



Criminal Justice Act Plan
United States District Court
District of Alaska

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CRIMINAL JUSTICE ACT PLAN
UNITED STATES DISTRICT COURT FOR THE DISTRICT OF ALASKA

I. Authority

Under the [Criminal Justice Act of 1964, as amended, 18 U.S.C. § 3006A, \(“CJA” or “Act”\)](#) and the [Guide to Judiciary Policy, Volume 7A \(“CJA Guidelines”\)](#), the judges of the United States District Court for the District of Alaska adopt this Plan, as approved by the circuit, 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

The objectives of this Plan are:

1. to attain the ideal of equality before the law for all persons; and
2. to provide all eligible persons with timely appointed counsel services that are consistent with the best practices of the legal profession, are cost-effective, and protect the independence of the defense function so that the rights of individual defendants are safeguarded and enforced; and
3. to particularize the requirements of the CJA, the USA Patriot Improvement and Reauthorization Act of 2005 (recodified at [18 U.S.C. § 3599](#)), and the CJA Guidelines in a way that meets the needs of this district.

This Plan must therefore 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 District of Alaska (“Alaska FPDO”) and for the appointment and compensation of private attorneys from an approved panel list (“CJA Panel”) and other private attorneys in limited circumstances, in cases authorized under the CJA and related statutes.

C. Panel Administration

Administration of the CJA Panel, as set forth in this Plan, is hereby delegated and assigned to the Alaska FPDO CJA Department, which shall be established by the Federal Public Defender. The CJA Department will be maintained using separate space and systems to prevent the sharing of confidential information between Alaska FPDO staff and CJA Department staff. The Federal Public Defender will employ a CJA Resource Counsel to oversee the CJA Department, administer the panel, and manage voucher review. CJA Resource Counsel will provide a yearly report to the Court that includes an overview of the previous fiscal year CJA activities, including case statistics for the district, any notable issues, and any recommendations to the Court or Alaska FPDO relating to CJA panel administration going forward.

D. Compliance

The Court, its clerk, the Alaska FPDO, its CJA Department, attorneys provided by a bar association or legal aid agency, private attorneys appointed under the CJA, federal law enforcement officers, the United States Attorney's Office, and the Pretrial Services Office must comply with the CJA Guidelines, approved by the Judicial Conference or its Committee on Defender Services, the Ninth Circuit's CJA Policies and Procedures, and with this Plan.

The CJA Department will ensure that a current copy of the CJA Plan is made available on websites for both the Court and the Alaska FPDO and provided to counsel upon the attorney's designation as a member of the CJA Panel.

III. Definitions

A. Appointed Attorney

"Appointed attorney" is an attorney designated to represent a financially eligible person under the CJA and this Plan. Such attorneys include private attorneys, the Federal Public Defender and staff attorneys of the Alaska FPDO, and attorneys provided by a bar association, legal aid agency, or state or local defender organization.

B. CJA Administrator

"CJA Administrator" is a person designated by the Federal Public Defender to administer the CJA Panel.

C. CJA Department

The “CJA Department” is established by the Federal Public Defender to administer the CJA Plan and includes CJA Resource Counsel.

D. CJA Judge

“CJA Judge” is a Magistrate Judge appointed by the Chief District Judge to serve as the District’s CJA Judge with ultimate review and approval authority over requests for payment of CJA funds.

E. CJA Resource Counsel

“CJA Resource Counsel” is an attorney employed by the Federal Public Defender who oversees the CJA Department and administration of panel management and voucher review.

F. Panel Attorney District Representative (PADR)

“Panel Attorney District Representative” is a member of the district’s CJA Panel who is selected by the Federal Public Defender, with approval from the Chief District Judge, to serve as a representative of the district’s CJA Panel for the Defender Services CJA PADR program and local CJA committees.

G. Representation

“Representation” includes counsel and investigative, expert, and other services reasonably necessary for an adequate defense.

IV. Determination of Eligibility for CJA Representation

A. Subject Matter Eligibility

1. Mandatory

Representation **must** be provided for any financially eligible person who:

- a. is charged with a felony or with a Class A misdemeanor;
- b. is a juvenile alleged to have committed an act of juvenile delinquency as defined in [18 U.S.C. § 5031](#) (see 18 U.S.C. § 5034 with regard to appointment of counsel);
- c. is charged with a violation of probation, or faces a change of a term or condition of probation (unless the modification

- sought is favorable to the probationer and the government has not objected to the proposed change);
- d. is under arrest, when such representation is required by law;
 - e. is entitled to appointment of counsel in parole proceedings;
 - f. is charged with a violation of supervised release or faces modification, reduction, or enlargement of a condition, or extension or revocation of a term of supervised release;
 - g. is subject to a mental condition hearing under [18 U.S.C. chapter 313](#);
 - h. is in custody as a material witness;
 - i. is seeking to set aside or vacate a death sentence under 28 U.S.C. § 2255 or when an evidentiary hearing is warranted in a non-capital proceeding under 28 U.S.C. § 2254 or § 2255;
 - j. is entitled to appointment of counsel in verification of consent proceedings in connection with 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; or
 - l. faces loss of liberty in a case and federal law requires the appointment of counsel.
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 (Class B or C misdemeanor, or an infraction) for which a sentence to confinement is authorized;
- b. is seeking relief under [28 U.S.C. §§ 2241](#), [2254](#), or [2255](#) other than to set aside or vacate a death sentence (but see Section IV(A)(1)(i) for mandatory appointment when an evidentiary hearing is warranted);

- c. is charged with civil or criminal contempt and faces loss of liberty;
- d. has been called as a witness before a grand jury, a court, the Congress, or a federal agency or commission which has the power to compel testimony, and there is reason to believe, either prior to or during testimony, that the witness could be subject to a criminal prosecution, a civil or criminal contempt proceeding, or face loss of liberty;
- e. has been advised by the United States attorney or a law enforcement officer that they are the target of a grand jury investigation;
- f. is proposed by the United States attorney for processing under a pretrial diversion program; or
- g. is held for international extradition under [18 U.S.C. chapter 209](#).

