### 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

### Phase I Shutdown Impact on Federal Court Operations



# Phase II Shutdown Impact on Federal Court Operations

## Phase I and II Shutdown Impact on CJA Attorneys

REDUCED HOURLY RATES FOR PANEL ATTORNEYS

## Phase I and II Shutdown Impact on CJA Attorneys

SUBSTANTIALLY DELAYED VOUCHER PAYMENTS

## Phase I and II Shutdown Impact on CJA Attorneys

DELAYED PAYMENTS TO CJA VENDORS AND EXPERTS

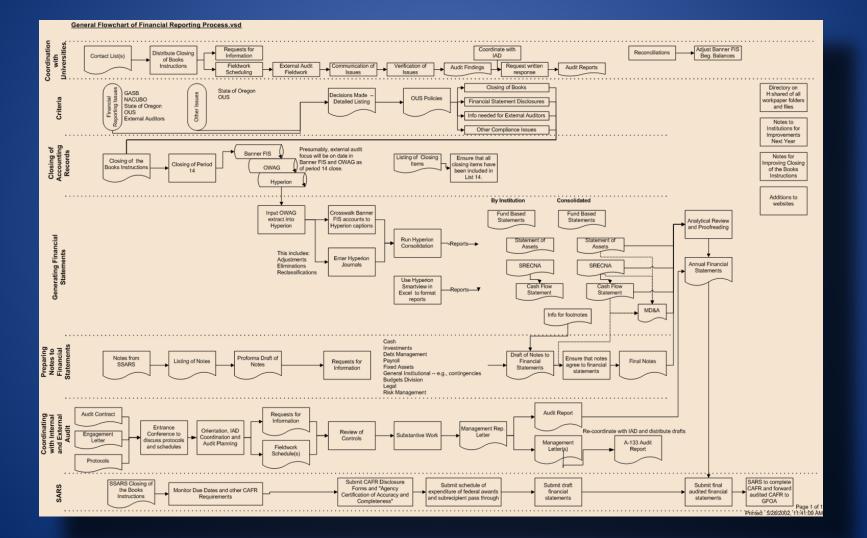
## Phase I and II Shutdown Impact on CJA Attorneys

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### Phase I and II Shutdown Impact on CJA Attorneys

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### ✓ 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
    - 1<sup>st</sup> Office
    - 2<sup>nd</sup> Cell
    - 3<sup>rd</sup> 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

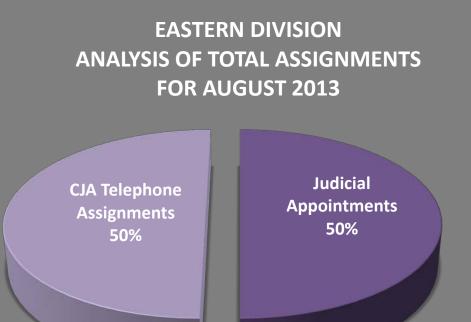
Weights (How points are assigned based on results of actual contacts)

### • Criminal Case

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

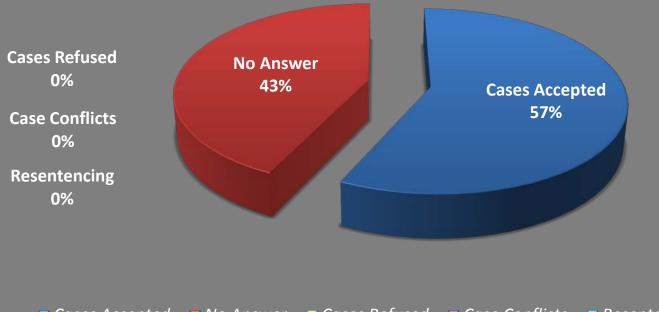
• **Post Judgment Matters** (Including resentencing)

