

APPELLATE CRIMINAL JUSTICE ACT PLAN
UNITED STATES COURT OF APPEALS FOR THE SEVENTH CIRCUIT
(Effective December 31, 2024)

- I. Authority.** Pursuant to the Criminal Justice Act (“CJA”) of 1964, as amended, 18 U.S.C. § 3006A, and the *Guide to Judiciary Policy*, Vol. 7A, the Judicial Council of the Seventh Circuit adopts the following Appellate Criminal Justice Act Plan (“Plan”) to provide counsel to any person financially eligible for representation on appeal under the CJA. This Plan supplements the CJA plans adopted by district courts and approved in final form by the Judicial Council.
- II. Statement of Policy.** This Plan will be administered so that any person eligible for representation on appeal under the CJA will not be deprived of the right to counsel or other services necessary to provide adequate representation on appeal due to a lack of financial resources. Accordingly, this Plan provides for the appointment of counsel designated or approved by the court to provide appellate representation.
- III. Appellate CJA Committee.** The chief circuit judge will appoint an Appellate CJA Committee (“Committee”) to assist the court with establishing and maintaining a panel of private attorneys, as described in Section IV (“Panel”), available for appointment to provide representation on appeal in accordance with the CJA.

 - A. Members.** The Committee includes seven voting members: (1) a circuit judge, who chairs the Committee; (2) the Federal Public Defender for the Central District of Illinois, or designee; (3) one federal public defender or community defender from another district within the circuit, or designee; (4) one private attorney from each state within the circuit with experience litigating criminal appeals; and (5) one private criminal defense attorney from the Northern District of Illinois with experience litigating criminal appeals. The chief circuit judge (or designee) may appoint one or more court staff to serve as non-voting members and support the Committee.
 - B. Term.** Except for the Federal Public Defender for the Central District of Illinois who has no term limit, the attorneys appointed to the inaugural committee will serve an initial term of one, two, or three years, as designated by the chair, which may be renewed for a term of three years. Thereafter, members of the committee will serve three-year terms.
 - C. Duties.** The Committee will: (1) meet at least once per year and as requested by the

chair; (2) review the applications submitted by attorneys for Panel membership; (3) recommend attorneys for admission to, removal from, or renewal of a term on the Panel; (4) review the operation of the Panel on a periodic basis and recommend to the court any necessary changes; (5) engage in efforts to recruit attorneys with a wide variety of backgrounds, experiences, interests, skills, and expertise, and encourage all qualified attorneys to provide representation on CJA cases; (6) assist in training Panel attorneys; and (7) administer a mentoring program for Panel candidates and members. The Committee's recommendations to the court on any issue are confidential.

IV. Appellate CJA Panel. The court will establish an Appellate Panel of private attorneys who are eligible and willing to accept appellate appointments under the CJA. The court will approve attorneys for membership on the Panel after receiving recommendations from the Committee. The court may add or remove attorneys from, or renew the term of attorneys on, the Panel at any time.

A. Size of the Panel. The Panel will be large enough to provide a sufficient number of experienced attorneys to handle the caseload, yet small enough that members will receive an adequate number of appellate appointments to maintain proficiency and thus provide high-quality representation.

B. Terms. Attorneys serve on the Panel for a term of no more than three years before they must reapply for Panel membership. For the initial Panel established pursuant to this Plan, the approved Panel attorneys may be assigned into one of three groups to serve initial terms of one, two or three years.

C. Qualifications. To qualify for the Panel, attorneys must: (1) be or become members in good standing of the bar of this court; (2) have a working knowledge of this Plan, the Seventh Circuit Rules, the Federal Rules of Appellate Procedure, the Federal Rules of Evidence, the Federal Rules of Criminal Procedure, the United States Sentencing Guidelines, and the habeas corpus and other collateral review provisions found in Title 28 of the United States Code (to the extent the attorney elects to accept appointment in these matters); (3) be willing to accept at least one appellate appointment each year; and (4) have the resources and technological capability to effectively and efficiently manage assigned cases, including compliance with all electronic filing and eVoucher requirements.

D. Training. Panel attorneys are encouraged to attend trainings and continuing legal

education programs in federal criminal appellate law, practice, and procedure.