3. Ancillary Matters

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

In determining whether representation in an ancillary matter is appropriate to the proceedings, the Court should consider whether such representation is reasonably necessary to accomplish, among other things, one of the following objectives:

- a. to protect a constitutional right;
- b. to contribute in some significant way to the defense of the principal criminal charge;
- c. to aid in preparation for the trial or disposition of the principal criminal charge;
- d. to enforce the terms of a plea agreement in the principal criminal charge;
- e. to preserve the claim of the CJA client to an interest in real or personal property subject to civil forfeiture proceeding under [18 U.S.C. § 983](#), [19 U.S.C. § 1602](#), [21 U.S.C. § 881](#), or similar statutes, which property, if recovered by the client,

may be considered for reimbursement under [18 U.S.C. § 3006A\(f\)](#); or

- f. effectuate the return of real or personal property belonging to the CJA client, which may be subject to a motion for return of property under [Fed. R. Crim. P. 41\(g\)](#), which property, if recovered by the client, may be considered for reimbursement under [18 U.S.C. § 3006A\(f\)](#).

B. Financial Eligibility

1. Presentation of Accused for Financial Eligibility Determination

a. Duties of Law Enforcement

- (i) Upon arrest, and where the defendant has not retained or waived counsel, federal law enforcement officials must promptly notify, telephonically or electronically, the appropriate court personnel, who in turn will notify the CJA Department of the arrest of an individual in connection with a federal criminal charge.
- (ii) Employees of law enforcement agencies should not participate in the completion of the financial affidavit or seek to obtain information concerning financial eligibility from a person requesting the appointment of counsel.

b. Duties of United States Attorney's Office

- (i) Upon the return or unsealing of an indictment or the filing of a criminal information, and where the defendant has not retained or waived counsel, the United States attorney or their delegate will promptly notify, telephonically or electronically, appropriate court personnel, who in turn will notify the CJA Department.
- (ii) Upon issuance of a target letter or pretrial diversion notice, and where the individual has not retained or waived counsel, the United States attorney or their delegate should notify, telephonically or electronically, the CJA Department. Such notice should indicate if the United States Attorney's Office is aware of an actual or potential conflict with the target and the Federal Public Defender or any CJA Panel attorneys.

Target letters and pretrial diversion notices sent by the Office of the United States Attorney should provide the address and telephone number of the CJA Department, unless the United States Attorney's Office has been informed that the target has already retained private counsel.

- (iii) Employees of the United States Attorney's Office should not participate in the completion of the financial affidavit or seek to obtain information concerning financial eligibility from a person requesting the appointment of counsel.

c. Duties of the Federal Public Defender Office

- (i) In cases in which the Federal Public Defender may be appointed, the office will:
 - immediately investigate and determine whether an actual or potential conflict exists; and
 - in the event of an actual or potential conflict, promptly notify the CJA Department to facilitate the timely appointment of other counsel.
- (ii) When practicable, the federal public defender will discuss with the person who indicates that he or she is not financially able to secure representation the right to appointed counsel and, if appointment of counsel seems likely, assist in the completion of a [financial affidavit \(Form CJA 23\)](#) and 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.

d. Duties of Pretrial Services Office

- (i) When practicable, the pretrial services officer will not conduct the pretrial service interview of a financially eligible defendant until counsel has been appointed, unless the right to counsel is waived or the defendant otherwise consents to a pretrial service interview without counsel.
- (ii) When counsel has been appointed, the pretrial services officer will provide counsel notice and a

reasonable opportunity to attend any interview of the defendant by the pretrial services officer prior to the initial pretrial release or detention hearing.

- e. Pretrial Diversion
- (i) The Office of the United States Attorney should include the address and telephone number of the CJA Department in the Pretrial Diversion Notification letter sent to the offender.
 - (ii) Upon receipt of a Pretrial Diversion Referral, if the defendant is not represented by counsel and the defendant so requests, the CJA Department will:
 - Obtain the necessary financial information;
 - Have the defendant execute a financial affidavit (Form CJA 23);
 - File a motion containing the Form CJA 23 with the Court.

2. Eligibility Determination

- a. In every case where 18 U.S.C. § 3006A(a) and related statutes authorize appointment of counsel, the Court must advise the person 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 person if he or she is financially unable to obtain counsel.
- b. The completed financial eligibility affidavit ([Form CJA 23](#)) should reflect relevant information bearing on the person's financial eligibility for appointed counsel.
- c. Determining eligibility for representation under the CJA is a judicial function performed by the Court after making appropriate inquiries concerning the person's financial eligibility. Other employees of the Court may be designated to obtain or verify the facts relevant to the financial eligibility determination.

3. Standards

- a. In determining whether a person is “financially unable to obtain counsel,” the Court should consider the cost of providing the person and the person’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 person’s family to retain counsel unless the person’s family indicates a willingness and ability to do so promptly.
- c. Any doubts about a person’s eligibility should be resolved in the person’s favor; erroneous determinations of eligibility may be corrected later
- d. If at any time after appointment appointed counsel has reason to believe that a person is financially able to retain private counsel or make partial payment for the appointed representation, and the source of counsel’s information is not protected as a privileged communication, counsel will advise the Court.
- e. If at any time after the appointment of counsel a judge finds that a person provided representation is financially able to retain private counsel or make partial payment for the appointed representation, the judge may terminate the counsel appointment or direct the defendant to pay available funds as provided in 18 U.S.C. § 3006A(f).
- f. If at any stage of the proceedings a judge finds that a person is no longer financially able to pay retained counsel, counsel will be appointed in accordance with the general provisions set forth in this Plan.
- g. If at any stage of the proceedings a judge finds that a pro se or privately represented person is not financially able to pay other representation costs, including investigative, expert, or other services, funding may be authorized for those costs in accordance with the general provisions set forth in this Plan.

V. Timely Appointment of Counsel

A. Timing of Appointment

Eligible persons should receive appointed counsel as soon as feasible, unless waived. This means as soon as possible after receiving a target

letter or pretrial diversion notice, after being taken into custody, upon appearing before a judicial officer, when formally charged, when notified of charges if formal charges are sealed, or when a judicial officer otherwise determines appointed counsel is appropriate under the CJA or this Plan, whichever occurs earliest. This paragraph does not confer a right beyond the Sixth Amendment's right to counsel.

B. Court's Responsibility

The Court, in cooperation with the federal public defender and the United States attorney, will make such arrangements with federal, state, and local investigative and police agencies as will ensure timely appointment of counsel.

C. Pretrial Services Interview

When practicable, unless the right to counsel is waived or the defendant otherwise consents to a pretrial services interview without counsel, financially eligible defendants will be provided appointed counsel prior to being interviewed by a pretrial services officer.

D. Retroactive Appointment of Counsel

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

VI. Federal Public Defender Organization

A. Establishment

The Federal Public Defender for the District of Alaska is established under this plan in accordance with the Criminal Justice Act, is headquartered in Anchorage, Alaska, and is responsible for rendering defense services on appointment throughout the district.

