

**IN THE COURTS OF THE FIRST JUDICIAL CIRCUIT  
OF THE STATE OF FLORIDA**

**ADMINISTRATIVE ORDER NO. 2005-05  
(Supplements and modified Administrative Order**

**IN RE: DUE PROCESS COSTS - INDIGENT SERVICES  
COURT APPOINTED COUNSEL**

**PROCEDURES FOR COURT APPOINTED PRIVATE ATTORNEYS  
AND DUE PROCESS COSTS**

WHEREAS, Administrative Order No. 2004-66 established the procedures for Court Appointed Private Attorneys and Due Process Costs; and

WHEREAS, the First Judicial Circuit Indigent Services Committee (ISC) after consultation with the Justice Administrative Commission (JAC) has determined that it is appropriate to supplement and modify the procedures for the benefit of the criminal justice system, it is

ORDERED AND ADJUDGED that:

1. The provisions for compensation for counsel with division assignments as provided in Paragraph 16 of Administrative Order No. 2004-66 is amended and modified as follows:

**COMPENSATION FOR COUNSEL WITH DIVISION ASSIGNMENTS**

16. The ISC has established reasonable compensation rates for counsel with a division assignment as follows:
  - A. Felony Divisions.

A division conflict attorney will be paid a flat fee of \$600.00 per defendant for all cases other than capital cases (as statutorily defined) and RICO cases (§895.04, *Florida Statutes*). Those cases will be paid at the hourly rate of \$60.00 per hour out of court and \$80.00 per hour in court. Capital cases for which the State is seeking the death penalty are not included within the division assignment but will be assigned from the ARL established for death penalty cases. The rate of \$600.00 is per defendant; however, if a defendant has multiple cases within a division, there will be an additional \$300.00 flat fee per case for that defendant.
  - B. A division conflict attorney may apply to the Chief Judge of the First Judicial Circuit as Chairman of the ISC, for an order

authorizing a specific case to be compensated at the established hourly rate instead of a flat fee. Counsel may file a motion seeking such relief if a case involves exceptional circumstances based upon the multitude of State listed witnesses, voluminous documentary evidence or extensive out of State travel requirements. The motion must be specific in stating the basis for the Court to find exceptional circumstances and be accompanied by a proposed order that sufficiently identifies the case for the JAC. A copy of the motion shall be provided to the presiding judge and the office of the State Attorney and sufficient copies of the proposed order with pre-addressed, stamped envelopes shall be provided for the distribution of the order. Unless authorized by the Chief Judge, these motions will be addressed without oral argument.

- C. Misdemeanor Division: Compensation for misdemeanor cases will be at a flat rate of \$350/per defendant. If a defendant has multiple cases within a division, there will be a flat fee of an additional \$150.00 per case.
- D. Juvenile Division: Juvenile cases will be compensated at a flat rate of \$350/per defendant. If a defendant has multiple cases within a division, there will be a flat fee of an additional \$150.00 per case.
- E. VOP/VOCC: In the event that a violation of probation or community control is brought against a defendant, the division conflict attorney for the specific division will be compensated at the rate of \$350.00 for felony VOPs/VOCCs and \$250.00 for misdemeanor and juvenile VOPs/VOCCs. There will be no additional compensation on a case if a defendant is referred to pre-trial diversion, or in the case of juveniles, alternative sanctions, and the defendant fails to complete the program and is returned for prosecution.

The specified flat fee includes both in-court and out-of-court work with no consideration of travel time.

- F. In the event an attorney with a division assignment is also on an attorney registry list and is appointed to a case outside the parameters of their division assignment, the attorney may elect to be compensated at a flat fee instead of at the hourly rate. It will be the responsibility of the attorney to provide the JAC with the necessary information identifying any case that falls outside of the attorney's division assignment. The attorney may elect the form of compensation at the time of application for payment.

- G. Transition Payments: The division assignments are effective January 1, 2005. The ISC recognizes that there will be a transition period for cases not completed by December 31, 2004 by attorneys under the earlier contracts which were extended by Administrative Orders 2004-31 and 2004-50. For those attorneys who convert from a fixed lump-sum contract to the flat fee per defendant rate, the compensation for the cases that carry over past January 1, 2005 which are not disposed of prior to the date of this order shall be as provided under Paragraph 16. A., B., C. and D. above.
- H. In the event an attorney is court appointed and subsequently the defendant retains private counsel, the appointed attorney will be entitled to compensation as follows. If the attorney is entitled to compensation at an hourly rate then the attorney is entitled to compensation for the time invested up to withdrawal subject to the statutory caps. If the attorney is on a flat fee basis, the attorney is entitled to the full flat fee if the attorney has filed a "Notice of Discovery" and the attorney received the discovery response from the State. If the attorney's representation has not reached that point then the attorney will not be entitled to any compensation for that case. If a court appointed attorney is discharged from representation of a client based upon a court determination of ineffective or incompetent representation, the attorney will not be entitled to compensation.
- I. In the event an attorney is court appointed prior to formal charges being brought against the defendant and the State of Florida files a dismissal then the court appointed attorney may seek compensation if the attorney engaged in meaningful activity resulting in the decision of the State not to bring formal charges. If the JAC files an objection to the Notice of intended billing then the attorney may file a motion before the trial court and obtain compensation on the court's finding that the dismissal was a result of the meaningful activity of court appointed counsel.
- J. In the event a client fails to appear and a capias or warrant is issued by the trial court, the attorney may file a motion to withdraw thirty (30) days after the failure to appear and upon entry of the order may seek compensation from the JAC in accordance with standard procedure. In the event the client is apprehended and the attorney is still the assigned conflict counsel for the division or is on the attorney registry list, then the attorney if reappointed shall represent the client with no further compensation.

**The provisions of Paragraphs 16. H., 16. I., and 16. J. are applicable to both division assignment attorneys and conflict counsel appointed from the Attorney Registry Lists.**

2. The provisions of Paragraph 18 of Administrative Order No. 2004-66 are amended and modified to read as follows:

18. Private attorneys who are court appointed on death penalty cases will be compensated at the rate of \$90/hour for first chair counsel. If the trial court authorizes a court appointed second chair attorney, that attorney will be compensated at \$80/per hour.

3. The provisions of Paragraph 19 of Administrative Order No. 2004-66 are amended and modified as follows:

**DEPENDENCY CASES/TERMINATION OF PARENTAL RIGHTS CASES**

19. Private court appointed counsel in dependency cases shall be compensated at the rate of \$700/case and \$50/post-disposition hearing.
  - A. Billing for the \$700/case may be submitted in accordance with the policies and procedures of the JAC, which are available on its website, [www.justiceadmin.com](http://www.justiceadmin.com)
  - B. In the event a case is closed by an order terminating protective services and is reopened, the case will be treated as a new action with compensation at the rate of \$700/case and \$50/post-disposition hearing. Billing shall be as provided in subparagraph A. above.
  - C. In the event that an attorney is allowed to withdraw or is discharged after disposition, the newly appointed attorney shall be compensated at the rate of \$50/post-disposition hearing to be billed in accordance with the procedure set forth in subparagraph A. above.

4. Any modification to the division assignments or additions or deletions to the respective Attorney Registry Lists may be accomplished by memoranda by the Chief Judge instead of by administrative order.

**DONE AND ORDERED** in chambers, Pensacola, Escambia County, Florida this 7th day of March, 2005.

Signed by: Kim A. Skievaski, Chief Judge

Copies of Administrative Order 2005-05 furnished to:

All Judges - First Judicial Circuit  
Justice Administrative Commission