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

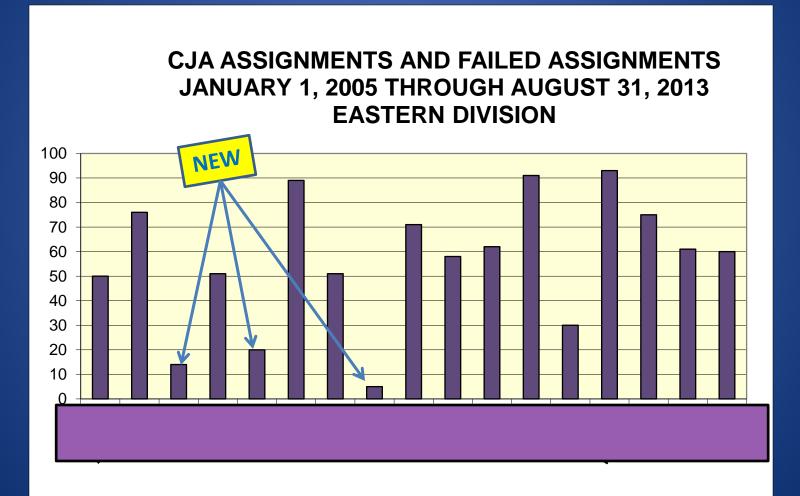


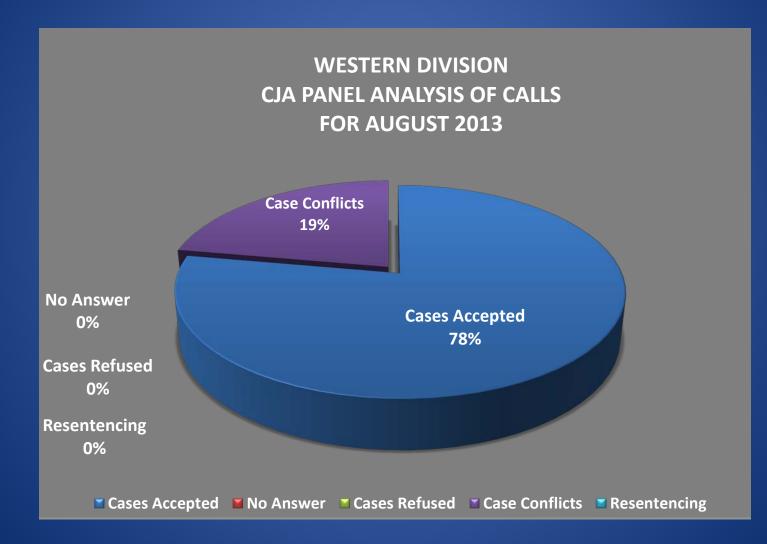
Judicial Appointments I CJA Telephone Assignments



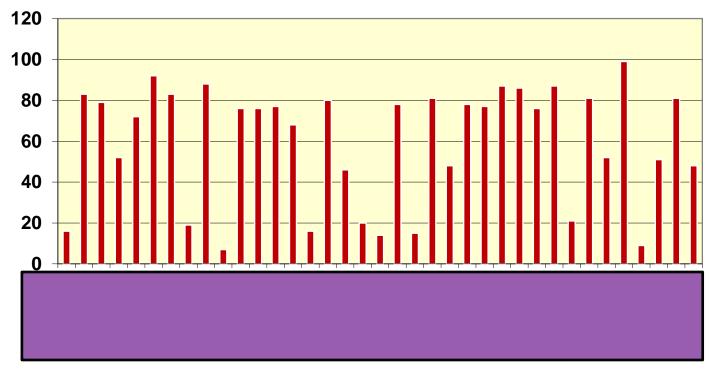


🗖 Cases Accepted 🛛 📓 No Answer 🛸 Cases Refused 🛸 Case Conflicts 🗖 Resentencing





#### 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



#### Home

About Our Court

Case Information

Judge's Websites & Profiles

#### Attorney Information

Pro Se Litigants

Juror Information

Local Court Rules & Plans

Forms & Applications

**Court Calendars** 

Public Disclosure

Cases of Public Interest

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:	
Ent	er

#### **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 bewteen September 1, 2013, and September 30, 2014. Administrative Office Memo, Hourly Rates and Mileage

#### 1/16/2013

New Mileage Rate

### 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
     <u>a justification of need</u>.
- 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.

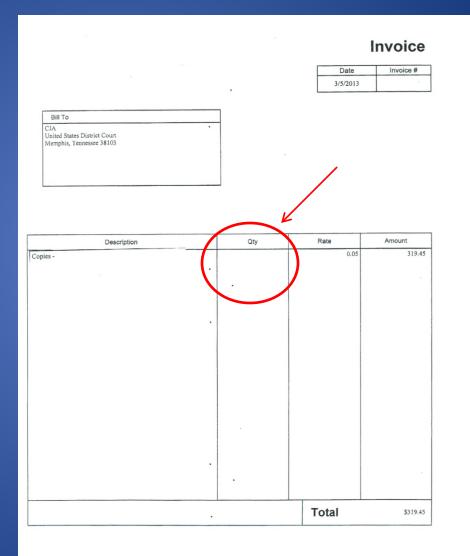
### **Expenses of Service Providers**

- 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

Invoice does not indicate the quantity of pages being claimed.



Vouchers that are illegible (sloppy).

