

**UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA**

CRIMINAL JUSTICE ACT PLAN

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UNITED STATES DISTRICT COURT
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CRIMINAL JUSTICE ACT PLAN

I. AUTHORITY

Pursuant to the provisions of the Criminal Justice Act of 1964, as amended, 18 U.S.C. 3006A, [hereinafter referred to as “CJA”] and the Guidelines for the Administration of the Criminal Justice Act, Volume VII, Guide to Judiciary Policies and Procedures (CJA Guidelines), the Judges of the United States District Court for the Middle District of Pennsylvania 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 effective defense.
2. The further objective of this Plan is to particularize the requirements of the CJA, the Anti-Drug Abuse Act of 1988 (codified in part at section 848(q) of title 21, United States Code), and the CJA Guidelines in a way that meets the needs of this district.

B. Compliance

1. The court, its clerk, the federal public defender organization, 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 by the federal public defender with a then-current copy of this Plan and the CJA Guidelines 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).

III. DEFINITIONS

- A. “Appointed attorney” includes private attorneys, the federal public defender and staff attorneys of the federal public defender organization.

- B. "Judge" means United States District Judge or United States Magistrate Judge.
- C. "Representation" includes counsel and investigative, expert, and other services necessary for an adequate defense.

IV. PROVISION OF REPRESENTATION

A. Circumstance

1. Mandatory

Representation shall be provided for any financially eligible person who:

- a. is charged with a felony or with a Class A misdemeanor;
- b. is a juvenile alleged to have committed an act of juvenile delinquency as defined in section 5031 of title 18, United States Code;
- c. is charged with a violation of probation, or faces a change of a term or condition of probation (unless the modification sought is favorable to the probationer and the government has not objected to the proposed change);
- d. is under arrest, when such representation is required by law;
- e. is entitled to appointment of counsel in parole proceedings;
- f. is charged with a violation of supervised release or faces modification, reduction, or enlargement of a condition, or extension or revocation of a term of supervised release;
- g. is subject to a mental condition hearing under chapter 313 of title 18, United States Code;
- h. is in custody as a material witness;
- i. is seeking to set aside or vacate a death sentence under sections 2254 or 2255 of title 28, United States Code;
- j. is entitled to appointment of counsel in verification of consent proceedings pursuant to a transfer of an offender to or from the United States for the execution of a penal sentence under section 4109 of title 18, United States Code;
- k. is entitled to appointment of counsel under the Sixth Amendment to the Constitution; or
- l. faces loss of liberty in a case and federal law requires the appointment of counsel.

2. Discretionary

Whenever a judge determines that the interests of justice so require, representation may be provided for any financially eligible person who:

- a. is charged with a petty offense (Class B or C misdemeanor, or an infraction)

- for which a sentence to confinement is authorized;
- b. is seeking relief, other than to set aside or vacate a death sentence, under sections 2241, 2254, or 2255 of title 28, United States Code;
- c. is charged with civil or criminal contempt who faces loss of liberty;
- d. has been called as a witness before a grand jury, a court, the Congress, or a federal agency or commission which has the power to compel testimony, and there is reason to believe, either prior to or during testimony, that the witness could be subject to a criminal prosecution, a civil or criminal contempt proceeding, or face loss of liberty;
- e. is proposed by the United States attorney for processing under a pretrial diversion program;
- f. is held for international extradition under chapter 209 of title 18, United States Code.

Representation may also be furnished for financially eligible persons in ancillary matters appropriate to the proceedings pursuant to subsection (c) of the CJA.

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 judge, when they are formally charged or notified of charges if formal charges are sealed, or when a judge otherwise considers appointment of counsel appropriate under the CJA, whichever occurs earliest.

In appointing counsel, the Court shall select the federal public defender organization or an attorney from the panel of private attorneys approved by the court, except in extraordinary circumstances where appointment of other qualified and experienced counsel becomes necessary.

Appointment of counsel may be retroactive to include representation furnished pursuant to this plan prior to appointment. The Court shall appoint separate counsel for persons having interests that cannot be represented by the same counsel or when other good cause is shown.

