

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF LOUISIANA**

ORDER

IT IS ORDERED that the Plan of the United States District Court for the Eastern District of Louisiana, pursuant to the Criminal Justice Act of 1964, as revised July 2018, is hereby abrogated, and the Judges of the United States District Court for the Eastern District of Louisiana adopt the attached Revised Plan of April, 2024, for furnishing representation pursuant to the Criminal Justice Act of 1964 (18 U.S.C. § 3006A) in its place.

New Orleans, Louisiana, this 16th day of May, 2024.


NANNETTE JOLIVETTE BROWN, Chief Judge

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF LOUISIANA**

REVISED PLAN OF APRIL, 2024

**FOR FURNISHING REPRESENTATION PURSUANT TO
THE CRIMINAL JUSTICE ACT OF 1964 (18 U.S.C. § 3006A)**

TABLE OF CONTENTS

- I. AUTHORITY 1
- II. STATEMENT OF POLICY..... 1
 - A. Objectives..... 1
 - B. Compliance..... 1
- III. DEFINITIONS 2
 - A. Representation 2
 - B. Appointed Attorney 2
- IV. PROVISION OF REPRESENTATION 2
 - A. Circumstance 2
 - 1. Mandatory 2
 - 2. Discretionary 2
 - 3. Ancillary..... 3
 - B. When Counsel Shall Be Provided 3
 - C. Eligibility for Representation..... 4
 - 1. Fact Finding 4
 - 2. Disclosure of Change in Eligibility 4
 - D. Number of Counsel 4
 - 1. Non-Capital Cases 4
 - 2. Capital and Capital-Eligible Prosecutions..... 4
 - 3. Capital Habeas Corpus Proceedings..... 4
 - 4. Appointment of More than Two Attorneys..... 4
 - E. Qualifications of Counsel 4
 - 1. Appointment of Counsel Prior to Judgment..... 5
 - 2. Appointment of Counsel After Judgment 5
 - 3. Attorney Qualification Waiver..... 5
 - F. Capital Cases..... 5
 - 1. Applicable Legal Authority..... 5
- V. FEDERAL PUBLIC DEFENDER ORGANIZATION..... 6
 - A. Establishment 6
 - B. Supervision of Defender Organization 6
 - C. Management of CJA Panel 6
- VI. PRIVATE ATTORNEYS 6
 - A. Organization 6

B. Appointments.....	6
C. Ratio of Appointments.....	6
VII. DUTIES OF APPOINTED COUNSEL.....	7
A. Standards	7
B. Professional Conduct.....	7
C. No Receipt of Other Payment.....	7
D. Continuing Representation	7
VIII. DUTIES OF LAW ENFORCEMENT AND RELATED AGENCIES	7
A. Presentation of Accused for Appointment of Counsel.....	7
B. Pretrial Interview	7
C. Notice of Indictment or Criminal Information	8
IX. INVESTIGATIVE, EXPERT, AND OTHER SERVICES.....	8
A. Financial Eligibility	8
B. Applications.....	8
C. Compliance.....	8
X. MISCELLANEOUS.....	8
A. Claims.....	8
B. Supersession	9
XI. EFFECTIVE DATE	9

APPENDIX

**UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF LOUISIANA
CRIMINAL JUSTICE ACT PLAN**

I. AUTHORITY

Pursuant to the Criminal Justice Act of 1964 as amended (CJA), section 3006A of title 18, United States Code, and the *Guidelines for the Administration of the Criminal Justice Act and Related Statutes (CJA Guidelines)*, Volume VII, *Guide to Judiciary Policies and Procedures*, the judges of the United States District Court for the Eastern District of Louisiana, adopt this amended Plan for furnishing representation in federal court for any person financially unable to obtain adequate representation in accordance with the CJA.

II. STATEMENT OF POLICY

A. Objectives.

1. The objective of this Plan is to attain the ideal of equality before the law for all persons. Therefore, this Plan shall be administered so that those accused of a crime, or otherwise eligible for services pursuant to the CJA, will not be deprived, because they are financially unable to pay for adequate representation, of any element of representation necessary to an adequate defense.
2. The further objective of this Plan is to particularize the requirements of the CJA, the USA Patriot Improvement and Reauthorization Act of 2005 (recodified at 18 U.S.C. § 3599), and the *CJA Guidelines* in a way that meets the needs of this district.

