

**UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF ALABAMA
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 Administering the CJA and Related Statutes*, Volume VII, Part A, *Guide to Judiciary Policy* (CJA Guidelines), the judges of the United States District Court for the Middle District of Alabama 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 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 pursuant to the CJA, will not be deprived, because they are financially unable to pay for adequate representation, of any element of representation necessary to an adequate defense.
2. The further objective of this Plan is to particularize the requirements of the CJA, the requirements for appointment of counsel of 18 U.S.C. §§ 3005, 3006A, and 3599, and the CJA Guidelines in a way that meets the needs of this district.

B. Compliance.

1. This Court, its clerk, the Community Defender Organization (“CDO”) and private attorneys appointed under the CJA 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. Each private attorney shall be provided with a then-current copy of this Plan by the office of the CDO, upon the attorney’s first appointment under the CJA or designation as a member of the Panel of Private Attorneys under the Criminal Justice Act (CJA Panel). The Clerk shall maintain a current copy of the CJA Guidelines for the use of CJA Panel members and shall make its availability known to those attorneys.

III. DEFINITIONS

- A. "Representation" includes counsel and investigative, expert, and other services.
- B. "Appointed attorney" includes private attorneys and the executive director and staff attorneys of the CDO.

IV. PROVISION OF REPRESENTATION

A. Circumstances.

- 1. Mandatory. Representation shall be provided for any financially eligible person who:
 - a. is charged with a felony or with a Class A misdemeanor or has been notified by the U.S. Attorney that he or she is a target of an investigation for possible prosecution of a felony or 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 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 by being less restrictive than the prior conditions of probation 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 of revocation of a term of supervised release, (unless the modification sought is favorable to

the releasee by being less restrictive than the prior conditions of supervised release and the government has not objected to the proposed change);

- g. is subject to a mental condition hearing under 18 U.S.C. § 4241;
- h. is in custody as a material witness;
- i. is seeking to set aside or vacate a death sentence under 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; or
- l. faces loss of liberty in a case and federal law requires the appointment of counsel.

2. Discretionary. Whenever a district or magistrate judge determines that the interests of justice so require, representation may be provided for any financially eligible person who:

- a. is charged with a petty offense (Class B or C misdemeanor, or an infraction) for which a sentence to confinement is authorized;
- b. is seeking relief, other than to set aside or vacate a death sentence, under 28 U.S.C. § 2241, § 2254, or § 2255;
- c. is charged with civil or criminal contempt who faces loss of liberty;
- d. is proposed by the United States attorney for proceedings under a pretrial diversion program.

3. Representation may also be furnished for financially eligible persons in ancillary matters when it is appropriate to the proceedings, pursuant to the CJA and the *Guide to Judiciary Policy*.

B. When Counsel Shall be Provided.

Counsel shall be provided to eligible persons as soon as feasible after they are taken into custody, when they appear before a district or magistrate judge, when they are formally charged or notified of probable charges and target status, or when the district or magistrate judge otherwise considers appointment of counsel appropriate under the CJA, whichever 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 extremely difficult.
2. Qualifications in a capital case. Except as provided by 18 U.S.C. §3005, unless the Government has stated, on the record prior to trial, that it would not seek the death penalty in a particular case, at least one attorney appointed in a case where the Indictment or Complaint charges a crime punishable by death shall be learned in the law applicable to capital cases and shall meet the qualification requirements set forth in 18 U.S.C. § 3005.¹ In assigning counsel, the court shall consider the recommendation of the CDO. All counsel appointed in a capital case must have the background, knowledge, and experience necessary to represent a defendant properly in a criminal case, giving due consideration to the seriousness of the possible penalty and to the unique and complex nature of the litigation.

D. Eligibility for Representation.

1. Factfinding. The determination of eligibility for representation under the CJA is a judicial function to be performed by a district or magistrate judge after making appropriate inquiries concerning the person's financial condition.
2. Disclosure of Change in Eligibility. If, at any time after appointment, counsel

¹*United States v. Shepherd*, 576 F.2d 719, 728 - 729 (7th Cir. 1978) (the term "capital" when used to modify "crime" means "punishable by death"); *United States v. Grimes*, 142 F.3d 1342, 1347 (11th Cir. 1998) (a defendant is not entitled to benefits he would otherwise receive in a capital case if the government announces that it will not seek the death penalty or if the death penalty is otherwise unavailable by force of law).

obtains information that a client is financially able to make payment, in whole or in part, for legal or other services in connection with his or her representation, and the source of the attorney's information is not protected as a privileged communication, counsel shall advise the court.

V. COMMUNITY DEFENDER ORGANIZATION

- A. Establishment. The court has determined that the use of a Community Defender Organization, as defined in 18 U.S.C. § 3006A (g) (2) (B), will facilitate the representation of persons entitled to the appointment of counsel under the CJA. This Court finds that the Middle District of Alabama Federal Defender Program, Inc., an Alabama not-for-profit corporation, whose bylaws are attached to this Plan as Appendix I and incorporated herein by reference, is a non-profit defense counsel service established and administered to provide legal representation, and is otherwise eligible under the CJA to qualify as the community defender organization for the Middle District of Alabama.

Therefore, the court designates the Middle District of Alabama Federal Defender Program, Inc. as the community defender organization for the Middle District of Alabama. The court may review the continued eligibility of the Middle District of Alabama Federal Defender Program, Inc. from time to time, and may at any time by order and on reasonable notice terminate its designation as the community defender organization for the Middle District of Alabama.

- B. Supervision of Defender Organization. The executive director of the CDO shall be responsible for the supervision and management of the CDO. Accordingly, the executive director of the CDO shall be appointed in all cases assigned to that organization for subsequent assignment to staff attorneys at the discretion of the executive director.
- C. Management of CJA Panel. The executive director of the CDO shall be responsible for the systematic distribution of cases to and for the management and training of the CJA Panel, subject to the provisions of the Plan for the Composition, Administration, and Management of the Panel of Private Attorneys under the Criminal Justice Act, found at Appendix II of this CJA Plan. The court may, however, resume management of the CJA Panel at any time.

VI. PRIVATE ATTORNEYS

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

- B. Ratio of Appointments. Where practical and cost effective, private attorneys from the CJA Panel shall be appointed in a substantial proportion of the cases in which the accused is determined to be financially eligible for representation under the CJA.

