

**UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
CRIMINAL JUSTICE ACT PLAN**

I. AUTHORITY

Pursuant to the Criminal Justice Act of 1964 as amended (CJA), 18 U.S.C. § 3006A, 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 Southern District of Ohio, adopt this 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 primary 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 crime, or otherwise eligible for services under 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. A secondary objective of this Plan is to particularize the requirements of both the CJA and the *CJA Guidelines* in a way that meet the needs of this District.

B. Compliance.

1. The Court, its Clerk, the Federal Public Defender, the Ohio Public Defender, and private attorneys appointed under the CJA (CJA Panel) shall comply with the *CJA Guidelines* approved by the Judicial Conference of the United States and/or its Committee on Defender Services and with this Plan.
2. A copy of this Plan is posted on the District Court's website located at www.ohsd.uscourts.gov. The Clerk of the Court shall maintain a current copy of the *CJA Guidelines* that can be consulted by the CJA Panel.

III. DEFINITIONS

- A. "Representation" includes counsel and investigative, expert, and other services.
- B. "Appointed attorney" includes private attorneys appointed under the CJA, the Office of the Federal Public Defender and its staff attorneys, and the Ohio Public Defender and staff attorneys of that organization.

IV. PROVISION OF REPRESENTATION

A. Circumstance.

1. **Mandatory.** Representation **shall** be provided for any financially eligible person who:
 - a. is charged with either a felony or a Class A misdemeanor;
 - b. is a juvenile alleged to have committed an act of juvenile delinquency as defined in 18 U.S.C. § 5031;
 - c. is alleged to have violated a condition of probation, or faces the prospect of a modification to a 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 alleged to have violated a condition of supervised release or faces the prospect of a modification to a condition of supervised release, unless the modification sought is favorable to the supervisee and the government has not objected to the proposed change;
 - 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 either 28 U.S.C. §§ 2254 or 2255;
 - 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 18 U.S.C. § 4109;
 - k. is entitled to appointment of counsel under the Sixth Amendment to the Constitution;
 - l. faces loss of liberty in a case and federal law requires the appointment of counsel;
 - m. is entitled to appointment of counsel for an evidentiary hearing in non-capital habeas proceedings filed under either 28 U.S.C. §§ 2254 or 2255;

- n. is charged with civil or criminal contempt and who faces the loss of liberty;
or
 - o. is charged with a “petty offense” (Class B or C misdemeanor or an infraction) for which a sentence of confinement is authorized, unless the presiding judicial officer agrees at the initial appearance that no confinement will be imposed.
2. **Discretionary.** Whenever a District 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” for which a sentence of confinement is authorized even if the presiding judicial officer agrees at the initial appearance that no confinement will be imposed;
 - b. is seeking relief under 28 U.S.C. §§ 2241, 2254, or 2255, other than to set aside or vacate a death sentence;
 - c. has been called as a witness before a federal grand jury, a federal 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 the testimony, that the witness could be subject to a criminal prosecution, a civil or criminal contempt proceeding, or face the loss of liberty;
 - d. is proposed by the United States Attorney for admission into a pretrial diversion program; or
 - e. is held for international extradition under Chapter 209 of Title 18, United States Code.

Representation may also be furnished for financially eligible persons in ancillary matters appropriate to the proceedings pursuant to 18 U.S.C. § 3006A(c).

B. When Counsel Shall be Provided.

Counsel shall be provided to eligible defendants as soon as possible after they are taken into custody, when they appear before a District Judge or Magistrate Judge, when they are formally charged or notified of charges if formal charges are sealed, or when a

District Judge or Magistrate Judge otherwise considers appointment of counsel under the CJA, whichever event occurs earliest.