B. Compliance.

1. The Court, its Clerk, the Office of the Federal Public Defender, and private attorneys appointed under the CJA shall comply with the provisions of this Plan, the *CJA Guidelines* approved by the Judicial Conference of the United States, and any other guidelines that may be implemented by the CJA Committee.
2. Each private attorney shall be provided by the Federal Public Defender with a current copy of this Plan upon the attorney's first appointment under the Criminal Justice Act or designation as a member of the Panel of Private Attorneys under the Criminal Justice Act (CJA Panel). The Clerk and the Federal Public Defender shall maintain a current copy of the *CJA Guidelines* for the use of members of the CJA Panel and shall make known to such attorneys its availability.

III. DEFINITIONS

- A. "Representation" includes counsel and investigative, expert, and other services necessary for an adequate defense.
- B. "Appointed attorney" includes private attorneys, the Federal Public Defender and staff attorneys of the federal public defender organization.

IV. PROVISION OF REPRESENTATION

A. Circumstance.

- 1. Mandatory. Representation shall be provided for any financially eligible person who:
 - a. is charged with a felony or with a Class A misdemeanor;
 - b. is a juvenile alleged to have committed an act of juvenile delinquency as defined in section 5031 of title 18, United States Code;
 - c. is charged with a violation of probation, or faces a change of a term or condition of probation (unless the modification sought is favorable to the probationer and the government has not objected to the proposed change);
 - d. is under arrest, when such representation is required by law;
 - e. is entitled to appointment of counsel in parole proceedings;
 - f. is charged with a violation of supervised release or faces modification, reduction, or enlargement of a condition, or extension or revocation of a term of supervised release;
 - g. is subject to a mental condition hearing under chapter 313 of title 18, United States Code;
 - h. is in custody as a material witness;
 - i. is seeking to set aside or vacate a death sentence under sections 2254 or 2255 of title 28, United States Code;
 - j. is entitled to appointment of counsel in verification of consent proceedings pursuant to a transfer of an offender to or from the United States for the execution of a penal sentence under section 4109 of title 18, United States Code;
 - k. is entitled to appointment of counsel under the Sixth Amendment to the Constitution; or
 - l. faces loss of liberty in a case and federal law requires the appointment of counsel.
- 2. Discretionary. Whenever a judge or magistrate judge determines that the interests of justice so require, representation may be provided for any financially eligible person who:
 - a. is charged with a petty offense (Class B or C misdemeanor, or an infraction) for which a sentence to confinement is authorized;
 - b. is seeking relief, other than to set aside or vacate a death sentence under sections 2241, 2254, or 2255 of title 28, United States Code;
 - c. is charged with civil or criminal contempt who faces loss of liberty;

- d. has been called as a witness before a grand jury, a court, the Congress, or a federal agency or commission which has the power to compel testimony, and there is reason to believe, either prior to or during testimony, that the witness could be subject to a criminal prosecution, a civil or criminal contempt proceeding, or face loss of liberty;
 - e. is proposed by the United States attorney for processing under a pretrial diversion program;
 - f. is held for international extradition under chapter 209 of title 18, United States Code; or
 - g. has been advised by the United States attorney or a law enforcement officer that they are the target of a grand jury investigation.
3. Ancillary. Representation may also be furnished for financially eligible persons in ancillary matters appropriate to the proceedings pursuant to 18 U.S.C. § 3006A. In determining whether a matter is ancillary to the proceedings, the Court should consider whether the matter, or the issues of law or fact in the matter, arose from, or are the same as or closely related to the facts and circumstances surrounding the principal charge. In determining whether representation in an ancillary matter is appropriate to the proceedings, the court should consider whether such representation is reasonably necessary:
- a. to protect a constitutional right;
 - b. to contribute in some significant way to the defense of the principal criminal charge;
 - c. to aid in preparation for the trial or disposition of the principal criminal charge;
 - d. to enforce the terms of a plea agreement in the principal criminal charge;
 - e. to preserve the claim of the CJA client to an interest in real or personal property subject to a civil forfeiture proceeding under 21 U.S.C. § 881, 19 U.S.C. § 1602, 18 U.S.C. § 983, or similar statutes, which property, if recovered by the CJA client, may be considered for reimbursement under 18 U.S.C. § 3006A(f) and Guide, Vol. 7A, § 210.40.30; or
 - f. to effectuate the return of real or personal property belonging to the CJA client which may be subject to a motion for return of property under Fed. R. Crim. P. 41(g), which property, if recovered by the CJA client, may be considered for reimbursement under 18 U.S.C. § 3006A(f) and Guide, Vol. 7A, § 210.40.30.

