



ADMINISTRATIVE OFFICE OF THE
UNITED STATES COURTS

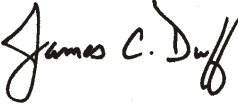
JAMES C. DUFF
Director

WASHINGTON, D.C. 20544

July 22, 2008

MEMORANDUM

To: Judges, United States Courts of Appeals
Judges, United States District Courts
United States Magistrate Judges

From: James C. Duff 

RE: CJA CASE-BUDGETING ASSISTANCE **(INFORMATION)**

I write on behalf of the Judicial Conference to encourage courts to use case budgeting for eligible Criminal Justice Act (CJA) panel attorney representations, and to update you about available personnel resources and tools to assist in this process. This communication reflects the mutual interests of the Judicial Conference Committees on the Budget and on Defender Services. It also follows up on my [memorandum dated September 5, 2006](#), in which I provided initial information about case-budgeting assistance for CJA panel attorney capital cases (both capital prosecutions and capital habeas corpus/post-conviction representations) and non-capital “mega cases.”¹

Judge Julia Smith Gibbons, Chair of the Judicial Conference Budget Committee, and Judge John Gleeson, Chair of the Judicial Conference Defender Services Committee, have taken a strong interest in promoting case budgeting for eligible representations. The process is intended to optimize resources while fostering high-quality representation. Skilled personnel and effective tools have been put in place to support this effort and assist courts.

In practice, the panel attorney becomes familiar with a representation eligible for budgeting and submits a budget to the presiding judge (or other designated court representative) estimating and explaining the projected compensation and expenses for appointed counsel and for investigative, expert, and other service providers. Case-budgeting worksheets (described

¹ The Guidelines for the Administration of the Criminal Justice Act and Related Statutes (CJA Guidelines), Volume 7, *Guide to Judiciary Policies and Procedures*, encourage courts to utilize case budgeting for any non-capital panel attorney representation in which it is anticipated that the total cost will exceed \$30,000 ([CJA Guideline 2.22B\(4\)](#)) and for all federal capital prosecutions and capital habeas corpus/post-conviction proceedings ([CJA Guideline 6.02F](#)).

further below) are available for completion by counsel. When more than one panel attorney is appointed, a combined budget can be submitted (setting forth the work to be performed by each attorney according to the budgeting categories); counsel for a co-defendant would submit a separate budget. The budget can reflect a stage of the case (e.g., up to the authorization decision in a capital prosecution), a time period within a stage, or the entire case. Budgeting in stages appears to be the most common approach. The use of case budgeting should provide the court with sufficient information to control costs as appropriate (through assessing and monitoring the expenditure of funds, and enhancing the management of the case, including helping to ensure that defense counsel receive the resources necessary to represent the accused effectively).

PERSONNEL RESOURCES TO ASSIST IN BUDGETING

The following personnel resources are available to provide case-budgeting assistance to the courts and, in some instances, to CJA panel attorneys. **To receive the assistance of the initiatives and resources described below, please use the attached contact list.**

Case-Budgeting Attorney Pilot Project - The Second, Sixth, and Ninth Circuits have each hired an attorney, pursuant to a Judicial Conference-approved initiative (JCUS-SEP 05, p. 21), to coordinate case-budgeting procedures and policies and to provide advice to judges on budgets submitted by panel attorneys in the courts in their circuits. Courts in those three circuits should contact the case-budgeting attorney (Jerry Tritz in the Second Circuit; Robert Ranz in the Sixth Circuit; and Nancy Rutledge in the Ninth Circuit) when they learn of a CJA panel attorney representation eligible for budgeting. The case-budgeting attorneys also are available to answer budgeting questions from panel attorneys and to assist them in preparing a budget.

Case-Budgeting Expert Services - The Administrative Office's Office of Defender Services (ODS) has secured the services of several expert litigators, who have substantial case-budgeting experience, to help judges assess whether the costs estimated in a capital or non-capital case budget submitted by a CJA panel attorney are reasonably necessary for the provision of effective representation. This resource has been made available as part of a Judicial Conference endorsed initiative (see JCUS-SEP 04, pp. 6-7) to establish a source to provide objective case-budgeting advice for judges to limit costs of CJA panel attorney representations in capital and large non-capital representations.

