

November, 2003

CJA PLAN IMPLEMENTATION GUIDELINES

In an effort to promote the goal of providing effective assistance to indigent defendants pursuant to the dictates of the Sixth Amendment, while balancing the demands of program management, the Court adopts the following guidelines for addressing certain matters arising from Criminal Justice Act representations. These guidelines are not an exclusive or exhaustive statement by this Court, but represent its ongoing efforts to expeditiously manage the district's caseload:

A. **Terms for Panel Members**

Panel members on the Southern District Panel will serve for a two-year term. Panel membership is limited to 175 attorneys.

B. **Qualifications for Panel Members**

Applicants should have their principal place of business in the area served by the division of the court to which they are making application and should have demonstrated experience in, and knowledge of, the Federal Rules of Criminal Procedure, the Federal Rules of Evidence, the Federal Sentencing Guidelines, and, in the absence of unusual circumstances, shall have the following minimum qualifications:

1. at least five years criminal practice in state or federal court, or three years of experience as an Assistant United States Attorney or Assistant Federal Public Defender;

2. in the case of the trial panel, participation in ten felony trials at least three of which are federal felony jury trials. Any applicant who has not tried at least three federal criminal jury trials must audit three pre-trial proceedings including motions hearings, three sentencing hearings and three jury trials in federal criminal cases and/or attend training in federal criminal practice sponsored by the Federal Public Defender's Office; and

3. in the case of the appellate panel, participation in at least ten felony appeals shall be required and writing samples may be requested.

C. **Appointment Procedure**

1. Each week, seven (7) attorneys in Dade County, five (5) in Broward County and five (5) in Palm Beach County, will be on a duty list for all CJA appointments for that week in those venues. Appointment to Monroe County and Ft. Pierce County cases also will be made by the magistrate judges in those locations from a duty list of five attorneys. The Magistrate Judges will appoint attorneys from the duty lists to CJA cases during that week. In cases where there are more defendants than CJA attorneys that are able to represent them on that week's list, the Court will appoint the excess defendants to panel attorneys from either the previous or the next week's list. If the combination of the current week's attorney list and previous and subsequent week's attorney list is insufficient, the Magistrate may appoint any attorney from the CJA panel list.

Duty weeks will be posted in a six-week grouping. Lawyers designated for duty during the first five weeks will be responsible for advising the Federal Defender's Office in writing if they receive no appointments. Based on this information, the Federal Defender's Office will publish those names for duty on the sixth week of the rotation.

2. Each attorney will be notified at least two weeks in advance that he/she is assigned to a duty week. After each attorney has been assigned to a duty week, names will again be randomly selected and duty weeks will be assigned for the next rotation.

3. Unless precluded by constitutional or statutory considerations, scheduling conflicts of Criminal Justice Act attorneys should be given priority during any given calendar. Judges should be sensitive to the competing commitments of a Criminal Justice Act attorney's caseload absent compelling circumstances which militate against accommodating that attorney's scheduling request. The Court should entertain motions for continuance, timely notices of scheduling conflict and/or notices of emergency proceedings in another court - either state or federal - and grant such relief when possible.

4. Attorneys may only receive appointments in the county of their primary place of business and those counties contiguous to his or her primary place of business. Additionally, only West Palm Beach and Broward lawyers may take appointments in the Fort Pierce division.

5. Criminal Justice Act attorneys shall be fully compensated for their travel to court, prison facilities, etc. where authorized by regulation.

D. **Panel Attorney Obligations**

1. Attorneys are expected to accept all appointments made and to be available as needed during his/her assignment duty weeks. If extraordinary circumstances (family commitment, prepaid vacations or a specially set trial in another matter) make it unreasonable to accept the appointment or serve during the assigned duty weeks, the attorney must notify the Federal Defender's Office in writing of the conflict in advance of commencement of the duty week.

2. Panel attorneys are required to notify the Federal Public Defender, in writing, any time there is an address or phone number change for his/her office. This correspondence should be mailed to: 150 West Flagler Street, Suite 1500, Miami, Florida 33130-1555; or faxed to (305) 536-6854.

3. Each panel attorney is expected to comply with all circuit and district court rules and orders regarding the submission of vouchers and the support documentation for these vouchers.

4. Each panel attorney will be required to attend an orientation meeting prior to final "activation" of his or her name on the CJA panel.

E. **Vouchers**

1. Judges will review and process vouchers as expeditiously as possible and as proximate to the date of submission as feasible.

2. If a Judge has a question with regard to any particular item of compensation that is requested, the judge should make inquiry of the attorney submitting the voucher prior to deciding whether compensation is appropriate in that instance. The Judge will afford the attorney an adequate opportunity to satisfy the court's queries regarding billing in a particular matter, understanding that the attorney may be restrained by ethical rules and matters of privilege from providing complete disclosure regarding all facets of the attorney's representation.

3. In order to alleviate the burden on Judges whose time commitments may preclude prolonged review and consideration of particular vouchers, the District Court will appoint an independent review board to mediate disputes regarding vouchers' submission. A decision of the review board will be advisory, but should be given great weight in reconsidering any particular voucher question.

4. Reimbursement of Criminal Justice Act fees and costs in complex litigation or in any case which results in representation involving a trial of one month's duration or longer may be processed according to an interim payment schedule.

5. No claim for compensation or reimbursement will be considered by the Court unless filed within sixty (60) days of the termination of representation unless good cause is shown.

F. **Mandatory Continuing Legal Education**

Each panel member shall annually attend at his or her own expense five hours of continuing legal education specifically concerning federal criminal practice and shall so certify by December 1st of each year to the Federal Public Defender on forms provided by that office. These five hours of CLE may be satisfied by programs which are used to satisfy state bar CLE requirements. Lawyers who do not submit this report on the specified date would be subject to a six month suspension from the Panel.

G. **Mandatory Removal**

Any member whose right to practice law in this district or state has been suspended or revoked shall be removed from the panel. Any member who refuses to accept an appointment may be removed from the panel. Inability to accept an appointment because of an ethical conflict is not a refusal.

In conclusion, the District Court reiterates and reemphasizes its strong support and commitment to the Criminal Justice Act Program and its appreciation for the time and effort of those attorneys who contribute their services to defendants whose Sixth Amendment rights are protected by this program.