B. When Counsel Shall Be Provided.

Counsel shall be provided to eligible persons as soon as feasible after they are taken into custody, when they appear before a magistrate judge or judge, when they are formally charged or notified of charges if formal charges are sealed, or when a magistrate judge or judge otherwise considers appointment of counsel appropriate under the CJA, whichever occurs earliest.

C. Eligibility for Representation.

1. Fact Finding. The determination of eligibility for representation under the CJA is a judicial function to be performed by a federal judge or magistrate judge after making appropriate inquiries concerning the person's financial condition.
2. Disclosure of Change in Eligibility. If, at any time after appointment, counsel obtains information that a client is financially able to make payment, in whole or in part, for legal or other services in connection with his or her representation, and the source of the attorney's information is not protected as a privileged communication, counsel shall advise the court.

D. Number of Counsel.

1. Non-Capital Cases. Except as otherwise provided, only one attorney shall be appointed to represent a person who has requested representation under the Act. More than one attorney may be appointed in any case determined by the Court to be either unusually difficult, or extremely complex, or where the scope of the case and the anticipated length of the proceedings would make it unduly burdensome for a single attorney to handle the case. The Court shall appoint separate counsel for persons having interests that cannot be represented by the same counsel or when other good cause is shown.
2. Capital and Capital-Eligible Prosecutions. Pursuant to 18 U.S.C. § 3005, a person charged with a federal capital offense is entitled to the appointment of two attorneys, at least one of whom shall be learned in the law applicable to capital cases. Under 18 U.S.C. § 3599(a)(1)(B), if necessary for adequate representation, more than two attorneys may be appointed to represent a defendant in such a case. In assigning counsel, the Court shall consider the recommendation of the federal public defender organization.
3. Capital Habeas Corpus Proceedings. Under 18 U.S.C. § 3599(a)(2), a financially eligible person seeking to vacate or set aside a death sentence in proceedings under 28 U.S.C. § 2254 or 2255 is entitled to appointment of one or more qualified attorneys. Due to the complex, demanding, and protracted nature of death penalty proceedings, the court should consider appointing at least two attorneys.
4. Appointment of More than Two Attorneys. If more than two attorneys are appointed, the court should articulate its reasons for doing so.

E. Qualifications of Counsel.

Qualifications for appointed counsel shall be determined by the court. In capital cases, the following also applies:

1. Appointment of Counsel Prior to Judgment. Under 18 U.S.C. § 3599(b), at least one of the attorneys appointed must have been admitted to practice in the court in which the case will be prosecuted for not less than five years, and must have had not less than three years experience in the actual trial of felony prosecutions in that court. Pursuant to 18 U.S.C. § 3005, at least one of the attorneys appointed must be knowledgeable in the law applicable to capital cases. Pursuant to 18 U.S.C. § 3005, in appointing counsel in federal capital prosecutions, the court shall consider the recommendation of the Federal Public Defender.
2. Appointment of Counsel After Judgment. Under 18 U.S.C. § 3599(c), at least one of the attorneys appointed must have been admitted to practice in the court of appeals for not less than five years and must have had not less than three years experience in the handling of appeals in felony cases in the court.
3. Attorney Qualification Waiver. Under 18 U.S.C. § 3599(d), the presiding judicial officer, for good cause, may appoint an attorney who may not qualify under 18 U.S.C. § 3599(b) or (c), but who has the background, knowledge, and experience necessary to represent the defendant properly in a capital case, giving due consideration to the seriousness of the possible penalty and the unique and complex nature of the litigation.

F. Capital Cases.

Applicable Legal Authority. The appointment and compensation of counsel in capital cases and the authorization and payment of persons providing investigative, expert, and other services are governed by 18 U.S.C. §§ 3005, 3006A, and 3599, and *Guide*, Vol. 7A, Ch. 6, and the Plan for Representation on Appeal Under the Criminal Justice Act (Fifth Circuit Plan), Section 7.B2, effective October 7, 2021.

