

NOTICE TO ATTORNEYS APPOINTED UNDER THE CRIMINAL JUSTICE ACT

REGARDING

PUBLIC DISCLOSURE OF VOUCHER INFORMATION

Congress amended the Criminal Justice Act (18 U.S.C. §3006A(d)(4)(P.L. 105-119) to require public disclosure of certain voucher information. The law requires disclosure (access) to CJA 20 and 30 forms, not supporting information and attachments, unless the Court has determined certain interests which warrant limitation are implicated. It is imperative that counsel read the new rules applicable to cases commenced (docketed in this Court) on or after January 25, 1998.

Please note Section C of the rules, which governs vouchers on appeal. The Clerk's Office now maintains all financial information in a separate file. Under the new procedures a copy of the voucher must be made available to the public. The Clerk's Office will file vouchers in a case file (file wrapper) which is accessible by the public (supporting documents will continue to be maintained in separate files which are not available to the public). If you desire to limit access to the voucher for any of the reasons stated in the "New Rules", see attached, you must file a motion in advance of or together with your voucher in this case. [Submit an original and 3 copies, and state in the motion which interests in Part B.1 will be compromised. This matter will be handled ex parte in the first instance.] For practical purposes, if you file a motion to have only certain portions of the voucher available for public access, and the Court grants your motion, the Clerk's Office will prepare a substitute CJA form 20/30 which summarizes the information which will be accessible to the public. A certified copy will be filed in the file wrapper which is open to public inspection, and a copy will be sent to you. If no such motion is filed, a copy of the original approved voucher will be placed in the file wrapper.

Questions should be directed to the Clerk's Office CJA Voucher Processing Deputy at Telephone No. (215) 597-3243.

**FOR FURTHER INFORMATION
SEE THE "NEW RULE" ATTACHED TO THIS NOTICE**

**NOTICE TO COURT APPOINTED COUNSEL OF
PUBLIC DISCLOSURE OF ATTORNEY FEE INFORMATION**

**NEW RULES APPLICABLE TO CASES COMMENCED
ON OR AFTER JANUARY 25, 1998**

The Criminal Justice Act (CJA), 18 U.S.C. § 3006A, now requires that the amounts paid to court appointed attorneys be made publicly available upon the court's approval of the payments. The court may disclose an unredacted copy of a payment voucher submitted by defense counsel, or a redacted copy of a voucher indicating only the amounts approved for payment according to categories of services listed in the statute. (The text of the new statutory provision, 18 U.S.C. § 3006A (d) (4), is set forth on the back of this notice.) The extent of disclosure depends on whether the case is pending and on whether the court determines that certain interests (enumerated in subpart (d)(4)(D) of the CJA and listed below in part B.1) require the redaction of detailed information on the voucher. Upon court approval of a voucher claim, payment information will be made available as follows:

A. BEFORE OR DURING THE TRIAL: After redacting any detailed information provided to justify the expenses, the court shall make available to the public only the amounts approved for payment. Upon the completion of trial, unredacted copies of the vouchers may be released, depending on whether an appeal is being pursued and whether the court determines that one or more of the interests listed in part B.1 require the redaction of information.

B. AFTER THE TRIAL IS COMPLETED: The court shall make available to the public either redacted or unredacted vouchers as follows.

1. If trial court proceedings have been completed and appellate review is not being pursued or has concluded at the time payment is approved: The court shall make an unredacted copy of the payment voucher available to the public unless it determines that one or more of the interests listed below justify limiting disclosure to the amounts approved for payment in the manner described in part A. The interests that may require limiting disclosure include:

- (1) the protection of any person's 5th Amendment right against self-incrimination;
- (2) the protection of the defendant's 6th Amendment rights to effective assistance of counsel;
- (3) the defendant's attorney-client privilege;
- (4) the work product privilege of the defendant's counsel;
- (5) the safety of any person; and
- (6) any other interest that justice may require.