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. In a capital case, the following applies:

- a. Federal Capital Prosecutions. Pursuant to 18 U.S.C. § 3005, a person charged with a federal capital offense is entitled to the appointment of two attorneys, at least one of whom shall be learned in the law applicable to capital cases. Pursuant to 21 U.S.C. § 848(q)(4), if

necessary for adequate representation, more than two attorneys may be appointed to represent a defendant in such a case.

- b. Habeas Corpus Proceedings. Pursuant to 21 U.S.C. §848(q)(4), a financially eligible person seeking to vacate or set aside a death sentence in proceedings under 28 U.S.C. §2254 or 2255 is entitled to appointment of one or more qualified attorneys. Due to the complex, demanding, and protracted nature of death penalty proceedings, judicial officers should consider appointing at least two counsel.

2. Qualifications

- a. Appointment of Counsel. Pursuant to 21 U.S.C. §848(q)(5), at least one of the attorneys appointed must have been admitted to practice in this court for not less than five years, and must have had not less than three years experience in the actual trial of felony prosecutions in that court. Pursuant to 18 U.S.C. § 3005, at least one of the attorneys appointed must be knowledgeable in the law applicable to capital cases.

Pursuant to 18 U.S.C. § 3005, in appointing counsel in federal capital prosecutions, the court shall consider the recommendation of the federal public defender.

- b. Attorney Qualification Waiver. Pursuant to 21 U.S.C. § 848(q)(7), the presiding judicial officer, for good cause, may appoint an attorney who may not qualify under 21 U.S.C. § 848(q)(5) or (q)(6), but who has the background, knowledge, and experience necessary to represent the defendant properly in a capital case, giving due consideration to the seriousness of the possible penalty and the unique and complex nature of the litigation.

D. Eligibility for Representation

1. Fact finding

The determination of eligibility for representation under the CJA is a judicial function to be performed by a judge after making appropriate inquiries concerning the person's financial condition.

2. Disclosure of Change in Eligibility

If, at any time after appointment, counsel obtains information that a client is

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

V. FEDERAL PUBLIC DEFENDER ORGANIZATION

A. Establishment

1. The federal public defender organization of the Middle District of Pennsylvania, previously established in this district pursuant to the provisions of the CJA, is hereby recognized as the federal public defender organization for this district.
2. The federal public defender organization shall be capable of providing legal services throughout the district and shall maintain offices in Harrisburg, Scranton, and Williamsport, Pennsylvania.

B. Supervision of Defender Organization

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

C. Management of CJA Panel

The management of the CJA Panel is 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 I of this CJA Plan.

VI. PRIVATE ATTORNEYS

A. Establishment of CJA Panel

The existing, previously established panel of attorneys (CJA Panel) who are eligible and willing to be appointed to provide representation under the CJA is hereby recognized. The court shall review the recommendations of the Panel Selection and Management Committee and approve attorneys for membership on the panel who are competent to give adequate representation to parties under the Criminal Justice Act. The court has established and approved a separate panel of attorneys for the Harrisburg, Scranton/Wilkes-Barre, and Williamsport vicinages. All members of the CJA Panel shall serve at the pleasure of the Court.

B. Organization

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

C. Ratio of Appointments

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

VII. REPRESENTATION IN DEATH PENALTY HABEAS CORPUS PROCEEDINGS

Appointment of Counsel in proceedings under 28 U.S.C. §§ 2254 and 2255

The court shall appoint counsel to represent financially eligible persons seeking habeas corpus relief in death penalty proceedings under sections 2254 and 2255 of title 28, United States Code. The appointment of counsel shall be made from the following sources:

1. The Federal Public Defender Office for the Middle District of Pennsylvania (Capital Habeas Unit);
2. The Defender Association of Philadelphia (Capital Habeas Unit);
3. The Federal Defender Office for the Western District of Pennsylvania (Capital Habeas Unit); or
4. a member or members of the Death Penalty Panel; or
5. an other attorney who qualifies for appointment under section 848(q) of title 21, United States Code.

Before appointment of counsel in a capital habeas case the court should obtain the consent of the defender or counsel the court seeks to appoint.

VIII. 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 Pennsylvania Rules of Professional Conduct.

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.