As to investigative, expert, and other services, Section 3599 (f) provides:

Upon a finding that investigative, expert, or other services are reasonably necessary for the representation of the defendant, whether in connection with issues relating to guilt or the sentence, the court may authorize the defendant's attorneys to obtain such services on behalf of the defendant and, if so authorized, shall order the payment of fees and expenses therefor under subsection (g). No *ex parte* proceeding, communication, or request may be considered pursuant to this section unless a proper showing is made concerning the need for confidentiality. Any such proceeding, communication, or request shall be transcribed and made a part of the record available for appellate review.

V. FEDERAL PUBLIC DEFENDER ORGANIZATION

A. Establishment.

1. The Federal Public Defender's Office for the Eastern District of Louisiana, previously established in this district pursuant to the provisions of the CJA, is hereby recognized as the federal public defender organization for this district.
2. The federal public defender organization shall be capable of providing legal services throughout the district, and shall maintain an office in New Orleans, Louisiana.

B. Supervision of Defender Organization. The Federal Public Defender shall be responsible for the supervision and management of the federal public defender organization. Accordingly, the Federal Public Defender shall be appointed in all cases assigned to that organization for subsequent assignment to staff attorneys at the discretion of the Federal Public Defender.

C. Management of CJA Panel. The Federal Public Defender shall be responsible for the systematic distribution of cases to and for the management of the CJA Panel subject to the provisions of the Plan for the Composition, Administration, and Management of the Panel of Private Attorneys under the Criminal Justice Act, found at the Appendix of this CJA Plan.

VI. PRIVATE ATTORNEYS

A. Organization. The Plan for the Composition, Administration, and Management of the Panel of Private Attorneys under the Criminal Justice Act is found at the Appendix of this CJA Plan.

B. Appointments. If the federal public defender organization cannot accept an appointment, the Federal Public Defender or a staff member shall select a panel attorney who is willing to undertake the representation. The appointment of a panel attorney is on a rotational basis, with the Federal Public Defender identifying the attorney next eligible and available to take a case. Exceptions are allowed due to the nature and complexity of the case, an attorney's experience, language skills, and geographical location.

C. Ratio of Appointments. Where practical and cost effective, private attorneys from the CJA Panel shall be appointed in a substantial proportion of the cases in which the accused is determined to be financially eligible for representation under the CJA. "Substantial" shall usually be defined as approximately 25% of the appointments under the CJA annually throughout the district.

VII. DUTIES OF APPOINTED COUNSEL

- A. Standards. The services to be rendered a person represented by appointed counsel shall be commensurate with those rendered if counsel were privately employed by the person.
- B. Professional Conduct. Attorneys appointed pursuant to the CJA shall conform to the highest standards of professional conduct, including but not limited to the provisions of the American Bar Association's *Model Rules of Professional Conduct* or the American Bar Association's *Model Code of Professional Conduct* and any other standards for professional conduct adopted by the Court.
- C. No Receipt of Other Payment. Appointed counsel may not require, request, or accept any payment or promise of payment or any other valuable consideration for representation under the appointment, unless such payment is approved by order of the court.
- D. Continuing Representation. Once counsel is appointed under the CJA, counsel shall continue the representation, including pursuing an appeal, or review on certiorari, until one of the following occurs: (1) the matter is concluded; (2) substitute counsel enrolls as counsel of record; (3) an order permitting the client to proceed *pro se* has been entered; or (4) a court order is entered terminating the appointment as counsel.

VIII. DUTIES OF LAW ENFORCEMENT AND RELATED AGENCIES

- A. Presentation of Accused for Appointment of Counsel. Federal law enforcement officials, prosecutorial agencies, and probation officers in this district, and those acting on their behalf, shall promptly ask any person who is in custody, or who otherwise may be entitled to counsel under the CJA, whether he or she is financially able to secure representation, and must promptly notify, telephonically or electronically, the appropriate court personnel, who in turn will notify the Federal Public Defender of the arrest of an individual in connection with a federal criminal charge. A staff member from the Federal Public Defender's Office shall discuss with the person the right to representation and right to appointed counsel, and if appointment of counsel seems likely, a financial affidavit (CJA Form 23) should be completed. Employees of law enforcement agencies or the United States Attorney's Office should not participate in the completion of the financial affidavit or seek to obtain information concerning financial eligibility from a person requesting the appointment of counsel. Arrangements shall be made to have the person promptly presented before a magistrate judge or judge of this court for determination of financial eligibility and appointment of counsel.
- B. Pretrial Interview. Prior to any probation officer interviewing a person subject to proceedings under 18 U.S.C. § 3142 et. seq., the officer shall ask any person who is in custody, or who otherwise may be entitled to counsel under the Criminal

Justice Act, whether he or she is financially able to secure representation. In those cases where the person says that he or she is unable to do so, the officer shall notify the Federal Public Defender. The Federal Public Defender or his or her representative may offer advice to the person prior to the pretrial interview or may also attend the interview itself for the purpose of providing assistance. When practicable, the probation officer will not conduct the pretrial service interview of a financially eligible defendant until counsel has been appointed, unless the right to counsel is waived or the defendant otherwise consents to a pretrial service interview without counsel.

