

NEWS FROM U.S. DISTRICT COURT

January 14, 2022

New Criminal Justice Act Rates. The new year brought new rates for attorneys appointed under the Criminal Justice Act (CJA). After inflationary adjustments, hourly rates increased from \$155 to \$158 for non-capital work and from \$197 to \$202 for capital work. The new rates apply to services performed on or after January 1, 2022. The case compensation maximum in non-capital cases also increased to \$12,300, up from \$12,100. The new case compensation maximum applies to a voucher submitted by appointed counsel if that person furnished any CJA-compensable work on or after January 1, 2022.

Jury Trials. The number of jury trials in 2021 rose significantly from the previous year. There were 30 jury trials in the district last year, compared with just 16 in 2020. Although this represents a significant increase, it's still down from pre-COVID numbers. The district had 43 jury trials in 2019.

Most of last year's trials occurred in the Western Division where there were 15 jury trials. There were seven jury trials in Sioux Falls, three in Pierre and five in Aberdeen. Southern and Western Division trials were conducted by multiple judges.

Operations Update. In light of a COVID resurgence in some parts of the state, the Clerk's Office has reinstalled drop boxes in Sioux Falls, Pierre and Rapid City. You may also notice temporary office closures as some of our staff return to telework. If your divisional office is closed, you can always reach someone by calling the main line.

TIP OF THE MONTH—Proactive Redaction and Examination: As you know, D.S.D. Civ. LR 5.2 and D.S.D. Crim. LR 49.1.1 require counsel to redact certain personal identifiers. This requirement is not limited to attorney filings, but also applies to transcripts of court proceedings. <https://www.sdd.uscourts.gov/content/judicial-conference-policy-regard-availability-transcripts-court-proceedings> Recently, it was extended to include electronically filed documentary exhibits. Following a hearing or trial, the clerk files these exhibits which are restricted to court users and case participants. The originals are then returned to counsel. Counsel then has 21 days to review their returned exhibits to determine whether redactions are required under D.S.D. Civ. LR 5.2 and D.S.D. Crim. LR 49.1.1.

When offering documentary exhibits, the best approach is to redact them *before* they are offered. If an exhibit does not include personal identifiers but includes other sensitive information such as cooperation in a criminal case, it is best to ask that it be sealed when offering the exhibit.

A similar approach can be applied to direct and cross examination. For example, don't ask a witness when he was born, but instead ask the year he was born, and instead of asking witnesses

for a home address, simply ask what city they live in. The same holds true with social security numbers and financial accounts. By asking for only the last four digits, you eliminate the need to request redactions after a transcript is filed.