C. Number and Qualifications of Counsel.

1. **Number.** More than one attorney may be appointed in any case determined by the Court to be complex.
2. **Federal Capital 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. In rare instances, but when necessary for adequate representation, more than two attorneys may be appointed to represent a defendant in such a case.
3. **Habeas Corpus Proceedings.** A financially eligible person seeking to vacate or set aside a death sentence in proceedings brought under either 28 U.S.C. §§ 2254 or 2255 is **entitled** to the appointment of one or more qualified attorneys. Due to the complex, demanding, and protracted nature of capital habeas proceedings, judicial officers should consider appointing at least two counsel in these cases.

D. Eligibility for Representation.

1. **Factfinding.** The determination of eligibility for representation under the CJA is a judicial function to be performed by either a District Judge or Magistrate Judge after making appropriate inquiries concerning the individual's financial condition.
2. **Use of Financial Information.** The United States Attorney's Office may not use, as part of its case-in-chief, other than in a prosecution for perjury or making a false statement, any information provided by an individual in connection with his/her request for the appointment of counsel pursuant to this Plan.
3. **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 services, and the source of the attorney's information is not protected as a privileged communication, counsel shall advise the Court of the change of circumstances.
4. **Reimbursement.** If a defendant's financial condition changes and the Court finds that the defendant is financially able to hire counsel or to make partial payment for representation, the Court may either terminate the appointment of counsel or direct the defendant to reimburse the Clerk of the Court for the cost of appointed counsel, as the interests of justice may dictate.

V. FEDERAL PUBLIC DEFENDER

A. Recognition of Existing Organization.

1. The Office of the Federal Public Defender for the Southern District of Ohio, previously established in this District pursuant to the provisions of the CJA, is hereby recognized as the Federal Public Defender for this District.
2. The Federal Public Defender is capable of providing legal services throughout the Eastern and Western Divisions of the District, and shall maintain offices in each Seat of Court.

B. Supervision of Defender Organization. The Federal Public Defender shall be responsible for the supervision and management of Office of the Federal Public Defender. 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.

VI. PRIVATE ATTORNEYS

A. CJA Panel.

1. **Establishment of CJA Panel.** By adopting this CJA Plan, the District Court establishes a CJA Panel whose members are eligible and willing to be appointed to provide representation under the CJA; this Panel shall replace any Panel that existed prior to the adoption of this Plan.

The CJA Panel is divided into separate lists for each of the three Seats of Court. A Seat of Court CJA Panel Committee, described in further detail in subsection VI (B) of this Plan, may submit additional potential Panel members to the Chief Judge if satisfied that the applicant(s) meet the eligibility requirements set forth in subsection VI (A)(2) of this Plan. Members of the CJA Panel shall serve at the pleasure of the Chief Judge.

2. **Eligibility.** Attorneys who serve on the CJA Panel must be members in good standing of the federal bar of this District; possess federal and/or state criminal trial experience; and have demonstrated proficiency with the Sentencing Guidelines, federal sentencing procedure, the Bail Reform Act, the Federal Rules of Criminal Procedure, and the Federal Rules of Evidence. To maintain eligibility, each CJA Panel attorney must accept the role of mentor, if requested to perform this function by either the Chief Judge or the Seat of Court CJA Panel Committee, and shall complete biennially at least six hours of continuing legal education in federal criminal practice, including at least two hours on the application of the advisory Sentencing Guidelines and/or federal sentencing

procedure. Compliance with this continuing legal education requirement will be monitored by the members of the Seat of Court CJA Panel Committee.