IX. DUTIES OF LAW ENFORCEMENT AND RELATED AGENCIES

A. Presentation of Accused for Appointment of Counsel

Federal law enforcement and prosecutorial agencies, probation officers, and pretrial services officers in this district, and those acting on their behalf, shall promptly ask any person who is in custody, or who otherwise may be entitled to counsel under the ~~Act~~ 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 federal public defender who shall discuss with the person the right to representation and 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 judge of this court for determination of financial eligibility and appointment of counsel.

B. Pretrial Services Interview

Appointed counsel should be furnished to financially eligible defendants prior to the defendants being interviewed by a pretrial services or probation officer. If appointed counsel is not available within 30 minutes of notification of the defendant's arrival at the federal building, the pretrial services or probation officer may interview the defendant.

C. Notice of Indictment or Criminal Information

Upon the return or unsealing of an indictment, the filing of a criminal information, or the filing of a petition to modify or revoke probation or supervised release, the United States attorney, the probation officer, or clerk's office staff as appropriate, immediately shall mail, transmit or otherwise deliver a copy of the document to appointed counsel, or to the defendant if without counsel, at the address shown on defendant's bond papers or to the jail in which the defendant is incarcerated.

X. 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

Claims for compensation of private attorneys providing representation under the CJA shall be submitted on the appropriate CJA form, to the office of the clerk of the court or the federal public defender. That office shall review the claim form for mathematical and technical accuracy and for conformity with the CJA Guidelines, and, if correct, shall forward the claim form for the consideration of the appropriate judge. The court will exert its best effort to avoid delays in reviewing payment vouchers and in submitting them for further processing.

C. Supersession

This Plan supersedes all prior Criminal Justice Act Plans of this court.

XI. EFFECTIVE DATE

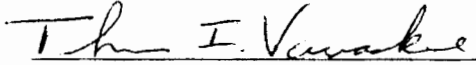
This Plan shall become effective when approved by the Judicial Council of the Third Circuit.

APPENDIX:

I. Plan for the Composition, Administration, and Management of the Panel of Private Attorneys under the Criminal Justice Act.

THE FOREGOING PLAN IS ADOPTED BY THE JUDGES OF THE UNITED STATES DISTRICT COURT FOR THE MIDDLE DISTRICT OF PENNSYLVANIA.

For the Court:

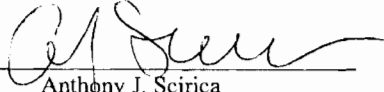

THOMAS I. VANASKIE, CHIEF JUDGE
MIDDLE DISTRICT OF PENNSYLVANIA

DATED Jan. 30, 2006

**UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA**

CRIMINAL JUSTICE ACT PLAN

The Foregoing Amended Plan Is Approved by the Judicial Council of the Third Circuit
this 15th Day of November, 2006



Anthony J. Scirica
Chief Judge, Third Circuit Court of Appeals

UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA

APPENDIX I
TO THE CRIMINAL JUSTICE ACT PLAN

PLAN FOR THE COMPOSITION, ADMINISTRATION, AND
MANAGEMENT OF THE PANEL OF PRIVATE ATTORNEYS
UNDER THE CRIMINAL JUSTICE ACT

UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA

APPENDIX I
TO THE CRIMINAL JUSTICE ACT PLAN

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UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA

APPENDIX I
TO THE CRIMINAL JUSTICE ACT PLAN

PLAN FOR THE COMPOSITION, ADMINISTRATION, AND
MANAGEMENT OF THE PANEL OF PRIVATE ATTORNEYS
UNDER THE CRIMINAL JUSTICE ACT

I. INTRODUCTION

Pursuant to the Guidelines for the Administration of the Criminal Justice Act and the Middle District of Pennsylvania Criminal Justice Act Plan, the United States District Court for the Middle District of Pennsylvania has established the following “Plan for the Composition, Administration, and Management of the Panel of Private Attorneys Under the Criminal Justice Act.”

II. COMPOSITION OF PANEL OF PRIVATE ATTORNEYS

A. Panels

1. Approval

The Court shall establish two panels of private attorneys (hereinafter referred to as the “CJA Panel” and “Death Penalty Panel”) who are eligible and willing to be appointed to provide representation under the Criminal Justice Act. The Court shall approve attorneys for membership on the panel after receiving recommendations from the “Panel Selection and Management Committee,” established pursuant to paragraph II(B) of this Plan. Members of the CJA Panels serve at the pleasure of the Court. Any attorney aggrieved by the decision on his or her application may present a written grievance to the committee whose review and decision shall then be final.

