

2013 MEMPHIS/MID-SOUTH CHAPTER OF THE FEDERAL BAR ASSOCIATION ANNUAL SEMINAR

CJA Panel Attorney CLE Session



Friday, October 4, 2013
University of Memphis Law School
1 North Front Street
Memphis, TN 38103

TOPICS BEING COVERED TODAY

- ✓ Update on Judiciary Shutdown
- ✓ Update on Development of eCJA
- ✓ CJA Case Assignment Process
- ✓ Current Appointment Statistics
- ✓ Panel Reappointment Process
- ✓ CJA Voucher Preparation
- ✓ Court Website Information

✓ Update on Judiciary Shutdown

Phase I Shutdown Impact
on Federal Court Operations

**BUSINESS
AS USUAL**

✓ Update on Judiciary Shutdown

Phase II Shutdown Impact on Federal Court Operations



✓ Update on Judiciary Shutdown

Phase I and II Shutdown
Impact on CJA Attorneys



REDUCED HOURLY RATES FOR PANEL ATTORNEYS

✓ Update on Judiciary Shutdown

Phase I and II Shutdown
Impact on CJA Attorneys

A close-up photograph of a hand holding a white envelope. The hand is positioned in the center of the frame, with the fingers slightly curled around the envelope. The background is a dark blue gradient. A bright yellow banner is overlaid diagonally across the lower half of the image, containing red text.

SUBSTANTIALLY DELAYED VOUCHER PAYMENTS

✓ Update on Judiciary Shutdown

Phase I and II Shutdown
Impact on CJA Attorneys



DELAYED PAYMENTS TO CJA VENDORS AND EXPERTS

✓ Update on Judiciary Shutdown

Phase I and II Shutdown Impact on CJA Attorneys

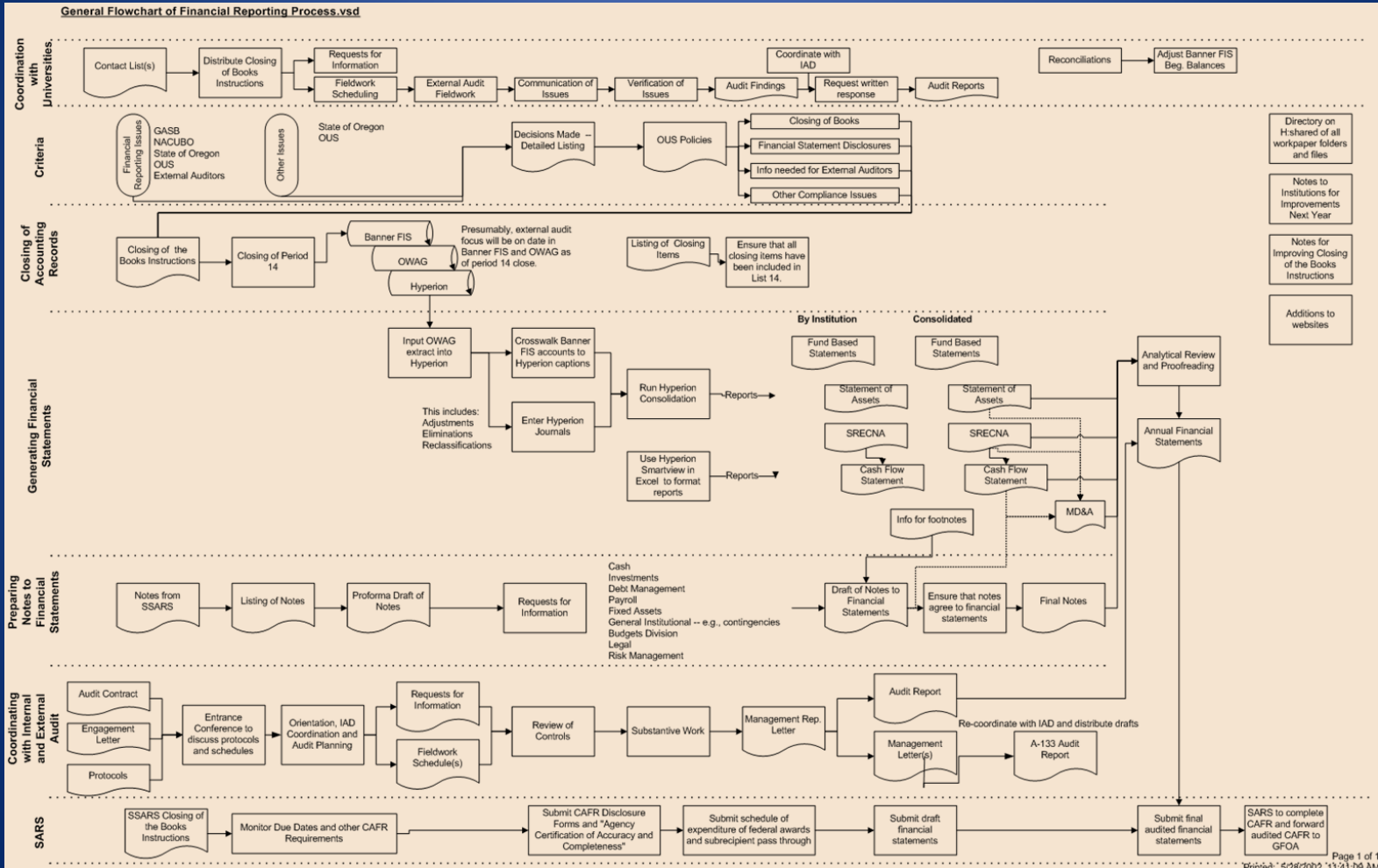


✓ Update on Judiciary Shutdown

Phase I and II Shutdown Impact on CJA Attorneys



✓ Update on Development of eCJA



✓ Update on Development of eCJA



✓ Update on Development of eCJA



✓ CJA Case Assignment Process

In July 2005 I was asked to develop a computerized system that would overcome the problems that then existed in the CJA case assignment process.