3. **Application.** Applications for membership to the CJA Panel will be available on the District Court's website located at www.ohsd.uscourts.gov. Completed applications shall be submitted to the Clerk of the Court who will transmit the applications to the Chairperson of the Seat of Court CJA Panel Committee.
4. **Size.** The Seat of Court CJA Panel Committee, in consultation with the Chief Judge, shall fix, periodically, the size of the CJA Panel. In determining the size of the CJA Panel, due regard should be given to the fact that the CJA Panel must be large enough to provide a sufficient number of experienced attorneys to handle the CJA caseload, yet small enough so that CJA 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 that is expected of the Panel.
5. **Ratio of Appointments.** Where practical and cost effective, 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" means approximately 25% of the annual appointments made under the CJA.
6. **Equal Opportunity.** All qualified attorneys shall be encouraged to become members of the CJA Panel, without regard to race, color, religion, sex, age, national origin, or disabling condition.
7. **Term of Service.** Members of the CJA Panel shall serve continuously until they either resign or are removed from the Panel. However, the Chief Judge retains the authority to direct a Seat of Court CJA Panel Committee to constitute an entirely new appointment list to replace the existing list from which appointments are made. When the Seat of Court CJA Panel Committee is directed to compile a new appointment list, the existing list shall be used for appointment purposes until further order of the Chief Judge. Nothing will prevent an attorney on the existing Panel from applying for membership on the new Panel.
8. **Acceptance of Appointments.** Members of the CJA Panel are expected to make themselves available to accept appointments when called upon to do so and to serve as mentors when requested.
9. **Removal from the Panel.** The Court is very appreciative of the time and commitment required to accept CJA appointments. Membership on the CJA Panel is not a right, however, and the refusal to promptly accept appointments on

a consistent basis will be considered as resignation from the CJA Panel. The attorney will be notified in writing of any change in status resulting from the failure to promptly accept appointments.

Removal, at all times, is at the discretion of the Chief Judge. Further, a CJA Panel member may be removed from the CJA Panel by the Chief Judge whenever the Seat of Court Panel Committee determines the member has failed to fulfill the obligations of CJA Panel membership or has engaged in other conduct which renders it inappropriate that he/she continue as a CJA Panel member. Complaints concerning the conduct of Panel members may be forwarded to the Chair of the Panel Committee or the Chief Judge. If the Chair, or the Chief Judge, determines the complaint alleges facts which if true would warrant consideration of removal of the Panel member, the Chair or the Chief Judge shall direct the Committee to review the complaint, make such inquiry as it deems appropriate, and issue a report of its findings and recommendation. The report and recommendation of the Committee should be presented to the Chief Judge who has the authority to remove the attorney from the CJA Panel or take such action as deemed appropriate.

For every case involving CJA Panel representation, the Clerk of the Court shall provide the presiding judicial officer with a rating sheet, the primary purpose of which is to determine whether the CJA Panel attorney's representation met prevailing professional standards. These evaluations shall be reviewed on an ongoing basis by the Seat of Court CJA Panel Committee. If the Seat of Court CJA Panel Committee determines that a Panel member received a rating at a less-than-professional level, or repeated marginal ratings, it can make the following recommendations for remedial action to the Chief Judge: require the CJA Panel member to accept the assistance of a mentor, require the CJA Panel member to attend additional continuing legal education courses, require the CJA Panel member to complete any additional remedial measures designed to improve the attorney's performance, or removal from the CJA Panel. The Seat of Court CJA Panel Committee's report and recommendations shall be presented to the Chief Judge who has the authority to take any action deemed appropriate.

Any attorney whose resignation is assumed because he/she has not promptly accepted cases may file a request to return to active status. This request must include an explanation regarding counsel's refusal to accept appointments. The Seat of Court CJA Panel Committee will make a recommendation to the Chief Judge on whether to accept or reject these requests for reinstatement.

Attorneys removed for any other reason may file an application to be placed back on the CJA Panel no earlier than one year from the date of removal. In this application, counsel must note the earlier removal and explain why he/she believes that he/she should be permitted to return to the CJA Panel. The Seat of

Court CJA Panel Committee will also make a recommendation to the Chief Judge on any such requests for reinstatement to the CJA Panel.

10. **Appointment of non-Panel members.** All appointments of counsel in CJA cases are to be made from the list of attorneys who comprise the CJA Panel in each Seat of Court. Before appointment of a non-Panel member, the appointing authority should first look to the Panel lists in the other two Seats of Court for appointment of a Panel member.

