

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS**

HOUSTON-GALVESTON

CRIMINAL JUSTICE ACT PLAN

2011

APPENDIX A

HOUSTON-GALVESTON PLAN THE COMPOSITION, ADMINISTRATION, AND MANAGEMENT OF THE PANEL OF PRIVATE ATTORNEYS UNDER THE CRIMINAL JUSTICE ACT

I. COMPOSITION OF PANEL OF PRIVATE ATTORNEYS

A. CJA PANEL

1. Approval. The Court hereby establishes a panel of private attorneys, the CJA Panel, who are eligible and willing to be appointed to provide representation under the Criminal Justice Act. The Court shall approve attorneys for membership on the panel after receiving recommendations from the Panel Selection Committee, established pursuant to paragraph B of this Plan. Members of the CJA Panel shall serve at the pleasure of the Court.
2. Size. The CJA Panel shall consist of approximately 100 attorneys. The Court shall review annually and if necessary adjust the size of the Panel. The Panel shall be large enough to provide a sufficient number of experienced attorneys to handle the Criminal Justice Act caseload, yet small enough so that Panel members will have the opportunity to receive an adequate number of appointments to maintain their proficiency in federal criminal defense work, and thereby provide a high quality of representation.
3. Eligibility. Attorneys who serve on the CJA Panel must be members in good standing of the federal bar of this district, and have demonstrated experience in, and knowledge of, the Federal Rules of Criminal Procedure, the Federal Rules of Evidence and the United States Sentencing Guidelines..
4. Terms. Attorneys admitted as members of the Panel shall normally serve for a term of three years. Thereafter, attorneys must resubmit a new application. Members of the CJA Panel shall serve at the pleasure of the Court.
5. Reappointment. A member of the CJA Panel shall be eligible for reappointment to the panel for successive terms following expiration of his or her term, unless otherwise restricted by the Court.
6. Application. Application forms for membership on the CJA Panel shall be made

available, upon request, by the Clerk of the Court. Completed applications shall be submitted to the Clerk of the Court who will transmit the applications to the chairperson of the Panel Selection Committee.

B. PANEL SELECTION COMMITTEE

1. Membership An appropriate Panel Selection Committee shall be established for each division or combination of Divisions by the Court. The Committee shall consist of one district judge, one or more magistrate judges, one or more attorneys who are members of the CJA Panel, and the Federal Public Defender. The Committee shall select its own chairperson.

2. Duties.

a. The Panel Selection Committee shall meet quarterly or as needed to consider applications for the vacancies created by the terms expiring each year. The Committee shall review the qualifications of applicants and recommend, for approval by the Court, those applicants best qualified to fill the vacancies.

The Committee shall recruit a broad based representative panel of competent attorneys with criminal trial experience. The primary objective of the Committee shall be to recruit the most qualified attorneys, but the Committee shall actively recruit women and minority members and shall provide a substantial number of attorneys fluent in languages other than English. The Committee may classify Panel members according to level of experience and area of expertise.

At its scheduled meeting, the Committee shall also review the operation and administration of the Panel over the preceding period, and recommend to the Court any changes deemed necessary or appropriate by the Committee regarding the appointment process and Panel management.

b. If, at any time during the course of a year, the number of vacancies due to resignation, removal, or death significantly decreases the size of the Panel, the Committee shall solicit applications for the vacancies, convene a special meeting to review the qualifications of the applicants, and select prospective members for recommendation to the Court for approval. Members approved by the Court to fill mid-term vacancies shall serve until the expiration of the term that was vacated, and shall be immediately eligible for reappointment.

C. CJA TRAINING PANEL

The Panel Selection Committee shall establish a CJA Training Panel, consisting of attorneys who have the experience required for membership on the CJA Panel. Training Panel members may be assigned, by the Court, to assist members of the CJA Panel in a "second chair" capacity. Training Panel members are not eligible to receive appointments independently, and shall not be eligible to receive compensation for their services in assisting CJA Panel members. Prior service on the CJA Training Panel is not a requirement for membership on the CJA Panel, nor will service on the Training Panel guarantee admission of an attorney to the CJA Panel.

II. THE APPOINTMENT PROCESS

A. MAINTENANCE OF LIST AND DISTRIBUTION OF APPOINTMENTS

The Clerk shall maintain the current CJA Panel list and shall furnish a copy to each judge and the Federal Public Defender upon request. The Clerk shall also maintain a public record of appointments of private counsel, and, [when appropriate], statistical data reflecting the proration of appointments between the Federal Public Defender and private attorneys, according to the formula heretofore described.

B. METHOD OF APPOINTMENT

Appointments from the list of private attorneys should be made on an impartial basis, subject to the Court's discretion to consider the nature and complexity of the case, and an attorney's experience. This procedure will assist in producing a balanced distribution of appointments among the members of the CJA Panel and providing quality representation for each CJA defendant.