B. Standards

The Alaska FPDO must provide high quality representation consistent with the best practices of the legal profession and commensurate with those services rendered when counsel is privately retained. See *Polk County v. Dodson*, 454 U.S. 312, 318 (1981) ("Once a lawyer has undertaken the representation of an accused, the duties and obligations are the same whether the lawyer is privately retained, appointed, or serving in a legal

aid or defender program.” (quoting ABA Standards for Criminal Justice section 4-3.9 (2d ed. 1980)).

C. Workload

The Alaska FPDO will continually monitor the workloads of its staff to ensure high quality representation for all clients.

D. Professional Conduct

The Alaska FPDO must conform to the highest standards of professional conduct, including but not limited to the American Bar Association’s Model Rules of Professional Conduct, the Code of Conduct for Federal Public Defender Employees, and the Alaska Rules of Professional Conduct.

E. Private Practice of Law

Neither the Federal Public Defender nor any defender employee may engage in the private practice of law except as permitted in Canon 5(D) of the Code of Conduct for Federal Public Defenders.

F. Supervision

The Federal Public Defender will be responsible for the supervision and management of the Alaska FPDO. Accordingly, the Federal Public Defender will be appointed in all cases assigned to that organization for subsequent assignment to staff attorneys at the discretion of the Federal Public Defender.

G. Training

The Federal Public Defender will assess the training needs of Alaska FPDO staff and, in coordination with the CJA Panel Attorney District Representative and CJA Resource Counsel, the training needs of the CJA Panel, and will provide regularly scheduled training opportunities and other educational resources that include updates regarding substantive law, sharing best practices in federal criminal defense, and presentations on courtroom and office technology.

VII. CJA Panel Committee

A. Establishment

1. A CJA Panel Committee (“CJA Committee”) will be established by the Federal Public Defender in consultation with the Court. The CJA Committee will consist of one district court judge, the CJA

Magistrate Judge, the Federal Public Defender or their representative, the CJA Resource Counsel, the CJA Panel Attorney District Representative (PADR), one or more criminal defense attorneys who practice regularly in the district who may be a CJA panel member, and the Federal Public Defender CJA Administrator who will act as administrative coordinator.

2. Judicial appointments on the CJA Committee will be made by the Chief Judge, who will designate a Chair of the committee. The attorney appointments will be made by the Federal Public Defender.
3. The Federal Public Defender or their representative, the CJA Resource Counsel, and the district's PADR are permanent members of the CJA Committee.
4. Attorney membership on the CJA Committee will otherwise be for a term of three years and may be extended for one additional three-year term. Members' terms will be staggered to ensure continuity on the CJA Committee.
5. The CJA Committee will meet at least once a year and at any time the Court asks the Committee to consider an issue.

B. Duties

1. Panel Membership

Examine applications for membership on the CJA Panel and recommend to the Chief Judge the approval of those attorneys who are deemed qualified.

2. Recruitment

Strive to create and maintain a diverse CJA Panel of the highest caliber federal criminal defense practitioners and devise a recruitment strategy that identifies and trains a diverse set of viable panel applicants.

3. Duty of Confidentiality

- a. All information pertaining to a CJA panel member or an applicant for appointment to the panel provided to or obtained by the committee in performing its duties and responsibilities under this plan is the property of the U.S. District Court for the District of Alaska and is to be treated

as confidential. Votes of the committee are also confidential.

- b. Members of the committee may not disclose to others in any manner any performance or fee review of a panel member, or evaluation of an application for appointment to the panel, the name of the panel member or applicant involved, the discussions, deliberations or action of the committee obtained during investigation or deliberation of the committee, or any documents related to the foregoing, unless ordered to do so by a court of competent jurisdiction. The duty of confidentiality does not preclude the committee from consulting with the Chief District Judge or CJA Judge.

4. Performance Reviews

Conduct performance reviews pertaining to reappointment and removal of CJA Panel attorneys.

Performance reviews may be conducted in two ways:

- a. when a panel attorney's term is up on the panel and the committee needs to determine reappointment, or
- b. if an attorney's performance has been called into question and removal is being considered.

5. Removal

Recommend to the Chief Judge the removal of any CJA panel member who:

- a. fails to satisfactorily fulfill the requirements of CJA panel membership during their term of service, including the failure to provide high quality representation to CJA clients, or
- b. has engaged in other conduct such that his or her continued service on the CJA Panel is inappropriate.

See also Section VIII.C.6 (Removal from the CJA Panel).

6. Training

Assist the Alaska FPDO in providing training for the CJA Panel on substantive and procedural legal matters affecting representation of CJA clients.

7. Voucher and Funding Request Review (Peer Review Subcommittee only)

Review and make recommendations on the payment of CJA vouchers for attorney or expert services and the approval of CJA funding requests in those cases where the CJA Judge or CJA Resource Counsel, for reasons other than mathematical or technical errors, is considering authorizing payment for less than the amount of compensation claimed or approving funding for less than the amount requested.

See also Section XI (Compensation of CJA Panel Attorneys and Service Providers).

8. Mentoring

Review mentee applications, make recommendations concerning their participation in the mentoring program, identify appropriate cases for the mentoring program, evaluate the success of the mentoring program, and provide guidance to mentors. The CJA Department will administer the mentorship program.

C. Recusal

1. A member of the CJA Committee (“committee member”) must recuse himself or herself from any and all participation in the consideration of a matter concerning a panel member submitted to or before the committee or from attempting to influence others with respect to such consideration, where the committee member:

- a. is in the law firm or office of the panel member;
- b. is in the law firm or office that represents the panel member;
- c. is a party or is in a law firm or office that is a party or represents a party in pending litigation in which the panel member or the panel member’s law firm or office is a party or represents a party;
- d. is related to the panel member, or the committee member’s spouse is related to the panel member, by consanguinity or affinity within the third degree according to the rules of civil law;

- e. stands in the relation of guardian and ward, conservator and conservatee, employer and employee, or principal and agent to the panel member;
 - f. has appeared as an expert witness or been consulted with reference to an actual or threatened lawsuit against the panel member for malpractice;
 - g. represents or represented a party in the same matter for which a panel member's request for compensation is being audited; or
 - h. has any personal bias or prejudice concerning the panel member which would prevent the committee member from fairly evaluating all of the evidence concerning that panel member.
2. In the event that a committee member does not voluntarily recuse himself or herself, the committee Chair must, upon becoming aware of factors that may indicate a potential conflict of interest, initiate an inquiry and make a determination as to whether or not such member should be recused. Any resulting determination by the committee Chair on recusal is final and binding.