The problems were:

- The assignment process was manual and undocumented
- The assignments were unevenly dispersed across the Panel
- There was no way to extract statistical data or reports

We developed an automated process using a algorithm that maintains randomness yet rebalances assignment activity so that every Panel Attorney over time gets an equal number of contacts and potential case assignments.

✓ CJA Case Assignment Process

- 2 Panels
 - Memphis Division (37 Attorneys as of 05/28/2013)
 - Jackson Division (17 Attorneys as of 05/28/2013)
- Contact Methods by Court Staff
 - Phone
 - 1st – Office
 - 2nd – Cell
 - 3rd – Designee
- Assignment **MUST** have immediate accept or decline, otherwise a “No Answer” will result in a one-point assessment in the system.

✓ CJA Case Assignment Process

- Weighted System of Calling, where program logic continuously self-balances the number of calls across all panel attorneys
 - Attorney with lowest weighted call load will be called first
 - If one or more attorneys are “tied” at the same weighted call history, the system uses random selection to pick the next attorney to call
 - Every call transaction is maintained in the database
 - Randomness is inherent to this system

Weights (How points are assigned based on results of actual contacts)

- **Criminal Case**

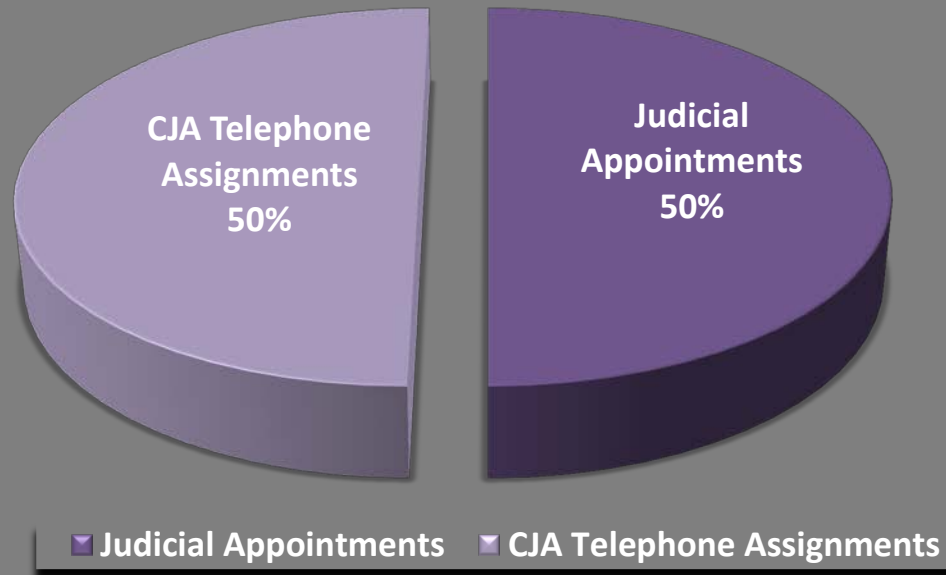
| | |
|---|--|
| 3 | Accept, Decline, or Judicial Appointment |
| 1 | Unable to reach Attorney |
| 0 | Case Conflict – Unable to Accept |

- **Post Judgment Matters** (Including resentencing)

| | |
|---|--|
| | Accept, Decline, or Judicial Appointment |
| 1 | Unable to reach Attorney |
| 0 | Case Conflict – Unable to Accept |