"Substantial" shall usually be defined as approximately 25% of the appointments under the CJA annually throughout the district.

VII. DUTIES OF APPOINTED COUNSEL

- A. Standards. The services to be rendered a person represented by appointed counsel shall be commensurate with those rendered if counsel were privately employed by the person.
- B. Professional Conduct. Attorneys appointed pursuant to the CJA shall conform to the highest standards of professional conduct, including but not limited to the provisions of the American Bar Association's *Model Rules of Professional Conduct* or *Model Code of Professional Conduct* or other standards for professional conduct adopted by the court.
- C. No Receipt of Other Payment. Appointed counsel may not require, request, or accept any payment or promise of payment or any other valuable consideration for representation under the appointment, unless such payment is approved by order of the court.
- D. Continuing Representation. Once counsel is appointed under the CJA, counsel shall continue the representation 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.

VIII. DUTIES OF LAW ENFORCEMENT AND RELATED AGENCIES

- A. Presentation of Accused for Appointed 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 accused person who is in custody, or who otherwise may be entitled to counsel under the CJA, whether he or she is financially able to secure representation, and shall, in such cases in which the person indicates that he or she is not able, notify the executive director of the CDO. The executive director or a staff attorney shall discuss with the person the right to representation and the right to appointed counsel, and if appointment of counsel seems likely, assist in the completion of a financial affidavit (CJA Form 23) and arrange to have the person promptly presented before a magistrate judge of this court for determination of financial eligibility and appointment of counsel.

IX. 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. Claims. The CJA at 18 U.S.C. § 3006A(d)(1) provides that at the conclusion of CJA representation, an appointed attorney shall be compensated for time expended in court and for time “reasonably expended out of court” and shall be reimbursed “for expenses reasonably incurred.” The district court, as the body empowered to “fix” CJA appointed counsel compensation, has the statutory authority and discretion to determine what is a reasonable expense or a reasonable use of billable time.² The United States Judicial Conference developed the “Guidelines for Administering the CJA and Related Statutes” (*Guide to Judiciary Policy*, Vol. 7, Part A) to assist courts in the application of the provisions of the CJA.³ Judges are urged to determine a “fair and reasonable fee.” See §230.23.40© (Waiving Case Compensation Maximums - Determining Fair Compensation). Claims for compensation of private attorneys providing representation under the CJA shall be submitted within 45 days of completion of the case on the appropriate CJA form to the office of the Clerk of the Court. That office shall review the claim form for mathematical and technical accuracy and for conformity with the specific provisions of the CJA, and the *Guide to Judiciary Policy*, and, if correct, shall promptly forward the claim form for the consideration of the appropriate judicial officer. The court will exert its best effort to avoid delays in reviewing payment vouchers and in submitting them for further proceeding. Absent extraordinary circumstances, judges will act on claims for compensation within thirty (30) days of submission.
- C. Voucher reductions/changes. If the office of the Clerk proposes a reduction in the amount claimed on the basis of non-conformity with the CJA or the *Guide to Judiciary Policy*, the specific rule violated must be cited in writing on the claim form. If no rule can be cited, the amount shall not be changed, but the office of the Clerk may notate its position on the claim form. Where reductions are imposed upon reviewing the claim for compensation, (1) notice of the reduction, (2) a brief statement of the rule supporting the reduction, and (3) statement of a specific opportunity to address the matter prior to the final decision, shall be provided to the attorney prior to the forwarding of the claim to the judge, for his/her consideration.

²18 U.S.C. § 3006A(d)(5); *U.S. v. Rodriguez*, 833 F.2d 1536, 1537 - 1538 (11th Cir. 1987) (the Act confers upon the presiding judge the discretion to set the amount of compensation); *U.S. v. Griggs*, 240 F.3d 974 (11th Cir. 2001) (award of CJA compensation is not appealable).

³See *In re Berger*, 498 U.S. 233, 234, 111 S.Ct. 628, 112 L.Ed.2d 710 (1991).

If the voucher reductions/changes are disputed, the attorney should address his/her concerns in writing to the presiding judge no later than seven days after the date of the notice of reductions/changes. The judge will resolve any disputes and make the final determination of authorization for payment.

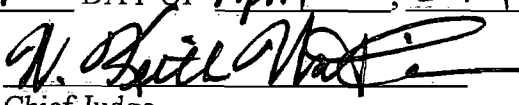
D. Supersession. This Plan supersedes all prior Criminal Justice Act Plans of this Court.

X. EFFECTIVE DATE.

This Plan shall become effective when approved by the Judicial Council of the Eleventh Circuit.

APPENDICES:

- I. By-Laws of the Community Defender Organization.
- II. Plan for the Composition, Administration, and Management of the Panel of Private Attorneys under the Criminal Justice Act.
- III. Procedure for Interim Payments to Counsel

ENTERED FOR THE COURT ON THE 11th DAY OF April, 2014.

Chief Judge
Middle District of Alabama

APPROVED BY THE JUDICIAL COUNCIL OF THE ELEVENTH CIRCUIT ON THE
_____ DAY OF _____, _____.

Chief Judge
Eleventh Circuit Court of Appeals

APPENDIX I

INITIAL BYLAWS OF MIDDLE DISTRICT OF ALABAMA FEDERAL DEFENDER PROGRAM, INC.

Adopted April 22, 1994

ARTICLE I.

LOCATION OF CORPORATE OFFICES

Section 1.01. Principal Office. The principal office of Middle District of Alabama Federal Defender Program, Inc. (the "Corporation") shall be located in Montgomery, Alabama.

Section 1.02. Other Offices. The Corporation may also have offices at other places within and without Alabama as the Board of Directors may from time to time designate.

ARTICLE II.

DIRECTORS

Section 2.01. Number and Qualifications. The business, affairs, and property of the Corporation shall be managed by a Board of Directors, consisting of not less than six (6) and not more than twenty-one (21) members. Subject to the foregoing limitation, such number may be fixed from time to time by action of the Board of Directors. If the number is not so fixed, the number shall be twelve (12), the number of the first Board of Directors as named in the Articles of Incorporation. The limitation upon the maximum and minimum number of Directors may be changed by the vote of a majority of the entire Board. No decrease shall shorten the term of any incumbent Director. Directors may succeed themselves in office. Each Director shall be at least nineteen (19) years of age, a citizen of the United States and a resident of the Middle District of Alabama Federal Judicial District as set forth in 28 U.S.C. § 81.