B. SEAT OF COURT CJA PANEL COMMITTEE.

1. The Court hereby creates a standing committee in each Seat of Court, to be known as the “Seat of Court CJA Panel Committee.” Each Seat of Court CJA Panel Committee shall consist of the following members:
 - a. the Federal Public Defender or his/her designee;
 - b. the Clerk of the Court for the United States District Court for the Southern District of Ohio or his/her designee, who shall provide administrative and clerical support to the Committee but shall be a non-voting member;
 - c. a CJA Panel Attorney who regularly practices in the Seat of Court in which the Committee is constituted and who possesses sufficient experience and interest in the federal criminal justice system to assist in administering the CJA Panel for the Seat of Court in which the Committee is constituted; and
 - d. a Magistrate Judge from the Seat of Court in which the Committee is constituted, who shall serve as Chair of the Committee.
2. The CJA Panel Attorney and Magistrate Judge Committee members shall be appointed by the Chief Judge of the United States District Court for the Southern District of Ohio for two-year terms and may be reappointed for additional terms, at the discretion of the Chief Judge.
3. The responsibilities of the Seat of Court CJA Panel Committee include:
 - a. reviewing and maintaining the CJA Panel list within the Seat of Court; and to include designation by experience, if appropriate;
 - b. reviewing CJA Panel member applications and interviewing applicants if the applicant has never served on the Panel. The purpose of the interview would be to determine if an applicant meets the qualifications necessary to be added to the CJA Panel either as a full member or one in need of a mentor. If an interview is necessary, a member of the Seat of Court CJA Panel

Committee shall personally interview the applicant. The interviewer will then discuss the applicant's qualifications with the full Seat of Court CJA Panel Committee and make a recommendation. Whether the applicant's credentials are evaluated on the face of an application that was submitted and/or an interview, the Seat of Court CJA Panel Committee will report its recommendations to the Chief Judge who will make the final determination as to whether the applicant should be admitted as a CJA Panel member.

- c. making recommendations or raising issues concerning the administration of the CJA Panel list or appointment of counsel to the Southern District of Ohio CJA Panel Standing Committee, described in further detail in subsection VI (C) of this Plan;
 - d. updating the CJA Panel list and reporting its recommendations to the Southern District of Ohio CJA Panel Committee not later than June 30 of each year;
 - e. reviewing the performance of Panel members;
 - f. creating a "Pending Applications List," which is fully discussed in Section VI (D) of this Plan; and
 - g. providing the CJA Panel list to each district and magistrate judge every two years to obtain comments on the performance of the Panel members.
4. The Seat of Court CJA Panel Committee will be appointed and meet within ninety days of the adoption and final approval of this CJA Plan. Thereafter, the Seat of Court CJA Panel Committee will meet from time to time as needed to complete its tasks, but no less often than annually.
 5. Advisory Group. The Chief Judge may, after consultation with a Seat of Court CJA Panel Committee, appoint members of the private bar who are non-Panel members, to serve the Committee in any capacity in order to assist in the completion of the Committee's business. Members of this advisory group will be considered non-voting members of the Committee.

C. SOUTHERN DISTRICT OF OHIO CJA PANEL COMMITTEE.

1. The Court hereby creates a standing committee known as the "Southern District of Ohio CJA Panel Committee." The Southern District of Ohio CJA Panel Committee shall consist of the following members:
 - a. the Chief Judge for the United States District Court for the Southern District of Ohio or his/her designee, who shall serve as Chair;