III. COMPENSATION - FILING OF VOUCHERS

Claims for compensation shall be submitted, through the Court's eVoucher system, to the office of the Clerk of the Court. The Clerk of the Court shall review the claim for conformity with the Guidelines for the Administration of the Criminal Justice Act (volume VII, Guide to Judiciary Policies and Procedures) and, if correct, shall forward the claim form for the consideration and action of the presiding judge or magistrate. (See Appendix B).

APPENDIX B

GENERAL INFORMATION FOR VOUCHER SUBMISSION

A. GENERAL

All vouchers must be submitted through the Court's eVoucher system.

Vouchers for attorneys under the Act must include a description of the services - a breakdown of how the hours were spent, and the dates the services were performed. Travel expenses reporting should include date, destination and purpose of travel. Any pertinent court orders, budgets and supporting documentation should be uploaded to the electronic voucher.

B. ALLOWABLE EXPENSES - COURT APPOINTED COUNSEL (CJA 20)

Out of pocket expenses reasonable incurred may be claimed on the CJA 20 and CJA 30 vouchers, and must be itemized and reasonably documented. Expenses for investigations or other services under subsection (e) of the Act are not out of pocket expenses. Thus, such expenses should not be claimed on the CJA 20 or CJA 30 voucher. A CJA 21 or CJA31 voucher, Authorization and Voucher for Expert of Other Services, should be filed by the attorney on behalf of the investigator or other expert. Out of pocket expenses may include:

1. Travel Expenses

- (a) Travel by a privately owned automobile should be claimed at the rate prescribed for federal judiciary employees who use a private automobile for conducting official business, plus parking fees, ferry fees, and bridge, road and tunnel tolls. Other means of transportation should be claimed on an actual expense basis. (Local toll fees are not recoverable.)
- (b) All local travel will be accomplished by the most economical means possible and claimed as an actual expense. Travel time should not be charged as an expense except where travel is away from the duty station where the courthouse is located.
- (c) Counsel's expenses for meals and lodgings incurred in the representation of the defendant constitute reimbursable out of pocket expenses.
- (d) In determining whether actual expenses incurred are "reasonable," counsel should be guided by the prevailing limitations placed upon travel and subsistence expenses of federal judiciary employees in accordance with existing government travel regulations.

2. Hourly Rates for Appointed Trial Attorneys

- (a) The current hourly rate for in Court appearances and out-of-Court labor, as approved by the Judicial Conference of the United States, is published on the CJA page of the court's website www.txs.uscourts.gov/page/payment-rates. Where the hourly rate changes in the midst of an appointment, appropriate adjustments will be recognized. Case compensation maximums are also established by statute and will be recognized in all cases unless a case becomes extended or is declared complex.
- (b) All claims for compensation in excess of statutory case limitation requires both, the voucher and a detailed memorandum supporting and justifying counsel's claim. The memorandum should state that representation was provided in a complex or extended case and that the excess payment is necessary to provide fair compensation.
- (c) Fees and Expenses In Capital Cases, Compensation shall be paid to attorneys appointed under this subsection, not to exceed the in-court and out-of-court time published rates. Fees and expenses paid for investigative, expert, and other reasonably necessary services that are authorized, in any case, shall not exceed the published rate, unless payment in excess of that limit is certified by the court. Amounts in excess shall first be approved by chief judge of the circuit or circuit designee. The Fifth Circuit's Special Procedures for Reviewing Attorney Compensation Requests in Death Penalty Cases and the limits on fees and expenses are available at www.txs.uscourts.gov/page/cja-information.

3. Compensation Limits for Investigative, Expert and "Other" Services (CJA 21 of CJA 31 Form)

- (a) With Prior Authorization www.txs.uscourts.gov/page/payment-rates (per organization or individual, exclusive of reimbursement for expenses reasonably incurred, per individual authorization to perform said service.)
- (b) Without Prior Authorization www.txs.uscourts.gov/page/payment-rates (Subsection (e)(2)(A) of the Act authorizes the obtaining of investigative, expert and other services without prior authorization but subject to subsequent review, providing the cost of services obtained does not exceed the published rates plus expenses reasonably incurred.

4. Photocopying

Actual costs not to exceed the published rate will be paid if a copy of the bill is submitted. For in-house copying, actual costs not to exceed the published rate will be paid. The costs of other forms reproduction will not be reimbursable.

5. Courier Service and Other Special Arrangements

For delivery of items that could be mailed, expenses will be reimbursed only if normal mail service is unavailable or inadvisable. In non-emergency cases, routine documents such as briefs and motions should be prepared early enough to permit use of the mail.

