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FILED
CLERK, U.S. DISTRICT COURT
December 3, 2024
CENTRAL DISTRICT OF CALIFORNIA
BY: *Natalie L. Collins* DEPUTY

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

IN THE MATTER OF
CRIMINAL JUSTICE ACT PLAN

} GENERAL ORDER NO. 24-07
} (Supersedes General Order Nos. 13-
} 04, 13-09, and 13-14)

This General Order shall be effective upon filing by the Clerk of Court after approval by the Court and the Judicial Council of the Ninth Circuit.

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**CRIMINAL JUSTICE ACT PLAN
FOR THE CENTRAL DISTRICT OF CALIFORNIA**

I. AUTHORITY

Under the Criminal Justice Act of 1964, as amended, 18 U.S.C. § 3006A (“the CJA”), and [Guide to Judiciary Policy, Volume 7A](#) (“the CJA Guidelines”), the judges of the United States District Court for the Central District of California adopt this Plan, as approved by the Ninth Circuit Judicial Council, for furnishing representation in federal court for any individual financially unable to obtain adequate representation consistent with the CJA.

II. STATEMENT OF POLICY

A. Objectives

The objectives of this Plan are to attain the goal of equal justice under the law by providing all eligible individuals with timely appointed counsel services that are consistent with the best practices of the legal profession, to ensure that services are cost-effective without compromising the quality of representation, to promote the independence of the defense function so that the rights of individuals are safeguarded and enforced, and to particularize the requirements of the CJA, the USA Patriot Improvement and Reauthorization Act of 2005 (as codified at 18 U.S.C. § 3599), the CJA Guidelines and related policies approved by the Judicial Conference of the United States or its Committee on Defender Services, the [Judicial Council of the Ninth Circuit Criminal Justice Act Policies and Procedures](#) (available at <https://www.ca9.uscourts.gov/attorneys/cja-resources/>), and the Local Rules of the Central District of California in a way that meets the needs of this district.

This Plan must be administered so that those accused of a crime, or otherwise eligible for services under the CJA, will not be deprived of the right to counsel, or any element of representation necessary to an effective defense, due to lack of financial resources.

B. Representational Services

This Plan provides for representational services by the Office of the Federal Public Defender for the Central District of California (“the FPDO”) and for the appointment of private attorneys from the CJA Trial Attorney Panel and the Appellate Attorney Panel (collectively, “CJA Panels”) and other private attorneys in limited circumstances, in cases authorized under the CJA and related statutes.

C. Compliance

The Court, its Clerk of Court/District Court Executive, the Federal Public Defender and all employees of the FPDO, all private attorneys appointed under the CJA, federal law enforcement officers, the United States Attorney’s Office (“the USAO”), and all staff of the United States District Court and Probation and Pretrial Services Office for the Central District of California must comply with this Plan; the CJA Guidelines; the [Judicial Council of the Ninth Circuit Criminal Justice Act Policies and Procedures](#); and all applicable local rules, General Orders, and local policies and procedures. The Court will ensure that a current copy of this Plan is made available on the Court’s website and provided to each new CJA Panel member.

III. DEFINITIONS

A. Appointed Attorney

An “Appointed Attorney” is an attorney designated to represent a financially eligible individual under the CJA and this Plan. Such attorneys include private attorneys, whether or not members of the CJA Panels, and the FPDO and its staff attorneys.

B. Capital Cases

For purposes of appointment of counsel under this plan, “capital cases” are: (1) prosecutions under any provision of federal law carrying a potential penalty of death; (2) direct appeals from cases wherein the death penalty was imposed by a federal court; (3) post-conviction proceedings in which an individual sentenced to death by a federal court is seeking to set aside or vacate the conviction or sentence under 28

1 U.S.C. § 2255; and (4) habeas corpus proceedings in which an individual under a
2 sentence of death imposed by a state court is seeking to set aside or vacate the
3 conviction or sentence under 28 U.S.C. § 2254.

4 **C. CJA Analyst**

5 A “CJA Analyst” is a person employed by the Court who, under the supervision
6 of the CJA Supervising Attorney, conducts first-level review of funding requests,
7 budgets, and vouchers for compliance with the Guide to Judiciary Policy, the [Judicial](#)
8 [Council of the Ninth Circuit Criminal Justice Act Policies and Procedures](#), and the
9 [Ninth Circuit CJA Compensability Handbook](#) (available at
10 <https://www.ca9.uscourts.gov/attorneys/cja-resources/>), and for mathematical and
11 technical accuracy. CJA Analysts also perform tasks related to the administration of
12 the CJA Trial Attorney Panel and the eVoucher payment system.

13 **D. CJA Office**

14 The “CJA Office” consists of the CJA Supervising Attorney and CJA Analysts.

15 **E. CJA Supervising Attorney**

16 The “CJA Supervising Attorney” is an attorney employed by the Court who,
17 when designated by the Clerk of Court/District Court Executive, may exercise the
18 authority delegated by the Court to review and approve vouchers, funding requests,
19 and budgets involving CJA funds. The CJA Supervising Attorney may also oversee
20 the CJA Office, the work of the CJA Analysts, and, under the supervision of the Chair
21 of the Court’s CJA Committee, the administration and management of the CJA Trial
22 Attorney Panel.

23 **F. CJA Panel Attorney District Representative(s)**

24 A “CJA Panel Attorney District Representative” (“Panel Representative”) is a
25 member of the district’s CJA Trial Attorney Panel who is nominated by the Federal
26 Public Defender and appointed by the Chief District Judge to represent the district’s
27 CJA Panels as part of the national Panel Attorney District Representative program
28 managed by the Defender Services division of the Administrative Office of the United

1 States Courts. One or more Panel Representatives may be selected to serve as liaisons
2 between the Court and CJA Panels, attend CJA Committee meetings, and bring matters
3 of concern to the CJA Committee’s attention. Panel Representatives also may be
4 involved with issues concerning membership on the CJA Trial Attorney Panel as well
5 as issues concerning the quality of representation provided by private attorneys
6 appointed under the CJA to represent individuals in the Central District. Panel
7 Representatives shall serve a renewable term of four years not to exceed two terms.

8 **G. Representation**

9 “Representation” includes counsel, service providers (such as paralegals,
10 investigators, or experts), litigation support vendors, and expenses.

11 **IV. COMMITTEES**

12 **A. CJA Committee**

13 **1. Composition**

14 The CJA Committee provides oversight of the selection and management of
15 CJA Trial Attorney Panel members and consists of Chair, Vice Chair, district judges,
16 and magistrate judges that are selected by the Chief District Judge and approved by the
17 Executive Committee, and the following permanent non-voting members:

- 18 a. the Federal Public Defender and/or a designee;
- 19 b. the district’s current Panel Representative(s); and
- 20 c. the district’s CJA Supervising Attorney.

21 The CJA Committee meets regularly to consider issues raised by the Court, the
22 Federal Public Defender, and the Panel Representative(s), and other issues of concern
23 relating to the criminal justice system. It may establish subcommittees that include
24 non-members to address specific CJA-related issues such as recruiting panel members,
25 training, mentoring, reviewing complaints, and reviewing voucher reductions.