Death Penalty Resource Counsel Projects - ODS also has contracts with a number of "resource counsel" who have expertise in federal death penalty prosecutions and capital post-conviction cases, and there are some federal defender personnel assigned as resource counsel as well. The death penalty resource counsel support the following projects: Federal Death Penalty Resource Counsel Project (capital prosecutions); Habeas Assistance and Training Counsel Project (capital § 2254 cases); and the 2255 Project (capital § 2255 cases). Resource counsel are available to advise judges regarding case budgets submitted by panel attorneys for capital representations and to assist counsel in the preparation of budgets. The principal activities of the resource counsel projects include monitoring federal death penalty cases, helping judges recruit qualified counsel for appointment in capital cases, advising courts about CJA issues and the

defense function, consulting with individual assigned counsel, developing resource materials, and providing training on capital case defense techniques.

TOOLS TO ASSIST IN BUDGETING

Worksheets - The Administrative Office has created case-budgeting worksheets and instructions for [non-capital mega cases](#) (CJA Forms 28A - 28H) and [federal capital prosecutions](#). In addition, the Ninth Circuit uses worksheets in Microsoft Excel to budget capital habeas corpus § 2254 representations. As part of the case-budgeting pilot project, the Ninth Circuit also developed Microsoft Excel worksheets to budget capital prosecutions and non-capital mega cases. One major feature of these documents is that the attorney budgeting categories for capital prosecutions and non-capital mega cases correspond to the in-court and out-of-court categories on the CJA Form 30 (Death Penalty Proceedings: Appointment of and Authority to Pay Court-Appointed Counsel) and CJA Form 20 (Appointment and Authority to Pay Court-Appointed Counsel). The Ninth Circuit worksheets can be obtained by contacting the ODS Legal and Policy Duty Attorney, at 202-502-3030, or via email at ods_lpb@ao.uscourts.gov; judges and panel attorneys in the pilot circuits should contact their case-budgeting attorney.

Training Video - The Federal Judicial Center, working collaboratively with ODS, developed a training video for use by judges and other judiciary personnel in budgeting federal capital prosecutions and large, non-capital representations. The Federal Judicial Television Network premiere of [Budgeting Criminal Cases: High Cost CJA Panel Representations](#) occurred on April 4, 2007.

If you would like additional information regarding case budgeting, including assistance and tools available to assist you, please contact the ODS Legal and Policy Duty Attorney at 202-502-3030 or the appropriate individual listed on the attachment.

Attachment

cc: Circuit Executives
Federal Public/Community Defenders
District Court Executives
Clerks, United States Courts of Appeals
Clerks, United States District Courts
CJA Panel Attorney District Representatives

CASE-BUDGETING RESOURCES: CONTACT INFORMATION

CIRCUIT CASE-BUDGETING ATTORNEYS (*Contacts are for the following circuits only*)

- SECOND CIRCUIT:** **Jerry L. Tritz** (212) 857-8726
United States Court of Appeals FAX: (212) 857-8720
880 Thurgood Marshall E-mail: Jerry_Tritz@ca2.uscourts.gov
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- SIXTH CIRCUIT:** **Robert J. Ranz** (513) 564-7358
United States Court of Appeals FAX: (513) 564-7390
258 Potter Stewart E-mail: Robert_Ranz@ca6.uscourts.gov
United States Courthouse
100 East Fifth Street
Cincinnati, OH 45202
- NINTH CIRCUIT:** **Nancy E. Rutledge** (415) 355-8982
United States Court of Appeals FAX: (415) 355-8901
Post Office Box 193939 E-mail: nrutledge@ce9.uscourts.gov
San Francisco, CA 94119-3939

CASE-BUDGETING EXPERT SERVICES

- Christopher M. Davis** (202) 234-7300
Davis & Davis FAX: (202) 639-0458
514 10th Street, N.W., 9th Floor E-mail: cdavisdc@aol.com
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FEDERAL DEATH PENALTY RESOURCE COUNSEL (FDPRC)

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- Richard H. Burr** (580) 326-4042
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CASE-BUDGETING RESOURCES: CONTACT INFORMATION
(Continued)

NATIONAL HABEAS ASSISTANCE AND TRAINING COUNSEL (HAT)

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FEDERAL CAPITAL HABEAS PROJECT (2255 Project)

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OFFICE OF DEFENDER SERVICES

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