- E. Application for Membership or Renewal.** To apply for or request renewal of membership on the Panel, attorneys must submit an application using the forms and process set forth on the court's website. Panel attorneys will be given written notice in advance of the expiration of an existing term.
- F. Equal Opportunity.** All qualified attorneys are encouraged to provide representation in appellate CJA cases in accordance with this Plan.
- G. Removal.** A Panel attorney may be removed whenever the court, in its discretion, determines that the attorney: (1) has failed to fulfill the obligations of Panel membership, including but not limited to the duty to provide competent and effective representation; or (2) has engaged in other conduct that renders inappropriate the attorney's continued service on the Panel. A Panel attorney will be removed immediately if the attorney is disbarred or suspended by any state or federal bar or if the attorney is arrested for, charged with, or convicted of a crime. An attorney removed from the Panel may reapply for Panel membership no earlier than one year from the date of removal.
- H. Notice to Committee.** A Panel attorney must notify the Committee in writing: (1) within 48 hours of any suspension, disbarment, arrest, filing of criminal charges, or entry of criminal conviction of that attorney; (2) within 48 hours of receiving notice of removal of that attorney from the CJA panel of any other court; (3) within 30 days of receiving notice that any licensing authority, grievance committee, or administrative body has taken any action against that attorney; and (4) within 30 days of a finding of contempt, sanction, or reprimand of that attorney by any state or federal court. The written notice should be sent to the Committee using the process set forth on the court's website.
- I. Complaints.** In addition to the discretionary and automatic removal set forth in Section IV.G., the removal of a Panel attorney may be initiated by a complaint that is made by the Committee, a judge, court staff, another attorney, a client, or a member of the federal public defender or community defender office. A complaint must be in writing and state the alleged deficiency with specificity. A complaint should be sent to the Committee using the process set forth on the court's website.
- J. Confidentiality.** Unless otherwise directed by the court, the Committee will keep

confidential any non-public information acquired by or submitted to the Committee, including but not limited to any complaint or disciplinary action, and any related proceeding.

V. Federal Public Defender or Community Defender. In addition to the federal public defender or community defender organizations within the circuit, a specialized division of the Office of the Federal Public Defender for the Central District of Illinois is available to provide appellate defense services upon appointment by the court.

VI. Appointment of Counsel. The court may appoint a federal public defender, community defender, or Panel attorney to provide representation on appeal. *But see* Section VI.C. (Appointment of Private Attorneys not Admitted to Panel). The selection of counsel under the CJA will be the exclusive responsibility of the court. No person entitled to counsel under the CJA is permitted to select a particular attorney. The court may appoint counsel, or substitute one appointed attorney for another, at any stage of the proceedings on appeal.

A. Continued Representation or Withdrawal by Trial Counsel. Trial counsel in a criminal case, whether retained by a defendant or appointed by the district court, must continue the representation on appeal until specifically relieved by this court. Although the court recognizes that there may be benefits to maintaining continuity of counsel, it also recognizes that trial counsel may not have the requisite skills or desire to represent an individual on appeal. Because each proceeding is unique in this regard, all counsel continuing in appeals from the trial court will be required, through procedures established by the court, to file either a motion for continued appointment or a motion to withdraw. The court may, in appropriate cases, appoint trial counsel to continue with the representation on appeal if that attorney is a federal public defender, community defender, or member of this court's Panel. The court will freely grant motions to withdraw, *see* 7th Cir. R. 46.1, and the substitution of counsel does not reflect negatively in any way on the conduct of the attorney involved.

B. Appointment of Panel Attorneys. Appointments of Panel attorneys will be made after giving due regard to the nature and complexity of the case as well as the experience and availability of Panel attorneys. Preference may be given to Panel attorneys who indicate their immediate availability to accept an appellate appointment using the process set forth on the court's website.

- C. Appointment of Private Attorneys Not Admitted to Panel.** Under special circumstances, the court may appoint a private attorney who is not yet a member of the Panel. Special circumstances may include cases in which the court determines that the appointment of that attorney is in the interest of justice, judicial economy, continuity of representation, or some other compelling reason. As a condition to receiving an appointment in such special circumstances, the attorney must apply for Panel membership.
- D. Appointments in Capital Cases.** The court appoints counsel in death penalty cases in accordance with the policies and procedures set forth in Volume 7A, Chapter 6, of the *Guide to Judiciary Policy*, rather than the procedures in this Plan.
- E. Retroactive Appointment of Counsel.** Appointment of counsel may be made retroactive to include representation provided prior to the entry of an order appointing counsel.
- F. Appointment of More than One Attorney.** In cases of extreme complexity or where the interest of justice so requires, the court may appoint an additional attorney to represent a defendant on appeal. In appeals involving more than one defendant, separate counsel may be appointed for any one or more of the defendants as may be required for their adequate representation.
- G. Legal Services Provided by Attorneys Associated with Appointed Counsel.** An attorney appointed pursuant to the CJA and this Plan may use the services of another attorney who is affiliated with the same firm as the appointed attorney.

VII. Duties of Appointed Counsel

- A. High-Quality Representation.** An attorney appointed pursuant to the CJA must provide high-quality representation consistent with the best practices of the legal profession and commensurate with those services rendered when counsel is privately retained. *See Guide to Judiciary Policy*, Vol. 7A, § 110.20. An appointed attorney must conform to the highest standards of professional conduct.
- B. Ability to Pay.** If at any stage of the proceedings on appeal appointed counsel obtains information that a client is financially able to make payment, in whole or in part, for legal or other services related to the appeal, counsel must advise the court unless the source of the attorney's information is protected as a privileged

communication.