1 **2. Duties**

2 **a. CJA Trial Attorney Panel Membership**

3 After review of applications for appointment or reappointment to the CJA Trial
4 Attorney Panel and the CJA Trial Attorney Panel Defense Advisory Committee's
5 recommendations, the CJA Committee will recommend to the Executive Committee
6 approval of those attorneys it concludes should be offered membership on the CJA
7 Trial Attorney Panel or participation in the mentorship program. The CJA Committee
8 will also decide which applicants will not be recommended for membership,
9 mentorship, or renewal.

10 **b. Recruitment/Mentorship**

11 The CJA Committee will strive to establish and maintain a diverse CJA Trial
12 Attorney Panel of the highest caliber federal criminal defense practitioners. In
13 conjunction with a mentoring program, the Committee will devise a recruitment
14 strategy that identifies and trains a diverse set of viable panel applicants.

15 **c. Training**

16 The CJA Committee and the Panel Representatives will assist the FPDO in
17 devising and presenting training programs for the CJA Trial Attorney Panel.

18 **d. Annual Report**

19 Annually, the CJA Committee will review panel operation and administration
20 for the preceding year and provide an oral report to the Chief District Judge describing
21 efforts to recruit qualified and diverse panel members, any proposed changes to panel
22 size, any recurring issues or difficulties panel attorneys or their clients encounter, and
23 any other operating difficulties, along with recommendations for appropriate changes.

24 **B. CJA Trial Attorney Panel Defense Advisory Committee**

25 **1. Composition**

26 The CJA Trial Attorney Panel Defense Advisory Committee ("Advisory
27 Committee") consists of the Federal Public Defender and/or designee, at least one
28 Panel Representative, and additional skilled and experienced attorneys selected from

1 the CJA Trial Attorney Panel in each of the district's three geographic divisions. The
2 Federal Public Defender recommends candidates for the Advisory Committee, who
3 must be approved by the Chief District Judge.

4 **2. Duties**

5 The Advisory Committee assists the Court in the selection, oversight, and
6 management of CJA Trial Attorney Panel members. Its members examine
7 applications for appointment or reappointment to the CJA Trial Attorney Panel, review
8 written work product, independently investigate prior casework, interview references
9 and other members of the criminal justice community, and recommend to the CJA
10 Committee approval of those attorneys deemed qualified to serve on the CJA Trial
11 Attorney Panel or to be accepted as part of the Court's mentorship program. The
12 Advisory Committee will also recommend the non-renewal of any CJA Trial Attorney
13 Panel member who fails to satisfy the requirements of panel membership, including
14 failing to provide high quality representation, or engaging in conduct that would render
15 continued panel service inappropriate. Upon request by the CJA Committee Chair, the
16 Advisory Committee may be asked to provide a recommendation regarding the
17 discipline of a panel attorney including, but not limited to, probation, suspension, or
18 removal.

19 **C. Executive Committee**

20 The Executive Committee is a Court committee comprised of district judges.
21 The Executive Committee will review the recommendations of the CJA Committee
22 regarding applicants found qualified to serve on the CJA Trial Attorney Panel or to be
23 accepted as part of the Court's mentorship program. The Executive Committee's
24 decision to add an applicant to the panel, either as a panel applicant or a graduate of
25 the mentorship program, must be approved by the full Court.

26 **D. CJA Peer Review Committee**

27 The [CJA Peer Review Committee](#) reviews and makes recommendations
28 concerning voucher payment reductions, as provided in Section X.E. of this Plan. The

1 CJA Peer Review Committee shall consist of two groups of five members. Each group
2 shall have one FPD designee, one CJA Panel Representative, and three CJA Trial
3 Attorney Panel members selected by the CJA Committee upon review of submitted
4 applications to the CJA Supervising Attorney. Members of the CJA Peer Review
5 Committee will initially serve a term of two years and may be extended for additional
6 terms by the CJA Committee.

7 **V. FEDERAL PUBLIC DEFENDER**

8 **A. Establishment**

9 The Office of the Federal Public Defender for the Central District of California
10 is established in this district under the CJA and is responsible for rendering defense
11 services on appointment throughout this district. The FPDO is also responsible for
12 administering the Appellate Attorney Panel, as provided in Section VII of this Plan,
13 and the CJA panel attorney mentoring program.

14 **B. Staff Supervision and Case Workload**

15 The Federal Public Defender is responsible for supervising and managing the
16 FPDO. Accordingly, the Federal Public Defender will be appointed in all cases
17 assigned to that organization for subsequent assignment to staff attorneys at the
18 Federal Public Defender's discretion. The Federal Public Defender will continually
19 monitor staff workloads to ensure high-quality representation for all clients.

20 **C. Standards and Professional Conduct**

21 The FPDO must provide high-quality representation consistent with the best
22 practices of the legal profession and must conform to the highest standards of
23 professional conduct, including but not limited to the American Bar Association's
24 Model Rules of Professional Conduct, the Code of Conduct for Federal Public
25 Defender Employees, or other standards for professional conduct adopted by the Court.

1 **D. Private Practice of Law**

2 Neither the Federal Public Defender nor any employee of the FPDO may engage
3 in the private practice of law except as authorized by the Code of Conduct for Federal
4 Public Defender Employees.

5 **E. Panel Attorney Training**

6 In coordination with the Panel Representative(s) and the CJA Committee, the
7 FPDO will assess the training needs of the CJA Panels and provide regularly scheduled
8 training opportunities and other educational resources that include updates regarding
9 substantive law, sharing best practices in federal criminal defense, and presentations on
10 courtroom and office technology.

11 **VI. CJA TRIAL ATTORNEY PANEL**

12 **A. Establishment**

13 The Court has established a panel of attorneys who are eligible and willing to be
14 appointed to provide representation under the CJA for financially eligible individuals
15 (“CJA Trial Attorney Panel”). Attorneys are assigned to a panel in one or more of the
16 Court’s geographic divisions based on the location of their residences or offices and
17 the needs of the Court. If needed, a member of any division panel may be appointed to
18 a case pending in any other division. Nothing in this Plan creates a property interest in
19 being or remaining on the CJA Trial Attorney Panel.

20 **B. Administration**

21 The CJA Trial Attorney Panel shall be administered by the Court.

22 **C. Size**

23 The CJA Trial Attorney Panel size will be determined by the CJA Committee,
24 subject to the Court’s review, based on panel member caseloads, activity, and quality
25 of applicants in a given year. The goal is for the CJA Trial Attorney Panel to be large
26 enough to provide a sufficient number of experienced attorneys to handle the CJA
27 caseload, yet small enough so panel members will each receive an adequate number of
28 appointments to maintain their federal criminal defense work proficiency, enabling

1 them to provide high quality representation consistent with the best practices of the
2 legal profession. The Court prefers that panel members accept assignment of at least
3 four cases per year, but in any event, panel members must maintain proficiency in
4 federal criminal practice through private or appointed representation.

5 **D. Qualifications and Initial Appointment**

6 **1. Equal Opportunity**

7 All qualified attorneys are encouraged to apply for CJA Trial Attorney Panel
8 membership. Neither the CJA Committee nor the CJA Trial Attorney Panel Defense
9 Advisory Committee shall discriminate against, or grant preferential treatment to, any
10 individual or group on the basis of race, sex, color, ethnicity, national origin, gender
11 identity, sexual orientation, age, religion, or disability.

