



UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
CRIMINAL JUSTICE ACT PLAN

APPENDIX B

Composition, Administration and Management of the CJA Panel

I. CJA Panel Selection Committee and CJA Panel.

A. CJA Panel Selection Committee.

1. Membership. The CJA Panel Selection Committee will be appointed by Order of the Chief Judge and will consist of:
 - a. one district judge acting as chair;
 - b. one United States magistrate judge;
 - c. the Chief Federal Defender, and;
 - d. at least three attorneys who:
 - (i) have been members of the CJA Panel for at least five years;
 - (ii) are based in different divisions of the Court; and
 - (iii) will serve staggered terms of three years each; and

- e. an ex officio staff member, who is employed by the Federal Defenders of Montana, Inc., and tasked with panel administration, to act as administrative coordinator and arrange all meetings, coordinate the Selection Committee's activities, maintain a list of current Panel members and applicants, and keep a record of the Committee's reports and recommendations.

2. Duties. The Selection Committee will:

- a. convene at least once each year;
- b. review applications for membership on the CJA Panel and recommend approval of the applicants it finds qualified;
- c. consider the reappointment of member attorneys whose continuation on the Panel has not been reviewed within the previous five years; or, for member attorneys whose continuation on the Panel has never been reviewed, randomly select at least eight attorneys per year for review until all have been reviewed;
- d. consider removal of members of the CJA Panel. Circumstances warranting removal include:
 - (i) disciplinary suspension or removal from the active membership of the State Bar of Montana, or any other state bar association, or failure to maintain active membership;
 - (ii) the member has not accepted assignment/appointment to a CJA Panel case for two years;
 - (iii) the member is not admitted to practice in the Ninth Circuit Court of Appeals and, if admitted to practice more than six years, is not admitted to practice before the United States Supreme Court;
 - (iv) the member has not met the CLE requirement in I.B.6., above;
or
 - (v) in the opinion of the CJA Selection Committee, the member no longer meets the high standards for panel membership.
- e. review the operation and administration of the CJA Panel over the preceding year, including:

- (i) the apportionment of cases between the Federal Defenders and the CJA Panel;
- (ii) recruitment of qualified counsel and identification and proposal of opportunities, such as the Mentor Program, for potential applicants to acquire the expertise and experience required for Panel membership;
- (iii) consideration of diversity in race, color, religion, sex, age, national origin and disabling condition among Panel members and expansion of the Panel's diversity;
- (iv) persistent issues or difficulties encountered by defendants or counsel; and
- (v) the balance between the distribution of appointments and compensation among the members of the CJA Panel and quality representation of each CJA defendant; and

f. recommend any necessary or appropriate changes to the Chief Judge.

B. CJA Panel.

1. Application. Application forms for membership on the CJA Panel are available from the Federal Defenders. Completed applications must be addressed to the court and submitted to the Panel Selection Committee's administrative coordinator.
2. Equal Opportunity. All qualified attorneys are encouraged to participate in the furnishing of representation in CJA cases, without regard to race, color, religion, sex, age, national origin or disabling condition.
3. Appointment to Panel. After considering the recommendations of the Selection Committee, the Article III judges of the court will appoint or re-appoint attorneys to the CJA Panel. Members of the CJA Panel serve at the pleasure of the Article III judges of the court.
4. District of Montana Mentor Program.
 - a. Program objective: The Mentor Program ("Program") is designed to allow a new or prospective member of the Criminal Justice Act Panel ("Panel") to become familiar with federal criminal defense practice in the District of Montana, regardless of the attorney's

previous experience in other jurisdictions. The Program provides a structured training platform for attorneys new to federal criminal practice that ensures the continued high quality of representation provided by the Montana CJA panel and to assure that new Panel attorneys are well-versed in the Federal Rules of Criminal Procedure, the Federal Rules of Evidence, and the policies and rules governing Criminal Justice Act Panel attorneys in the United States District Court.