- C. Notice of Indictment or Criminal Information. Upon the return or unsealing of an indictment, the filing of a criminal information, and where the defendant has not retained or waived counsel, the United States attorney or their delegate will promptly notify, telephonically or electronically, the appropriate court personnel, who in turn will notify the federal public defender.

IX. INVESTIGATIVE, EXPERT, AND OTHER SERVICES

- A. Financial Eligibility. Counsel for a person who is financially unable to obtain investigative, expert, or other services necessary for an adequate defense may request such services in an *ex parte* application to the court as provided in 18 U.S.C. § 3006A(e)(1), regardless of whether counsel is appointed under the CJA. Upon finding that the services are necessary, and that the person is financially unable to obtain them, the court must authorize counsel to obtain the services.
- B. Applications. In non-capital cases, requests for authorization of funds for investigative, expert, and other services must be submitted in an *ex parte* application to the court and must not be disclosed except with the consent of the person represented or as required by law or Judicial Conference policy.
- C. Compliance. Counsel must comply with Judicial Conference policies set forth in *Guide*, Vol. 7A, Ch. 3.

X. MISCELLANEOUS

- A. Claims. Claims for compensation of private attorneys and experts providing representation under the CJA shall be submitted electronically through the eVoucher system. The Federal Public Defender's office shall review the claim for technical accuracy and conformity with the *CJA Guidelines*, and, if correct, shall forward the claim for the consideration of the appropriate judge or magistrate judge. The court will exert its best effort to avoid delays in reviewing claims and authorizing them for further processing. Absent extraordinary circumstances, the court should act on CJA compensation claims within 30 days of submission, and vouchers should not be delayed or reduced for the purpose of diminishing Defender Services program costs in response to adverse financial circumstances. Except in

cases involving mathematical corrections, no claim for compensation submitted for services provided under the CJA will be reduced without affording counsel notice and the opportunity to be heard.

- B. Supersession. This Plan supersedes all prior Criminal Justice Act Plans of this Court.

XI. EFFECTIVE DATE.

This Plan shall become effective when approved by the Judges of the Eastern District of Louisiana and the Judicial Council of the Fifth Circuit.

APPENDIX

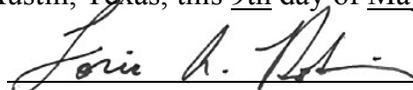
Plan for the United States District Court for the Eastern District of Louisiana for the Composition, Administration, and Management of the Panel of Private Attorneys under the Criminal Justice Act

THE JUDICIAL COUNCIL OF THE FIFTH CIRCUIT

REVIEWING PANEL — CRIMINAL JUSTICE ACT PLAN

The amended Criminal Justice Act Plan for the Eastern District of Louisiana is approved.

Entered for the Reviewing Panel at Austin, Texas, this 9th day of May, 2024.



Lorie A. Robinson
Secretary to the Judicial Council
of the Fifth Circuit

The following judges comprised and acted as the Reviewing Panel:

(a) The Judicial Council of the Fifth Circuit:

Priscilla Richman
Jennifer Walker Elrod
Edith H. Jones
Jerry E. Smith
Carl E. Stewart
Leslie H. Southwick
Catharina Haynes
Stephen A. Higginson
Dana M. Douglas
Irma Carrillo Ramirez
Nannette Jolivette Brown
Brian A. Jackson
Terry A. Doughty
Michael P. Mills
Kristi H. Johnson
David C. Godbey
Randy Crane
Rodney Gilstrap
Alia Moses

(b) Chief United States District Judge:



Nannette Jolivette Brown
Chief United States District Judge
Eastern District of Louisiana

APPENDIX
PLAN FOR THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF LOUISIANA
FOR THE COMPOSITION, ADMINISTRATION AND MANAGEMENT OF
THE PANEL OF PRIVATE ATTORNEYS UNDER THE CRIMINAL JUSTICE ACT