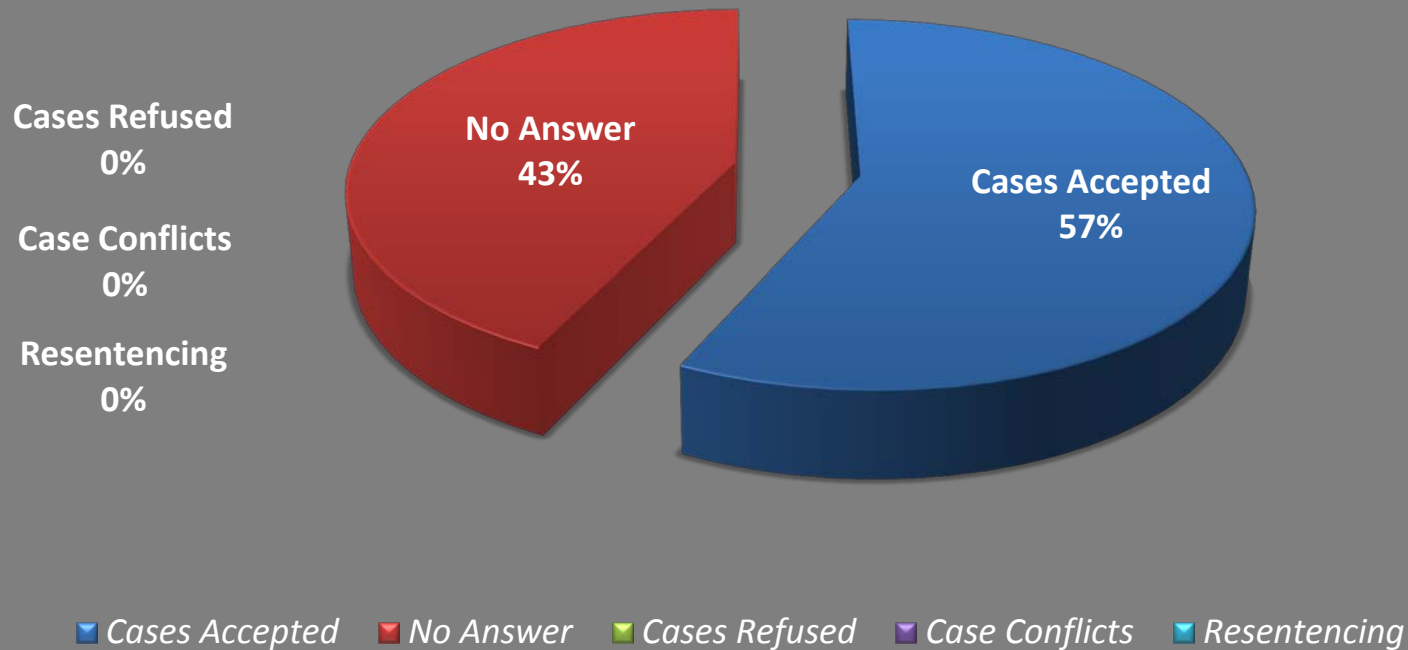
✓ Current Appointment Statistics

EASTERN DIVISION ANALYSIS OF TOTAL ASSIGNMENTS FOR AUGUST 2013



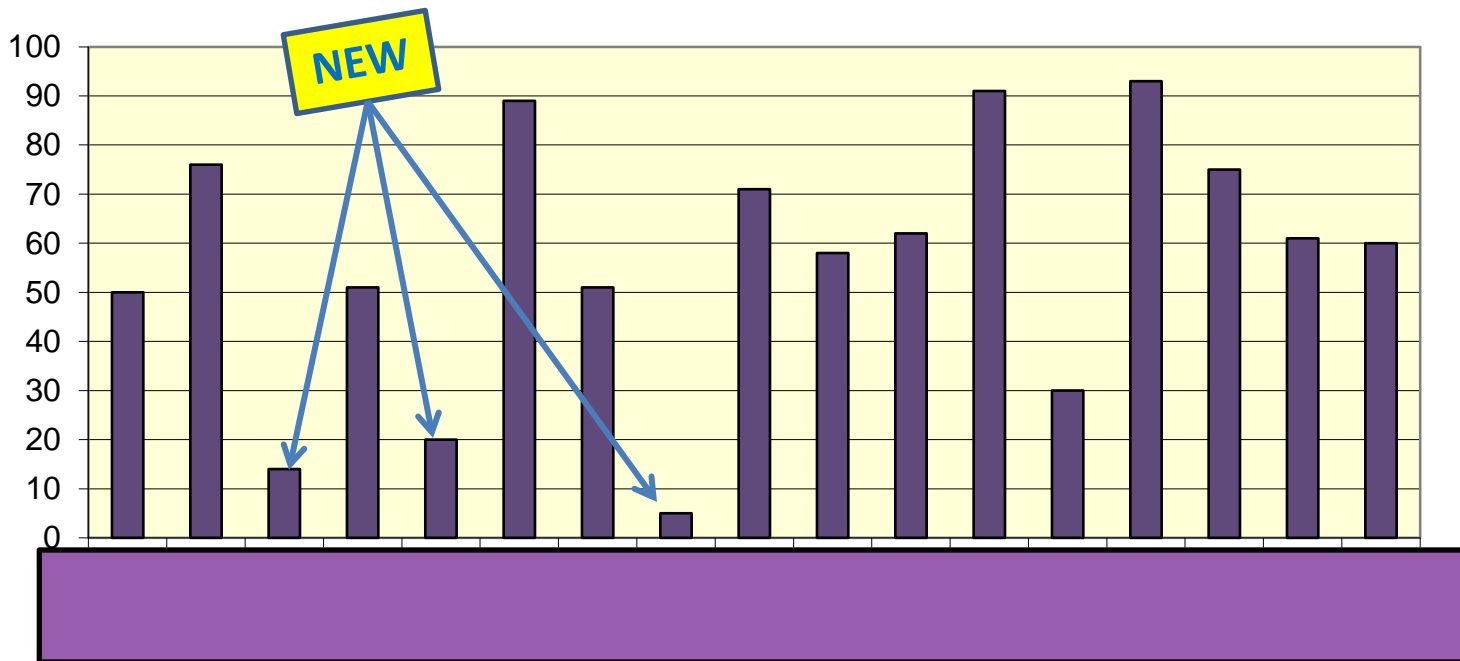
✓ Current Appointment Statistics

EASTERN DIVISION CJA PANEL ANALYSIS OF CALLS FOR AUGUST 2013

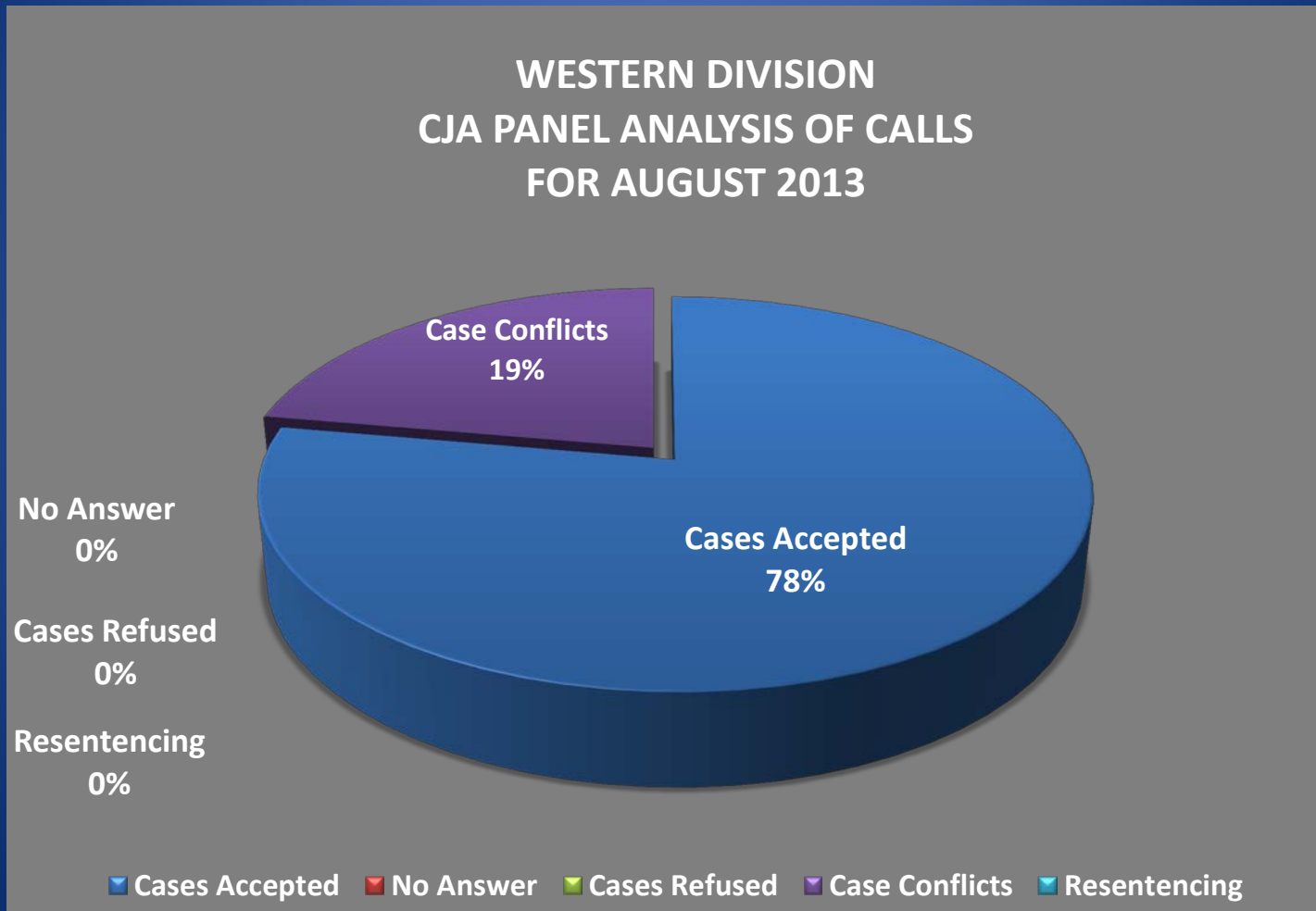


✓ Current Appointment Statistics

**CJA ASSIGNMENTS AND FAILED ASSIGNMENTS
JANUARY 1, 2005 THROUGH AUGUST 31, 2013
EASTERN DIVISION**

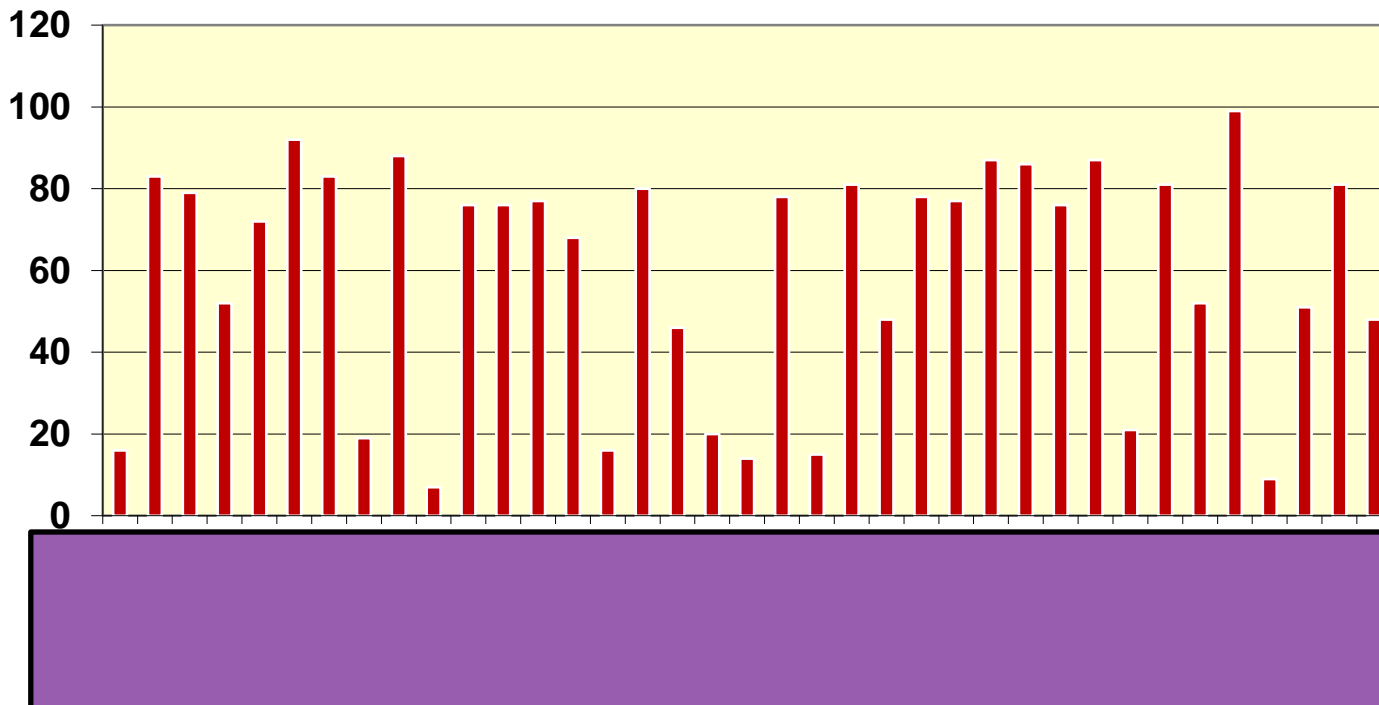


✓ Current Appointment Statistics



✓ Current Appointment Statistics

**CJA ASSIGNMENTS AND FAILED ASSIGNMENTS
JANUARY 1, 2005 THROUGH AUGUST 31, 2013
WESTERN DIVISION**



✓ Panel Reappointment Process

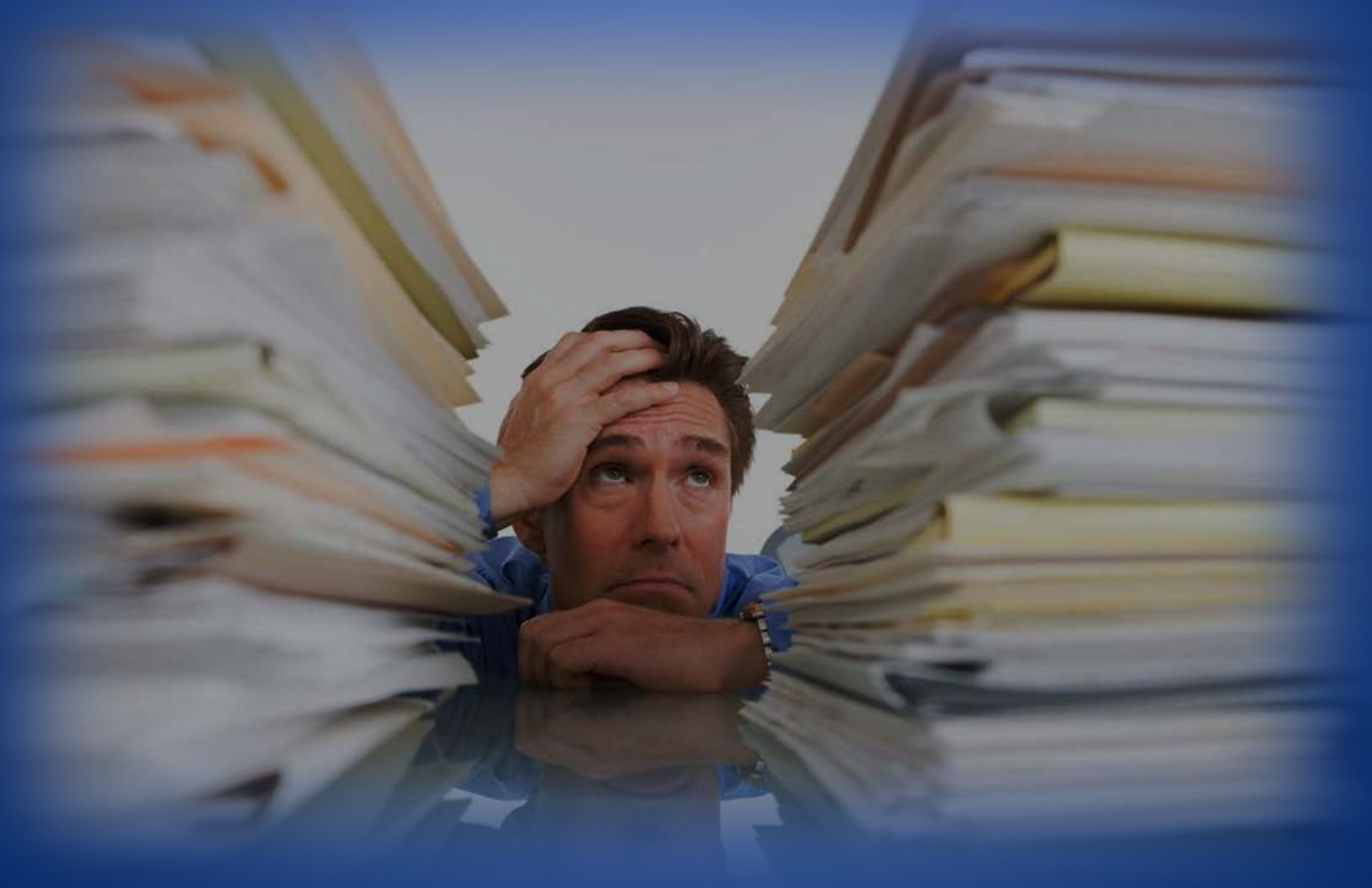


✓ Panel Reappointment Process



- Panel Attorneys are evaluated for reappointment every three years in three “waves”. Currently, we are in the midst of a second evaluation for “Wave 1” Attorneys (generally, our longest tenured CJA Panel Members)

Review of CJA Voucher Process and Some Common Errors to Avoid