VIII. CJA Panel of Private Attorneys

A. Establishment

1. The existing, previously established panel of attorneys who are eligible and willing to be appointed to provide representation under the CJA is hereby recognized.
2. The Chief Judge or judge designee will approve attorneys for membership on the CJA Panel after receiving recommendations from the CJA Committee.

B. Size

1. The size of the CJA Panel will be determined by the CJA Committee based on the caseload and activity of the panel members, subject to review by the Court.
2. 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 enabling them to provide high quality representation consistent with the best practices of the legal profession and commensurate with those services rendered when counsel is privately retained.

C. Qualifications and Membership on the CJA Panel

1. Application

Application forms for membership on the CJA Panel are available on the websites for both the Court and the Alaska FPDO.

2. Equal Opportunity

All qualified attorneys are encouraged to apply for CJA Panel membership. The CJA Panel Committee shall not discriminate against, or grant preferential treatment to, any individual or group on the basis of race, sex, color, ethnicity, national origin, gender identity, sexual orientation, age, religion, or disability.

3. Eligibility

- a. Applicants for the CJA Panel must be members in good standing of a federal district court bar.
- b. Applicants must possess strong litigation and/or appellate skills and demonstrate proficiency with the Federal Rules of Evidence, Federal Rules of Criminal Procedure, Federal Rules of Appellate Procedure, the Bail Reform Act, United States Sentencing Guidelines, federal sentencing procedures, the [Electronically Stored Information Discovery Production in Federal Criminal Cases \(ESI Protocol\)](#), and this District's Local Rules;
- c. Applicants must have significant experience representing persons charged with serious criminal offenses and demonstrate a commitment to the defense of people who lack the financial means to hire an attorney.
- d. Applicants must have the training and ability to manage and effectively utilize electronic case presentation equipment and software in the courtroom and manage electronic discovery;
- e. Attorneys who do not possess the experience set forth above but believe they have equivalent other experience are

encouraged to apply and set forth in writing the details of that experience for the CJA Committee's consideration.

4. Terms

Attorneys admitted to membership on the CJA Panel will each serve for a term of three years, subject to the reappointment procedures set forth in this plan.

5. Reappointment

- a. The CJA Department will notify CJA panel members, prior to the expiration of their current term, of the need to apply for reappointment to the CJA Panel.
- b. The CJA Committee will solicit input concerning the quality of representation provided by lawyers seeking reappointment and may request an interview with the CJA panel attorney.
- c. In considering reappointment, the CJA Committee will consider the following:
 - (i) number of cases the CJA panel member has accepted and declined during the review period;
 - (ii) whether the member has participated in training opportunities;
 - (iii) whether the member has been the subject of any complaints;
 - (iv) investigative and litigation skills;
 - (v) rapport with clients;
 - (vi) strength in procedural and substantive legal knowledge and analysis;
 - (vii) administrative matters, including billing accuracy and timeliness; and
 - (viii) whether the member continues to meet the prerequisites and obligations of CJA panel members as set forth in this Plan.

- d. After receiving and considering all input and other information the committee deems necessary, and after due deliberation, the committee will make recommendations, by majority vote, to the Chief Judge or judge designee, concerning whether the attorney should be retained on the Panel.

6. Removal

a. Mandatory removal

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

b. Automatic disciplinary review

The CJA Committee will conduct an automatic disciplinary review of any CJA panel member against whom any licensing authority, grievance committee, or administrative body has taken action, or when a finding of probable cause, contempt, sanction, or reprimand has been issued against the panel member by any state or federal court.

c. Complaints

(i) Initiation

A complaint against a panel member may be initiated by the CJA Committee, a judge, another panel member, a defendant, a service provider, or a member of the federal public defender office. A complaint need not follow any particular form, but it must state the alleged deficiency with specificity. Any complaint should be directed to the CJA Committee, which will determine whether further investigation is necessary.

(ii) Notice

If further investigation is conducted, the CJA Committee will notify the panel member of the specific allegations.

(iii) Response

A panel member subject to investigation may respond in writing and appear, if so directed, before the CJA Committee or an ad hoc subcommittee.

(iv) Protective action

Prior to disposition of any complaint, the CJA Committee may recommend temporary suspension or removal of the panel member from any pending case, or from the panel, and may take any other protective action that is in the best interest of the client or the administration of this Plan.

(v) Investigation

Any investigation undertaken by the CJA Committee will be concluded within 45 days of receiving the initial complaint. Should the investigation need to continue beyond this prescribed period, the CJA Committee must notify both the attorney and the Chief District Judge in writing.

(vi) Review and recommendation

After investigation, the CJA Committee may recommend dismissing the complaint, or recommend appropriate remedial action, including removing the attorney from the panel, limiting the attorney's participation to particular types or categories of cases, directing the attorney to complete specific CLE requirements before receiving further panel appointments, limiting the attorney's participation to handling cases that are directly supervised or overseen by another panel member or other experienced practitioner, or any other appropriate remedial action.

(vii) Final disposition by the Court

The CJA Committee will forward its recommendation to the Chief Judge or judge designee for consideration and final disposition.

(viii) Confidentiality

Unless otherwise directed by the Court, any information acquired concerning any possible disciplinary action, including any complaint and any related proceeding, will be confidential.

- (ix) None of these procedures create a property interest in being on or remaining on the CJA Panel.

d. Notification

The Federal Public Defender CJA Department will be immediately notified when any member of the CJA Panel is removed or suspended.

IX. Duties of CJA Panel Members

A. Standards and Professional Conduct

1. CJA panel members must provide high quality representation consistent with the legal profession's best practices. CJA Panel attorneys 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*.
2. Attorneys appointed under the CJA must conform to the highest standards of professional conduct, including but not limited to the American Bar Association's Model Rules of Professional Conduct and the Alaska Rules of Professional Conduct
3. CJA Panel members must immediately notify the CJA Department if they are disbarred, suspended, sanctioned, or reprimanded by any licensing authority, grievance committee, or administrative body. CJA Panel members must also notify the CJA Department, within 30 days, if they are sanctioned or found in contempt by any state or federal court judge. A fee arbitration proceeding does not trigger this notice requirement unless the panel member is ordered to return fees or is referred for an investigation of unethical conduct.

B. Training and Continuing Legal Education

1. CJA Panel attorneys are expected to remain current with developments in federal criminal defense law, practice, and procedure, including the Recommendation for [Electronically Stored Information \(ESI\) Discovery Production](#) in Federal Criminal Cases.