b. Mentors and Mentees

- (i) The Mentor Program shall be maintained, administered, and operated by the Federal Defenders of Montana. The Federal Defenders of Montana will select a pool of Mentors internally and from the CJA Panel. No Mentor will be assigned more than one Mentee at any one time if there are willing Mentors who have not been assigned a Mentee.
- (ii) Each Mentor must be an experienced and respected member of the Panel. Panel members who wish to be considered for mentoring duties must agree to serve as Mentors to attorneys who are less experienced in federal criminal practice in at least one felony assignment, if needed, and must agree to mandatory reporting and attendance at additional yearly training, including possible specialized training, as designated by the CJA Panel Selection Committee. The Mentor is the primary attorney and, therefore is responsible for the representation, to both the CJA client and the Court.

c. Program Framework

- (i) Both the Mentor and Mentee will be appointed as counsel of record.
- (ii) In the typical Program case, the Mentor will receive a regular CJA appointment in a matter which appears to present a full spectrum of representation (e.g., bail and release; discovery review; guideline calculation sentencing factors; plea negotiation and/or trial; research and writing). The Mentor shall train and supervise the Mentee during each stage of the federal criminal prosecution. The Mentor shall have discretion regarding the extent of the Mentee's involvement depending on the unique needs of the case and the experience of the attorney. The Mentor will have the ultimate

responsibility for any case involved in the Program, including the final decision-making authority about legal strategy. The Mentor also will have the primary responsibility for communication with the client.

- (iii) The Mentee will be appointed as associate counsel (co-counsel) and will be expected to and permitted to appear and argue on the record as counsel for the defendant, with the Mentor, as counsel of record, present. The Mentee also may confer, on behalf of the defendant and under the direction of the Mentor, as counsel of record, with the government; chambers; the U.S. Probation office and other agencies; and defendant's family, friends, potential witnesses, and interpreters. Under the direction of the Mentor, the Mentee may participate in hearings and trials.
- (iv) The Mentee shall serve in a development capacity through one Program assignment unless the Mentor and/or CJA Panel Selection Committee determines the Mentee needs additional Mentor Program assignments and/or other related training.

d. Payment

- (i) Both the Mentor and Mentee will submit their billings through the automated payment process. The Mentor shall receive the current CJA hourly rate. At the conclusion of the representation, the Mentor will review both the Mentee's work and his/her proposed bill. If the Mentor certifies in writing (by letter) that the Mentee's work meets the high standards required of members of the Montana CJA Panel, the Mentee will be permitted to apply to the District Court for compensation at the reduced hourly associate attorney rate of \$100 per hour.
- (ii) The only expenses allowed to be incurred by the Mentee are travel related expenses, such as mileage and parking. Any other expenses, such as costs associated with experts (including interpreters), investigators, reproduction of transcripts/briefs, computer-assisted legal research, filing fees, etc., shall not be reimbursable to the Mentee. Rather, it is the responsibility of the Mentor to bear these expenses and seek reimbursement when appropriate, as described in the pertinent portions of the Guide to Judiciary Policies and Procedure (see Chapter II, Part C – Compensation and Expenses of Appointed Counsel, and Chapter III, Parts A & B –

Authorization and Payment for Investigative, Expert or Other Services).

5. Minimum Qualifications for CJA Panel Membership. After completion of the Mentor Program (§ 4, above), or, if the Mentor Program is deemed not to be required, panel applicants must be members in good standing of the State Bar of Montana (with the exception of applicants to the appellate panel who must be members in good standing of the bar of the highest court of a state, the District of Columbia, the Commonwealth of Puerto Rico, the Territory of Guam, the Commonwealth of the Northern Mariana Islands, or the Virgin Islands of the United States), possess strong litigation skills and demonstrate proficiency with the federal sentencing guidelines, federal sentencing procedures, the Bail Reform Act, the Federal Rules of Criminal Procedure, and the Federal Rules of Evidence. While not required, applicants should have significant experience representing persons charged with serious criminal offenses and demonstrate a commitment to the defense of people who lack the financial means to hire an attorney.
6. Minimum Continuing Legal Education (CLE) Requirements. Attorneys who serve on the CJA Panel must maintain compliance with the continuing education requirements of their licensing state. Additionally, with the exception of the members of the appellate panel, to remain on the CJA Panel, attorneys must (1) within a three (3) year period complete 15 CLE hours of continuing education programming approved by the State Bar of Montana in the area of federal criminal defense practice, and (2) complete 1 CLE hour of continuing education at a local panel meeting held at the offices of the Federal Defenders of Montana.

II Appointment of CJA Counsel.