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Other Court Links

Quick Links

- ECF / PACER Log-In
- Local Rules Of Court
- CJA Portal
- EJuror



UNITED STATES DISTRICT COURT Western District of Tennessee



CJA Panel Portal

Login Name:

Password:

Enter

News and Announcements

8/22/2013

Reduction in CJA Panel Hourly Rates

The Executive Committee of the Judicial Conference of the United States has implemented a temporary emergency \$15 reduction in hour rates of compensation for CJA panel attorneys. This reduction applies to work performed between September 1, 2013, and September 30, 2014. [Administrative Office Memo](#), [Hourly Rates and Mileage](#)

1/16/2013

New Mileage Rate

1/16/2013 1/16/2013 1/16/2013 1/16/2013 1/16/2013 1/16/2013 1/16/2013 1/16/2013

CJA – Statutory Limitations

- Reduced Hourly Panel Attorney Compensation Rates
- Attorney Case Compensation Maximums
- Payment Limits for Other Service Providers
 - Prior approval for costs exceeding \$800
 - Other compensation limits
 - Non-capital: \$2400, excluding expenses (case total for all providers, not including transcripts)
 - Capital: \$7500, fees and expenses (case total for all providers, not including transcripts)

Common Issues

- Reimbursable Expenses
- Non Reimbursable Expenses
- Advance Approvals
- Policy when Limits are Exceeded
- Case Budgeting
- Interim Payments
- Supporting Documentation
- Service Providers

Reimbursable Expenses for Attorney

- Reimbursement is authorized for expenses reasonably incurred for the representation
- Claim on Form CJA 20 or Form CJA 30
- Reimbursable out-of-pocket expenses:
 - Computer-assisted legal research
 - Travel expenses
 - Telephone toll calls
 - Copying, postage, and messenger services
 - Court-authorized transcripts (Form CJA 24)

Non-Reimbursable Expenses

- General office overhead is not reimbursable:
 - Rent
 - Telephone service
 - Secretarial expenses
- CJA attorneys are expected to use their own office resources, including secretarial help, for work on CJA cases.