I. COMPOSITION OF PANEL OF PRIVATE ATTORNEYS

A. CJA PANEL

1. Approval. The Court shall establish a panel of private attorneys (hereinafter referred to as the "CJA Panel") who are eligible and willing to be appointed to provide representation under the Criminal Justice Act. The Court shall approve attorneys for membership on the panel as provided in 18 U.S.C. § 3006A(b), or delegate this authority to the CJA Panel Selection Committee. The CJA Panel Selection Committee is comprised of the Court's Criminal Law Committee (three district court judges and two magistrate judges), the Federal Public Defender, the First Assistant Federal Public Defender, the CJA Panel Representative, and the Federal Public Defender Panel Administrator. Members of the CJA Panel shall serve at the pleasure of the Court.

2. Size. The Court shall fix, periodically, the size of the CJA Panel. The panel shall be large enough to provide a sufficient number of experienced attorneys to handle the CJA caseload, yet small enough so that panel members will receive an adequate number of appointments to maintain their proficiency in federal criminal defense work, and thereby provide a high quality of representation. As of the effective date of this plan, the panel is hereby fixed at a maximum number of 100 members.

3. Equal Opportunity. All qualified attorneys shall be encouraged to participate in the furnishing of representation in CJA cases, without regard to race, color, religion, sex, age, national origin or disabling condition.

4. Application. Application forms for membership on the CJA Panel are available online at the Clerk of Court's website for the Eastern District of Louisiana, www.laed.uscourts.gov, or on the Federal Public Defender's website, www.lae.fd.org. Completed applications, along with a curriculum vitae, shall be submitted to the Federal Public Defender.

B. PANEL ATTORNEYS

1. General Qualifications. Attorneys who serve on the CJA Panel must be members in good standing of the federal bar of this district and of the State Bar of Louisiana, and have demonstrated experience in, and knowledge of, the Federal Rules of Criminal Procedure, the Federal Rules of Evidence, and the Sentencing Guidelines. The minimum relevant professional experience is three years of continuous private federal criminal practice, or five years of criminal practice in state or federal court, or three years of experience as an Assistant United States Attorney or Assistant Federal Public Defender.

However, when the district judge presiding over the case, or the chief judge if a district judge has not yet been assigned to the case, determines that the appointment of an attorney, who is not a member of the CJA Panel, is in the interest of justice, judicial economy or continuity of representation, or there is some other compelling circumstance warranting his or her appointment, the attorney may be admitted to the CJA Panel *pro hac vice* and appointed to represent the CJA defendant. Consideration for preserving the integrity of the panel selection process suggests that such appointments should be made only in exceptional circumstances. Further, the attorney, who may or may not maintain an office in the district, should possess such qualities as would qualify him or her for admission to the district's CJA Panel in the ordinary course of panel selection.

2. Special Qualifications for Capital Cases. Pursuant to 18 U.S.C. § 3599(b), at least one attorney must have been admitted to practice in the Court in which the prosecution is to be tried for not less than five years and must have had not less than three years' experience in the actual trial of felony prosecutions in that Court. The presiding judicial officer, for good cause, may appoint an attorney who may not otherwise qualify, but who has the background, knowledge, and experience necessary to properly represent the defendant.

II. SELECTION FOR APPOINTMENT

A. MAINTENANCE OF LIST AND DISTRIBUTION OF APPOINTMENTS

The Federal Public Defender shall maintain a current list of all attorneys included on the CJA Panel, with current office addresses, telephone numbers, and e-mail addresses. The Federal Public Defender shall furnish a copy of this list to each judge and magistrate judge. The Federal Public Defender shall also maintain a record of assignments to private counsel, and, when appropriate, statistical data reflecting the proration of appointments between attorneys from the Federal Public Defender's office and private attorneys, according to the formula described in the CJA Plan for the District.

B. METHOD OF SELECTION

Appointments from the list of CJA Panel attorneys should be made on a rotational basis, subject to the Court's or the Federal Public Defender's discretion to make exceptions due to the nature and complexity of the case, an attorney's experience, language skills, and geographical considerations. This procedure should result in a balanced distribution of appointments and compensation among the members of the CJA Panel, and quality representation for each CJA defendant. Upon the determination of a need for the appointment of counsel, the judge or magistrate judge shall notify the Federal Public Defender of the need for counsel and the nature of the case. All CJA panel members shall be required to accept at least one CJA appointment per twelve-month period.

