 Coordinating 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. **An Entry of Appearance may not be filed until the Order Appointing Counsel is issued by the court.** Once the Order Appointing Counsel is docketed, counsel will be expected to file an Entry of Appearance. Only after the Entry of Appearance is filed will the attorney be able to receive electronic notices from the court.

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 (bottom of home page under links).

- A. Panel attorneys:** The rate of panel attorney pay will be found in the Guide to Judiciary Policy, Vol. 7A, §230.16. The current non-capital hourly rate for Panel attorneys is \$129.00/hour. The current capital hourly rate is \$183.00/hour. §630.10.10.

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>.

C. Less frequently used support services:

1. **Co-counsel:** Co-counsel will enter an appearance and function in every capacity as the primary attorney. Co-counsel must be a member of the Panel. When seeking co-counsel, a motion must be filed and approved with the court. Once a motion is granted, no additional authorization is required.
2. **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 appear in court and does not enter as co-counsel. When seeking a research and writing attorney, a motion must be filed and approved with the court.

D. Clerical/Secretarial/Receptionist support: These services are not covered.

E. Authorization (AUTH) Requests for Service Providers: Other than requests for co-counsel and requests for a research and writing attorney, do not file motions in CM/ECF for service providers or experts. Use the eVoucher CJA "AUTH" form for every other service provider, including experts. Experts are professionals educated and trained in matters outside the expertise of the panel

attorney. Expertise may include other areas of the law not practiced by the panel attorney.

When completing the eVoucher AUTH, counsel must include the proposed hourly rate of the service provider.

In cases requiring regular use of **interpreter** services, attorneys are encouraged to submit, as soon as practicable, an AUTH proposing a budget for these services over the life of the case.

- F. Billing in Excess of the Statutory Cap:** eVoucher Form CJA 26 is required. Do not file a motion with the court. Attorneys should track billing and submit the CJA 26 before the first cap is exceeded. It is impossible to bill in excess of the existing cap without authorization. In a typical case, the best practice is to seek authorization before the cap is exceeded, and to set a new cap in \$10,000.00 increments.
- G. 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.
- H. Approved Expenses:** CJA Panel Attorneys may seek reimbursement for out-of-pocket expenses reasonably incurred. Expenses must be itemized and reasonably documented in eVoucher. Examples of reimbursable expenses include:

 - 1. Telephone toll calls
 - 2. Photographs
 - 3. Copying (but not printing)
- I. Travel:** CJA Panel Attorneys and other professionals may be reimbursed for necessary and reasonable travel for those hours actually spent in or awaiting transit.

 - 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 AO.
 - 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 as soon as practicable.
4. Attorneys are responsible for cancelling any flight and hotel when the travel commitment cannot be met.
5. Attorneys shall provide written notice to the Coordinating Attorney of any travel reservations missed and not cancelled.

J. Disapproved Expenses: CJA Panel Attorneys and other professionals may not seek payment for or reimbursement of general office overhead or clerical expenses. As provided in the *Guide to Judiciary Policy, Vol. 7A, Ch.2*, such expenses include, but are not limited to:

1. Personnel.
2. Rent.
3. Telephone Service.
4. Printing briefs and motions.
5. Secretarial/clerical including:
 - Filing with the Court.
 - Mailing/Faxing.
 - Scheduling.
 - Entries of Appearance.
 - Billing and Funds Authorization.
 - Deliveries.

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.

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 may enter her or his appearance, but 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 court and the panel attorney.
4. The Office of the CJA Coordinating 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 Coordinating 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 1st day of March, 2017.