6. Law Students

Use of qualified law students to assist assigned counsel in trial preparation and in drafting briefs and arguments on appeal may be appropriate. Payment under the CJA in such instances may be made to assigned counsel only for compensable time spent by counsel plus allowable expenses. Allowable expenses for the attorney may include compensation paid to law students for legal research, but does not include reimbursement for expenses otherwise incurred by a law student. Use form CJA-21 or CJA-31 and treat as a paralegal expense to request reimbursement.

7. Computer Assisted Legal Research

The cost of use, by appointed counsel, of computer assisted legal research equipment, may be allowed as a reimbursable out-of-pocket expense, provided that the total amount approved for computer assisted legal research does not exceed the total amount of attorney compensation that reasonably would have been approved if counsel had performed the research manually. Whenever appointed counsel incurs charges for computer assisted legal research, counsel should attach to the compensation voucher the following:

- (a) a brief statement on the issue or issues that were the subject matter of the research;
- (b) an estimate of the number of hours of attorney time that would have been required to do the research manually; and
- (c) a copy of the bill and receipt for the use of equipment or an explanation of the precise basis of the charge (e.g., indicating the extent to which it was derived by proration of monthly charges, or by charges identifiable to the specific research).

8. Other Expenses

Other expenses include items such as telephone calls, telegrams, copying (except printing), postage and photographs. “Other” expenses in excess of the published rate must be substantiated by proof of payment, i.e., receipts, canceled checks, and invoices.

IN COURT HOURLY INSTRUCTIONS

The “in-court” designation was devised to standardize the itemization and documentation of hourly totals and “in-court” services performed by court appointed counsel in the defense of a client under the Criminal Justice Act. Each submission shall include the following:

- a) the date the service was performed
- b) a brief description of the service performed
- c) the time spent performing the service

The time spent performing the service should be reported in tenths of hours*. In addition, the time reported shall be entered under the appropriate in-court service category, i.e., arraignment and/or plea, motions and requests, bail hearings, etc.

*	<u>6 Minutes</u>	=	<u>.1</u>	<u>Hour</u>	<u>36 Minutes</u>	=	<u>.6</u>	<u>Hour</u>
	<u>12 Minutes</u>	=	<u>.2</u>	<u>Hour</u>	<u>42 Minutes</u>	=	<u>.7</u>	<u>Hour</u>
	<u>18 Minutes</u>	=	<u>.3</u>	<u>Hour</u>	<u>48 Minutes</u>	=	<u>.8</u>	<u>Hour</u>
	<u>24 Minutes</u>	=	<u>.4</u>	<u>Hour</u>	<u>54 Minutes</u>	=	<u>.9</u>	<u>Hour</u>
	<u>30 Minutes</u>	=	<u>.5</u>	<u>Hour</u>	<u>60 Minutes</u>	=	<u>1.0</u>	<u>Hour</u>

OUT-OF-COURT HOURLY INSTRUCTIONS

The “out-of-court” designation was devised to standardize the itemization and documentation of hourly totals and “out-of-court” services performed by court appointed counsel in the defense of a client under the Criminal Justice Act. Each submission shall include the following:

- a) the date the service was performed
- b) a brief description of the service performed; and
- c) the time spent performing the service

The time spent performing the service shall be reported in tenths of hours*. In addition, the time reported shall be entered under the appropriate “out-of-court” service category, i.e., Interviews and conferences, obtaining and review records, legal research and brief writing, etc.

Note: Travel time should not be charged as an expense except where travel is away from the duty station where the courthouse is located.

*	6 Minutes	=	.1	Hour	36 Minutes	=	.6	Hour
	12 Minutes	=	.2	Hour	42 Minutes	=	.7	Hour
	18 Minutes	=	.3	Hour	48 Minutes	=	.8	Hour
	24 Minutes	=	.4	Hour	54 Minutes	=	.9	Hour
	30 Minutes	=	.5	Hour	60 Minutes	=	1.0	Hour

OTHER EXPENSE INSTRUCTIONS

The “other” expense designation was devised to standardize the itemization and reimbursable expense incurred by court appointed counsel in the defense of a client under the Criminal Justice Act. Each submission shall include the following:

- a) the date incurred,
- b) a brief explanation of the expense; and
- c) the amount of expense incurred.

Expense items such as mileage and copying shall reflect the total miles and pages, respectively, multiplied by the applicable rate. The expenses incurred should then be entered under the appropriate “other” expense category, i.e., mileage, parking, meals, etc. Upload all supporting documentation, i.e., receipts, canceled checks and invoices for all expenses in excess of the published rate to the electronic voucher.