Advance Approvals

Advance approvals are required:

- To claim compensation for work of lawyers who are neither appointed nor a partner or associate of the appointed attorney
- For interim payment of compensation and/or expenses for service providers or attorney (attorney must motion court)
- Service Providers vouchers in excess of \$800 (or >\$2,400 for all providers)

Excess Compensation

Payments that exceed the attorney case compensation limit may be authorized when:

- Certified by the presiding judge and
- Approved by the chief judge of the circuit (or judge delegate) as:
 - Necessary to provide fair compensation
 - For extended or complex representation.

Case Budgeting

- Judicial Conference policy encourages case budgeting for:
 - Federal capital prosecutions
 - Capital habeas corpus representations
 - Non-capital representations extraordinary in terms of cost (>\$30,000 total)
- Counsel submits an initial budget that includes proposed costs of other services

Interim Payment Requests

- The presiding judge may arrange for interim payments for other service providers.
- The interim payment request (motion) should include:
 - length of time interim payments will be needed and
 - a justification of need.
- Chief circuit judge (or delegate) approval may be required.
- The provider submits a separate voucher for each interim payment claim and attaches prior approval (order).

Supporting Documentation for ALL vouchers

- Attach supporting documentation:
 - An itemized statement of services provided
 - An itemized statement of all expenses
 - Timesheets and worksheets
 - Itemized Receipts
- Include explanatory memoranda/justifications
 - Claims above case compensation maximum
 - Good cause for submitting voucher after 45 days

Authorization Requests for Service Providers

- The request should include:
 - Reasons for requesting service
 - Provider's relevant experience and qualifications
 - Hourly rate requested
 - Fee arrangement, as applicable
 - Specific service and expenses to be included
 - Whether additional services/funding may be requested from/for this provider (as applicable)
- Counsel should communicate the specific terms of the approval to the service provider.

Expenses of Service Providers

- Service providers claim reimbursement for expenses reasonably incurred in performing authorized services on the Form CJA 21/31.
- Reimbursable travel expenses include reasonably incurred transportation, lodging, meals, and miscellaneous expenses.
 - Reimbursement is for actual expenses only; per diem is not authorized.
 - Some courts may require advance authorization.

Common Errors

- Incomplete voucher forms
- Incorrect hourly rates
- Incorrect mileage rates
- Mathematical errors
- Reporting of hours
- Missing authentic signatures
- Incomplete documentation of time or expenses
- Judges signature not on Voucher appointing CJA Attorney

COMMON ERRORS

Invoice does not indicate the quantity of pages being claimed.

Invoice

| Date | Invoice # |
|----------|-----------|
| 3/5/2013 | |

| Bill To |
|---|
| CJA United States District Court Memphis, Tennessee 38103 |

| Description | Qty | Rate | Amount |
|--------------|-----|------|----------|
| Copies - | | 0.05 | 319.45 |
| Total | | | \$319.45 |

COMMON ERRORS

Vouchers that are illegible (sloppy).

Case 2:09-cr-00123-SST-JEG Document 33 Filed 07/13/10 Page 1 of 1 PageID 654

1. CIR./DIST./DIV. CODE: TNW
 2. PERSON REPRESENTED: [illegible]
 3. MAG. DKT./DEF. NUMBER: [illegible]
 4. DIST. DKT./DEF. NUMBER: [illegible]
 5. APPEALS DKT./DEF. NUMBER: [illegible]
 6. OTHER DKT. NUMBER: [illegible]

7. IN CASE/MATTER OF (Case Name): [illegible]
 8. PAYMENT CATEGORY: Felony
 9. TYPE PERSON REPRESENTED: Adult Defendant
 10. REPRESENTATION TYPE: Criminal Case

11. OFFENSE(S) CHARGED (Cite U.S. Code, Title & Section) If more than one offense, list (up to five) major offenses charged, according to severity of offense.
 1) 21 841A-CD.F -- CONTROLLED SUBSTANCE - SELL, DISTRIBUTE, OR DISPENSE

12. ATTORNEY'S NAME (First Name, M.I., Last Name, including any suffix) AND MAILING ADDRESS: [illegible]
 Telephone Number: [illegible]
 14. NAME AND MAILING ADDRESS OF LAW FIRM (only provide per instructions): [illegible]

13. COURT ORDER
 Appointing Counsel
 Subs For Federal Defender
 Subs For Paid Attorney
 Co-Counsel
 Subs For Retained Attorney
 Standby Counsel
 Prior Attorney's Name: [illegible]
 Appointment Date: [illegible]
 Because the above-named person represented has notified under oath or has otherwise satisfied this court that he or she (1) is financially unable to employ counsel and (2) does not wish to waive counsel, and because the interests of justice so require, the attorney whose name appears in Item 12 is appointed to represent this person in this case, or
 Other (See Instructions) s/Samuel H. [illegible]
 Signature of Presiding Judicial Officer or By Order of: [illegible]
 Date of Order: 07/13/2010
 Repayment or partial repayment ordered from [illegible] (time of appointment): YES NO