- C. Scope of Representation on Appeal.** A person for whom counsel is appointed must be represented at every stage of the appellate proceedings, including ancillary matters appropriate to the proceedings such as the filing of a non-frivolous petition for panel rehearing or rehearing en banc. Likewise, if ordered by the court, appointed appellate counsel must file a response to a petition for panel rehearing or rehearing en banc. *See* Fed. R. App. P. 40(d)(4) Accordingly, representation in this court shall continue until an attorney is relieved of further responsibility by this court. If appointed counsel finds no non-frivolous grounds for filing a petition for rehearing, counsel must promptly notify the client in writing that counsel will not file a petition and briefly explain why.
- D. Continuing Representation on Appeal to the Supreme Court.** In the event of an adverse decision on appeal by this court, appointed counsel must advise the client in writing of his right to seek review of such decision by the Supreme Court. If the client requests it and there are non-frivolous grounds for counsel to do so, the appointed attorney must prepare and file a petition for a writ of certiorari and continue to represent the client until relieved by the Supreme Court. *See* U.S. Sup. Ct. R. 10. Similarly, the appointed appellate counsel may file a brief in opposition to a petition for a writ of certiorari and must do so when ordered by the Supreme Court. *See* U.S. Sup. Ct. R. 15. If appointed counsel finds no non-frivolous grounds for filing a petition for a writ of certiorari, counsel must promptly notify the client in writing that counsel will not file a petition and briefly explain why. Counsel must also inform the client about the procedures for filing a petition *pro se*. Once counsel has provided notice to the client, counsel must notify the court that a petition will not be filed.
- E. Continuing Representation on Remand to the District Court.** An attorney appointed for an appeal also has a duty to continue to represent the client after remand to the district court. An attorney who is unable to continue the representation on remand should move to withdraw in the district court and request appointment of new counsel.

- VIII. Determination of Need.** In all cases where a person was found by the district court to be financially unable to obtain adequate representation, the court of appeals may accept this finding and appoint an attorney without requiring the prepayment of fees and costs or the filing of a financial affidavit. A person who becomes financially

unable to retain counsel for appeal must first obtain an order in the district court finding that the person qualifies for court-appointed appellate counsel. Trial counsel is responsible for filing the application for court-appointed counsel in the district court and must comply with all other provisions of circuit rules. *See* 7th Cir. R. 46.1.

This court may, at any time, review the financial status of a person receiving CJA representation. If the court finds that person has become financially able to obtain counsel or make partial payments for representation, the court may deny or terminate an appointment pursuant to 18 U.S.C. § 3006A(c) or require partial payment to be made pursuant to 18 U.S.C. § 3006A(f)

IX. Compensation of Panel Attorneys. Providing fair compensation to appointed counsel is a critical component of the administration of justice. Panel attorneys are compensated for time and expenses reasonably incurred in accordance with the CJA and Judicial Conference policy. Counsel appointed pursuant to this Plan are encouraged to consult with the Circuit CJA Case Budgeting Attorney about compensation related questions.

A. Payment Procedures. Claims for compensation must be submitted on the appropriate CJA form through the court's eVoucher system no later than 45 days after final disposition of the case, unless good cause is shown.

B. Rates for Compensation. Counsel will be compensated, subject to case compensation maximums, at rates authorized by the Judicial Conference of the United States pursuant to 18 U.S.C. § 3006A(d)(1) for non-capital cases and pursuant to 18 U.S.C. § 3599(g)(1) for capital cases, with current non-capital and capital rates set forth in Volume 7A, Chapters 2 and 6 of the *Guide to Judiciary Policy*.

C. Compensation for Legal Services Provided by Other Attorneys. The appointed attorney may claim compensation for legal services provided by other attorneys in accordance with the limitations imposed by the CJA and the *Guide to Judiciary Policy*.

D. Claims in Excess of Statutory Case Compensation Maximums. The chief circuit judge, or a circuit judge in regular active service to whom excess compensation approval authority has been delegated, may approve payments in excess of statutory compensation limits to provide fair compensation as appropriate under

the CJA and Judicial Conference policy.

- E. **Disallowance or Reduction of a Claim.** Voucher claims will be disallowed or reduced for the following reasons: (1) mathematical errors; (2) instances in which work billed was not compensable; (3) instances in which work was not undertaken or completed; and (4) instances in which the hours billed are clearly in excess of what was reasonably required to complete the task. If the court intends to reduce a claim for compensation, it will provide the attorney notice of the proposed reduction with a brief statement of reasons and an opportunity to address the matter. Notice will not be given for reductions based on mathematical or technical errors.

X. Miscellaneous

- A. **Court Website.** Information related to CJA representation and CJA Panel membership will be published on the court's website (www.ca7.uscourts.gov).
- B. **Publication of CJA Plan.** To ensure compliance with this Plan, a copy will be: (1) published on the website of the court of appeals and each district court within this circuit; and (2) provided to each attorney upon admission to Panel membership.
- C. **Forms.** The forms required by this court and the Administrative Office must be used, where applicable, in all proceedings under this Plan. The relevant forms can be found on this court's website.
- D. **Reports.** The court will prepare and submit reports on the implementation of the CJA as prescribed by the Judicial Conference of the United States.
- E. **No Property Right.** None of the procedures set forth in this Plan create a property interest in Panel membership, or in receiving an appointment as a member of the Panel. This Plan is intended only as a description of the procedures this court will follow; it does not create any rights against any individual or institution.