Section 2.02. Election and Term. In order to provide and insure continuity of experience, the terms of office of the Directors shall be staggered. The first Board of Directors shall consist of those twelve persons named as the initial Directors in the Articles of Incorporation and those Directors shall hold office

until the first annual meeting of the Board of Directors and until their successors have been elected and shall have qualified. At the first annual meeting, one-third of the members of the Board of Directors shall be elected for terms of one year, one-third shall be elected for terms of two years, and one-third shall be elected for terms of three years. Thereafter, at annual meetings Directors shall be elected for terms of three years to succeed those whose terms are expiring. Directors who are elected at an annual meeting of the Board of Directors and Directors who are elected in the interim to newly created directorships shall hold office until the next annual meeting of the Board of Directors at which their terms shall expire and until their successors have been elected and shall have qualified. A Director may resign at any time upon written notice to the Corporation. A Director may be removed by action of a majority of the other Directors with or without cause. Any vacancy occurring in the Board of Directors and any newly created directorship may be filled by a majority vote of the remaining Directors then in office at any annual or regular meeting of the Board of Directors or special meeting called for that purpose. A Director elected to fill a vacancy shall be elected for the unexpired term of the predecessor in office.

Section 2.03. Annual Meetings. The annual meeting of the Board of Directors shall be held in October of each year at a time and place designated by the Board of Directors. In the event that the annual meeting is omitted by oversight, or otherwise, the Directors shall cause a meeting in lieu thereof to be held as soon thereafter as practical, and any business transacted or elections held at that meeting shall be valid and considered as transacted or held at the annual meeting.

Section 2.04. Other Meetings. The Board of Directors may provide by resolution for regular periodic meetings of which no notice shall be required. Special meetings may be called at any time by the President and may be held at any place or time (a) upon seven (7) days written or verbal notice to each Director which may be given by telephone or facsimile telecopy or (b) without notice

if notice is waived in writing signed by all of the Directors before or after the meeting. Attendance at a meeting shall be considered waiver of notice of the meeting, unless the sole purpose of attending is to object to the failure to give proper notice. The President shall call a special meeting of the Board of Directors within seven (7) days of the receipt of a request therefor signed by two (2) or more of the Directors.

Section 2.05. Quorum of Directors. At all meetings of the Board of Directors, a majority of the Directors shall constitute a quorum authorized to transact business. Any matter may be adopted by a majority vote of those present unless a different vote is specifically required by a provision of these Bylaws. The act of the majority of the Directors present at a meeting at which a quorum is present shall be the act of the whole Board of Directors.

Section 2.06. Telephone Meetings. Any one or more members of the Board of Directors may participate in a meeting of the Board of Directors by means of a conference telephone or similar communications equipment allowing all persons participating in the meeting to hear each other at the same time. Participation by such means shall constitute presence in person at a meeting.

Section 2.07. Written Consent. Notwithstanding any other provision contained herein, any action required or permitted to be taken by the Board of Directors may be taken without a meeting if all members of the Board of Directors consent in writing to the adoption of a resolution authorizing such action.

Section 2.08. Voting. At all meetings of the Board of Directors, each Director shall have one (1) vote.

Section 2.09. Responsibilities, Powers and Duties.

(a) The Board of Directors shall be charged with the general authority and responsibility to manage and direct the property, affairs and business of the Corporation and to solicit, accept, administer and invest its assets. The Board of Directors may, however, delegate its administrative and investing powers and engage others to handle matters of that nature.

(b) The Board of Directors is authorized and empowered, for and on behalf of the Corporation, to refuse or accept any bequest, devise, grant or gift for any of its objects and purposes, of any property, real, personal and mixed, of whatever kind, nature and description and wherever situated.

(c) The Board of Directors is authorized and empowered, for and on behalf of the Corporation, to sell, exchange, convey, mortgage, lease, transfer or otherwise dispose of any property, real, personal, and mixed, as the objects and purposes of the Corporation may require, subject to such limitations as may be prescribed by law.

(d) The Board of Directors is hereby authorized and empowered, for and on behalf of the Corporation, to invest and reinvest assets of the corporation in such stocks, common or preferred, bonds, debentures, notes, bills, certificates of deposit, bank accounts, custodial accounts, mortgages, and such other securities and property as the Board of Directors shall deem advisable without the limitation on investments prescribed by the Constitution or laws of the State of Alabama or any other state, but subject to the limitations and conditions contained in any bequest, devise, grant or gift, provided such limitations and conditions are not in conflict with the provisions of applicable sections of the Internal Revenue Code of 1986 or any other laws and statutes and the regulations thereunder, as they now exist or as they may hereafter be amended, and provided further that such limitations and conditions are not in conflict with the purposes and objectives of the Corporation.

(e) The Board of Directors is authorized and empowered, for and on behalf of the Corporation, to employ such persons, firms or corporations as it may deem advisable to assist it in connection with the management of the business and affairs and the investment of the assets of the Corporation.

ARTICLE III.

COMMITTEES

Section 3.01. Executive Committee. The officers of the Corporation and its immediate past President, if still a member of the Board of Directors, shall act as an Executive Committee. The President shall serve as chairperson of the Executive Committee. Other than the limitations placed by law upon its authority and the authority to employ or discharge the Executive Director and to approve the annual budget, the Executive Committee shall have and exercise the full and complete authority of the Board of Directors in the management of the Corporation between meetings of the Board. A majority of the Executive Committee shall constitute a quorum.

Section 3.02. Designation of Other Committees. The Board of Directors may, by resolution passed by a majority of the whole board, designate one or more committees, each committee to consist of two (2) or more Directors of the Corporation. One member of each committee shall be appointed chairperson. The Board may designate one or more Directors or outside persons as alternate members of any committee, who may replace any absent or disqualified member at any meeting of the committee. The designation of any committee and the delegation to it of authority shall not operate to relieve the Board of Directors or any member of it of any responsibility imposed upon it or him or her by law. The Board of Directors may have the power at any time to increase or decrease the number of members of any committee, to fill vacancies on it, to remove any member of it, to designate a new chairperson, and to change its functions or terminate its existence.