APPENDIX C

APPLICATION FOR ADMISSION TO HOUSTON-GALVESTON CJA PANEL

United States District Court
Southern District of Texas
Houston-Galveston Divisions

Type all Entries

I. GENERAL INFORMATION

A. Name _____

B. Name of Firm, Partnership, or Professional Corporation

C. Office Street Address

D. Mailing Address (*if different from above street address*)

E. Office Telephone Number (*include area code*)

F. Cellular Number (*include area code*)

G. E-Mail Address

H. Date of Birth

I. Professional Organizations, Awards, Honors, etc.

J. Fluency (office capacity) in the following languages

II. BAR ADMISSION AND CERTIFICATIONS

A. State Bar Membership Number _____

B. Date Admitted to State Bar of Texas _____

C. Date first Admitted to Practice in the United States District Court for the Southern District of Texas _____

D. Date first Admitted to Practice in the United States Court of Appeals for the Fifth Circuit (if not admitted, please so state). _____

E. Please List All Other Courts In Which You Are Admitted to Practice and Give Dates of Admission

F. Field of Special Interest (appeals, habeas corpus, trial, felony and capital cases)

G. Date and Field of Certification by Texas Board of Legal Specialization

III. TRIAL EXPERIENCE

A. Nature of Legal Experience

B. Number of Criminal Jury Trials [estimate]

State _____ Federal _____

C. Number of Criminal Trials to the Court [estimate]

State _____ Federal _____

D. Number of Hearings or Other Contested Matters [estimate]

IV. APPELLATE EXPERIENCE

Number of Criminal Appeals Handled

Briefs Submitted

Oral Arguments

State

Federal

V. PEER AND COURT REVIEW

A. List the names of two lawyers, not your partners, associates, or relatives, with whom or against whom you have tried a case in the last three years who may be contacted and who can attest to your competence in criminal law

Name _____

Firm or Employer _____

Number and Street-Room No.
Or Building Name-Suite

City _____ State _____ Zip Code _____

Office Phone Number (include area code) _____

Name _____

Firm or Employer _____

Number and Street-Room No.
Or Building Name-Suite _____

City _____ State _____ Zip Code _____

Office Phone Number (include area code) _____

- B. List the names of two judges before whom you have appeared in a contested matter in the last three years.

Name of Judge _____

Name of Court _____

City _____ County _____

Court Telephone Number (include area code) _____

Name of Judge _____

Name of Court _____

City _____ County _____

Court Telephone Number (include area code) _____

VI. CONTINUING LEGAL EDUCATION

List CLE in which you have participated as: (a) attendee or (b) teacher/lecturer in the last three years. (Give course title, sponsor, and date.)

Attendee

Teacher/Lecturer:

VII. GRIEVANCE MATTERS: (Check Appropriate Response)

A. State whether you have been disbarred, suspended, reprimanded, or otherwise disciplined by any segment of the bar, including, but not limited to, any local, district or state grievance authority of an organized bar. If yes, give full details by attachment to this application.

- Yes No

B. Do you now have any charges pending against you, either in court or grievance committee, that could result in the filing of a malpractice suit, a grievance committee proceeding, or a suit for disciplinary action? If yes, give full details by attachment to this application.

- Yes No

C. State whether you have been adjudicated guilty of a serious crime as defined below and whether the adjudication resulted from a plea of guilty or nolo contendere or from a verdict after trial. If yes, give full details by attachment to this application.

For purposes of this application, the term "serious crime" shall include any felony. It shall also include any lesser crime, a necessary element of which, as determined by the statutory or common law definition of such crime, involved improper conduct of an attorney, interference with the administration of justice, false swearing, misrepresentation, fraud, willful failure to file income tax returns, deceit, bribery, extortion, misappropriation, theft, or an attempt or a conspiracy or solicitation of another to commit a serious crime.

- Yes No

VIII. PETITION AND AUTHORIZATION

I hereby apply to the Panel Selection Committee for admission to the Criminal Justice Act Panel of the Houston Division of the United States District Court for the Southern District of Texas for a term of three years and if selected for the panel, agree to accept appointments under the Criminal Justice Act.

In making and filing this application, I authorize the Panel Selection Committee to make inquiry of lawyers and judges named herein as to my competence in criminal law. I acknowledge that information received by the Panel Selection Committee will be held in confidence and I waive any right to review statements made to that Committee.

Typed Name of Applicant _____

Signature of Applicant _____

Date _____

ADDITIONAL PAGES MAY BE ATTACHED AS NEEDED

Please Complete Application and E-Mail to:

Donna_Smith@txs.uscourts.gov

If you have any questions, please contact:

Ms. Donna Smith

Judicial Assistant to The Honorable Alfred H. Bennett

Chair, Criminal Justice Act Panel

Houston-Galveston Divisions

(713) 250-5849

APPENDIX D

For Form PS 1, Pretrial Services Notice to Defendant, refer to www.txs.uscourts.gov/page/cja-information.

For CJA Form 23, Financial Affidavit refer to
<http://www.uscourts.gov/FormsAndFees/Forms/CourtFormsByCategory.aspx>