CLAIM FOR SERVICES AND EXPENSES

| CATEGORIES (Attach itemization of services with dates) | HOURS CLAIMED | TOTAL AMOUNT CLAIMED | MAJ/TECH ADJUSTED HOURS |
|--|----------------------------------|------------------------------|-------------------------|
| 15. a. Arraignment and/or Plea | 2.0 | [illegible] | [illegible] |
| b. Bail and Detention Hearings | 2.0 | [illegible] | [illegible] |
| c. Motion Hearings | 1.0 | [illegible] | [illegible] |
| d. Trial | 2.0 | [illegible] | [illegible] |
| e. Sentencing Hearings | 4.0 | [illegible] | [illegible] |
| f. Revocation Hearings | 2.0 | [illegible] | [illegible] |
| g. Appeals Court | 10.0 | [illegible] | [illegible] |
| h. Other (Specify on additional sheets) | 2.0 | [illegible] | [illegible] |
| (Rate per hour = \$ 125.00) TOTALS: | 24.0 | 3000.00 | 18.4 |
| 16. a. Interviews and Conferences | 1.0 | [illegible] | [illegible] |
| b. Obtaining and reviewing records | 2.0 | [illegible] | [illegible] |
| c. Legal research and brief writing | 3.0 | [illegible] | [illegible] |
| d. Travel time | 2.0 | [illegible] | [illegible] |
| e. Investigative and Other work (Specify on additional sheets) | 2.0 | [illegible] | [illegible] |
| (Rate per hour = \$ 125.00) TOTALS: | 10.0 | 1250.00 | 6.9 |
| 17. Travel Expenses (lodging, parking, meals, mileage, etc.) | | 450.00 | |
| 18. Other Expenses (other than expert, transcripts, etc.) | | 100.00 | |
| GRAND TOTALS (CLAIMED AND ADJUSTED): | | 4800.00 | |
| 23. IN COURT COMP. 1,300.00 | 24. OUT OF COURT COMP. 70,100.00 | 25. TRAVEL EXPENSES 4,312.51 | 26. OTHER EXPENSES 0 |
| 28. SIGNATURE OF THE PRESIDING JUDICIAL OFFICER: [illegible] | | | DATE: [illegible] |
| 29. IN COURT COMP. | 30. OUT OF COURT COMP. | 31. TRAVEL EXPENSES | 32. OTHER EXPENSES |
| 34. SIGNATURE OF CHIEF JUDGE, COURT OF APPEALS (OR DELEGATE) Payment approved in excess of the statutory threshold amount: [illegible] | | | DATE: [illegible] |
| 34a. JUDGE CODE | | | |

COMMON ERRORS

1. EXCESSIVE CLAIM

2. SIGNATURE OF PRESIDING JUDGE NOT ON VOUCHER

3. BOX 21 CASE DISPOSITION NOT COMPLETED

EXCESS COMP

CJA 20 APPOINTMENT OF AND AUTHORITY TO PAY COURT-APPOINTED COUNSEL (Rev. 12/03)

VOUCHER NUMBER

| 1. CIR./DIST./DIV. CODE | 2. PERSON REPRESENTED | 3. MAG. DKT./DEF. NUMBER | | 4. DIST. DKT./DEF. NUMBER | 5. APPEALS DKT./DEF. NUMBER | 6. OTHER DKT. NUMBER |
|--|---|--|-----------------------------|---|-----------------------------|---|
| 7. IN CASE/MATTER OF (Case Name) USA v. | | 8. PAYMENT CATEGORY <input checked="" type="checkbox"/> Felony <input type="checkbox"/> Misdemeanor <input type="checkbox"/> Appeal | | 9. TYPE PERSON REPRESENTED <input checked="" type="checkbox"/> Adult Defendant <input type="checkbox"/> Juvenile Defendant <input type="checkbox"/> Other | | 10. REPRESENTATION TYPE (See Instructions) Criminal |
| 11. OFFENSE(S) CHARGED (Cite U.S. Code, Title & Section) (If more than one offense, list (up to five) major offenses charged, according to severity of offense.) | | | | | | |
| 12. ATTORNEY'S NAME (First Name, M.I., Last Name, including any suffix), AND MAILING ADDRESS | | | | 13. COURT ORDER <input checked="" type="checkbox"/> Appointing Counsel <input type="checkbox"/> Subs For Federal Defender <input type="checkbox"/> Subs For Panel Attorney | | |
| 14. NAME AND MAILING ADDRESS OF LAW FIRM (Only provide per instructions) | | | | 15. COURT ORDER <input type="checkbox"/> C Co-Counsel <input type="checkbox"/> R Subs For Retained Attorney <input type="checkbox"/> Y Standby Counsel | | |
| Telephone Number: | | | | Prior Attorney's Name: <i>Only Atty</i> | | |
| Date of Order | | | | Appointment Date: | | |
| 16. CLAIM FOR SERVICES AND EXPENSES | | | | | | |
| CATEGORIES (Attach itemization of services with dates) | HOURS CLAIMED | TOTAL AMOUNT CLAIMED | MATH/TECH ADJUSTED HOURS | AMOUNT | REVIEW | |
| 13. a. Arraignment and/or Plea | 2.30 | 0.00 | 0.00 | 0.00 | | |
| b. Bail and Detention Hearings | | 0.00 | 1.3 | 0.00 | | |
| c. Motion Hearings | | 0.00 | | 0.00 | | |
| d. Trial | | 0.00 | | 0.00 | | |
| e. Sentencing Hearings | 1.40 | 0.00 | 1.4 | 0.00 | | |
| f. Revocation Hearings | 1.30 | 0.00 | | 0.00 | | |
| g. Appeals Court | | 0.00 | | 0.00 | | |
| h. Other (Specify on additional sheets) | 3.50 | 0.00 | 3.5 | 0.00 | | |
| (RATE PER HOUR = \$ 125.00) TOTALS: | 8.50 | 1,062.50 | 5.2 | 1062.50 | | |
| a. Interviews and Conferences | 12.80 | 1,600.00 | 12.8 | 1,600.00 | | |
| b. Obtaining and reviewing records | 253.40 | 31,675.00 | 253.6 | 31,675.00 | | |
| c. Legal research and brief writing | | 225.00 | 2.1 | 262.50 | | |
| d. Travel time | | 375.00 | 3.0 | 375.00 | | |
| e. Investigative and other work (Specify on additional sheets) | | 33,000.00 | | 33,000.00 | | |
| (RATE PER HOUR = \$ 125.00) TOTALS: | 271.00 | 33,875.00 | 272.5 | 34,152.50 | | |
| 17. Travel Expenses (Include parking) | | 94.36 | | 94.36 | | |
| 18. Other Expenses (other than travel) | | | | | | |
| GRAND TOTALS (Gross and Adjusted): | | 35,031.85 | | 35,344.36 | | |
| APPROVED FOR PAYMENT | | COURT USE ONLY | | | | |
| 23. IN COURT COMP. 1,062.50 | 24. OUT OF COURT COMP. 34,187.50 | 25. TRAVEL EXPENSES 94.36 | 26. OTHER EXPENSES 0 | | | |
| 27. TOTAL AMT. APPR. CERT. 35,344.36 | | 28. JUDGE CODE | | | | |
| 29. IN COURT COMP. | | 30. OUT OF COURT COMP. | 31. TRAVEL EXPENSES | | | |
| 32. TOTAL AMT. APPROVED \$0.00 | | 33. JUDGE CODE | | | | |
| 34. SIGNATURE OF CHIEF JUDGE, COURT OF APPEALS (OR DELEGATE) Payment approved in excess of the statutory threshold amount. | | | | | | |