Section 3.03. Powers of Committee. Any committee established by resolution of the Board of Directors, to the extent provided in the resolution, shall have the power to study and make recommendations concerning the matters delegated to it.

Section 3.04. Meetings of Committees. Regular or special meetings of committees may be held within or without Alabama at any place or time. Regular meetings may be established by resolution of the Board of Directors or by resolution of the

committee of which no notice shall be required. A special meeting of any committee may be called at any time by its chairman or by the President (a) upon seven (7) days written or verbal notice to each member of the committee, which may given by telephone or facsimile telecopy, or (b) without notice if notice is waived in writing signed by all of the members of the committee before or after the meeting. Attendance at a meeting shall be considered waiver of notice of the meeting, unless the sole purpose of attending is to object to the failure to give proper notice. Within seven (7) days of the receipt of a request by a member of any committee, its chairman or the President shall call a special meeting of that committee.

Section 3.05. Record of Proceedings. Committees shall keep minutes of its acts and proceedings. These minutes shall be submitted to the next succeeding meeting of the Board of Directors for approval, but failure to submit or to receive approval of these minutes shall not invalidate any action taken upon authorization contained in them.

Section 3.06. Quorum of Committee. A majority of any committee shall be necessary to constitute a quorum for the transaction of any business. The act of a majority of the members present at a meeting at which a quorum is present shall be the act of the committee.

Section 3.07. Telephone Meetings. Any one or more members of any committee may participate in a meeting of the committee by means of a conference telephone or similar communications equipment allowing all persons participating in the meeting to hear each other at the same time. Participation by such means shall constitute presence in person at a meeting.

Section 3.08. Written Consent. Notwithstanding any other provision contained herein, any action required or permitted to be taken by any committee may be taken without a meeting if all members of the committee consent in writing to the adoption of a resolution authorizing such action.

ARTICLE IV.

OFFICERS AND EXECUTIVE DIRECTOR

Section 4.01. Election and Appointment. At any regular or special meeting of the Board of Directors prior to its first annual meeting, the Board may choose a President, a Vice President, a Secretary and a Treasurer, each of whom shall be a director, to serve until the first annual meeting of the Board of Directors. At each annual meeting of the Board of Directors, or at any special meeting called for that purpose, the Board shall choose a President, a Vice President, a Secretary and a Treasurer, each of whom shall be a director. Any two or more offices may be held by one person, except that no person shall hold the offices of President and Secretary simultaneously. All of the officers so elected shall hold office until the next annual meeting of the Board of Directors and until their respective successors shall be duly elected and shall qualify. If any vacancy occurs among the above offices, the vacancy may be filled for the remainder of the term by the Board of Directors, at a regular or special meeting, and any officer so elected shall hold office until his successor is duly elected and qualified.

Section 4.02. Suspension and Removal. Any officer of the Corporation may be removed or suspended by a majority vote of the Board of Directors at any time, with or without cause.

Section 4.03. Powers and Duties of President. It shall be the duty of the President, as ex officio Chairperson of the Board of Directors, to preside at all meetings of the Board of Directors. The President shall cause to be called regular and special meetings of the Board of Directors in accordance with these Bylaws. The President, subject to the approval of the Board of Directors, shall appoint and remove, employ and discharge, and determine the compensation of all agents and employees of the Corporation other than officers appointed by the Board of Directors. Any employee or agent of the Corporation, other than officers appointed by the Board of Directors, may be removed,

discharged or suspended by the President or the Board of Directors, with or without cause. The President shall see that the books, reports, statements, and certificates required by law are properly kept, made, and filed according to law. The President or the President's designee shall submit a report of the operations of the Corporation for each year to the Board of Directors at its regular annual meeting, or at a special meeting called for that purpose, and from time to time the President shall report to the Board of Directors all matters within the President's knowledge which the interest of the Corporation may require to be brought to its attention. In general, the President shall perform all the duties incident to that office including such duties as may be assigned to that office from time to time by the Board of Directors.

Section 4.04. Powers and Duties of Vice President. The Vice President of the Corporation shall generally assist the President and shall perform those duties that may be assigned to that office by the Board of Directors. In the event of the death, resignation, absence or inability to act of the President, the Vice President shall assume and discharge pro tempore the powers and duties of the President of the Corporation. The Board of Directors may appoint one or more additional vice presidents as it may desire from time to time, and these vice presidents shall have the duties assigned to them by the Board of Directors.

Section 4.05. Powers and Duties of Secretary. The Secretary shall be ex officio secretary of the Board of Directors, shall keep the minutes of all meetings of the Board of Directors, shall have charge of the corporate books and records, shall keep in safe custody the seal of the Corporation, and shall affix it to any instrument requiring the corporate seal. The Secretary shall give and serve all notices for meetings of the Board of Directors. In general, the Secretary shall perform all the duties incident to that office including such duties as may be assigned to that office by the Board of Directors from time to time.

Section 4.06. Powers and Duties of Treasurer. The Treasurer shall have the care and custody of and be responsible for

all the funds, securities, evidences of indebtedness and other valuable documents of the Corporation, shall deposit all funds in the name of the Corporation in those banks, or trust companies, or other depositories, or in the safe deposit vaults that the Board of Directors may designate. The Treasurer shall render a statement of the condition of the finances of the Corporation at any meeting of the Board of Directors upon its request, and at any other times as shall be required of the Treasurer. The Treasurer shall keep full and accurate books of account of all the Corporation's business and transactions and any other books of account which the Board of Directors may require, and shall exhibit the books to any Director upon request. In general, the Treasurer shall perform all the duties incident to that office including such duties as may be assigned to that office by the Board of Directors from time to time.

Section 4.07. Assistant Officers. The Board of Directors may elect an assistant to any officer, who need not be a Director, and the assistant shall exercise the duties of that office in the absence of the officer whom he was elected to assist, except that no such assistant shall serve on the Executive Committee.