12 **2. Application**

13 Application forms for CJA Trial Attorney Panel membership are available on
14 the Court's website at www.cacd.uscourts.gov/attorneys/cja. Applications must be
15 submitted to the CJA Office at cja@cacd.uscourts.gov on or before June 1 (or the next
16 business day if June 1 falls on a weekend or holiday) to be considered for panel service
17 starting January 1 of the following calendar year. Timely applications will be
18 reviewed first by the Advisory Committee, whose recommendations regarding Panel
19 membership or participation in the mentorship program will be presented to the CJA
20 Committee. The CJA Committee will consider those recommendations and the
21 application materials and recommend to the Executive Committee approval of those
22 attorneys it concludes should be offered membership on the CJA Trial Attorney Panel
23 or participation in the mentorship program. Applicants not found qualified by the CJA
24 Committee will not be offered membership or mentorship. If the Executive Committee
25 approves the CJA Committee's recommendations regarding new members and
26 mentees, those recommendations will be forwarded to the full Court. If approved by
27 the Court, the applicant will be offered membership or the ability to participate in the
28

1 mentorship program. Applicants are generally informed of the Court’s decision in
2 approximately November.

3 **3. Eligibility**

4 Members of the CJA Trial Attorney Panel are highly skilled criminal defense
5 attorneys who are committed to defending the rights of individuals charged with the
6 commission of a federal crime. The selection process includes evaluation of the panel
7 applicant’s state and federal criminal trial experience, written work product, verbal
8 advocacy skills, and demonstrated ability to represent indigent individuals. Input from
9 peers and judicial officers before whom prospective panel members appear may be
10 sought.

11 Applicants to the CJA Trial Attorney Panel must:

- 12 a. be members in good standing of the State Bar of California, the federal
13 bar of this district, and the Ninth Circuit Court of Appeals (Court or Bar
14 charges or discipline, including monetary sanctions, while not
15 automatically disqualifying, must be explained to the satisfaction of the
16 Advisory Committee and the Court);
- 17 b. maintain an office (home, primary, satellite, or shared) in the division of
18 the Central District of California for which the applicant intends to be
19 assigned;
- 20 c. possess sufficient knowledge and experience in federal court criminal
21 matters, with hands-on experience in matters at the trial court level,
22 including bail hearings, pre-trial motions, trial proceedings, and
23 sentencing hearings;
- 24 d. demonstrate proficiency with the Bail Reform Act, Recommendations for
25 Electronically Stored Information Discovery Production in Federal
26 Criminal Cases (“ESI Protocol”), Federal Rules of Evidence, Federal
27 Rules of Criminal Procedure, Federal Rules of Appellate Procedure,
28

1 United States Sentencing Guidelines, federal sentencing procedures, and
2 the Local Rules of this Court;

- 3 e. have the training and ability to manage and effectively utilize electronic
4 case presentation equipment and software in the courtroom and manage
5 electronic discovery;
- 6 f. have significant experience representing individuals charged with serious
7 criminal offenses and demonstrate a commitment to the defense of
8 individuals who lack the financial means to hire an attorney.
- 9 g. have experience or demonstrated ability to be able to communicate with
10 and advocate for indigent individuals.
- 11 h. have the ability to research, prepare, and present written and oral
12 arguments on behalf of individuals beyond the filing of generic or canned
13 briefs and the making of routine arguments.
- 14 i. exhibit good moral and ethical character and have demonstrated
15 professional demeanor with the Court and court staff. Criminal charges or
16 convictions, while not automatically disqualifying, must be explained to
17 the satisfaction of the Advisory Committee and the Court.
- 18 j. have sufficient computer-related skills to e-file documents in accordance
19 with the Court's rules and orders and to submit vouchers and funding
20 authorizations in eVoucher.
- 21 k. At a minimum, counsel must have completed 20 hours of MCLE or
22 equivalent training in criminal law, criminal procedure, or related topics
23 with an emphasis on criminal law in the two-year period preceding the
24 submission of the panel application and must have at least one of the
25 following:
- 26 1. practiced primarily criminal law in federal court for five years;
 - 27 2. been employed for the last three years in the criminal division of
28 the USAO or FPDO; or

- 1 3. had primary responsibility as counsel of record in at least 40
2 criminal cases (state or federal), including serving as second chair
3 in at least two federal felony trials, and have chaired or second-
4 chaired at least four sentencing hearings where the USSG applied.

5 Applicants who do not meet these criteria must explain their relevant
6 qualifications and experiences and how those will be transferable to federal felony
7 practice in the Central District of California.

8 **E. Renewal**

9 Once appointed, CJA Trial Attorney Panel members will serve an initial term of
10 two years; subsequent appointments will be for terms of three years unless the CJA
11 Committee determines based on individual circumstances that a member should be
12 renewed for less than a three-year term. Panel members may serve an unlimited
13 number of terms.

14 Applications for panel renewal must be submitted by June 1 of the last year of a
15 member's term. The Court will remind CJA Trial Attorney Panel members of the need
16 to apply for renewal approximately one month prior to the June 1 deadline. Each panel
17 member seeking renewal must submit a renewal application that includes an updated
18 summary of trial-level work performed over the preceding term.

19 Renewal is granted at the discretion of the CJA Committee, which, with the
20 assistance of the Advisory Committee, may:

- 21 a. solicit input from the legal community and the Court concerning the
22 quality of representation provided by the panel member seeking renewal;
23 b. request a personal interview with the panel member;
24 c. review the panel member's written work product;
25 d. consider the number of cases the panel member accepted and declined
26 during the review period;

- 1 e. consider whether the panel member is regularly available on duty days
- 2 and makes arrangements for backup coverage on those occasional
- 3 instances when unable to appear;
- 4 f. consider the panel member's participation in training opportunities;
- 5 g. consider whether the panel member continues to meet this Plan's
- 6 technology and facilities requirements;
- 7 h. consider whether the panel member has been the subject of any
- 8 complaints;
- 9 i. consider whether the panel member continues to meet the prerequisites
- 10 and obligations of panel members or applicants as set forth in this Plan;
- 11 j. consider whether the member has complied with this Plan's MCLE
- 12 requirements;
- 13 k. evaluate the quality of the panel member's work;
- 14 l. consider whether the panel member has complied with the Court's CJA
- 15 [Billing Guide](#);
- 16 m. consider the number and scope of *nunc pro tunc* funding requests
- 17 submitted by the panel member;
- 18 n. consider the ability of the panel member to seek and manage funding for
- 19 service providers and experts including, but not limited to, the quality of
- 20 justification provided to support a funding request, the timely submission
- 21 of the funding request, and the timely creation of a CJA-21 or CJA-31
- 22 voucher required to enable the service provider and expert to submit
- 23 timely vouchers;
- 24 o. consider whether any sanctions have been threatened or imposed; and
- 25 p. consider whether the panel member's performance over the preceding
- 26 term has conformed to applicable standards for the provision of services
- 27 to indigent individuals, including, but not limited to, the ABA's [Criminal](#)
- 28 [Justice Standards for the Defense Function](#).

F. Suspension or Removal

Panel attorneys serve at the pleasure of the Court, as membership is a privilege, not a right. An attorney may be suspended or removed from the CJA Trial Attorney Panel at any time at the discretion of the CJA Committee. The CJA Committee may also decide to do one or more of the following: renew a panel member for a term less than three years, place the panel member on probation, require training, or take any other action or impose any other conditions it deems appropriate.