2. The Alaska FPDO will conduct CJA Panel trainings for all panel members including those in Fairbanks and Juneau.
3. Members of the CJA Panel must attend at least three monthly CJA meetings per year unless excused by CJA Resource Counsel for good cause. Other criminal defense CLEs may be substituted for CJA Panel meetings. The CJA Committee will consider members' attendance at CJA meetings when reviewing applications for reappointment to the CJA Panel.
4. Members of the CJA Panel are required to do one hour of eDiscovery training per year.
5. Attorneys newly admitted to the panel are required to do one hour of eDiscovery training and three hours of federal practice overview and sentencing guidelines training with the Alaska FPDO within the first month of admission to the panel. Counsel must coordinate training with CJA Resource Counsel.

C. Facilities and Technology Requirements

1. CJA panel attorneys must have the facilities, resources, and technological capability to effectively and efficiently manage assigned cases. See Appendix A: Technology Requirements, which sets out the minimum required of counsel.
2. CJA panel attorneys must comply with the requirements of electronic filing and eVoucher.
3. CJA panel attorneys must know and abide by procedures related to requests for investigative, expert, and other services.

X. Appointment of Counsel in Non-Capital Cases

A. Appointment List

The CJA Department will maintain a current list of all attorneys approved to serve on the CJA Panel, with current office addresses, email addresses, and telephone numbers, as well as a statement of qualifications and experience.

B. Appointment Procedures

1. The CJA Department is responsible for overseeing the appointment of cases to panel attorneys and will maintain a record of panel attorney appointments and data reflecting the apportionment of

appointments between attorneys from the Alaska FPDO and the CJA Panel.

2. Unless otherwise ordered by the appointing judge or magistrate judge, the initial determination of whether a party entitled to representation will be represented by the Alaska FPDO or by private counsel is within the discretion of the CJA Department.
3. Appointment of cases to CJA panel members will ordinarily be made on a rotational basis. In a complex or otherwise difficult case, the CJA Department may recommend appointment of counsel outside of the normal rotation to ensure the defendant has sufficiently experienced counsel.
4. Under special circumstances the Court may appoint an attorney who is not a member of the CJA Panel. Such special circumstances may include cases in which the Court determines that the appointment of a particular attorney is in the interests of justice, judicial economy, or continuity of representation, or for any other compelling reason. It is not anticipated that special circumstances will arise often, and the procedures set forth in the Plan are presumed to be sufficient in the vast majority of cases in which counsel are to be appointed. Appointments made under this section will be reported to the CJA Committee.

C. Apportionment of Cases

Insofar as practical, private attorney appointments will be made in at least twenty-five percent (25%) of appointed cases.

D. Number of Counsel

More than one attorney may be appointed in any case determined by the Court to be extremely difficult or when necessary in the interests of justice to ensure high quality representation.

E. Continuing Representation

Once counsel is appointed under the CJA, counsel will continue the representation until: the matter is closed, including conclusion of any appellate or certiorari proceedings; substitute counsel has filed a notice of appearance; an order is entered allowing the client to proceed pro se; or the appointment is otherwise terminated by Court order.

If trial counsel prefers to withdraw in favor of new counsel on appeal, trial counsel will first file the notice of appeal in the district court to preserve the

client's right to appeal and then move to withdraw in the Court of Appeals, asking for appointment of substitute counsel.

XI. Compensation of CJA Panel Attorneys and Service Providers

A. Court Compensation Policies

1. Providing fair compensation to appointed counsel is a critical component of the administration of justice. CJA panel attorneys must be compensated for time expended in court and time reasonably expended out of court and reimbursed for expenses reasonably incurred.
2. Voucher 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.
3. 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.
4. Payment vouchers and amounts paid to counsel or service providers will not be disclosed except as required by law or CJA Guidelines.

B. Delegated Authority

The Judges of the District of Alaska delegate to the CJA Judge ultimate review and approval authority over requests for and payment of CJA funds reviewed and approved by CJA Resource Counsel, as provided in the Court's Miscellaneous General Order regarding delegation of CJA funding decisions ("Delegation MGO").

CJA Resource Counsel is responsible for reviewing and approving requests for transcripts, travel, services other than counsel, as well as vouchers seeking payment for panel attorneys and other service providers, except:

1. CJA Resource Counsel must consult with the CJA Judge on requests for atypical or high-cost services and may consult with the CJA Judge on any request. The CJA Judge must preapprove any atypical or unusually high-cost services.

2. With the exception of paralegals and investigators, the CJA Judge must preapprove service provider or expert funding in excess of the cap set in the Delegation MGO.

C. Payment Procedures

1. Claims for compensation must be submitted on the appropriate CJA form through the Court's eVoucher system.
2. Claims for compensation should be submitted no later than 60 days after final disposition of the case, unless good cause is shown.
3. The CJA Department will review the claim for mathematical and technical accuracy and for conformity with the CJA Guidelines. CJA Resource Counsel will review for reasonableness, i.e., to ensure that the claim is not clearly in excess of what was reasonably necessary.
4. The CJA Department should endeavor to act on CJA compensation claims within 30 days of submission.

D. Review of Voucher Reductions and Funding Denials

1. Purpose

The Court has created these review processes to assist in ensuring compliance with mandated billing guidelines and accurate record-keeping, to assess the reasonableness of vouchers and individual time entries, to assess the reasonableness of CJA funding requests for attorney and expert services, and to provide due process and ensure fairness in voucher review and funding authorizations.

2. Notice of Reduction or Denial

Claims for compensation or expenses and requests for funding under the CJA will not be reduced or denied without affording counsel notice and an opportunity to be heard. For amounts equal to or over five hours of services, counsel will also have the option of independent review.

a. Amounts Under Five Hours

When contemplating a reduction or rejection of a claim for compensation or expense by an attorney or service provider or denial of a funding request in whole or in part in an amount under five hours, for other than mathematical or

technical reasons, the CJA Department must first provide notice to counsel and offer an opportunity to justify the submission.

If counsel (or the service provider via counsel) responds and provides information justifying the claimed time or expense, the voucher will be approved as submitted.

If counsel indicates that the reduction or denial is not contested, or if no response is received within ten (10) days, the CJA Department will process the reduced voucher or funding denial as noticed. Counsel may then seek review, in writing, by the CJA Judge within ten (10) days of the reduction/denial. The CJA Judge's decision is final.

b. Amounts Equal To Or Over Five Hours

When contemplating a reduction or rejection of a claim for compensation or expense by an attorney or service provider or denial of a funding request in whole or in part in an amount equal to or over five hours, for other than mathematical or technical reasons, CJA Resource Counsel must consult with the CJA Judge and obtain approval before applying the reduction/denial.