2. CJA Panel

The CJA Panel established by the Court shall consist of a sufficient number of experienced attorneys to meet the needs of each of the three vicinages of the Middle District of Pennsylvania. Each vicinage shall have at least fifteen (15) lawyers and no more than forty-five (45) lawyers available for appointment by the court. A group within the CJA Panel interested in appellate work shall be identified and available to handle appeals should the need arise.

3. Death Penalty Panel

The Death Penalty Panel established by the Court shall consist of a sufficient number of qualified lawyers to meet the needs of the Middle District of Pennsylvania.

4. Eligibility

To be eligible to serve on the CJA Panel or Death Penalty Panel, an attorney must be admitted to practice before the United States District Court for the Middle District of Pennsylvania pursuant to the Middle District Local Rules, and must have demonstrated experience in and knowledge of the Federal Rules of Criminal Procedure, the Federal Rules of Appellate Procedure, the Federal Rules of Evidence, the Sentencing Guidelines and the Local Rules of Court for the Middle District of Pennsylvania and the Local Rules for the Third Circuit Court of Appeals.

a. Minimum Eligibility for CJA Panel.

An attorney seeking initial membership in the CJA Panel must during the four years prior to the application have served for at least two years in a state or federal judicial clerkship, have served for at least two years in a state or federal public defender's or prosecutor's office, or have served for at least three years in private practice and have had a caseload of criminal cases in state and federal court making up 25% or more of the attorney's overall caseload.

An attorney seeking initial membership must also have:

- i. attended at least one two hour seminar on a federal sentencing topic within one (1) year prior to the application;
- ii. attended at least one two-hour seminar on a federal criminal defense topic within one (1) year prior to the application; and
- iii. been counsel or second chair for one federal criminal trial or guilty plea within one year prior to the application.

Preference for appointment to the panel will be afforded to attorneys who reside in the Middle District of Pennsylvania or have a principal office in this district.

b. Specific Requirements for CJA Panel Members Available for Appeals

CJA Panel attorneys available for appointments involving appellate work must have filed at least three (3) appeals to the Third Circuit Court of Appeals and had at least one (1) oral argument before the Third Circuit.

c. Specific Requirements of Death Penalty Panel

All attorneys seeking membership on the Death Penalty Panel must meet the following minimum eligibility requirements:

- i. must have been admitted to practice in the United States District Court for the Middle District of Pennsylvania for not less than five (5) years; AND
- ii. must have had not less than three (3) years experience in the actual trial of felony prosecutions in the Middle District Court within the five (5) years prior to the application; AND
- iii. must have attended a comprehensive training program in the defense of capital cases within one (1) year of the application; AND
- iv. actual trial experience in state or federal court on a first degree murder case, capital or otherwise within the five (5) years prior to the application.

Attorneys seeking membership on the Death Panel should meet qualification standards for defense counsel formulated by relevant courts, bar associations, and other entities with regard to capital representation, e.g. Guideline 5.7, ABA Guidelines for the Appointment and Performance of Defense Counsel in Death Penalty Cases; Rule 801 of the Pennsylvania Rules of Criminal Procedure.

Attorneys seeking membership on the Death Panel should meet the training and education guidelines and rules as set forth by relevant courts, bar associations, and other entities with regard to capital representation, e.g. Guideline 8.1, ABA Guidelines for the Appointment and Performance of Defense Counsel in Death Penalty Cases; Rule 801 of the Pennsylvania Rules of Criminal Procedure.

d. Second Chair--Training Procedure

At the reapplication process for the entire panel, attorneys who indicate on the application that they have had prior trial/guilty plea experience in federal court will also be asked to indicate whether they would be willing to accept a second chair. A list of attorneys expressing this willingness will be maintained by the Federal Public Defender in such manner that names can be provided on a rotating basis. The names of at least three attorneys willing to accept a second chair shall be provided to each applicant. Attorneys seeking membership on the CJA Panel who need second chair experience to meet their eligibility requirements will be responsible for calling both the Federal Public Defender and the attorney(s) with whom they wish to second chair.