While any suspension or removal is considered final by the Court, a panel member may submit a new application for panel membership if the panel member believes performance issues have been adequately addressed. An application for reappointment may be submitted for a term beginning at least one full year after the suspension, removal, or non-renewal.

The FPDO will be immediately notified when any member of the CJA Trial Attorney Panel is removed.

1. Summary Removal

Pursuant to the Court's responsibilities to assure compliance with the Sixth Amendment and notwithstanding Local Rule 83-3.2.1, in the event a panel member is disbarred from the practice of law by the California Supreme Court or by this Court, the CJA Committee shall summarily remove that individual from the CJA Trial Attorney Panel, and that attorney shall not be appointed to represent future individuals financially eligible for CJA funding. The Chair of the CJA Committee or designee shall immediately notify the panel member of the action taken and the reasons therefor. The attorney's representation of then-existing panel clients shall cease, and substitute counsel will be appointed.

2. Automatic Disciplinary Review

The CJA Committee will conduct an automatic disciplinary review of any CJA Trial Attorney Panel member against whom any licensing authority, grievance committee, or administrative body has acted, or when a finding of probable cause,

1 contempt, sanction, or reprimand has been made against the panel member by any state
2 or federal court.

3 **3. Other Grounds for Suspension, Removal, or Non-Renewal**

4 Suspension, removal, or non-renewal may result if the CJA Committee
5 determines that a panel member has failed to fulfill the obligations of panel
6 membership or has engaged in other conduct warranting such action. In addition to the
7 grounds for summary removal identified above, grounds for suspension, removal, or
8 non-renewal may include, but are not limited to, suspension or disbarment from the
9 practice of law in any jurisdiction; conviction of a felony or any misdemeanor
10 involving moral turpitude; inclusion of false or misleading information in CJA
11 vouchers; unjustified or frequent failure to comply with the obligation to accept
12 appointments; failure to comply with the eligibility requirements for membership;
13 failure to comply with the applicable MCLE requirements; violation of applicable
14 Rules of Professional Conduct; violation of the rulings or orders of a judicial officer;
15 failure to provide assistance of counsel within the standards of the Sixth Amendment
16 of the United States Constitution; general lack of professional competence; and mental
17 or emotional instability affecting professional responsibilities.

18 **G. Complaints**

19 **1. Initiation**

20 A complaint about a panel member's performance may be initiated by any
21 concerned individual. Complaints should be directed to the CJA Committee Chair or
22 designee. Complaints must be in writing and state the alleged deficiency with
23 specificity.

24 **2. Preliminary Protective Action**

25 In response to a complaint, the CJA Committee Chair may initiate a preliminary
26 investigation or temporarily take the CJA Trial Attorney Panel member off rotation if
27 necessary to protect the panel member's clients or in the interests of justice. In exigent
28 circumstances, the CJA Committee Chair may consult with the Chief Judge and the

1 presiding judge(s) on the panel member's cases, and the Court may take any protective
2 action that is in the best interest of the panel member's clients or the administration of
3 this Plan, including the removal of the panel member from one or more pending cases.

4 **3. CJA Committee Review**

5 Whether or not any preliminary protective action is taken, the complaint must be
6 presented to the CJA Committee at its next meeting. The CJA Committee will
7 determine whether any further investigation is necessary.

8 **4. Notice**

9 If preliminary protective action is taken or if the CJA Committee decides that
10 further investigation is necessary, the CJA Committee Chair will notify the panel
11 member in writing of the status of the matter, of any specific allegations not previously
12 communicated to the panel member, and of the deadline by which the panel member
13 may submit a response.

14 **5. Response**

15 Before any final action is taken, a panel member must be given the opportunity
16 to respond.

17 **6. Review and Recommendation**

18 After investigation and review, the CJA Committee may recommend closing the
19 matter with no further action or may recommend appropriate remedial action,
20 including:

- 21 a. taking the panel member off rotation for a period of time;
- 22 b. informing the presiding judges;
- 23 c. removing the panel member from the panel permanently or temporarily;
- 24 d. limiting the panel member's participation to certain categories of cases;
- 25 e. directing the panel member to complete specific training requirements
26 before receiving further panel appointments;

- f. limiting the panel member's participation to handling cases that are directly supervised or overseen by another panel member or other experienced practitioner or assigning a mentor;
- g. directing the panel member to attend counseling for substance abuse issues; or
- h. any other appropriate remedial action.

7. Oversight of Remedial Action

Should the CJA Committee recommend any remedial action on the part of the panel member, the CJA Committee will establish a plan for overseeing completion of conditions for full panel reinstatement.

8. Final Disposition by the Court

On behalf of the Court, the CJA Committee will determine what, if any, action will be taken in response to a complaint or other notice of a panel member's failure or inability to adhere to the requirements of panel membership.

9. Confidentiality

Information acquired concerning complaints and potential disciplinary action will remain confidential unless otherwise directed by the CJA Committee or the Court, or required by applicable ethical standards.

H. No Right to Review

The CJA Committee's decisions concerning renewal, suspension, or removal of panel members are final and not subject to review.

I. Duties

1. Standards and Professional Conduct

CJA Trial Attorney Panel members must provide high quality representation consistent with the legal profession's best practices. CJA Trial Attorney Panel members will be guided in their practice by the [Federal Adaptation of the National Legal Aid and Defender Association Performance Guidelines for Criminal Defense Representations](#) and the ABA's [Criminal Justice Standards for the Defense Function](#).

1 Members must be familiar with, and comply with, all Federal Rules of Criminal
2 Procedure, all relevant Federal Rules of Civil Procedure, this Court's General Orders
3 and Local Rules, and the CJA Guidelines.

4 Attorneys appointed under the CJA must conform to the highest standards of
5 professional conduct. Each panel member must be familiar with and comply with the
6 standards of professional conduct required of members of the State Bar of California
7 and contained in the State Bar Act, the Rules of Professional Conduct of the State Bar
8 of California, and the decisions of any applicable court. The Model Code of
9 Professional Conduct of the American Bar Association may be considered for
10 guidance.

11 A panel member who is unable to personally fulfill his or her obligation to an
12 individual for any reason should immediately so notify the assigned judge and the CJA
13 Committee Chair in writing. Panel members must also notify the CJA Supervising
14 Attorney within seven days of learning of any new information that would have been
15 responsive to the questions on the initial application relating to the following: (1)
16 felony or misdemeanor arrests, charges, or convictions; (2) removal or voluntary
17 resignation from any indigent defense panel (except for reasons of relocation or
18 rotation as part of the panel's regular procedures) or removal from eligibility to receive
19 appointments by any state, county, federal district, or circuit court; (3) discharge,
20 disbarment, suspension, disqualification, discipline, or failure to permit renewal of any
21 license by any federal or state government, court, administrative agency, or bar
22 association; (4) citation for contempt by any court or other body having the power of
23 contempt; (5) any written inquiry by any court, administrative agency, or bar
24 association concerning the panel member's professional conduct or professional ethics
25 (including billing practices); (6) any sanction by any court or agency; (7) any removal
26 from representation of a client (unless it was due to substitution by private counsel or
27 due to a conflict with another client); and (8) any finding by any court, or any assertion
28 by the panel member to a court, that the panel member has provided ineffective

1 assistance of counsel. Panel members are required to forward to the CJA Supervising
2 Attorney all relevant information and documents concerning such matters.