If the CJA Judge agrees that the reduction/denial is appropriate, CJA Resource Counsel will provide counsel with the following:

- i. Prior written notice of the proposed reduction or denial including reasons therefor; and
- ii. Instructions for submitting additional information or justification and a summary of the independent review process.

Within ten (10) days of notice of the potential reduction or denial, counsel (or the service provider via counsel) may submit additional information or justification directly to CJA Resource Counsel and/or request informal peer review.

If counsel indicates that the reduction or denial is not contested, or if no response is received within ten (10) days, the CJA Department will process the reduced voucher or funding denial as noticed.

If additional information or justification is provided and the CJA Judge (or CJA Resource Counsel in consultation with the CJA Judge) finds it meritorious, the voucher or funding request will be approved as submitted.

If additional information or justification is provided and the CJA Judge (or CJA Resource Counsel in consultation with the CJA Judge) still intends to reduce the voucher or funding request in whole or in part, CJA Resource Counsel will provide written notice and instructions for seeking informal peer review.

3. Informal Peer Review

a. Peer Review Subcommittee

The Court hereby authorizes a Peer Review Subcommittee made up of the non-judge attorney members of the CJA Committee (not including CJA Resource Counsel).

b. Initiation of Informal Peer Review

The Peer Review Subcommittee will conduct an informal review of a payment voucher for attorney or expert services (CJA-20/21/30/31), request for excess fees (CJA-26, Budget-AUTH), or funding request (AUTH, Budget-AUTH) in the following circumstances:

- i. Upon counsel's timely written request for review of voucher reduction or funding denial equal to or over five hours. Such request must be submitted to CJA Resource Counsel within ten (10) days of notice of the reduction or denial.
- ii. Upon request by the CJA Judge, CJA Resource Counsel, Presiding Judge, or CJA Committee for informal review of a specific voucher, series of vouchers, or funding request.
- iii. Upon referral by CJA Resource Counsel for assessment of an appointed attorney or service provider's general billing practices.
- iv. Upon referral by CJA Resource Counsel for a random audit.

c. Peer Review Investigation

The non-conflicted members of the Peer Review Subcommittee will conduct a review and investigation to determine whether the voucher or funding request conforms to the Court's billing guidelines; is reasonable considering prior funding authorizations, payments, and the circumstances of the case; and is otherwise accurate and proper. The investigation may include review of vouchers and funding requests submitted by other panel members or service providers in the same or similar cases, court files, records of detention facilities, and interviews of panel members or service providers including the individual whose voucher is being reviewed. CJA Resource Counsel will facilitate access to materials requested by the Peer Review Subcommittee to the extent possible and without creating a conflict.

No provision of this section shall be construed as permitting disclosure to the panel attorney or service provider of information from which they may infer the source of the referral for peer review, and no information shall be disclosed to the panel attorney or service provider or be obtained by any process that would jeopardize the confidentiality of communication for persons whose opinions have been sought in the investigation.

d. Peer Review Determination

The Peer Review Subcommittee will submit a written review and recommendation to CJA Resource Counsel or the CJA Judge, to be given due weight. If this informal review does not resolve the concern and CJA Resource Counsel or the CJA Judge still intends to reduce a voucher or deny funding in whole or in part, then CJA Resource Counsel will provide a copy of the written informal peer review recommendation and notice of decision to counsel with instructions for seeking formal and final review by the Presiding Judge.

4. Independent Final Review by Presiding Judge

Within ten (10) days of notice of the decision by CJA Resource Counsel or the CJA Judge following informal peer review, counsel may seek formal review by the Presiding Judge. The request must be in writing to CJA Resource Counsel, who will forward the request along with any supporting documentation and the Peer

Review Subcommittee's written report and recommendation to the Presiding Judge. The Presiding Judge's decision is final.

Any determination that a voucher or funding request should be reduced or denied does not necessarily constitute a finding of wrongdoing.

CJA Resource Counsel will process the voucher or funding request in line with the Presiding Judge's final decision, which should be completed within thirty (30) days.

E. Case Budgeting

Consistent with CJA Guidelines, Ch. 2, §§ 230.26.10–20, CJA counsel are required to use case-budgeting techniques in non-capital representations where combined attorney and service provider costs are likely to exceed \$50,000. The Court or appointed counsel should contact the CJA Department and/or Ninth Circuit CJA Case Budgeting Attorney to discuss whether a case may be appropriate for budgeting and the procedures for submitting a case budget. Time spent preparing a budget is compensable.

F. 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.

XII. Investigative, Expert, and Other Services

A. Financial Eligibility

Counsel for a person who is financially unable to obtain investigative, expert, or other services necessary for an adequate defense may request such services in an *ex parte* application to the Court as provided in 18 U.S.C. § 3006A(e)(1), regardless of whether counsel is appointed under the CJA. Upon finding that the services are necessary, and that the person is financially unable to obtain them, the Court must authorize counsel to obtain the services.

B. Applications

Requests for authorization of 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 person represented or as required by law or Judicial Conference policy.

C. Cost Considerations

Appointed counsel is expected to use lower-cost service providers such as investigators or paralegals to undertake tasks not requiring attorney expertise. In multi-defendant cases with multiple CJA attorneys, counsel must make all reasonable efforts to coordinate with each other to reduce costs, including coordinating and sharing discovery and utilizing shared investigators and other services to the extent possible.

D. Compliance

Counsel must comply with Judicial Conference policies set forth in the [CJA Guidelines, Ch. 3](#).

XIII. Appointment of Counsel in Capital Cases

A. Applicable Legal Authority

The appointment and compensation of counsel in capital cases and the authorization and payment of persons providing investigative, expert, and other services are governed by [18 U.S.C. §§ 3005, 3006A](#), and [3599](#), and [CJA Guidelines, Ch. 6](#).

B. General Applicability and Appointment of Counsel Requirements

1. Unless otherwise specified, the provisions set forth in this section apply to all capital proceedings in the federal courts. Such matters include those in which the death penalty may be or is being sought by the prosecution, motions for a new trial, direct appeal, applications for a writ of certiorari to the Supreme Court of the United States, all post-conviction proceedings under 28 U.S.C. § 2255 seeking to vacate or set aside a death sentence, applications for stays of execution, competency proceedings, proceedings for executive or other clemency, and other appropriate motions and proceedings.
2. Any person charged with a crime that may be punishable by death who is or becomes financially unable to obtain representation is entitled to the assistance of appointed counsel throughout every stage of available judicial proceedings, including pretrial proceedings, trial, sentencing, motions for new trial, appeals, applications for writ of certiorari to the Supreme Court of the United States, and all available post-conviction processes, together with applications for stays of execution and other appropriate motions and procedures, competency proceedings, and proceedings for

executive or other clemency as may be available to the defendant. See [18 U.S.C. § 3599\(e\)](#).

