

INDIANAPOLIS BAR ASSOCIATION
LEGAL SERVICES ADVISORY COMMITTEE
CRIMINAL MODEST MEANS PANEL: RULES & REGULATIONS

Section I -- Purposes

1. The purpose of the Criminal Modest Means Panel (CMMP) Project is to offer criminal defense legal services at a reduced rate to individuals of “modest means”.
2. The CMMP will make available legal services to individuals who do not qualify for other forms of legal assistance, including Public Defenders or other no-fee services, and who cannot afford to pay attorney’s fees at rates which would ordinarily be charged.
3. The CMMP will also make available opportunities for qualified attorneys to render legal services to individuals who otherwise could not afford to receive such services, and perform a valuable public service.

Section II -- Administration

1. The CMMP is to be operated as an extension of the Indianapolis Bar Association's (IndyBar) Lawyer Referral Service (LRS) and will be governed by the current Regulations and Rules of the LRS with the following exception:

(a) CMMP attorneys who accept modest means referrals will not be required to pay a 10% referral fee to the LRS.

(b) Panelist carry, and will continue to carry, professional liability insurance in the minimum amount of \$500,000 per claim and \$500,000 aggregate and in the form and amount as may be recommended by the IndyBar’s Legal Services Advisory Committee (LSAC) and ratified by the IndyBar Board of Directors, with evidence of such insurance coverage being furnished to the LSAC and IndyBar staff.

The Rules and Regulations of the LRS can be found following Appendix B in this document.

2. Membership: An attorney wishing to participate on in CMMP panel must be a current member of The Indianapolis Bar Association. An attorney must also provide that all other terms and conditions of the LRS Regulations and Rules are satisfied. Enrollment in LRS is not required (although it may be in the future). In addition, registration fees may be assessed in the future.

Section III -- Panel Descriptions

Misdemeanors: area of law covered by this panel shall include matters relating to legal advice and representation in all misdemeanor and “D” felony or Level 6 felony cases in Marion Superior Courts including traffic court 13.

Section IV -- Application Requirements

All applicants for CMMP membership shall complete the IndyBar CMMP enrollment application and agreement. Members shall, at the time of application, indicate the total number of cases the applicant is willing to accept per month and provide proof of active professional liability coverage at the required limit.

Section V -- Geographical Service Areas

The geographical service area for the CMMP shall be the entire area of Marion County. At the discretion of the CMMP attorney, legal services may be provided in any adjacent county to Marion County, should the CMMP attorney wish to provide such out-of-county service.

Section VI -- Client Eligibility

1. For a person to qualify for a referral to a modest means panel attorney, that person must be referred by a judicial officer of the Marion Superior Court Criminal Division. The defendant must be pre-screened for eligibility at the initial hearing. If the judicial officer determines that the person does satisfy CMMP eligibility guidelines, the court will complete the CMMP qualifications order attached as **Appendix A**

2. If the individual's income/asset threshold exceeds the guidelines outlined in Appendix A, the individual shall be deemed ineligible for a criminal modest means referral unless the judicial officer otherwise deems them qualified.

3. Set forth in **Appendix B** and **Appendix C** are the guidelines for maximum income level and attorney fees. The attorney fees represent the maximum a lawyer may charge for a Modest Means case. Lawyers and clients are encouraged to discuss at the time of the initial consultation of the client's ability to pay, any time-payment arrangements, and potential expenses that may be incurred in the case. *Client(s) and attorney(s) must be mindful of circumstances in which a case may have additional cost factors, including, but limited to witness fees, expert fees, deposition fees, and interpreter fees. Ancillary expenses such as these may be charged to the client, if discussed and approved of by said client, in advance of expenses incurred.* If, upon referral, the client and attorney cannot agree to a fee arrangement which provides for optimum representation of the client's interests, the client may be referred back to the LRS for reassignment.

APPENDIX A

Income Guidelines:

Income: Up to 250% of Federal Poverty level guidelines.

Retainer: Fees may be requested up front.

Attorney Fees: Traffic court cases: (Court 13 only) \$250.

All Misdemeanor Cases: \$500 for up to and including plea entered 15 days before first trial settling.

\$500 Additional for trial (jury or bench) due 1 days before first trial setting.