3 **2. Training and Continuing Legal Education**

4 CJA Trial Attorney Panel members are expected to remain current with
5 developments in federal criminal defense law, practice, and procedure, including
6 electronic discovery techniques.

7 CJA Trial Attorney Panel members must annually attend eight hours of
8 Continuing Legal Education relevant to federal criminal practice, including trainings
9 sponsored by the FPDO. In addition, panel members are required to attend one annual
10 meeting of the entire CJA Trial Attorney Panel. This meeting addresses issues
11 concerning the administration of the panel and provides training for panel members.

12 Failure to comply with these training and legal education requirements may be
13 grounds for removal from the CJA Trial Attorney Panel.

14 **3. Facilities and Technology Requirements**

15 CJA Trial Attorney Panel members must have the facilities, resources, and
16 technological capability to effectively and efficiently manage assigned cases, including
17 the availability of office space to meet with clients and the technological resources to
18 receive, review, organize, and otherwise manage electronic discovery and records.

19 CJA Trial Attorney Panel members must know and comply with the
20 requirements of electronic filing and eVoucher, including how to submit requests for
21 investigative, expert, and other services.

22 **VII. APPELLATE ATTORNEY PANEL**

23 **A. Establishment**

24 The Court delegates to the FPDO the authority to establish a panel of attorneys
25 who are eligible and willing to be appointed to provide appellate representation under
26 the CJA for financially eligible individuals (“Appellate Attorney Panel”).
27
28

B. Administration

The FPDO shall create procedures, requirements, and performance standards for the selection, reappointment, and removal of Appellate Attorney Panel members and make this information available on its public website. This information also shall be provided to the CJA Supervising Attorney for inclusion on the Court's website.

In establishing procedures for the selection, reappointment, and removal of Appellate Attorney Panel members, the FPDO will be guided by this Plan's provisions concerning the eligibility, removal, and complaint procedures for CJA Trial Attorney Panel members. The FPDO also will engage in recruitment efforts to establish a diverse panel and ensure that all qualified attorneys are encouraged to participate in the furnishing of appellate representation in CJA cases.

Nothing in this Plan or in the [FPDO's Appellate Attorney Panel procedures](#) creates a property interest in being or remaining on the Appellate Attorney Panel.

C. Training

The FPDO shall devise and present training programs specifically for the Appellate Attorney Panel and arrange for moot courts.

D. Case Assignments

When appointment of appellate counsel is appropriate, the FPDO shall determine whether the case should be assigned to the FPDO. If the FPDO is unable to accept appointment, the FPDO will assign a panel member based on the nature of the case and qualifications and experience of the available panel members.

Once an assignment is made, a letter providing the name of the assigned panel member shall be sent to the Ninth Circuit, the District Court, and counsel. The appropriate court will then enter the order of appointment.

1 **VIII. ELIGIBILITY FOR REPRESENTATION UNDER THE CRIMINAL**
2 **JUSTICE ACT**

3 **A. Subject Matter Eligibility**

4 **1. Mandatory**

5 Representation must be provided for any financially eligible individual who:

- 6 a. is charged with a felony or with a Class A misdemeanor;
 - 7 b. is a juvenile alleged to have committed an act of juvenile delinquency as
8 defined in 18 U.S.C. § 5031;
 - 9 c. is charged with a violation of probation, or faces a change of a term or
10 condition of probation (unless the modification sought is favorable to the
11 probationer and the government has not objected to the proposed change);
 - 12 d. is under arrest, when appointed representation is required by law;
 - 13 e. is entitled to appointed counsel in parole proceedings;
 - 14 f. is charged with a violation of supervised release or faces modification,
15 reduction, or enlargement of a condition, or extension or revocation of a
16 term of supervised release;
 - 17 g. is subject to a mental condition hearing under 18 U.S.C. chapter 313;
 - 18 h. is in custody as a material witness;
 - 19 i. is seeking to set aside or vacate a death sentence under 28 U.S.C. § 2254
20 or § 2255 or when an evidentiary hearing is warranted in a non-capital
21 proceeding under 28 U.S.C. § 2254 or § 2255;
 - 22 j. is entitled to appointment of counsel in verification of consent
23 proceedings in connection with a transfer of an offender to or from the
24 United States for the execution of a penal sentence under 18 U.S.C.
25 § 4109;
 - 26 k. is entitled to appointment of counsel under the Sixth Amendment to the
27 Constitution;
- 28

- 1 l. faces loss of liberty in a case, and federal law requires the appointment of
2 counsel; or
3 m. is entitled to counsel as otherwise provided by law or by the CJA
4 Guidelines.

5 **2. Discretionary**

6 Whenever a district judge or magistrate judge determines that the interests of
7 justice so require, representation may be provided for any financially eligible
8 individual who:

- 9 a. is charged with a petty offense (Class B or C misdemeanor, or an
10 infraction) for which a sentence to confinement is authorized;
11 b. is seeking relief under 28 U.S.C. §§ 2241, 2254, or 2255 other than to set
12 aside or vacate a death sentence, unless an evidentiary hearing is
13 warranted (see *supra*, Section VIII.A.1.i);
14 c. is charged with civil or criminal contempt and faces loss of liberty;
15 d. has been called as a witness before a grand jury, a court, the Congress, or
16 a federal agency or commission which has the power to compel
17 testimony, and there is reason to believe, either prior to or during
18 testimony, that the witness could be subject to a criminal prosecution, a
19 civil or criminal contempt proceeding, or face loss of liberty;
20 e. has been advised by the United States attorney or a law enforcement
21 officer that they are the target of a grand jury investigation;
22 f. is proposed by the United States attorney for processing under a pretrial
23 diversion program; or
24 g. is held for international extradition under 18 U.S.C. chapter 209.

25 **3. Ancillary Matters**

26 The Court has the discretion to appoint counsel for financially eligible
27 individuals in ancillary matters appropriate to the criminal proceedings under 18
28 U.S.C. § 3006A(c). In determining whether representation in an ancillary matter is

1 appropriate to the criminal proceedings, the Court should consider whether such
2 representation is reasonably necessary to:

- 3 a. protect a constitutional right;
- 4 b. contribute in some significant way to the defense of the principal criminal
5 charge;
- 6 c. aid in preparation for the trial or disposition of the principal criminal
7 charge;
- 8 d. enforce the terms of a plea agreement in the principal criminal charge;
- 9 e. preserve the claim of the CJA client to an interest in real or personal
10 property subject to civil forfeiture proceeding under 18 U.S.C. § 983, 19
11 U.S.C. § 1602, 21 U.S.C. § 881, or similar statutes, which property, if
12 recovered by the client, may be considered for reimbursement under 18
13 U.S.C. § 3006A(f); or
- 14 f. effectuate the return of real or personal property belonging to the CJA
15 client, which may be subject to a motion for return of property under Fed.
16 R. Crim. P. 41(g), which property, if recovered by the client, may be
17 considered for reimbursement under 18 U.S.C. § 3006A(f).

18 **B. Financial Eligibility**

19 **1. Presentation of Accused for Financial Eligibility Determination**

20 **a. Duties of Federal Law Enforcement Officers**

- 21 (1) For the purpose of ensuring that eligible individuals
22 have access to counsel as soon as practicable, federal
23 law enforcement officials must promptly notify,
24 telephonically or electronically, the appropriate court
25 personnel of an arrest, unless the individual has
26 retained counsel. Court personnel will in turn notify
27 the FPDO of the arrest or, if the FPDO is known to be
28

1 conflicted, notify a member of the CJA Trial Attorney
2 Panel.