All arrangements for the applicant's second chair experience shall be made

between the applicant and the first chair attorney, except that: it shall be the responsibility of the first chair attorney to make the status of the second chair attorney clear to both the Court and his/her client; AND the second chair attorney shall not represent the client in any part of the trial or guilty plea unless specifically authorized in writing by the client on a form provided, a copy of said form signed by the client to be presented to the Court; AND second chair attorneys shall not be compensated in any way for the time spent as second chair.

At the completion of the second chair experience, the first chair attorney shall, if requested, provide certification in writing that the applicant second chaired the entire trial and/or guilty plea. It shall be the responsibility of the applicant to complete this requirement within the time period provided in paragraph II(A)(4)(a). Service as "second chair" does not guarantee admission of an attorney to the CJA Panel.

5. Appointments

Counsel furnishing representation under the plan shall be selected from the panel of attorneys designated or approved by the court or from the defender organization furnishing representation pursuant to the plan.

6. Special Appointments

When the judge presiding over the case, or the chief judge if a judge has not yet been assigned to the case, determines that the appointment of an attorney, who is not a member of the CJA or Death Penalty Panels, 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 or Death Penalty Panels pro hac vice and appointed to represent the defendant. Consideration for preserving the integrity of the panel selection process suggests that such appointments should be made only in exceptional circumstances. Further, the attorney, who may or may not maintain an office in the district, should possess such qualities as would qualify him or her for admission to the Middle Districts' panels in the ordinary course of panel selection.

7. Terms

a. CJA Panel

An attorney appointed to serve on the CJA Panel will be appointed to serve for three years. Appointments shall be made to the panel each year. The Panel Selection and Management Committee will strive to make appointments each year to achieve a sufficient number of qualified lawyers to meet the needs of the Middle District of Pennsylvania.

b. Death Penalty Panel

There are no term limits on the death penalty panel.

8. Removal from the CJA and Death Penalty Panels

a. Removal from either panel shall be automatic upon proof made to the Chief Judge that a panel attorney has been charged or convicted with any crime in either state or federal court carrying a possible maximum penalty of more than two (2) years imprisonment..

b. The possibility of removal from either panel shall be reviewed by the Panel Selection and Management Committee upon complaint received from a client, a judge or another attorney concerning the panel member's performance in court. His or her discipline shall be determined by the Disciplinary Board of the Supreme Court of Pennsylvania and his or her sanction by either the District Court or the Circuit Court. The panel member being considered for removal shall be asked to meet with the Panel Selection and Management Committee reviewing the request for removal and shall be permitted to present information in his/her own behalf to dispute the claim raised. A decision shall be rendered by the Panel Selection and Management Subcommittee after it is satisfied that all relevant information has been received and shall be communicated in writing to the panel member, with reasons stated for the decision. Appeal of the decision of the subcommittee shall be made to the full committee. The decision of the full committee shall be final. There is no presumption that because a client has alleged the ineffectiveness of his/her attorney in a collateral attack on his/her conviction, that attorney must be removed from the panel.

9. Reappointment

Preference may be given by the Panel Selection and Management Committee in appointments to the Panel to an attorney who has been off the panel for a year or more or an attorney who has not previously been on the panel over an attorney whose term is finishing.

Continued eligibility for membership on the CJA Panel shall be maintained by accepting at least two appointments per each three year term and by attendance at two seminars on a federal criminal defense topic per each three year term. Members interested in appeals should seek continuing legal education in appellate matters.

10. Application

Application forms for membership on the CJA and Death Penalty Panels shall be made available, upon request, by the Federal Public Defender and the Clerk of the Court. Completed applications shall be submitted to the Federal Public Defender

Office in the most convenient vicinage. The defender office will transmit the applications to all other members of the Panel Selection and Management Committee.

11. Equal Opportunity

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

B. Panel Selection and Management Committee

1. Membership

A Panel Selection and Management Committee shall be established by the Court. The following groups shall be represented: the United States District Judges, United States Magistrate Judges, federal public defender staff and CJA Panel attorneys.

The full committee shall consist of one (1) district judge from Harrisburg, one (1) district judge from Scranton/Wilkes-Barre, and one (1) district judge from Williamsport, a United States magistrate judge from each of the three vicinages of the District, a federal public defender representative from each vicinage, and nine (9) private attorneys. The Chief Judge of the District, or his/her designee, shall chair the full committee.