3. Qualified counsel must be appointed in capital cases at the earliest possible opportunity.
4. Given the complex and demanding nature of capital cases, where appropriate, the Court will utilize the expert services available through the Administrative Office of the United States Courts (AO), Defender Services Death Penalty Resource Counsel projects (“Resource Counsel projects”) which include: (1) Federal Death Penalty Resource Counsel and Capital Resource Counsel Projects (for federal capital trials), (2) Federal Capital Appellate Resource Counsel Project, and (3) Federal Capital Habeas § 2255 Project. These counsels are death penalty experts who may be relied upon by the Court for assistance with selection and appointment of counsel and legal, practical, and other matters arising in federal capital cases.
5. The Federal Public Defender should promptly notify and consult with the appropriate Resource Counsel projects about potential and actual federal capital trial, appellate, and habeas corpus cases, and consider their recommendations for appointment of counsel.
6. The presiding judge may appoint an attorney furnished by a state or local public defender organization or legal aid agency or other private, non-profit organization to represent a person charged with a capital crime or seeking federal death penalty habeas corpus relief provided that the attorney is fully qualified. Such appointments may be in place of, or in addition to, the appointment of a federal defender organization or a CJA panel attorney or an attorney appointed pro hac vice. See [18 U.S.C. § 3006A\(a\)\(3\)](#).
7. All attorneys appointed in federal capital cases must be well qualified, by virtue of their training, commitment, and distinguished prior capital defense experience at the relevant stage of the proceeding, to serve as counsel in this highly specialized and demanding litigation.
8. All attorneys appointed in federal capital cases must have sufficient time and resources to devote to the representation, taking into account their current caseloads and the extraordinary demands of federal capital cases.
9. All attorneys appointed in federal capital cases should comply with the [American Bar Association’s 2003 Guidelines for the](#)

[Appointment and Performance of Defense Counsel in Death Penalty Cases](#) (Guidelines 1.1 and 10.2 et seq.), and the [2008 Supplementary Guidelines for the Mitigation Function of Defense Teams in Death Penalty Cases](#).

10. All attorneys appointed in federal capital cases should consult regularly with the appropriate Resource Counsel projects.
 11. Questions about the appointment and compensation of counsel and the authorization and payment of investigative, expert, and other service providers in federal capital cases should be directed to the Ninth Circuit CJA Case Budgeting Attorney or the AO Defender Services Office, Legal and Policy Division Duty Attorney at 202-502-3030 or via email at ods_lpb@ao.uscourts.gov.
- C. Appointment of Trial Counsel in Federal Death-Eligible Cases¹
1. General Requirements
 - a. Appointment of qualified capital trial counsel must occur no later than when a defendant is charged with a federal criminal offense where the penalty of death is possible. See [18 U.S.C. § 3005](#).
 - b. To protect the rights of an individual who, although uncharged, is the subject of an investigation in a federal death-eligible case, the Court may appoint capitally qualified counsel upon request, consistent with Sections C.1, 2, and 3 of these provisions.
 - c. At the outset of every capital case, the Court must appoint two attorneys, at least one of whom meets the qualifications for “learned counsel” as described below. If necessary for adequate representation, more than two attorneys may be appointed to represent a defendant in a capital case. See [18 U.S.C. § 3005](#).
 - d. When appointing counsel, the judge must consider the recommendation of the Federal Public Defender, who will

¹ The Judicial Conference adopted detailed recommendations on the appointment and compensation of counsel in federal death penalty cases in 1998 ([JCUS-SEP 98](#), p. 22). In September 2010, the Defender Services Committee endorsed revised commentary to the Judicial Conference’s 1998 recommendations. [CJA Guidelines, Appx. 6A, Recommendations and Commentary Concerning the Cost and Quality of Defense Representation \(Updated Spencer Report, September 2010\)](#) (“Appx. 6A”) is available on the judiciary’s website.

consult with Federal Death Penalty Resource Counsel to recommend qualified counsel. See [18 U.S.C. § 3005](#).

- e. To effectuate the intent of 18 U.S.C. § 3005 that the federal public defender's recommendation be provided to the Court, the judge should ensure the federal public defender has been notified of the need to appoint capitally qualified counsel.
- f. Reliance on a list for appointment of capital counsel is not recommended because selection of trial counsel should account for the particular needs of the case and the defendant and be based on individualized recommendations from the Federal Public Defender in conjunction with the Federal Death Penalty Resource Counsel and Capital Resource Counsel projects.
- g. Out-of-district counsel, including federal defender organization staff, who possess the requisite expertise may be considered for appointment in capital trials to achieve high quality representation together with cost and other efficiencies.
- h. In evaluating the qualifications of proposed trial counsel, consideration should be given to their commitment to the defense of capital cases, their current caseload including other capital cases, and their willingness to effectively represent the interests of the client.

2. Qualifications of Learned Counsel

- a. Learned counsel must either be a member of this district's bar or be eligible for admission pro hac vice based on his or her qualifications. Appointment of counsel from outside the jurisdiction is common in federal capital cases to achieve cost and other efficiencies together with high quality representation.
- b. Learned counsel must meet the minimum experience standards set forth in [18 U.S.C. §§ 3005](#) and [3599](#).
- c. Learned counsel should have distinguished prior experience in the trial, appeal, or post-conviction review of federal death penalty cases, or distinguished prior experience in state death penalty trials, appeals, or post-conviction review that,

in combination with co-counsel, will assure high quality representation.

- d. “Distinguished prior experience” contemplates excellence, not simply prior experience. Counsel with distinguished prior experience should be appointed even if meeting this standard requires appointing counsel from outside the district where the matter arises.
- e. The suitability of learned counsel should be assessed with respect to the particular demands of the case, the stage of the litigation, and the defendant.
- f. Learned counsel must be willing and able to adjust other caseload demands to accommodate the extraordinary time required by the capital representation.
- g. Learned counsel should satisfy the qualification standards endorsed by bar associations and other legal organizations regarding the quality of representation in capital cases.