Section 4.08. Returns and Statements. It shall be the duty of each officer of the corporation to make and file any and all returns, reports, lists, or statements required by law to be made and filed by him, and to make full report to the Board of Directors respecting the affairs of the Corporation in that officer's charge whenever requested to do so.

Section 4.09. Compensation. No compensation shall be paid to any Director or officer for services rendered to or on behalf of the Corporation solely as a Director or officer. An officer or Director may be entitled to reimbursement for any reasonable expense incurred in the furtherance of the purposes of the Corporation.

Section 4.10. Executive Director. The Board of Directors shall employ an Executive Director as a full-time

employee of the Corporation. The Executive Director shall have the general responsibility of carrying out the purposes and business of the Corporation subject to approval and direction from the Board of Directors and the officers of the Corporation.

ARTICLE V.

CORPORATE SEAL

The Board of Directors shall provide a suitable corporate seal which shall bear the following words and figures as:

Middle District of Alabama Federal Defender Program, Inc.
Nonprofit Corporation
1994
Alabama

ARTICLE VI.

INDEMNIFICATION OF DIRECTORS AND EMPLOYEES

Any person made a party to any civil action, suit or proceeding by reason of the fact that he or she (or a person for whom he or she is the legal or personal representative or heir or devisee) is or was a Director, officer, employee or other agent of the Corporation shall be indemnified by the Corporation against reasonable expenses, including, without limitation, attorneys' fees and amounts paid in satisfaction of judgment or in settlement (other than amounts paid to the Corporation by him or her) actually and necessarily incurred by or imposed upon him or her in connection with, or resulting from the defense of such civil action, suit or proceeding, or in connection with or resulting from any appeal therein, except in relation to matters as to which it shall be adjudged in such civil action, suit or proceeding that such person is civilly liable for acts or omissions in the performance of his or her duties for the Corporation. Any amount payable pursuant to this Article may be determined and paid, at the option of the person to be indemnified, by (a) order of the court having jurisdiction of any such civil action, suit or proceeding, (b) resolution adopted by a majority or quorum of the Board of Directors

without counting the interested Directors in such majority or quorum, or (c) order of any court having jurisdiction over the Corporation. Such right of indemnification shall not be exclusive of any other right which such person may have or hereafter acquire and, without limiting the generality of such statement, such person shall be entitled to his or her respective rights of indemnification under any agreement, provision of law or otherwise, as well as his or her rights under this Article.

ARTICLE VII.

MISCELLANEOUS

Section 7.01. Contracts. The Board of Directors may authorize any officer or officers, agent or agents, employee or employees to enter into any contract or other instrument on behalf of the Corporation, and the authority granted may be general or confined to specific instances. Except as provided in this section or as authorized by the Board of Directors, no officer, agent, or employee, other than the President, Vice President, Secretary or Treasurer, shall have any power or authority to bind the Corporation by any contract or engagement, or to pledge its credit or to render it liable for any purpose or for any amount.

Section 7.02. Deposits, Checks and Drafts. All checks and drafts or funds of the Corporation shall be deposited from time to time to the credit of the Corporation in such banks, or trust companies, or to other depositories as the Board of Directors may from time to time designate. All checks shall be drawn out of the regular checkbooks of the Corporation and upon the stub of each check, the purpose and amount for which the check is drawn shall be specified. All checks, notes, drafts, bills of exchange, acceptances or other orders for the payment of money or other evidences of the indebtedness of the Corporation, shall be signed as shall from time to time be designated by resolution of the Board of Directors.

Section 7.03. Gender and Number. Reference in these Bylaws to the masculine, feminine or neuter gender, and the

singular or plural number, shall be deemed to include the others whenever the context so indicates.

Section 7.04. Descriptive Headings. The descriptive headings to these Bylaws are for convenience of reference only and shall not be deemed to alter or affect the meaning of any of the Bylaws.

Section 7.05. Severability. The invalidity or unenforceability of any particular provision of these Bylaws shall not affect any other provisions and these Bylaws shall be construed in all respects as if any invalid or unenforceable provisions were omitted.

ARTICLE VIII.

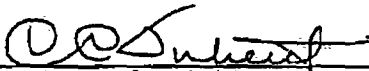
AMENDMENT OF BYLAWS

The Board of Directors shall have power to make, amend, and repeal the Bylaws of the Corporation, by vote of a majority of all the Directors, at any annual, regular or special meeting of the Board. The Board of Directors may not, however, alter, amend, or repeal any Bylaws so as to avoid the limitations of the Articles of Incorporation or the Alabama Non-Profit Corporation Act.

CERTIFICATE OF CORPORATE SECRETARY

I, C. C. Torbert, Secretary of Middle District of Alabama Federal Defender Program, Inc., certify that the foregoing, consisting of Articles I to VIII, inclusive, is a true and complete copy of the Bylaws of the Corporation as adopted by vote of a majority of the Directors at the first meeting of the Board of Directors held on April 22, 1994.

I have subscribed my name and affixed the seal of the Corporation this 26 day of April, 1994.



C. C. Torbert
Secretary

(CORPORATE SEAL)

APPENDIX II

I. COMPOSITION OF PANEL OF PRIVATE ATTORNEYS

A. CJA PANEL.

1. Approval. The court shall establish a panel of private attorneys (hereinafter referred to as the "CJA Panel") who are eligible and willing to be appointed to provide representation under the Criminal Justice Act. The Court shall approve attorney membership on the panel after receiving recommendations from the Panel Selection Committee, which is established according to paragraph B of this Plan. Members of the CJA Panel shall serve at the pleasure of the court.
2. Size. The court shall fix, periodically, the size of the CJA Panel. The panel shall be large enough to provide a sufficient number of experienced attorneys to handle the CJA caseload, yet small enough so that panel members will receive an adequate number of appointments to maintain their proficiency in federal criminal defense work, and thereby provide a high quality of representation.
3. Eligibility. Attorneys who serve on the CJA Panel must be members in good standing of the federal bar of this district, and have demonstrated experience in, and knowledge of, the Federal Rules of Criminal Procedure, the Federal Rules of Evidence, federal trial practice, federal sentencing law including the advisory Sentencing Guidelines, the Criminal Justice Act, the Local Rules of this Court, and the *Guidelines for the Administering the CJA and Related Statutes* (Vol. VII, Part A, *Guide to Judiciary Policy*). All qualified attorneys shall be encouraged to participate in the furnishing of representation in CJA cases, without regard to race, ethnicity, gender, age, disability, religious affiliation, or sexual orientation.
4. Admission of Pro Hac Vice Attorney. In exceptional circumstances, if the district or magistrate judge presiding over the case determines that the appointment of an attorney, who is not a member of the CJA Panel, is in the interest of justice, judicial economy or continuity of representation, or there is some other compelling circumstance warranting his or her appointment, the attorney may be admitted to the CJA Panel *pro hac vice* and appointed to represent the defendant. The attorney, who may or may not maintain an office in this District, must possess such qualities as would qualify him or her for admission to the CJA Panel as set forth in this Plan.
5. Application. Application forms for membership on the CJA Panel shall be made available, by the Clerk of Court and/or by the office of the Community Defender Organization. Completed applications, including a statement of qualifications and experience and supporting material, shall be submitted to the Chief Magistrate Judge. As set forth in Section B below, the Chief Magistrate Judge will request a