- A. Membership List and Distribution of Appointments. The Federal Defenders of Montana will maintain a current list of all CJA Panel member attorneys, including each member's qualifications, experience, and appointments, along with statistical data reflecting the proportion of appointments between the Federal Defenders and the CJA Panel.
- B. Panel Members' Appointment as Counsel.
 1. Rotation. Appointments from the Panel should be made on a rotational basis, subject to exceptions based on the nature and complexity of the case, an attorney's experience, and geographical considerations.
 2. Designation. A judge may appoint any member of the CJA Panel or may direct the Federal Defenders to locate a qualified member at the earliest opportunity. The Federal Defenders may be designated to appear until a

panel attorney is available. In each case, a CJA Panel member must be designated by order.

III. Authorization of Funds and Payment to CJA Panel Members.

A. E-Vouchers. Counsel must use the e-voucher system.

B. Compensation for Services as Counsel.

1. Motions.

a. Motion for Interim Payment. Compensation for services rendered as counsel will rarely be approved before the conclusion of the case. A motion seeking such interim payment must include the phrase "(Circuit Approval Required)" immediately below the title of the motion.

b. Other Motions. A motion is not required and should not be filed for any other purpose relating to compensation for services rendered as counsel, such as payment in excess of the statutory maximum. Any order granting a motion for payment or declaring a case to be complex or extended will not guarantee payment. Any finding that a matter is complex, extended, or otherwise unusual will have no binding or preclusive effect on a judge deciding what compensation is appropriate for any attorney.

2. Time of Payment.

a. Attorneys Withdrawing Before End of Case. Because payment must be apportioned among CJA Panel attorneys appointed in one case, counsel withdrawing before the conclusion of a case must await judgment or dismissal to request payment.

b. At End of Case.

(i) E-vouchers should be submitted within 30 days after judgment or dismissal. The clerk will alert counsel if requests for payment are not made within 30 days, but responsibility for timely seeking payment rests exclusively with counsel.

(ii) Where multiple panel members have represented one client in a case, payment will not be made to any attorney until all have submitted their claims for payment. In such instances, the total compensation paid to all panel members is subject to the statutory maximum for one defendant, unless the case

involves extended or complex representation.

- (iii) Any request for payment made six weeks or more after judgment or dismissal must be accompanied by a showing of good cause for the delay in submission.
- (iv) The court will exert its best effort to avoid delays in reviewing vouchers.

C. Funds for Services Other Than Counsel.

1. Motions.

a. Services Other than Counsel.

- (i) Amounts Up to \$2,400. Motions seeking authorization to expend any amount up to \$2,400 must be limited to a specific amount and accompanied by documentation showing why that amount is necessary. If the motion is granted, counsel must give the service provider a copy of the order and must advise the provider the court will not pay more than the specific amount authorized.
- (ii) Amounts Over \$2,400. Motions seeking authorization of any amount over \$2,400 must comply with subparagraph (I) and must also include the phrase "(Circuit Approval Required)" immediately below the title of the motion. If the motion is granted, counsel must give the service provider a copy of the order and must advise the provider the court will not pay more than the specific amount authorized.

b. Rule 17(b) Subpoenas. Motions for subpoenas under Fed. R. Crim. P. 17(b) or for fees and expenses for fact witnesses or a defendant under 28 U.S.C. § 1825 must:

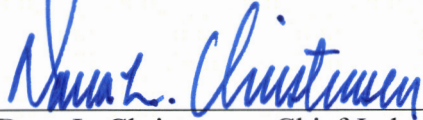
- (i) state that fees and expenses of fact witnesses and costs of service of process may not be paid from CJA funds under CJA Guidelines § 230.66.50;
- (ii) request that the United States Marshals Service be ordered to pay witness fees and expense; and
- (iii) if formal service of the subpoenas is required, request that the Marshals Service be ordered to effect or pay for service of process.

2. Time of Payment. Requests for payment to service providers should be made in the e-voucher system after completion of the provider's services and not later than 30 days after judgment or dismissal.

D. Failure to comply with any requirement of this Part III may result in denial of payment without giving counsel further notice or opportunity to respond.

IT IS SO ORDERED.

DATED this 13th day of April, 2018.



Dana L. Christensen, Chief Judge
United States District Court