- 3 (2) Employees of law enforcement agencies may not
4 participate in the completion of the financial affidavit
5 or seek to obtain information concerning financial
6 eligibility from an individual requesting the
7 appointment of counsel.

8 **b. Duties of the United States Attorney's Office**

- 9 (1) Upon the return or unsealing of an indictment, the
10 filing of a criminal complaint or information, and
11 where the individual has not retained counsel, the
12 USAO will promptly notify, telephonically or
13 electronically, appropriate court personnel, who in turn
14 will notify the FPDO or a member of the CJA Trial
15 Attorney Panel if the FPDO is known to be conflicted
16 for purposes of determining financial eligibility for
17 court-appointed counsel.

- 18 (2) Upon issuance of a target letter, and where the
19 individual has not retained counsel, the Court
20 encourages the USAO to promptly notify,
21 telephonically or electronically, the FPDO. If
22 informed by or already aware that the FPDO has an
23 actual or potential conflict with the target, the Court
24 encourages the USAO to promptly notify appropriate
25 court personnel, who will facilitate the designation of a
26 member of the CJA Trial Attorney Panel. The FPDO
27 or designated Panel Member will file an *ex parte*
28

1 request, under seal and *in camera*, to determine
2 financial eligibility for court-appointed counsel.

- 3 (3) Employees of the USAO may not participate in the
4 completion of the financial affidavit.

5 **c. Duties of the Office of the Federal Public Defender**

- 6 (1) In cases in which the FPDO may be appointed, the
7 FPDO will immediately investigate and determine
8 whether an actual or potential conflict exists and, if so,
9 must promptly notify the Court to facilitate the timely
10 appointment of other counsel.

- 11 (2) Whenever practicable, the FPDO will discuss with the
12 individual the right to appointed counsel, assist with
13 completion of a financial affidavit (Form CJA 23), and
14 arrange to have the matter promptly presented before a
15 judicial officer of this Court to determine financial
16 eligibility and counsel appointment.

17 **d. Duties of the Probation and Pretrial Services Office**

- 18 (1) When counsel has been assigned, counsel will be
19 provided notice and a reasonable opportunity to attend,
20 upon request, any interview of the individual by the
21 pretrial services officer prior to the initial pretrial
22 release or detention hearing.

- 23 (2) Unless it is not practicable, the pretrial services officer
24 will not conduct the pretrial services interview of a
25 financially eligible individual until counsel has been
26 appointed, unless the right to counsel is waived, or the
27 individual otherwise consents to a pretrial services
28 interview without counsel.

2. Eligibility Determination

In every case where 18 U.S.C. § 3006A(a) and related statutes authorize appointment of counsel, the Court must advise the individual that he or she has a right to be represented by counsel throughout the case and that, if so desired, the Court will appoint counsel to represent the individual if he or she is financially unable to obtain counsel.

The completed financial eligibility affidavit (Form CJA 23) should reflect relevant information bearing on the individual's financial eligibility for appointed counsel.

Determining eligibility for representation under the CJA is a judicial function performed by the Court after making appropriate inquiries concerning the individual's financial eligibility. Other employees of the Court may be designated to obtain or verify the facts relevant to the financial eligibility determination if the FPDO is not available.

3. Standards

- a. In determining whether an individual is "financially unable to obtain counsel," the Court should consider the cost of providing the individual and the individual's dependents with life's necessities, the cost of securing pretrial release, asset encumbrance, and the likely cost to retain counsel.
- b. The initial eligibility determination must be made without regard to the financial ability of the individual's family to retain counsel unless the individual's family indicates a willingness and ability to do so promptly.
- c. Any doubts about an individual's eligibility should be resolved in the individual's favor; erroneous determinations of eligibility may be corrected later.

- 1 d. If, at any time after appointment, appointed counsel has
- 2 reason to believe that an individual is financially able to
- 3 retain private counsel or make partial payment for the
- 4 appointed representation, and the source of counsel’s
- 5 information is not protected as a privileged communication,
- 6 counsel will advise the Court.

- 7 e. If at any time after the appointment of counsel a judge finds
- 8 that an individual provided representation is financially able
- 9 to retain private counsel or make partial payment for the
- 10 appointed representation, the judge may terminate the
- 11 counsel appointment or direct the individual to pay available
- 12 funds as provided in 18 U.S.C. § 3006A(f).

- 13 f. If at any stage of the proceedings a judge finds that an
- 14 individual is no longer financially able to pay retained
- 15 counsel, counsel will be appointed in accordance with the
- 16 general provisions set forth in this Plan.

- 17 g. If at any stage of the proceedings a judge finds that a pro se
- 18 or privately represented individual is not financially able to
- 19 pay other representation costs, including investigative,
- 20 expert, or other services, funding may be authorized for those
- 21 costs in accordance with the general provisions set forth in
- 22 this Plan.

23 **IX. APPOINTMENT OF COUNSEL**

24 **A. Timely Appointment of Counsel**

25 Eligible individuals must receive appointed counsel as soon as feasible. This
26 means as soon as possible after receiving a target letter, after being taken into custody,
27 upon appearing before a judicial officer, when formally charged, when notified of
28

1 charges if formal charges are sealed, or when a judicial officer otherwise determines
2 appointed counsel is appropriate under the CJA or this Plan, whichever occurs earliest.

3 When practicable, unless the right to counsel is waived or the individual
4 otherwise consents to a pretrial services interview without counsel, financially eligible
5 individuals will be provided counsel prior to being interviewed by a pretrial services
6 officer.

7 Appointment of counsel may be made retroactive to include representation
8 provided prior to appointment.

9 **B. Counsel Appointment in Non-Capital Cases**

10 **1. Apportionment of Cases**

11 CJA Trial Attorney Panel members will be appointed in a sufficient number of
12 cases per year so that panel members remain proficient in criminal defense work.

13 **2. Duty Responsibilities**

14 It is the responsibility of each panel member to notify the Court if the panel
15 member is unable to accept appointment on a case because of caseload, calendar, or
16 personal issues. Each panel member must ensure that the panel member's duty days
17 are properly covered by other panel members in the event the panel member on duty is
18 unavailable for any reason. The Court expects each panel member to accept
19 appointment in cases regardless of the nature of the case.

20 **3. Number of Counsel**

21 A CJA Trial Attorney Panel member who has been appointed in a case may not
22 utilize the services of associates or co-counsel without prior authorization. To enlist
23 associate counsel, the appointed CJA Trial Attorney Panel member must follow the
24 procedures outlined in the [Associate Counsel Policy](#), included in the [Billing Guide](#). To
25 enlist co-counsel, the appointed CJA Trial Attorney Panel member must file a motion
26 for appointment by the presiding judge. Co-counsel may be appointed if the presiding
27 judge finds that the case is extremely difficult or that the appointment is necessary in
28 the interests of justice to ensure high quality representation. Seeking funding for a

1 paralegal/lawyer at the service provider hourly rate is not considered a request for
2 associate counsel or co-counsel and can be approved directly by the CJA Supervising
3 Attorney upon a finding that the services are necessary for adequate representation.

4 **4. Appointment List**

5 The Court will maintain a current list of all CJA Trial Attorney Panel members,
6 with current office addresses, email addresses, and telephone numbers.