review and recommendation regarding the application from the Panel Selection Committee, through the executive director of the Community Defender Organization. Upon receipt of that recommendation, the Chief Magistrate Judge will submit the application to the district judges, for determination.

6. Continuing Education. Panel members must attend annually a minimum of six (6) hours of qualified training or continuing legal education programs on criminal defense, at least two (2) hours of which must be devoted to the advisory federal sentencing guidelines. Qualified electronic media such as video or DVD replays of a CLE or on-line and Distance Learning programs may be used to satisfy up to half of the six hour requirement. During his or her first year on the Panel, any attorney with less than five years experience practicing law or with no prior federal criminal defense experience will also be required to meet and consult regularly with an assigned mentor from the Panel or CDO office. Each panel attorney must report his or her compliance with these training requirements to the Community Defender Organization by December 31st of each year. The Community Defender Organization shall annually report compliance with this requirement by all members of the Panel to the Chief District Judge by January 31st of each year.
7. Terms. Members shall serve three (3) year terms, which shall commence on February 1. Members seeking readmission must apply on or before December 31 of the year prior to the expiration of their membership term, by submitting an application to the Community Defender Organization. The CDO shall forward the application to the Panel Selection Committee, which shall make recommendations to the Chief Magistrate Judge as described in (5) above. Members who fail to reapply by December 31 shall be deemed to have resigned from the CJA Panel at the end of their term, but may apply for new membership at any subsequent time. Should a panel member's term expire while the panel member is appointed to represent a defendant, the panel member shall continue to represent that defendant until the conclusion of the representation. [NOTE: In the first year of this plan only, one half of the members will be given three (3) year terms and the other half will be given two (2) year terms.]
8. Emeritus Panel. The Panel Selection Committee will also recommend to the Court a list of highly experienced attorneys who are willing to serve as CJA counsel on complex or difficult cases to supplement the depth of the panel. The Emeritus Panel will be comprised of attorneys who are not part of the regular rotation of CJA appointments but who are willing to serve the Court on cases requiring specific experience and expertise. Emeritus attorneys must demonstrate proficiency equivalent to the annual continuing legal education requirements of the regular CJA panel attorneys.

9. Quality of Representation. Attorneys on the CJA Panel and the Emeritus Panel must demonstrate a commitment to provide high quality representation to those individuals eligible for their services, commensurate with those services rendered when counsel is privately employed.
10. Mentoring Program. Attorneys who have not yet acquired the knowledge or experience necessary to qualify for membership on the CJA Panel may be invited to join the CDO Mentoring Program.
11. Mandatory Removal from CJA Panel. A member whose license to practice law in the district or state has been suspended or revoked, or who has been sanctioned pursuant to the Local Rules of this Court, shall be removed from the CJA panel and the Emeritus Panel. Prior notice of the proposed removal shall be provided to the CJA panel member. If the CJA panel member believes he or she should not be removed from the panel, he or she must provide written notice of that position to the Executive Director of the CDO, within two weeks of the mailing date of the notice of proposed removal. If the panel member is removed from the CJA Panel, CJA cases assigned to that member shall be reassigned to conflict-free CJA Panel members.

B. PANEL SELECTION COMMITTEE

The Panel Selection Committee shall be appointed for the purpose of developing a panel of attorneys who will be available for appointment to specific cases.

1. Membership. The Panel Selection Committee shall consist of the CJA Panel Representative for this District, the executive director of the CDO, and at least two members of the CJA Panel in good standing and one staff attorney of the CDO. The Committee chairperson shall be the executive director of the CDO, who will be responsible for scheduling meetings of the Committee at least once every six months and as needed or when prompted by judicial concerns, and shall be responsible for conducting the business meetings of the Committee.
2. Responsibilities of Committee. The Panel Selection Committee shall be responsible for developing, maintaining, and training a panel of attorneys available for appointment to cases in this District. The panel will consist of private attorneys regularly practicing before the court who have demonstrated their professional responsibilities, interests, and ability in criminal practice and in representing indigent defendants. The Panel Selection Committee shall also recommend changes in the size of the panel, based on needs of this district at any given time and the criteria set forth in section I(A).

3. Review of Panel Applications and Membership. At its meetings, the Committee shall review the existing panel membership, applications for membership, and shall make additions or deletions to the panel membership as may be appropriate. The Committee will condition panel membership upon a continued demonstration of proficiency, ability, and interest in representation of the legally indigent. In determining the membership of the panel, the Committee shall also consider comments and recommendations of the judges and magistrate judges of this court. Based upon its review, the Committee shall make recommendations to the Chief Magistrate Judge regarding whether attorneys should be added to or removed from the CJA Panel or Emeritus Panel.
4. Distribution of Membership List. At any time after the membership of the CJA panel has been amended, the CDO shall distribute a copy or amended copy of the panel of attorneys to each judge and magistrate judge of this District, along with a statement of the geographic, gender, experience, ethnic and racial diversity of the Panel. A copy of this list shall also be made available to the CDO, the Clerk, the U.S. Attorney's Office, U.S. Probation, U.S. Pretrial Services, and the U.S. Marshals Service. A copy of the current list of the panel of attorneys shall be kept on file with the Clerk of Court.

