



ADMINISTRATIVE OFFICE OF THE
UNITED STATES COURTS

HONORABLE JOHN D. BATES
Director

WASHINGTON, D.C. 20544

August 22, 2013

MEMORANDUM

To: All United States Judges
Circuit Executives
Federal Public/Community Defenders
District Court Executives
Clerks, United States Courts
Senior Staff Attorneys
CJA Panel Attorney District Representatives

From: Judge John D. Bates 

RE: REDUCTION IN THE CJA PANEL ATTORNEY HOURLY RATES
(IMPORTANT INFORMATION)

As many of you already know by now, at its August 15-16, 2013, meeting, the Executive Committee of the Judicial Conference of the United States determined that it is necessary to implement a temporary emergency \$15 reduction in the hourly rates of compensation for Criminal Justice Act (CJA) "panel" attorneys appointed to represent eligible persons under the CJA, 18 U.S.C. § 3006A, the Antiterrorism and Effective Death Penalty Act of 1996 (AEDPA), codified in part in 18 U.S.C. § 3599, and the Guidelines for Administering the CJA and Related Statutes (CJA Guidelines), Vol. 7, Part A, *Guide to Judiciary Policy*. As explained below, after careful deliberation the Executive Committee determined that the impending budget shortfall facing the Defender Services program constitutes an emergency requiring immediate action on behalf of the Judicial Conference to preserve the appointed criminal defense function performed in the Federal Judiciary.

Specifically, both the panel attorney non-capital hourly rate of \$125 and the maximum capital hourly rate of \$178 (for federal capital prosecutions and capital post-conviction proceedings), which the Judicial Conference has authorized pursuant to the CJA and AEDPA, will be reduced by \$15, to \$110 and \$163 respectively, **for work performed from September 1, 2013 through September 30, 2014**. Where the appointment of counsel occurred before this effective date, the new compensation rates apply to that portion of services provided on or after September 1, 2013. The case compensation maximums reflected in CJA Guidelines § 230.23.20 will remain the same.

This action by the Executive Committee was not done lightly. The Committee was briefed by the Chairs of the Defender Services and Budget Committees, along with two federal defenders. This action will enable the Judiciary to maintain end of FY 2013 nationwide staffing levels in federal defender organizations. They already have taken drastic cuts to respond to FY 2013 sequestration funding reductions by laying off employees, implementing furloughs, reducing or eliminating training, limiting expenditures for expert services, and, in the case of community defender organizations, reducing employer benefits contributions. To achieve the federal defender staffing objective, and avoid even more furloughs and layoffs, the Executive Committee also decided to defer into FY 2015 up to four weeks of payments to panel attorneys and other service providers that otherwise would be payable in FY 2014. Both the rate reductions and the payment deferrals are subject to the receipt of additional funding or the taking of other steps to reduce funding requirements.

The Executive Committee recognizes that all of these actions – reducing panel attorney rates, deferring panel attorney payments, and limiting federal defender funding to the maintenance of current on-board staff (about 7.25% below their original FY 2013 on-board staff) – are undesirable, and may impact the delivery of justice. But they are necessary to avoid permanent damage to the federal defender program. The Executive Committee also understands that these measures are not sustainable in the long term and would not be required if the Judiciary received an appropriate level of funding for the Defender Services program from Congress. The Executive Committee nonetheless remains committed to the goal of ensuring that the Defender Services program can operate within its annual appropriations.

We are actively working on all budget matters with individual Members of Congress through our Congressional Outreach program. Judge Gibbons, the Budget Committee, and our Administrative Office staff are working on a daily basis with the Appropriations Committees and congressional leaders to help achieve adequate funding for each of our accounts, especially in the event the government is funded through a continuing resolution. Your support in this effort to sustain all judiciary programs is greatly appreciated. The Executive Committee will continue to monitor developments and revisit its decisions as events warrant.

If you have any questions concerning implementation of the rate reductions, please contact the Office of Defender Services, Legal and Policy Branch Duty Attorney, at ods_lpb@ao.uscourts.gov or (202) 502-3030.

cc: CJA Circuit Case-Budgeting/Supervising Attorneys