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(RATE PER HOLK-S)           17 Travel Depasse Roldings, Charlenge, Char	ori: (Specify on additional Line 125.00 125.00 write: AND AND ANS FEED NETVPAYEE FOR THE FERIOD OF TO: Final Payment Differ [] Interim of Final Payment of For a provide the second of fye, give details on or Market Court for courter courts of your for court of court 24.00 FF court of court of court 23.90 FF court of court of court 24.00 FF court of court of court 24.00 FF court of court of court 24.00 FF court of court of court 25.00 FF court of court of court of court 25.00 FF court of court of court of court 25.00 FF court of court o	PERFORMENT IN Payment Number imburgement for this additional sheets. ****	33.875.00     94.35     35.031.85     20. APPOINTMENT     F or These ThiA     F or These ThiA     0 YES	CT2.5 Control Dates	941         97, 300           974.34         360           127.344         3700           127.765         3700           931         717           931         717           932         707           933.707         326           33.707         30.7	with this		
(RATE PER HOLK-S)       17 Travel Expanse fording regimes       18. Other Expanse fording regimes       19. CERTIFICATION OF ATTO       PROM:       22. CLAIM STATUS       Have you previously applied       Other than form the Court, have a second and the second application of the second application of the second application of Automey       23. IN COURT COMP.       24. NO COURT COMP.       25. NO COURT COMP.       26. SCINATURE OF THE PRESS	ori: (Specify on additional Line 125.00 125.00 write: AND AND ANS FEED NETVPAYEE FOR THE FERIOD OF TO: Final Payment Differ [] Interim of Final Payment of For a provide the second of fye, give details on or Market Court for courter courts of your for court of court 24.00 FF court of court of court 23.90 FF court of court of court 24.00 FF court of court of court 24.00 FF court of court of court 24.00 FF court of court of court 25.00 FF court of court of court of court 25.00 FF court of court of court of court 25.00 FF court of court o	P CEDUCE P CEDUCE Name P CEDUCE Name P CEDUCE P CEDUCE Name P CEDUCE P CE	33.875.00     94.35     35.031.85     20. APPOINTMENT     F or These ThiA     F or These ThiA     0 YES	CT2.5 Control Dates	25         34 (27, 37, 30)           25         34 (27, 37, 30)           25         34 (27, 37, 30)           IT         IT           IT         IT	with this		

#### 1. EXCESSIVE CLAIM

2. SIGNATURE OF PRESIDING JUDGE NOT ON VOUCHER

3. BOX 21 CASE DISPOSITION NOT COMPLETED

THERE IS NO DESCRIPTION OF SERVICES ON WORKSHEET

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	IN-COURT HOURLY WORKSHEE	Т			Case Num Voucher N	ber:			
Date	Brief Description of Services	Arraignmen t/Plea	Motions & Requests	Bail Hearings	Sentence Hearings	Trial	Revocation Hearings	Appeals Court	Other
6/1/12		1.0							
6/22/12									1.0
8/21/12	·								1.0
10/17/12									1.0
11/6/12		1.0							
7/11/13					1.0				
	Page Total:	2.0	0.0	0.0	1.0	0.0	0.0	0.0	3.0
	Grand Total:	2.0	0.0	0.0	1.0	0.0	0.0	0.0	3.0

# On-line Reference Tool (ORT)

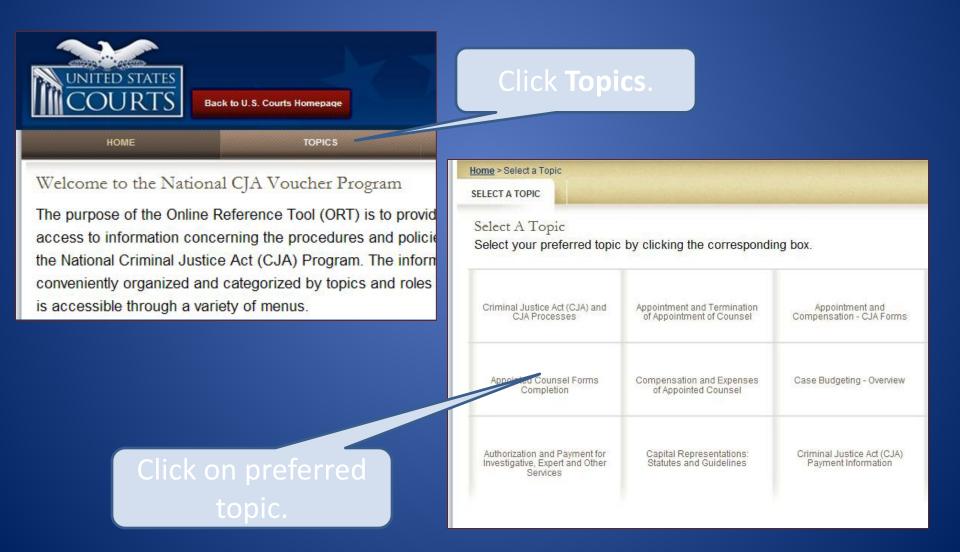
- Location and purpose of the ORT
- Navigation and search strategies
- Type of material you will find in the ORT

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



### 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**