II. SELECTION FOR APPOINTMENT

A. MAINTENANCE OF LIST AND DISTRIBUTION OF APPOINTMENTS

1. Distribution of Membership List. Each year, the CDO shall provide the Clerk of the Court with a current list of all attorneys included on the CJA Panel, with current office addresses and telephone numbers, as well as a statement of the year of each member's Bar admission. The Clerk shall furnish a copy of this list to each district and magistrate judge.
2. Record of CJA Assignments. The Clerk shall also maintain a public record of assignments to private counsel, and, when appropriate, statistical data reflecting the proration of appointments between attorneys from the Community Defender Organization and CJA panel attorneys, according to the formula described in the CJA Plan for the District.

B. Method of Selection.

1. Rotational basis. Appointments from the list of panel attorneys should be made upon selection and recommendation by the office of the CDO 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 and compensation among the members of the CJA Panel, and qualified representation for each defendant. Where an attorney who is next in the rotational order is willing to accept appointment, but unable to attend an initial appearance, a staff attorney of the CDO may stand in for the CJA attorney at the initial appearance, but no arraignment may be conducted in the absence of the CJA counsel appointed to the particular case.

2. Emergency basis. In the event of an emergency, i.e., weekends, holidays, or other non-working hours of the Clerk of Court's office, the presiding judge or magistrate judge may appoint the executive director of the CDO or any attorney from the CJA list. In all such cases, the appointing judge or magistrate judge shall notify the Clerk of Court and the CDO as to the name of the attorney appointed and the date of the appointment.

III. REVIEW OR REMOVAL OF CJA PANEL MEMBERS

Membership on the CJA Panel is a privilege. The Panel Selection Committee may review members' performance from time to time and may recommend to the Court that a Panel member be subject to remedial action or be removed from the Panel.

- A. Grounds for Removal. In addition to any other grounds authorized by this Criminal Justice Act Plan or by the Local Rules of this Court, refusing to accept any appointments for over two years, providing inadequate representation, or engaging in improper or unethical conduct are grounds for removal from the CJA Panel.
- B. Review of Membership.
 1. Grounds for Review. Other than when considering an application for membership on the Panel, a Panel member's performance may be reviewed from time to time by the Panel Selection Committee. Grounds for review may include a credible complaint or concern expressed by a member of the Committee, a judge, opposing counsel, another panel member, a client, or any other concerned person.
 2. Timing. Within two weeks of receiving information that provides potential grounds for removal of a panel member, including information that an attorney, for whatever reason, is failing to perform at an adequate level of competence necessary to protect his or her client's interests, the Panel Selection Committee shall meet to consider the information.

3. Factors to Consider. The Committee shall consider what remedial action, if any, may be appropriate to insure the attorney's maintenance of an adequate level of competency, including (a) referral of the attorney to such entities or parties as may assist the attorney in achieving the necessary levels of competency; (b) limiting or restricting the attorney's acceptance of CJA appointments; (c) temporary suspension from the Panel until compliance with competency levels is insured; (d) removal from the Panel; (e) requiring the CJA Panel member to submit to direct supervision and/or oversight from another experienced panel member; (f) referral of the matter to the Court Grievance Committee established by the Local Rules of the Court; (g) referral of the matter to the appropriate Bar Disciplinary Committee; or (h) any other remedy.
4. Notice to the Court. Before considering a review of Panel membership, the Committee may, in its discretion, advise the court of the matter and its nature.
5. Notice to CJA Panel Member. Two weeks before a final recommendation is made to the Court, the CJA panel member being reviewed shall receive written notice from the Committee. The notice will generally provide the reasons why review is taking place and what alternatives may be considered.
6. Opportunity to Respond. The panel member shall be given an opportunity to present information, orally or in writing, for the Committee to consider.
7. Removal from the Panel. The Committee's recommendation to remove the CJA Panel member during the member's term of service shall only be made by majority vote of the Committee, taken by written secret ballot.

C. Action.

Following review, if the Committee recommends that any action be taken, the Committee shall notify the Chief District Judge of its recommendation in writing. Within thirty days, the Chief District Judge shall inform the Committee whether the Court concurs or disagrees with the recommendation, or of what alternative action the Court wishes to take. Thereafter, the CJA Panel member will be informed in writing of the final recommendation. If a lawyer is removed from the CJA Panel, any pending CJA client of that lawyer shall receive a new appointment from the CJA Panel.

D. Reinstatement to CJA Panel after Removal.

A CJA panel member who has been removed from the panel may file an application for membership on the CJA Panel no earlier than one year from the

date of the removal. In the application for membership, the lawyer must note the earlier removal and explain why the lawyer should be reinstated to the CJA panel.

IV. COMPENSATION - FILING OF VOUCHERS

A. Services eligible for compensation.

The services eligible for compensation shall be those set forth in the Criminal Justice Act, 18 U.S.C. § 3006A and the *Guide to Judiciary Policy*. Claims for compensation and expense reimbursements must be submitted, using the CJA Forms and procedures provided, within forty-five days of the completion of a case. If a claim is submitted for total compensation in excess of the statutory maximum, a supporting memorandum must accompany the claim, providing reasons why the excess payment is necessary to provide fair compensation.

B. Duties of Clerk.

Claims for compensation shall be submitted, on the appropriate CJA form, to the Clerk of Court or through any authorized electronic CJA voucher filing system, within forty-five days of the end of a case. The Clerk of Court shall promptly review the claim form for mathematical and technical accuracy, and for conformity with specific requirements of the *Guidelines for Administration of the Criminal Justice Act* (Volume VII, *Guide to Judiciary Policy*) and shall forward the claim form for the consideration and action of the presiding judge or magistrate judge for decision. If the office of the Clerk proposes a reduction in the amount claimed on the basis of non-conformity with the CJA or the Guide to Judiciary Policy, the specific rule violated must be cited in writing on the claim form. If no rule can be cited, the amount shall not be changed, but the office of the Clerk may notate its position on the claim form.

C. Action by the Court. The court will exert its best effort to avoid delays in reviewing payment vouchers and in submitting them for further proceeding. Absent extraordinary circumstances, judges will act on claims for compensation within thirty (30) days of submission.