2. If appellate review is being pursued at the time payment is approved: The court shall make available to the public only the amounts approved for payment in the manner described in part A unless it finds that none of the interests listed above in part B.1 will be compromised.

C. AFTER THE APPEAL IS COMPLETED: The court shall make an unredacted copy of the payment voucher available to the public unless it determines that one or more of the interests listed in part B.1 justify limiting disclosure to the amounts approved for payment in the manner described in part A.

If counsel believes that any of the interests listed above in part B.1 justify limiting disclosure to the amounts approved for payment, counsel should submit to the court a written request, identifying the interests at risk and the arguments in support of providing protection, AT OR BEFORE THE TIME A CLAIM FOR PAYMENT IS MADE. Failure to do so could result in the public availability of unredacted copies of your vouchers without further notice.

This constitutes notice as required under 18 U.S.C. §3006A (d) (4) (E). You may NOT receive additional notice before any payment information is made available to the public.

Provision of FY 1998 Judiciary Appropriation Act (Public Law 105-119, Nov. 26, 1997) amending the Criminal Justice Act

SEC. 306. Section 3006A(d) of title 18, United States Code, is amended by striking paragraph (4) and inserting the following:

“(4) DISCLOSURE OF FEES.—

“(A) IN GENERAL.—Subject to subparagraphs (B) through (E), the amounts paid under this subsection for services in any case shall be made available to the public by the court upon the court’s approval of the payment.

“(B) PRE-TRIAL OR TRIAL IN PROGRESS.—If a trial is in pre-trial status or still in progress and after considering the defendant’s interests as set forth in subparagraph (D), the court shall —

“(i) redact any detailed information on the payment voucher provided by defense counsel to justify the expenses to the court; and

“(ii) make public only the amounts approved for payment to defense counsel by dividing those amounts into the following categories:

- “(I) Arraignment and or plea.
- “(II) Bail and detention hearings.
- “(III) Motions.
- “(IV) Hearings.
- “(V) Interviews and conferences.
- “(VI) Obtaining and reviewing records.
- “(VII) Legal research and brief writing.
- “(VIII) Travel time.
- “(IX) Investigative work.
- “(X) Experts.
- “(XI) Trial and appeals.
- “(XII) Other.

“(C) TRIAL COMPLETED.—

“(i) IN GENERAL.—If a request for payment is not submitted until after the completion of the trial and subject to consideration of the defendant’s interests as set forth in subparagraph (D), the court shall make available to the public an unredacted copy of the expense voucher.

“(ii) PROTECTION OF THE RIGHTS OF THE DEFENDANT.—If the court determines that defendant’s interests as set forth in subparagraph (D) require a limited disclosure, the court shall disclose amounts as provided in subparagraph (B).

“(D) CONSIDERATIONS.—The interests referred to in subparagraphs (B) and (C) are —

- “(i) to protect any person’s 5th amendment right against self-incrimination;
- “(ii) to protect the defendant’s 6th amendment rights to effective assistance of counsel;
- “(iii) the defendant’s attorney-client privilege;
- “(iv) the work product privilege of the defendant’s counsel;
- “(v) the safety of any person; and
- “(vi) any other interest that justice may require.

“(E) NOTICE.—The court shall provide reasonable notice of disclosure to the counsel of the defendant prior to the approval of the payments in order to allow the counsel to request redaction based on the considerations set forth in subparagraph (D). Upon completion of the trial, the court shall release unredacted copies of the vouchers provided by defense counsel to justify the expenses to the court. If there is an appeal, the court shall not release unredacted copies of the vouchers provided by defense counsel to justify the expenses to the court until such time as the appeals process is completed, unless the court determines that none of the defendant’s interests set forth in subparagraph (D) will be compromised.

“(F) EFFECTIVE DATE.—The amendment made by paragraph (4) shall become effective 60 days after enactment of this Act, will apply only to

cases filed on or after the effective date, and shall be in effect for no longer than twenty-four months after the effective date”.