- b. the Federal Public Defender or his/her designee;
 - c. the Clerk of the Court for the United States District Court for the Southern District of Ohio or his/her designee, who shall provide administrative and clerical support to the Committee;
 - d. the CJA Panel Attorney member of each of the Seat of Court CJA Panel Committees; and
 - e. the Magistrate Judge member of each of the Seat of Court CJA Panel Committees.
2. The responsibilities of the Southern District of Ohio CJA Panel Committee include:
- a. reviewing this Plan and any Appendices thereto;
 - b. making recommendations regarding the need for any amendments to this Plan, and any Appendices thereto appropriate to ensure that the right to counsel is protected for all eligible persons within the Southern District of Ohio;
 - c. making recommendations to the Court or raising issues concerning the administration of the CJA Panel list or appointment of counsel; and
 - d. reporting its recommendations to the District Court not later than October 31 of each year.
3. The Southern District of Ohio CJA Panel Committee shall meet within ninety days of the receipt of the reports from the Seat of Court CJA Panel Committees. Thereafter the Southern District of Ohio CJA Panel Committee will meet from time to time, as needed, to complete its tasks, but no less often than annually.

D. CREATION OF A PENDING APPLICATIONS LIST– MENTOR PROGRAM.

1. **Pending Applications List.** A “Pending Applications List” shall be established, consisting of lawyers who have applied for membership on the CJA Panel and who do not yet possess sufficient skill, knowledge, or experience to be eligible for unsupervised membership on the CJA Panel. Pending final approval of their applications, such attorneys shall receive training which may include service in a second chair capacity to a mentor on a given case, or aspects of a given case, including detention hearings and sentencing proceedings.
2. The Seat of Court CJA Panel Committee shall maintain the Pending Applications

List. CJA Panel attorneys will be advised of the existence of this list and will be expected to contact the Clerk's Office or a Seat of Court CJA Panel Committee member to obtain the names of attorneys seeking to serve in a second chair capacity. The Seat of Court CJA Panel Committee shall periodically review the Pending Applications List and determine which attorneys meet the criteria for unrestricted CJA Panel membership set forth in subsection VI (A)(2) of this Plan and should be moved to the regular CJA Panel.

A Panel member serving as a mentor to an attorney on the Pending Applications List will notify the Seat of Court CJA Panel Committee of the applicant's progress and the Committee may accept this as a recommendation for admission or take whatever action it deems necessary. Compensation may be made available to the applicant for time spent working on cases with a mentor. Any determination regarding compensation rests solely with the Chief Judge or his/her designee.

E. SELECTION FOR APPOINTMENT.

Maintenance of List and Distribution of Appointments. The Clerk of the Court shall maintain a current list of all attorneys included on the CJA Panel for each Seat of Court and shall make that list available to all District Judges and Magistrate Judges. The Clerk, with the assistance of the Magistrate Judge and the Federal Public Defender, shall maintain statistical data reflecting the number of appointments of CJA attorneys and the number of appointments of the Federal Public Defender.

F. METHOD OF SELECTION.

1. **Rotational Appointments.** Appointments from the CJA Panel list should be made on a rotational basis, subject to the Court's discretion to make exceptions due to the nature and complexity of the case, an attorney's experience, and geographical considerations. This procedure should result in a balanced distribution of appointments among the members of the CJA Panel as well as quality representation for each CJA defendant.
2. **New Matters.** The primary way of ensuring that appointments will be equally distributed among the CJA Panel will be through tracking the assignment of a "new matter." Once a CJA Panel member is appointed to a "new matter," counsel's name will be moved to the bottom of the appointment list. Every CJA appointment that counsel receives counts as a "new matter," with the following exceptions: (1) when counsel is appointed to represent a supervisee in either a probation or supervised release revocation proceeding and counsel was the same attorney who originally handled the case; or (2) when the CJA Panel member is appointed as counsel but is replaced by other counsel before the cost for services rendered has reached \$750.00. Under this second exception, the CJA Panel

member must notify the judicial officer who made the appointment that the appointment did not constitute a “new matter.” Once the submission of the voucher is confirmed, the CJA Panel member will be moved to the top of the appointment list.

3. **Exceptional Circumstances.** In the event of an emergency, *i.e.*, weekends, holidays, or other non-working hours of the Clerk’s Office, the District Judge or Magistrate Judge may appoint any attorney from the list.

