

# PERCY LAW FIRM, PLLC

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February 4, 2016

CJA Study Committee  
Administrative Office of the U.S. Courts  
Thurgood Marshall Federal Judiciary Building, Suite 4-250  
One Columbus Circle, N.E.  
Washington, D.C. 20544

VIA EMAIL: [CJAstudy@ao.uscourts.gov](mailto:CJAstudy@ao.uscourts.gov)

RE: CJA Study comment

Dear Members of the CJA Study Committee:

I am pleased to submit this written comment in advance of my appearance before the Committee on February 19, 2016 in Birmingham, Alabama.

I am the CJA Panel District Representative for the Northern District of Mississippi, which is comprised of three divisions with courthouses in Aberdeen, Oxford, and Greenville. I have been a panel member since 2008 and have been the panel representative since 2014.

Ours is a relatively small panel, with 14 attorneys, the reason being that each panel attorney receives a sufficient number of appointments to remain regularly engaged in federal criminal defense litigation so as to develop and maintain a high level of skill and efficiency in representing indigent criminal defendants. The small size of the panel also lends a certain prestige to membership that helps attract and retain highly qualified attorneys, who tend to be well respected members of the bar and successful in their private practices. Panel members serve at the pleasure of the district judges, and after completing the formal application process with the clerk's office, new members are approved by a committee chaired by the Chief Judge and including the Federal Defender (who serves the Northern and Southern Districts of Mississippi) and the panel representative. There has been very little turnover during my time on the panel.

When I attended my first Annual CJA Panel District Representatives Conference hosted by the Defender Services Office of the Administrative Office of the U.S. Courts, I learned that my district was the only district in the United States with a compensation maximum of \$3500 in felony guilty plea cases. Panel attorneys requesting compensation above that amount were required to submit a memorandum, similar to the memorandum required to be submitted to Circuit Courts of Appeal for requests above the felony case maximum, explaining why the case was an extended and unusually complex case justifying the excess compensation. This requirement was a burden to panel attorneys, and in practice panel attorneys often limited their vouchers to the \$3500 maximum and "ate" the difference.

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In 2014, with the great assistance – and in fact the initiative – of DSO Attorney Advisor Paul Denicoff, the uniqueness of our district's compensation maximum in guilty plea cases was called to the attention of our incoming Chief Judge, who then enlisted the help of the other district judges, the Federal Defender and myself to attempt to ascertain the maximum's origin, which to this day remains a mystery. The Chief Judge invited me to present a request for elimination of the maximum at the district's quarterly judges' meeting. After a discussion regarding the possible adverse effects of the maximum on indigent criminal defense in the district and the possible consequences of raising or removing the maximum, the judges voted unanimously to remove it with immediate effect. I call this episode to your attention not only because it is a relatively recent instance of the district responding to the concerns of the panel, but also because it illustrates well the benefits available to the panel in taking advantage of the resources of the Defender Services Office and, in this instance, the resolve and advocacy skills of its staff.

Another recent improvement to indigent criminal defense in my district has been the court's implementation of a video conferencing system with which Federal Defender and panel attorneys may communicate by secure video link with clients located in the district's detention facilities, which three facilities are located in proximity to each of the three federal courthouses. It can take a panel attorney residing in one of the district's divisions anywhere from one to three hours to drive to a detention facility in another division. Rather than making that drive for a meeting that requires only 10 or 15 minutes with a client or delaying the meeting until a convenient time arises, Federal Defender and panel attorneys may now schedule secure video conferences with detained clients on short notice.

The system is not intended to be a regular substitute for face-to-face meetings with clients, but it allows panel attorneys to save travel time when appropriate and to meet with clients in distant detention facilities more quickly when time is of the essence. The system is available only to appointed counsel, and each attorney using the system must install a video camera on his/her computer and must contract with the private service provider for the necessary software at a cost of \$25 per month, which may be recouped by panel attorneys when submitting vouchers. The court has produced an educational video about the video teleconferencing system, and I will bring copies to the hearing and will make them available to the Committee.

I look forward to my appearance before the Committee and to answering any questions regarding these and other matters of interest to you.

Sincerely,

A handwritten signature in black ink, appearing to read "R. Percy" with a long horizontal flourish extending to the right.

Roy Percy