Level 6 Cases: \$750 for up to and including plea 15 days before first trial setting.

\$500 Additional for trial (jury or bench) due 15 days before first trial setting.

See **Appendix C** for **Order Qualifying Defendant for Criminal Modest Means Program**

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APPENDIX B

INDIANAPOLIS BAR ASSOCIATION LAWYER REFERRAL SERVICE REGULATIONS AND RULES OF OPERATION

PREAMBLE

The Indianapolis Bar Association (IndyBar) recognizes that there exists a large group of citizens who need assistance finding a lawyer they can trust. In order to respond to the needs of those persons, the IndyBar has established and maintained a Lawyer Referral Service (LRS). These Regulations and Rules of Operation are promulgated as the policy of the IndyBar to cover the operations of the LRS and shall remain in effect until modified or altered by the IndyBar.

I. OBJECTIVES:

LRS: The objective of the IndyBar in establishing the LRS is to assist the general public by providing a way through which any person who can afford to pay a reasonable fee for legal services may be referred to a competent lawyer of the IndyBar and to acquaint people in need of legal services with the value of consultation with a lawyer.

II. LAWYER REFERRAL POLICIES COMMITTEE:

The Legal Services Advisory T a s k F o r c e (hereinafter “LSAC”) of the IndyBar will be charged with the responsibility of establishing the operating procedures of the LRS consistent with the Regulations and Rules of Operation. The President of the IndyBar shall appoint members of this LSAC, as well as the Chair person under the established rules that govern committee appointments and operations. This Committee shall meet on an as needed basis as set by the Chair.

III. THE SERVICE:

The LRS will be operated from the IndyBar offices utilizing members of the staff under the general supervision of the LSAC. A person seeking a legal service may do so by telephone, internet, or written correspondence to the IndyBar offices. A referral will be made to a panel member of the LRS on a rotating basis. Fees shall be by agreement between the referred person and the LRS member attorney (“Panelist”).

IV. FORMATION OF THE PANEL:

I. Any member in good standing with the IndyBar who is actively engaged in private practice of law may qualify as a Panelist.

II. A member, in filing Panelist’s application as provided, agrees that:

(a) Any charge for further service will be as agreed upon with the client and the Panelist.

(b) Panelist carries, and will continue to carry, professional liability insurance in the minimum amount of \$1,000,000 and in a form and amount as may be recommended by the LSAC and ratified by the Board of Directors, with evidence of such insurance coverage being furnished to the LSAC and IndyBar staff.

(c) Panelist will abide by the Regulations and Rules of Operations of the LRS as they exist upon the date of Panelist’s application, and as same may be amended from time to time; and Panelist will in no event hold, or claim to hold, the IndyBar or any of its officers, members or employees liable in connection with the operation of the LRS or use of the information contained in the application in connection with the activities of the LRS.

(d) Panelist authorizes the IndyBar or any of its Grievance Committees, after notice to Panelist to furnish information concerning any past, pending or future grievances, complaints or ethical violations against Panelist for use by the LSAC in

evaluating the application or membership on the panel so long as Panelist is a member of the LRS.

III. Panelist agrees to abide by the following terms:

(a) In submitting an application of membership on the panel, the Panelist shall list those areas of legal work which the Panelist desires to handle. In doing so, the Panelist shall certify to the IndyBar that Panelist is competent to handle legal matters involving those areas as defined by the Rules of Professional Conduct which provides: Rule 1.1: Competence - A lawyer shall provide competent representation to a client. Competent representation requires the legal knowledge, skill, thoroughness and preparation reasonably necessary for the representation.

(b) In accepting the registration of any applicant, the LRS may require such information and certifications as it deems necessary to have the Panelist show that Panelist is a member of the Bar in good standing, qualified to practice, and that Panelist adheres to the recognized ethical standards of the profession. The LSAC may conduct further investigations and require further information bearing upon the responsibility, capability, character and integrity of any applicant or registered lawyer, as the LSAC deems appropriate and necessary, including but not limited to obtaining information from the Indiana Supreme Court Disciplinary Commission. The LSAC may also require such information as it deems necessary in continuing registration of any applicant or registered lawyer on any panel or panels that may be established.