VII. REPRESENTATION IN CAPITAL HABEAS CORPUS PROCEEDINGS FILED UNDER EITHER 28 U.S.C. §§ 2254 or 2255

The Court shall appoint the Federal Public Defender with his/her consent, or a qualified attorney recommended by the Federal Public Defender or the Ohio Public Defender or counsel whose qualifications in such cases has previously been demonstrated to the satisfaction of the Court to represent financially eligible persons seeking habeas corpus relief in death penalty proceedings brought pursuant to either 28 U.S.C. §§ 2254 or 2255.

VIII. DUTIES OF APPOINTED COUNSEL

- A. **Standards.** The legal services provided to a defendant represented by appointed counsel shall be commensurate with those rendered if counsel were privately employed by the defendant.
- B. **Professional Conduct.** Counsel 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*. Counsel shall also be subject to the Model Federal Rules of Disciplinary Enforcement, as adopted by this Court in General Order 81-1.
- 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 until the matter, including appeals or review by *certiorari* is closed; until substitute counsel has filed a notice of appearance; until an order has been entered allowing or requiring the person represented to proceed *pro se*; or until the appointment is terminated by court order.

In the event that a defendant is convicted following trial, counsel shall advise the defendant of the right of appeal and of the right to the assistance of counsel on appeal. If requested to do so by the defendant, counsel shall file a timely notice of appeal and shall continue to represent the defendant unless, or until, relieved by the United States

IX. SERVICES OTHER THAN COUNSEL

- A. Authorization.** Counsel for any defendant who is financially unable to obtain investigative, expert, or other services necessary for an adequate defense may request them in an *ex parte* application. Upon finding that the services are necessary and that the defendant is financially unable to obtain them, the Court shall authorize counsel to obtain the services.

The CJA authorizes counsel for an indigent defendant to obtain investigative, expert, or other services without prior authorization but subject to subsequent court review, providing the cost of the services does not exceed \$500.00 plus expenses reasonably incurred. This limit may be waived if the Court finds that timely procurement of necessary services could not await prior authorization.

- B. Change in Eligibility.** If at any time after counsel has been authorized to obtain investigative, expert, or other necessary services for a defendant, the Court finds that the defendant is financially able to obtain such services or to make partial payment therefor, the Court may terminate the authorization of such services or direct the defendant to reimburse the Clerk of the Court for the costs of these services rendered, as the interests of justice may dictate. A provider of these services may not require, request, or accept any payment or promise of payment or any other valuable consideration for these services unless such payment is approved by order of the Court.
- C. Applicability.** The provisions of this subsection do not apply to the Federal Public Defender organization operating under this Plan.

X. COMPENSATION

- A. Rates.** The maximum rates and amounts of compensation for members of the CJA Panel as well as for services other than counsel shall be in accordance with prevailing rates and amounts as set by the CJA.

The hourly rates and amounts of compensation are intended to be maximum rates and will be treated as such. In fixing the compensation, the Court will consider the qualifications of attorneys and the relative difficulties encountered in presenting the case. The Court shall also bear in mind the underlying philosophy of the CJA that the bar of the nation owes a responsibility to represent persons financially unable to retain counsel and that the compensation provided is not intended to equate to private attorney fees. In keeping with that philosophy, payment in excess of the statutory maximum shall only be sought in complex or extended cases.

- B. Excess.** Payment in excess of the statutory maximum may be made for extended or complex representation when supported by a motion from counsel requesting approval

of the excess amount and stating the reasons why the amount is justified. In order for a CJA Panel member to receive excess compensation, the District Judge or Magistrate Judge must certify that the excess payment is necessary to provide fair compensation to counsel due to either the complexity of the case or counsel's extended representation. The amount of the excess payment must also be approved by the Chief Judge of the United States Court of Appeals for the Sixth Circuit or his/her designee.

