



ADMINISTRATIVE OFFICE OF THE
UNITED STATES COURTS


HONORABLE JOHN D. BATES
Director


WASHINGTON, D.C. 20544

December 23, 2014

MEMORANDUM

To: Judges, United States Courts of Appeals
Judges, United States District Courts
Circuit Executives
Federal Public/Community Defenders
District Court Executives
Clerks, United States Courts of Appeals
Clerks, United States District Courts
Senior Staff Attorneys

From: Judge John D. Bates, Director 
Administrative Office of the United States Courts

Judge Catherine C. Blake, Chair 
Judicial Conference Committee on Defender Services

RE: PAYMENT OF CRIMINAL JUSTICE ACT COUNSEL
(IMPORTANT INFORMATION)

The Criminal Justice Act, 18 U.S.C. § 3006A (“CJA”), mandates fair compensation for appointed counsel by providing in subsection (d)(1) that attorneys shall be compensated for time expended in court or reasonably expended out of court, and reimbursed for expenses reasonably incurred. Providing fair compensation to appointed counsel, then, is a critical component of the administration of justice in our federal courts.

It is the responsibility of judicial officers to carefully review payment vouchers for compliance with the CJA “reasonableness” requirement. Reducing vouchers simply in the interest of cost-containment, however, or as a result of concerns about the Defender Services budget, is contrary to Judicial Conference policy. The Defender Services program is closely monitored by the Administrative Office of the United States Courts (“AO”) and robust auditing and budgeting functions ensure responsible stewardship of congressional funds. Additionally, an upcoming review of the CJA program will include an assessment of the CJA voucher system. This study will identify any deficiencies and make recommendations for improvement, if necessary.

The Frequently Asked Questions (FAQs) below reference Judicial Conference policies on CJA voucher payments. We have also included information on the current status of the CJA eVoucher system. We ask for your cooperation and compliance with these policies to help ensure the continued availability of qualified, well-trained, and fairly paid CJA counsel.

cc: CJA Circuit Case-Budgeting/Supervising Attorneys
CJA Panel Attorney District Representatives

FAQs

Q: Does reduction of a CJA voucher result in additional funds for court operations?

A: No. Payments to CJA panel attorneys, their service providers, and for transcripts ordered by them are made from centrally-held funds administered by the Defender Services program. Circuits or districts do not receive allocated funds for CJA panel attorney representations, so payments denied cannot be redirected for court operations.

Q: Should budget considerations influence a judge's decision about the timing or amount of an individual CJA voucher?

A: No. Judicial Conference policy, as set forth in the *Guide to Judiciary Policy*, Vol. 7A, § [230.33 \(Impact of an Appropriation Shortfall on Voucher Review\)](#), provides that “[v]ouchers should not be delayed or reduced for the purpose of diminishing Defender Services program costs in response to adverse financial circumstances.” The Judicial Conference has determined that “[a]bsent extraordinary circumstances, judges should act upon panel attorney compensation claims within 30 days of submission.” *Guide to Judiciary Policy*, Vol. 7A, § [230.13\(b\)](#).

It is the responsibility of the judicial officer to review each voucher for the reasonableness of the claim (other personnel review vouchers first for mathematical and technical accuracy). The AO, in coordination with the Judicial Conference, works with the Appropriations Committees of Congress to ensure that the Defender Services account is adequately funded. Judicial officers thus should not seek to address a perceived or actual shortfall in the Defender Services account, which is closely monitored by the AO, by reducing an individual voucher. Congress, which recognizes the critical importance of funding the appointment of counsel under the CJA, has provided supplemental funding when needed.

Q: Is there a specific process that should be followed to justify the reduction of a CJA voucher for unreasonableness?

A: Yes. The *Guide to Judiciary Policy* requires notice to counsel and an opportunity to respond. The text of the CJA guideline is as follows:

§ [230.36](#) **Notification of Proposed Reduction of CJA Compensation Vouchers**

(a) The CJA provides that the reviewing judge must fix the compensation and reimbursement to be paid to appointed counsel. If the court determines that a claim should be reduced, appointed counsel should be provided:

- prior notice of the proposed reduction with a brief statement of the reason(s) for it, and

- an opportunity to address the matter.
- (b) Notice need not be given to appointed counsel where the reduction is based on mathematical or technical errors.
- (c) Nothing contained in this guideline should be construed as requiring a hearing or as discouraging the court from communicating informally with counsel about questions or concerns in person, telephonically, or electronically, as deemed appropriate or necessary.

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This guideline is intended to ensure basic procedural fairness. The notice will also assist counsel's understanding of compensable activities and the courts' expectations for the future.

Q: Will the electronic CJA voucher processing system be available in 2015?

A: Yes. Implementation of eVoucher as a national electronic voucher processing system involves two parallel tracks – deployment and development. The current version (eVoucher 4.1) developed by the District of Nevada will be established as the baseline standard for the system, and will be deployed to all district and appellate courts by December 2015. To facilitate greater efficiencies in the deployment and help desk support process, eVoucher 4.1 will be deployed using a central hosting model. While the deployment of eVoucher 4.1 is underway, a parallel track will be taken to define the outstanding requirements, including compliance with Judicial Conference policy, and further develop a version of eVoucher that is appropriate as a national system. It will replace the current CJA panel attorney payment system and permit the Defender Services Office to continue responsibly monitoring and managing CJA activities.