7 **5. Appointment Procedure**

8 The Court is responsible for overseeing the appointment of cases to panel
9 members. The Court will maintain a record of panel member appointments and data
10 reflecting the proportion of appointments among the CJA Trial Attorney Panel and
11 FPDO.

12 In cases in which the FPDO has a conflict of interest or is otherwise unable to
13 accept appointment, appointment of cases to CJA Trial Attorney Panel members will
14 ordinarily be made on a rotational basis. However, in a complex or otherwise difficult
15 case, the Court may appoint CJA counsel outside of the normal rotation to ensure the
16 individual has sufficiently experienced counsel.

17 Under special circumstances, the Court may appoint an attorney who is not a
18 member of the District's CJA Trial Attorney Panel. Such special circumstances may
19 include cases in which the Court determines that the appointment of a particular
20 attorney is in the interests of justice, judicial economy, or continuity of representation,
21 or for any other compelling reason. Other circumstances may include large multi-
22 defendant cases for which there is an insufficient number of CJA Trial Attorney Panel
23 members in the District. It is not anticipated that special circumstances will arise
24 often, and the procedures set forth in the Plan are presumed to be sufficient in the vast
25 majority of cases in which counsel are to be appointed. Non-panel appointed attorneys
26 are subject to all of the CJA Trial Attorney Panel duties and obligations.

1 **6. Continuing Representation**

2 Once counsel is appointed under the CJA, counsel will continue the
3 representation until:

- 4 a. the matter is closed, including conclusion of any appellate or certiorari
- 5 proceedings;
- 6 b. substitute counsel has filed a notice of appearance;
- 7 c. an order is entered allowing the client to proceed pro se; or
- 8 d. the appointment is otherwise terminated by Court order.

9 Appointed counsel is also expected to represent the client in connection with
10 issues concerning probation revocation, supervised release violations, modifications of
11 a term of supervised release, and remand following appeal, provided the client
12 qualifies for representation under the CJA and this Plan, and the CJA Trial Attorney
13 Panel member remains on the panel, unless substitution of counsel has occurred, the
14 client has been allowed to proceed pro se, or as otherwise specifically ordered by the
15 Court.

16 If trial counsel prefers to withdraw in favor of new counsel on appeal, trial
17 counsel will first file the notice of appeal in the district court to preserve the client’s
18 right to appeal and then move to withdraw in the Court of Appeals, asking for
19 appointment of substitute counsel.

20 **C. Counsel Appointment in Capital Cases**

21 **1. Applicable Legal Authority**

22 The appointment of counsel in capital cases is governed by 18 U.S.C. §§ 3005,
23 3006A, and 3599, and the CJA Guidelines, Chapter 6. Any individual charged with a
24 crime that may be punishable by death who is or becomes financially unable to obtain
25 representation is entitled to the assistance of appointed counsel throughout every stage
26 of available judicial proceedings, including pretrial proceedings, trial, sentencing,
27 motions for new trial, appeals, applications for writ of certiorari to the Supreme Court
28 of the United States, and all available post-conviction processes, together with

1 applications for stays of execution and other appropriate motions and procedures,
2 competency proceedings, and proceedings for executive or other clemency as may be
3 available to the individual. *See* 18 U.S.C. § 3599.

4 **2. Qualifications**

5 In addition to the requirements for Panel membership in Section VI of this Plan,
6 counsel appointed in capital cases to represent financially eligible individuals will meet
7 the statutory requirements set out in 18 U.S.C. §§ 3005 and 3599(b)-(d) as expanded
8 upon below, as well as any applicable circuit rules.

9 All attorneys appointed in capital cases must (1) be well qualified as
10 demonstrated by their training, commitment to the defense of capital cases, and
11 distinguished prior criminal defense experience at the relevant stage of the proceeding;
12 (2) have sufficient time and resources to devote to the representation, considering their
13 current caseload and the extraordinary demands of a capital case; (3) meet all
14 applicable guidelines adopted by the American Bar Association concerning
15 representation of individuals in death penalty cases; and (4) consult regularly with the
16 appropriate Death Penalty Resource Counsel project available through the Defender
17 Services division of the Administrative Office of the United States Courts.

18 In trial-level capital cases requiring the appointment of “learned counsel,” such
19 counsel must meet the minimum standards in 18 U.S.C. §§ 3005 and 3599(b) or (d).
20 Learned counsel should have distinguished prior experience in the trial, appeal, or
21 post-conviction review of federal or state death-penalty cases that, in combination with
22 co-counsel, will assure high-quality representation. “Distinguished prior experience”
23 contemplates excellence, not simply prior experience.

24 In direct appeals and post-conviction proceedings under 18 U.S.C. §§ 2254 or
25 2255, appointed counsel must meet the minimum standards required by 18 U.S.C.
26 § 3599(c) or (d) and should have distinguished prior experience in federal criminal
27 appeals, capital appeals, federal post-conviction proceedings, or capital post-conviction
28 proceedings.

1 Out-of-district counsel, including defender organization staff, who possess the
2 requisite expertise may be considered for appointment in capital cases to achieve high-
3 quality representation.

4 An attorney furnished by a state or local public defender organization or legal
5 aid agency or other private, non-profit organization to represent an individual charged
6 with a capital crime or seeking federal capital habeas corpus relief may be appointed if
7 the attorney is fully qualified. This appointment may be in place of, or in addition to,
8 the appointment of a federal defender organization or a CJA panel member or an
9 attorney appointed pro hac vice. *See* 18 U.S.C. § 3006A(a)(3).

10 **3. Trial-Level Cases**

11 As soon as is practicable after an individual receives a target letter alleging the
12 commission of a capital offense, or is charged with a federal criminal offense where
13 the penalty of death is possible, the Court must appoint two attorneys, at least one of
14 whom meets the qualifications for “learned counsel.” If necessary for adequate
15 representation, more than two attorneys may be appointed. Consistent with Section
16 VIII.A.1 of this Plan, the Court may appoint capital-qualified counsel for an
17 individual who, although uncharged, is the subject of an investigation in a federal
18 death-eligible case. When appointing counsel, the judge must consider the
19 recommendation of the FPDO, who should consult with Death Penalty Resource
20 Counsel to recommend qualified counsel.

21 If, following the appointment of counsel in a case in which an individual was
22 charged with an offense that may be punishable by death, it is determined that the
23 death penalty will not be sought, the panel member must promptly notify the CJA
24 Supervising Attorney. The Court will then consider the number of counsel and the rate
25 of compensation needed for the remainder of the proceeding.

26 **4. Direct Appeals**

27 Counsel representing a death-sentenced federal appellant should include at least
28 one attorney who did not represent the appellant at trial. Each trial counsel who

1 withdraws should be replaced with similarly qualified counsel to represent the
2 individual on appeal. When appointing counsel, the Court must consider the
3 recommendation of the FPDO, who should consult with Federal Capital Appellate
4 Resource Counsel to recommend qualified counsel.

5 **5. Post-Conviction Proceedings**

6 In any post-conviction proceeding under 18 U.S.C. §§ 2255 or 2254, the Court
7 must appoint at least one qualified attorney and may consider appointing at least two
8 given the complex, demanding, and protracted nature of death penalty proceedings.
9 For § 2255 proceedings, appointment should take place, if possible, prior to denial of
10 certiorari on direct appeal by the United States Supreme Court. For § 2254
11 proceedings, appointment should take place at the earliest time permissible by law to
12 permit federal counsel to avail themselves of the full statute-of-limitations period to
13 prepare a petition.

