

**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 USC § 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 it may release 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 statute, 18 USC § 3006A(d)(4), appears on the reverse 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 released as follows:

A. BEFORE OR DURING THE TRIAL. After redacting any detailed information provided to justify the expenses, the court will make available to the public only the amounts approved for payment, divided into the categories set forth in subpart (d)(4)(B)(iii) of the CJA. Upon the completion of trial, unredacted copies of the vouchers may be released, depending on whether an appeal has been noted 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 release either redacted or unredacted vouchers as follows:

15. **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 will 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.

16. **If appellate review is being pursued at the time payment is approved:** The court will release 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.

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 release of unredacted copies of your vouchers without further notice. This constitutes notice as required under 18 USC § 3006A(d)(4)(E). You may not receive additional notice before any payment information is made available to the public.

**Provisions of Judiciary Appropriation Act of 1998 (Public Law 105-119,
November 26, 1997)
Amending the Criminal Justice Act**

SEC. 308. 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 24 months after the effective date.”