On-line Reference Tool (ORT)

- Location and purpose of the ORT
- Navigation and search strategies
- Type of material you will find in the ORT

<http://www.uscourts.gov/uscourts/cjaort/index.html>

ORT Location and Purpose

- Located on uscourts.gov and the J-NET
- Rapid access to voucher submission and processing procedures and policies
- Content conveniently organized
 - **By Topics**
 - **By Roles**

Access Content by Topics



UNITED STATES COURTS

Back to U. S. Courts Homepage

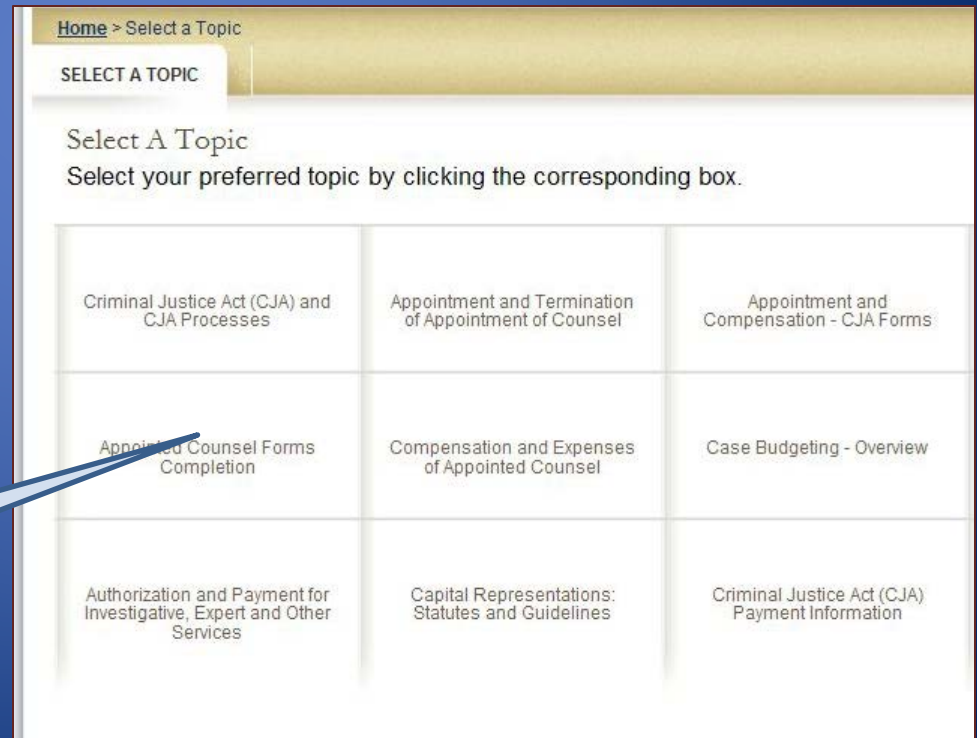
HOME TOPICS

Welcome to the National CJA Voucher Program

The purpose of the Online Reference Tool (ORT) is to provide access to information concerning the procedures and policies of the National Criminal Justice Act (CJA) Program. The information is conveniently organized and categorized by topics and roles and is accessible through a variety of menus.

Click Topics.

Click on preferred topic.



Home > Select a Topic

SELECT A TOPIC

Select A Topic

Select your preferred topic by clicking the corresponding box.

| | | |
|--|---|--|
| Criminal Justice Act (CJA) and CJA Processes | Appointment and Termination of Appointment of Counsel | Appointment and Compensation - CJA Forms |
| Appointed Counsel Forms Completion | Compensation and Expenses of Appointed Counsel | Case Budgeting - Overview |
| Authorization and Payment for Investigative, Expert and Other Services | Capital Representations: Statutes and Guidelines | Criminal Justice Act (CJA) Payment Information |

Use the ORT for...

- Linking to the CJA Guidelines (Volume 7, Part A), also referred to as “the Guide”
 - In-text citations
 - Link to U.S. Courts publications page

Questions Regarding Federal
Practice

CJA Panel Representative
Michael Stengel

CLOSING REMARKS