(c) Any applicant may be denied registration and registered lawyer may be withdrawn a from registration as a Panelist if Panelist has:

(1) Willfully failed to pay any fee, failed to render any report, or otherwise failed to abide by these Regulations and Rules of Operation or any other established rules of the LRS.

(2) Signed any application or other certification or report to the LRS which shall be found to be untrue in any material respect.

(3) The failure of the attorney to maintain professional liability insurance as required by these Regulations and Rules.

(4) Failed to meet or maintain the required standards of responsibility, capability, character and integrity.

IV. The procedure for denial of registration in the first instance or causing a registered lawyer to be withdrawn from the registration will be as follows:

(a) The Chair of the LSAC shall bring such basis for denial of registration or requesting withdrawal of a registered lawyer from registration to the attention of the President of the IndyBar for initial review. If the President determines that grounds for refusing registration or withdrawal of registration exists, then the Chair shall so notify the lawyer in writing of the denial or withdrawal of registration. If the denied lawyer so requests, in writing within thirty (30) days of the receipt of the denial notice, the President of the IndyBar shall appoint three (3) members of the IndyBar at large, with the Chair of the LSAC to be an exofficio member of that committee (Hearing Committee) to make a further factual investigation and conduct a hearing. Such Hearing Committee shall first notify the attorney involved, in writing, stating the reason for the investigation and allowing said attorney ten (10) days time to respond in writing and setting a time and place for a hearing not more than forty-five (45) days following the notice. At said hearing, the

attorney will be allowed to be present, to be represented by counsel and to present witnesses and evidence and to cross-examine witnesses.

(b) After the Hearing Committee has concluded its investigation, if there is no factual basis to deny registration or to cause withdrawal of registration of the registered lawyer, the matter will be closed and the registered lawyer will be allowed to participate fully in the LRS.

(c) If the Hearing Committee concludes factually by a preponderance of the evidence and majority vote that the registration should not be allowed, or the registered lawyer should be withdrawn from registration, then the Hearing Committee will make a written report of such finding to the Board of Directors, who will either ratify or deny the report.

(d) The President of the IndyBar shall promptly notify the attorney of the decision of the Board of Directors.

V. Subject to a subsequent hearing as provided in subparagraph 4, an applicant shall be denied registration and a registered lawyer shall be removed from the panel immediately and without hearing should any of the following occur:

(a) Applicant/Panelist fails to inform the LRS Committee within ten (10) days of receiving notice of any grievance filed against Applicant/Panelist which is designated “misconduct”;

(b) The suspension or disbarment of the attorney or the attorney’s resignation from the practice of law;

(c) The filing of a suit against the attorney by the Supreme Court Disciplinary Commission for suspension or disbarment;

(d) The institution against the attorney of felony or misdemeanor charges involving moral turpitude or involving theft, embezzlement or fraudulent appropriation of money or other property;

(e) The involuntary or voluntary commitment of the attorney for mental illness, drug addiction or alcoholism;

VI. Notwithstanding the foregoing provisions, a Panelist who fails to comply with the reporting procedures of the Lawyer Referral Service Agreement (“LRSA”) or fails to comply with the Rules and Regulations of the LRS (“Rules”) for a period of sixty (60) days or more shall be subject to suspension. The rules and procedures governing suspension shall be as follows:

(a) The Panelist shall be given written notice that he or she has failed to comply with the LRSA and/or Rules for a period of sixty (60) days or more. The written date of said notice shall be the date it is mailed to the President.

(b) Said written notice shall advise the Panelist that he or she shall have twenty (20) days from the effective date of the notice to cure any failure to comply with LRSA or Rules.

(c) If, after twenty (20) days from the effective date of the written notice, the Panelist to whom said written notice was mailed does not cure said failure to comply with the LRSA or Rules, said Panelist shall be placed on suspension.

(d) A suspended Panelist will not receive referrals from the LRS.

(e) A Panelist shall receive written notice by certified mail that he or she has been suspended, and the effective date of suspension shall be the date the written notice of suspension is mailed to the Panelist.