14 When appointing counsel in a capital § 2254 or § 2255 matter, the Court will
15 appoint the Federal Public Defender to represent the petitioner unless the Federal
16 Public Defender determines that a conflict exists or is otherwise unavailable. If the
17 Federal Public Defender has a conflict or is otherwise unavailable, the Federal Public
18 Defender shall recommend the appointment of an out-of-district federal defender
19 organization that has a Capital Habeas Unit (“CHU”) specializing in the representation
20 of death-sentenced individuals in post-conviction proceedings. If an out-of-district
21 CHU is not available, the Federal Public Defender should consult with the Habeas
22 Assistance Training Project and recommend private counsel who qualify for
23 appointment under 18 U.S.C. § 3599 and this Plan.

24 **6. FPDO Functions**

25 To ensure high-quality representation for individuals under a sentence of death,
26 the Federal Public Defender is authorized to:

- 27 a. monitor and track capital litigation in the state and federal courts in
28 California;

- b. coordinate with other local, state, and national organizations providing legal support to death-sentenced individuals and counsel representing individuals facing the death penalty;
- c. provide training to counsel representing individuals facing the death penalty;
- d. provide assistance, consultation, information, and other related services to eligible individuals and appointed attorneys in connection with state and federal capital proceedings.

X. CJA COMPENSATION AND FUNDING FOR NEEDED SERVICES

A. Court Compensation Policies

Providing fair compensation to appointed counsel is a critical component of the administration of justice. Attorneys appointed under the CJA must be compensated for time expended in court and time reasonably expended out of court, and reimbursed for expenses reasonably incurred. In determining the reasonableness of out-of-court time, the court must consider three factors:

- a. whether the work was performed;
- b. whether the work performed was a reasonable means of achieving the client's aims in the litigation; and
- c. whether the time spent to accomplish that work was reasonable.

Voucher reductions will be limited to mathematical errors; instances in which work billed was not compensable, undertaken, or completed; and instances in which the hours billed clearly exceed what was reasonably required to complete the task.

Vouchers and funding requests for service providers and other litigation costs will not be delayed or reduced to lessen Defender Services program costs in response to adverse financial circumstances.

Absent extraordinary circumstances, the Court will act on compensation claims within 30 days of submission.

1 Payment vouchers and amounts paid to counsel or service providers will not be
2 disclosed except as permitted by law or the CJA Guidelines.

3 **B. Claim Submission**

4 Claims for compensation must be submitted on an interim basis in accordance
5 with the deadlines set forth in the [Billing Guide](#) and must be submitted on the
6 appropriate CJA form through the Court's eVoucher system.

7 Unless good cause is shown, the final claim for compensation submitted by an
8 attorney must be submitted no later than 45 days after the earlier of the following
9 dates: (1) the date the attorney has been terminated for any reason, or (2) the final
10 disposition of the case.

11 Unless good cause is shown, the final claim for compensation submitted by a
12 service provider or expert must be submitted no later than 90 days after the earlier of
13 the following dates: (1) the date a service provider or expert's work has concluded, or
14 (2) the final disposition of the case.

15 **C. Delegated Authority for Claim Approval**

16 The Court has delegated to the CJA Supervising Attorney the authority to
17 approve on behalf of the presiding judicial officer all vouchers submitted to the court
18 for payment by attorneys and by providers of investigative, expert, and other services.
19 The presiding judicial officer or, if none, then the Chief Judge retains ultimate review
20 and approval authority.

21 **D. Voucher Review Procedure**

22 The CJA Office will perform an initial review for accuracy and compensability
23 under the [CJA Guidelines](#), the [Judicial Council of the Ninth Circuit Criminal Justice](#)
24 [Act Policies and Procedures](#), and the [Ninth Circuit CJA Compensability Handbook](#)
25 (available at <https://www.ca9.uscourts.gov/attorneys/cja-resources/>). In determining
26 whether services provided by counsel are compensable, the guidelines for ancillary
27 appointment of counsel in Section VIII.A.3 of this Plan may be considered. After this
28 review, vouchers will be forwarded to the CJA Supervising Attorney, who will review

1 claims for overall reasonableness. A voucher may be referred to the [Peer Review](#)
2 [Committee](#) for input regarding reasonableness.

3 **E. Voucher Reductions**

4 **1. Notice and Opportunity to be Heard**

5 Claims for compensation under the CJA will not be reduced without affording
6 counsel notice and an opportunity to be heard, as detailed in the Court's [Procedures for](#)
7 [Review of Proposed Reductions to CJA Payment Vouchers](#), included in the [Billing](#)
8 [Guide](#).

9 **2. Independent Review**

10 Counsel may challenge a reduction by seeking reconsideration by the CJA
11 Supervising Attorney or independent review by the Peer Review Committee as
12 provided in the [Billing Guide](#). The review process may result in full payment of the
13 CJA voucher, adoption of the recommended reduction in whole or in part, or greater
14 reductions than initially recommended by the CJA Supervising Attorney.

15 **F. Investigative, Expert, and Other Services**

16 **1. Financial Eligibility**

17 Counsel for an individual financially unable to obtain investigative, expert, or
18 other services necessary for an adequate defense may request CJA funding as provided
19 in 18 U.S.C. § 3006A(e)(1), regardless of whether counsel is appointed under the CJA.
20 Upon finding that the services are necessary, and that the individual is financially
21 unable to obtain them, counsel must be authorized to obtain the services.

22 **2. Delegated Authority Over the Approval of Funding for Service** 23 **Providers and Experts**

24 The Court has delegated to the CJA Supervising Attorney the authority to
25 approve on behalf of the presiding judicial officer authorization requests under 18
26 U.S.C. § 3006A(e)(1) and 18 U.S.C. § 3599(f). The presiding judicial officer or, if
27 none, then the Chief Judge retains ultimate review and approval authority.
28

3. Funding Authorizations

Requests to authorize funds for investigative, expert, and other services must be submitted using the Court’s eVoucher system and must not be disclosed except with the consent of the individual represented or as permitted by law or the CJA Guidelines.

4. Compliance

Counsel must comply with Judicial Conference policies set forth in CJA Guidelines, Chapter 3.

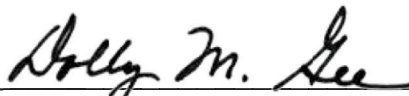
G. Case Budgeting

Capital cases with appointed CJA counsel must be budgeted, including trial-level cases in which the USAO has filed notice of intent not to seek the death penalty. As early as practicable after appointment, counsel or the Court should contact the CJA Supervising Attorney, who will collaborate with a Ninth Circuit CJA Case Budgeting Attorney to budget the representation. Budgeting in non-capital cases may be required at the discretion of the Court or the Ninth Circuit.

H. 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 CJA, unless such payment is approved by order of the Court.

IT IS SO ORDERED.



CHIEF UNITED STATES DISTRICT JUDGE



CHIEF JUDGE, NINTH CIRCUIT COURT OF APPEALS

Date of Approval by the Court: April 25, 2024

Date of Approval by the Judicial Council: November 21, 2024

Date of Filing by the Clerk: 12/03/2024