D. Voucher reductions. Where reductions are imposed upon reviewing the claim for compensation, (1) notice of the reduction, (2) a brief statement of the rule supporting the reduction, and (3) statement of a specific opportunity to address the matter prior to the final decision, shall be provided to the attorney for his/her consideration, prior to forwarding to the presiding judge. If the voucher reductions/changes are disputed, the attorney should address concerns in writing to the presiding judge no later than seven days after the date of the notice of reductions/changes. The judge will resolve any disputes and make the final determination of authorization for payment.

APPENDIX III.

Procedures for Interim Payments to Counsel

1. The district court issues a Memorandum Order to counsel, outlining payment procedures and specifically addressing payment for actual expenses, travel, and compensation of counsel. **See:** Sample Memorandum Order, below.

2. If excess compensation is anticipated, written approval of the procedure must be obtained from the chief judge of the circuit or his or her delegate prior to issuance of the order.

3. Once it is issued, a copy of the Memorandum Order should be furnished to the CJA claims coordinator.

4. Form CJA 20 should be submitted with full documentation of all expenses claimed on the voucher.

5. Assign a number to each voucher processed for payment.

6. Item 19 of Form CJA 20 must be completed to indicate the time period covered by the voucher and whether it is for the final payment or for an interim payment.

7. The final voucher should:

- (a) set forth in detail the time and expenses claimed for the entire case;
- (b) reflect all compensation and reimbursement previously received;
- (c) show the net amount remaining to be paid; and
- (d) be approved by the chief judge of the circuit or his or her delegate if the total claim for the case is in excess of the statutory limits.

Memorandum Order

Memorandum to All Counsel Appointed Under the Criminal Justice Act (CJA) in the
Case of _____
Number _____

RE: Interim Payments for Representation of Counsel

Because of the expected length of the trial in this case, and the anticipated hardship on counsel in undertaking representation full-time for such a period without compensation, under the *Guide to Judiciary Policy* (Guide), Volume 7, Part A, § 230.73.10, the following procedures for interim payments will apply during the course of your representation in this case:

1. Submission of Vouchers

Counsel should submit to the court clerk an interim Form CJA 20, Appointment of and Authority to Pay Court Appointed Counsel. Compensation earned and reimbursable expenses incurred should be claimed on an interim voucher submitted no later than 5 days after the interim period ends. The first interim voucher submitted should reflect all compensation claimed and reimbursable expenses incurred from the date of appointment to the date of the voucher.

Counsel should complete Item 19 on the form for each interim voucher. Each interim voucher should be assigned a number when processed for payment. All interim vouchers should be supported by detailed and itemized time and expense statements. Guide, Volume 7A, § 230 outlines the procedures and rules for claims by CJA attorneys and should be followed on each voucher.

The court will review the interim vouchers when submitted, particularly with regard to the amount of time claimed, and will authorize compensation to be paid for 80 percent of the approved number of hours. This compensation will be determined by multiplying 80 percent of the approved number of hours by the applicable rate. The court will also authorize for payment all reimbursable expenses reasonably incurred.

At the conclusion of the representation, each counsel should submit a final voucher seeking payment of the 20 percent balance withheld from the earlier interim vouchers, as well as payment for representation provided during the final interim period. The final voucher should set forth in detail the time and expenses claimed for the entire case, including all appropriate documentation.

Counsel should reflect all compensation and reimbursement previously received on the appropriate line of the final voucher, as well as the net amount remaining to be paid at the conclusion of the case.

After reviewing the final voucher, it will be submitted to the chief judge of the circuit or his or her delegate for review and approval.

2. Reimbursable Expenses

Counsel may be reimbursed for out-of-pocket expenses reasonably incurred incident to the representation. While the statute and applicable rules and regulations do not place a monetary limit on the amount of expenses that can be incurred, counsel should incur no single expense item in excess of \$ _____ without prior approval of the court. Such approval may be sought by filing an *ex parte* application with the clerk stating the nature of the expense, the estimated dollar cost and the reason the expense is necessary to the representation. An application seeking such approval may be filed *in camera*, if necessary.

Upon finding that the expense is reasonable, the court will authorize counsel to incur it. Recurring expenses, such as telephone toll calls, photocopying and photographs, which aggregate more than \$ _____ on one or more interim vouchers are not considered single expenses requiring court approval.

With respect to travel outside of the city/county of _____ for the purpose of consulting with the client or the client's former counsel, interviewing witnesses, etc., the \$ _____ rule should be applied in the following manner. Travel expenses, such as air fare, mileage, parking fees, meals and lodging, can be claimed as itemized expenses. Therefore, if the reimbursement for expenses relating to a single trip will aggregate an amount in excess of \$ _____, the travel should receive prior approval of the court.

The following additional guidelines may be helpful to counsel:

(a) Case related travel by privately owned automobile should be claimed at the rate of ____ cents per mile, plus parking fees, ferry fares, and bridge, road and tunnel tolls. Transportation other than by privately owned automobile should be claimed on an actual expense basis. Air travel in "first class" is prohibited. Counsel and persons providing services under the CJA are encouraged to contact the clerk for air travel authorization at government rates.

(b) Actual expenses incurred for meals and lodging while traveling outside of the city/county of _____ in the course of this representation must conform to the prevailing limitations placed upon travel and subsistence expenses for federal judiciary employees in accordance with existing government travel regulations. For specific details concerning high cost areas, counsel should consult the clerk.

(c) Telephone toll calls, photocopying, and photographs can all be reimbursable expenses if reasonably incurred. However, general office overhead, such as rent, secretarial help, and telephone service, is not a reimbursable expense, nor are items of a personal nature. In addition, expenses for service of subpoenas on fact witnesses are not reimbursable, but rather are governed by Fed. R.Crim. P. 17 and 28 U.S.C. § 1825.

3. Further Guidance

Answers to questions concerning appointment under the Criminal Justice Act can generally be found in (1) 18 U.S.C. § 3006A; (2) the Plan of the United States District Court for Middle District of Alabama, available through the clerk, and (3) the Guide, Vol 7A (Guidelines for Administering the CJA and Related Statutes), published by the Administrative Office of the U.S. Courts and also available through the clerk. Should these references fail to provide the desired clarification or direction, counsel should address their inquiries directly to the Clerk of Court or his/her staff.