(f) Said written notice of suspension shall advise the Panelist that he or she will no longer receive referrals from the LRS until said failure to comply with the LRSA or Rules is cured, and a \$100 reinstatement fee is paid. Said written notice of suspension shall further advise the Panelist that he or she shall be subject to removal as a registered lawyer with the LRS if said failure to comply with the LRSA or Rules is not cured and the reinstatement fee is not paid within thirty (30) days of the effective date of suspension.

(g) A suspended Panelist who does not cure said failure to comply with the LRSA or Rules within thirty (30) days of the effective date of suspension shall be subject to withdrawal as a registered lawyer.

(h) A suspended Panelist shall remain liable to the LRS for referral fees pursuant to Panelist's LRSA.

(i) The reinstatement provision is outlined above. Currently, these rules require a \$100 reinstatement fee and the curing past rules violations with no provision referencing a reinstated member is "on probation" for a set period of time. Such a member would be subject to removal for rules violations, just as any other member (though a reinstated member theoretically has one strike against him/her). Formal removal can occur without a reinstatement policy pursuant to our existing regulations, subject to the right to hearing etc. The suspension provisions also apply to a reinstated member just as any other member.

V. FEE FOR MEMBERSHIP:

Any attorney member in good standing with the IndyBar, with offices in the Greater Metropolitan Indianapolis, Indiana, area shall be eligible for membership upon the payment of a two hundred fifty dollar (\$250.00) fee to be paid annually upon application or re-registration. This fee provides the panelist with referrals in the panelist's zip code as well as additional geographic locations the panelist is willing to provide service. In addition, for and in consideration of the referral of the client, in recognition of the service provided by the LRS and to help defray the cost of operation of the LRS, any attorney receiving legal fees derived from full-fee referrals in excess of \$100.00 for the performance of services to a client referred by the LRS shall agree to pay the sum of ten percent (10%) of any such legal fees received for services performed by such client as a direct result of such referral from the service.

VI. WITHDRAWAL FROM MEMBERSHIP:

A Panelist may at any time withdraw Panelist's name from participation in the LRS upon ten (10) days written notice to the LSAC addressed to the IndyBar, subject to Panelist's obligation to pay any fee required under the Lawyers Referral Service Agreement. Following withdrawal, reporting and remittance must continue until all retained cases obtained through LRS have been closed.

VII. OPERATION OF THE PANEL:

LRS—Full Fee Referrals

1. Referrals will be made to the members of the panel in rotation.
2. Panelist may accept any referral or initial review in those areas in which Panelist has indicated on Panelist's application that Panelist is willing and competent to handle. However, should any referral give rise to a conflict of interest, Panelist shall contact the LRS and refer the client back to the LRS to obtain a new referral for the client.
3. Once a client is referred to a Panelist, that attorney maintains sole responsibility for the client's matter, if employed by the client, until completion of the matter, unless the attorney refers the client back to the LRS or to another attorney who is employed in the same office and is also a member of the LRS and who will accept such sole responsibility. If the Panelist determines in the course of Panelist's responsibility that this client's matter requires co-counsel or the referral to another attorney for this particular matter, the co-counsel attorney or referred attorney must acknowledge in writing to the LRS, within ten (10) days, that it accepts such case pursuant to the conditions of the LRS Rules and Regulations of Operations. The Panelist shall also notify the LRS in writing within ten (10) days of his co-counsel status or of the referral to another attorney, and the Panelist remains responsible to the LRS for ALL services rendered to the referred client.

VIII. ACKNOWLEDGMENT AND REPORT OF REFERRALS:

The Panelist shall complete and return a referral report forwarded by the LRS, within fifteen (15) days after receiving the report from LRS. Failure to return the memorandum within the time specified may justify the LRS in removing Panelist's name from the panel. Nothing herein will require any attorney to violate the attorney/client privilege. The Panelist shall permit the LRS to contact the referred client for purposes of identifying client contact and random sampling regarding attorney fees charged and quality of service.

IX. RECORDS AND REVIEW:

The LRS will keep on file a confidential report of all referrals and reports of Panelists which will be subject to examination and inspection by the LSAC and the Board of Directors of the IndyBar. All referrals will be reviewed at least quarterly with a follow-up questionnaire, at the discretion of the LRS, to the referred clients inquiring about status of a case, fees paid, services performed and any other information deemed appropriate by the Executive Committee.

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