3. Qualifications of Second and Additional Counsel

- a. Second and additional counsel may, but are not required to, satisfy the qualifications for learned counsel, as set forth above.
- b. Due to the complex, demanding, and protracted nature of death penalty proceedings, judicial officers **MUST** appoint at least two (2) attorneys.
- c. Court strongly encourages the Federal Public Defender in conjunction with the Court to appoint an attorney within the district.
- d. Second and additional counsel must be well qualified, by virtue of their distinguished prior criminal defense experience, training and commitment, to serve as counsel in this highly specialized and demanding litigation.
- e. Second and additional counsel must be willing and able to adjust other caseload demands to accommodate the extraordinary time required by the capital representation.

- f. The suitability of second and additional counsel should be assessed with respect to the demands of the individual case, the stage of the litigation, and the defendant.

D. Appointment and Qualifications of Direct Appeal Counsel in Federal Death Penalty Cases

1. When appointing appellate counsel, the judge must consider the recommendation of the Federal Public Defender, who will consult with Federal Capital Appellate Resource Counsel to recommend qualified counsel.
2. Counsel appointed to represent a death-sentenced federal appellant should include at least one attorney who did not represent the appellant at trial.
3. Each trial counsel who withdraws should be replaced with similarly qualified counsel to represent the defendant on appeal.
4. Out-of-district counsel, including federal defender organization staff, who possess the requisite expertise may be considered for appointment in capital appeals to achieve high quality representation together with cost and other efficiencies.
5. Appellate counsel, between them, should have distinguished prior experience in federal criminal appeals and capital appeals.
6. At least one of the attorneys appointed as appellate counsel must have the requisite background, knowledge, and experience required by [18 U.S.C. § 3599\(c\) or \(d\)](#).
7. In evaluating the qualifications of proposed appellate counsel, consideration should be given to the qualification standards endorsed by bar associations and other legal organizations regarding the quality of legal representation in capital cases.
8. In evaluating the qualifications of proposed appellate counsel, consideration should be given to their commitment to the defense of capital cases, their current caseload including other capital cases, and their willingness to effectively represent the interests of the client.

E. Appointment and Qualifications of Post-Conviction Counsel in Federal Death Penalty Cases ([28 U.S.C. § 2255](#))

1. A financially eligible person seeking to vacate or set aside a death sentence in proceedings under 28 U.S.C. § 2255 is entitled to appointment of fully qualified counsel. See [18 U.S.C. § 3599\(a\)\(2\)](#).
2. Due to the complex, demanding, and protracted nature of death penalty proceedings, the Court should consider appointing at least two attorneys.
3. In light of the accelerated timeline applicable to capital § 2255 proceedings, prompt appointment of counsel is essential. Wherever possible, appointment should take place prior to the denial of certiorari on direct appeal by the United States Supreme Court.
4. When appointing counsel in a capital § 2255 matter, the Court should consider the recommendation of the Federal Public Defender, who will consult with the Federal Capital Habeas § 2255 Project.
5. Out-of-district counsel, including federal defender organization staff, who possess the requisite expertise may be considered for appointment in capital § 2255 cases to achieve high quality representation together with cost and other efficiencies.
6. Counsel in § 2255 cases should have distinguished prior experience in the area of federal post-conviction proceedings and in capital post-conviction proceedings.
7. When possible, post-conviction counsel should have distinguished prior experience in capital § 2255 representations.
8. In evaluating the qualifications of proposed post-conviction counsel, consideration should be given to the qualification standards endorsed by bar associations and other legal organizations regarding the quality of legal representation in capital cases.
9. In evaluating the qualifications of proposed post-conviction § 2255 counsel, consideration should be given to their commitment to the defense of capital cases, their current caseload including other capital cases, and their willingness to effectively represent the interests of the client.

F. Case Budgeting and Resources

All capital cases, unless staffed only by the Alaska FPDO, must be budgeted. As early as practicable after appointment, counsel or the Court should refer the case to CJA Resource Counsel and Ninth Circuit Case

Budgeting Attorney. Questions about the appointment and compensation of counsel and the authorization and payment of investigative, expert, and other service providers in capital cases also may be directed to the appropriate Death Penalty Resource Counsel project or the AO Defender Services Office, Legal and Policy Division Duty Attorney at 202-502-3030.

XIV. Effective Date

This Plan will become effective when approved by the Judicial Council of the Ninth Circuit.

ENTER FOR THE COURT ON August 31, 2023.

/s/ Sharon L. Gleason
CHIEF JUDGE, DISTRICT COURT

APPROVED BY THE JUDICIAL COUNCIL OF THE NINTH CIRCUIT ON August 31, 2023.



CHIEF JUDGE, COURT OF APPEALS

APPENDIX A: TECHNOLOGY REQUIREMENT

Each lawyer in this District shall aim to maintain competence with technology relevant to their practice. This will include working to keep abreast of changes in technology as it relates to case management, discovery, investigation, and in-court advocacy. It will also include understanding the benefits and risks associated with current and emerging technology.

In accordance with the above mission, those attorneys, and their staff, appointed under the CJA should be proficient in the use of e-mail programs, word processing, spreadsheets, ECF filing, the searching of electronic data, or any other software programs that may be used in any federal criminal case.

The following are minimum technology equipment requirements for CJA counsel:

- PC or Mac computer, including a DVD/CD writer, speakers and USB ports to utilize external hard drives and thumb drives
- Printer
- Scanner with ability to convert paper documents to PDF/A format
- Secure high speed Internet connection
- A web browser - Windows Internet Explorer preferred
- Multi-media player such as Windows Media Player
- Word processing program – Microsoft Word preferred
- Presentation, database, and spreadsheet software – similar to what is available in the Microsoft Office Suite
- A PDF program with writing and reading capability, plus the ability to create searchable PDF documents
- Anti-virus software configured to automatically run security updates
- A Zip file application such as 7-zip
- An individual e-mail address for the attorney that is private

Regardless of whether CJA counsel use Apple or Windows based computers, their computer hardware should support the minimum requirements for currently releases of the Windows operating system and Microsoft Office applications. Since some litigation support programs do not work with Apple operating systems, CJA counsel who primarily use Apple based computers should have access to a computer that uses a Windows operating system.

Attorneys should anticipate the need to upgrade their computer and peripheral equipment a minimum of every five years. Upgrade decisions should be based on what hardware and software will provide the best functionality and compatibility with future versions of CM/ECF and CJA eVoucher.

NOTE: Computer equipment, software, and training are a part of each lawyer's overhead expenses and are not expenses that will be paid by the Court.