- C. Claims.** Claims for compensation shall be submitted, on the appropriate CJA form, to the Clerk of the Court. The Clerk of the Court shall review the claim form for mathematical and technical accuracy, and for conformity with the *CJA Guidelines* and, if correct, shall forward the claim form for the consideration and action of the District Judge or Magistrate Judge.
- D. Payment.** Although the CJA provides for limited compensation, the Court recognizes that the compensation afforded often does not reflect the true value of the services rendered. Consequently, it is the Court's policy not to cut or reduce claims which are reasonable and necessary. If the Court determines that a claim must be reduced, it will provide the attorney notice of its intent to reduce the claim and an opportunity to address this issue before final payment is made. Once the CJA Panel member is provided with notice of the Court's intention to reduce the submitted claim, the attorney must submit his/her written response to support the claim within ten days.

The Court will exert its best effort to avoid delays in reviewing payment vouchers and in submitting them for further processing. Upon approval by the Court, all vouchers and claims for compensation and reimbursement of expenses shall be entered into the CJA Panel Attorney Payment System for payment by the Administrative Office of the United States Courts. The originals of the voucher forms will be retained in this District for audit purposes.

XI. DUTIES OF LAW ENFORCEMENT AND RELATED AGENCIES

- A. Presentation of Accused for Appointment of Counsel.** Federal law enforcement and prosecutorial agencies, probation officers, and pretrial services 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/she is financially able to secure representation, and shall, in such cases in which the person indicates that he/she is not financially able to secure representation, arrange to have the person promptly presented before a Magistrate Judge or District Judge of this Court for determination of financial eligibility and appointment of counsel.
- B. Pretrial Services Interview.** In recognition of the importance of the advice of counsel for persons being interviewed by pretrial service officers, the pretrial services officers of this District, prior to conducting such interviews, shall notify the defendant of his/her right to speak with an attorney before answering any questions and of the defendant's right to have an attorney appointed to represent him/her during questioning if the

defendant cannot afford an attorney. Such notice shall be given in writing and in substantially the same format as provided in Appendix I.

- C. **Notice of Indictment or Criminal Information.** Upon the return or unsealing of an indictment, the filing of a criminal information, or the filing of a petition to modify or revoke probation or supervised release, the United States Attorney or the probation officer, as appropriate, immediately shall mail or otherwise deliver a copy of the pertinent document to appointed counsel, or to the defendant if he/she is without counsel, at the address shown on defendant's bond papers or to the jail in which the defendant is incarcerated.

XII. MISCELLANEOUS

- A. **Forms.** Standard forms, pertaining to the CJA and approved by the Judicial Conference of the United States or its Committee on Defender Services and prescribed and distributed by the Director of the Administrative Office of the United States Courts, shall be used, where applicable, in all proceedings under this Plan.
- B. **Supersession.** This Plan supersedes all prior CJA Plans of this Court.

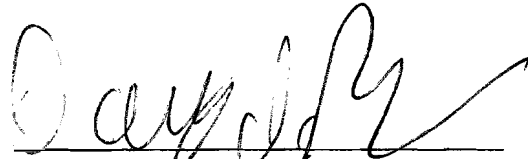
XIII. EFFECTIVE DATE

This Plan shall become effective when approved by the Judicial Council of the United States Court of Appeals for the Sixth Circuit.

CERTIFICATE OF APPROVAL

This is to certify that, in accordance with the Criminal Justice Act of 1964 as amended, 18 U.S.C. § 3006A, *et seq*, the foregoing Amended Criminal Justice Act Plan for the United States District Court for the Southern District of Ohio, has been duly received and approved as complying with the law by the Judicial Council of the Sixth Circuit of the United States. The said Amended Plan shall become effective upon the date of this approval.

This 5th day of May, 2009.

A handwritten signature in black ink, appearing to read "Danny J. Boggs", written over a horizontal line.

Danny J. Boggs, Chief Judge
United States Court of Appeals
for the Sixth Circuit