The Federal Public Defender shall advise the judge or magistrate judge as to the status of distribution of cases, where appropriate, as between the Federal Public Defender and the CJA Panel. If the magistrate judge or judge decides to appoint an attorney from the panel, the Federal Public Defender shall determine the name of the next panel member on the list who has handled, or assisted in, a case of equal or greater complexity than the case for which appointment of counsel is required, and who is available for appointment, and shall provide the name to the appointing judge or magistrate judge.

In the event of an emergency, i.e., weekends, holidays, or other non-working hours of the Federal Public Defender's office, the presiding judge or magistrate judge may appoint any attorney from the list. In all cases where members of the CJA Panel are appointed out of sequence, the appointing judge or magistrate judge shall notify the Federal Public Defender as to the name of the attorney appointed and the date of the appointment.

C. TERMS OF CJA PANEL MEMBERS AND REAPPOINTMENT

The CJA Panel reappointment process will follow a staggered process, meaning that one third of the panel will be subject to reappointment annually. Current members of the panel will be divided into three groups: A, B, and C. The A group will be subject to reappointment in year 1, the B group in year 2, and the C group in year 3. In addition to re-appointments, new applicants will be considered for the relevant group each year. Once appointed or re-appointed, each member of the group will serve a full three-year term. Once established, as outlined above, the reappointment process shall occur every year for the group whose three-year term is ending as explained below:

1. The Federal Public Defender will notify CJA panel members, prior to the expiration of their current term, of the need to apply for reappointment to the CJA Panel.
2. A member of the CJA Panel who wishes to be considered for reappointment must apply for appointment to an additional term at least three months prior to the expiration of his or her current term.
3. The CJA Committee and/or CJA Supervisory Attorney will solicit input concerning the quality of representation provided by lawyers seeking reappointment.
4. The CJA Committee and/or CJA Supervisory Attorney also will consider how many cases the CJA panel member has accepted and declined during the review period, whether the member has participated in training opportunities, whether the member has been the subject of any complaints, and whether the member continues to meet the prerequisites and obligations of the CJA panel members provided in this Plan.

D. REMOVAL FROM THE PANEL

1. Mandatory Removal. Any attorney who is suspended or disbarred from the practice of law by a state court before whom such member is admitted, or who is suspended or disbarred from this court or any federal court, will be removed from the CJA Panel immediately.

2. Discretionary Removal. For good cause shown, the CJA Committee may remove an attorney from the panel for engaging in unethical behavior, improper billing, or misconduct or for failing to represent his or her client in a vigorous, competent, professional, or ethical way. In addition, any attorney who does not accept appointments consistent with the acceptance rates for their relevant panel can be removed. This authority can be delegated to the CJA Panel Selection Committee which is comprised of the Court's Criminal Law Committee (three district court judges and two magistrate judges), the Federal Public Defender, the CJA Panel Representative, and the CJA Panel Coordinating Attorney. A panel member being considered for removal will be notified and may respond in writing prior to removal from the panel.
3. Reapplication to the Panel Following Removal. Any member who is removed from the panel, whether for mandatory or discretionary reasons, may reapply for panel membership after waiting one year from the date of removal.

III. COMPENSATION

A. Policy of the Court Regarding Compensation

1. CJA panel attorneys must be compensated for time expended in court and time reasonably expended out of court and reimbursed for expenses reasonably incurred.
2. Voucher cuts should be limited to:
 - a. Mathematical errors;
 - b. Instances in which work billed was not compensable;
 - c. Instances in which work was not undertaken or completed;
 - d. Instances in which the hours billed are clearly in excess of what was reasonably required to complete the task; and
 - e. Instances in which the work is otherwise not in conformity with the Guidelines for Administering the CJA and related statutes.
3. Payment Procedures
 - a. Claims for compensation should be submitted on the appropriate CJA form through the eVoucher system.
 - b. Claims for compensation should be submitted no later than 45 days after the final disposition of the case, unless good cause is shown.
 - c. The Federal Public Defender will review the claim for mathematical and technical accuracy and for conformity with the Guide to Judiciary Policy and, if correct, will forward the claim for consideration and action by the presiding judge.
 - d. In cases where the court reduces the claim for compensation for reasons other than mathematical errors or because the billed work was not compensable, counsel may provide the presiding judge with additional written support for the denied portion of the claim within 15 days of being notified of the reduction.