The full committee shall consist of three (3) local subcommittees. Each subcommittee shall consist of one (1) district judge, one (1) magistrate judge, the federal public defender (or his/her representative), and three (3) private attorneys.

2. Duties

a. Each vicinage's subcommittee of the Panel Selection and Management Committee shall meet at least once a year for the purposes of reviewing applications and making recommendations for membership on the CJA and Death Penalty Panels. The subcommittee shall ensure the establishment and maintenance of a sufficient panel of private attorneys who are willing and able to accept appointments for the CJA Panel. The subcommittees shall review the qualifications of applicants and recommend, for approval by the Court, those applicants best qualified to fill the vacancies.

b. If, at any time during the course of a year, the number of vacancies due to resignation, removal, or death significantly decreases the size of the panel in a vicinage, the subcommittee shall solicit applications for the vacancies, convene a special meeting to review the qualifications of the applicants, and select prospective members for recommendation to the Court for approval. Members approved by the Court to fill mid-term vacancies shall serve until the expiration of the term that was

vacated, and shall be immediately eligible for reappointment.

c. The full Panel Selection and Management Committee shall meet at least once a year to review the operation and administration of the panel over the preceding year, and to recommend to the Court any changes deemed necessary or appropriate by the Committee regarding the appointment process and panel management. Further, the full committee is charged with the establishment and maintenance of the Death Penalty Panel.

3. Term

In each vicinage a private attorney will be selected each year by the Chief Judge to serve a three year term as a member of the committee. The federal public defender shall serve continuously on the full committee. Judicial representatives to the Committee and their terms shall be determined by the Chief Judge.

III. SELECTION FOR APPOINTMENT

A. Maintenance of List and Distribution of Appointments

The Federal Public Defender and Clerk of Court shall maintain a current list of all attorneys included on the CJA and Death Penalty Panels, with current office addresses, e-mail addresses and telephone numbers, as well as a statement of qualifications and experience. The Federal Public Defender shall furnish a copy of this list to each judge and magistrate. The Federal Public Defender shall also maintain a public record of assignments to private counsel, and, when appropriate, statistical data reflecting the proration of appointments between attorneys for the Federal Public Defender office and private attorneys, according to the formula described in the CJA Plan for the Middle District.

B. Method of Selection

Appointments from the list of private attorneys should be made on a rotational basis, subject to the Court's discretion to make exceptions due to the nature and complexity of the case, an attorney's experience, and geographical considerations. This procedure should result in a balanced distribution of appointments and compensation among the members of the CJA and Death Penalty Panels, and quality representation for each CJA defendant.

Upon the determination of a need for the appointment of counsel, the judge shall notify the Federal Public Defender of the need for counsel and the nature of the case.

The Federal Public Defender shall advise the judge as to the status of distribution of cases, where appropriate, as between the Federal Public Defender and the panel of private attorneys. If the judge decides to appoint an attorney from the panel, the Federal Public Defender shall determine the name of the next panel member on the list who is available

for appointment and shall provide the name to the appointing judge.

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

There are situations where the defender office should not be involved in the appointment process. The clerk's office may furnish the judicial officer the name of an available panel attorney. In such cases the defender office should merely be notified that a "Doe" appointment has been made. In such a situation there is no need to report which panel attorney received the appointment if the revelation could compromise the need for confidentiality.

IV. COMPENSATION - FILING OF VOUCHERS

Claims for compensation shall be submitted on the appropriate CJA form, to the office of the Clerk of Court or Federal Public Defender. The Clerk of the Court or Federal Public Defender shall review the claim form for mathematical and technical accuracy, and for conformity with the Guidelines for the Administration of the Criminal Justice Act (Volume VII, Guide to Judiciary Policies and Procedures) and, if correct, shall forward the claim form for the consideration and action of the presiding judge.

It is the general policy of the Middle District that vouchers shall not be reduced. However, it is acknowledged that in some cases reduction will be necessary or appropriate. In those cases, the procedure set forth in the balance of this section shall be followed.

In any case where the judicial officer intends to reduce the amount of payment requested in a trial level voucher, CJA counsel shall be notified of the amount of the intended reduction and the reasons for same, and may request an opportunity for review by the judicial officer. After review of any submission by appointed counsel, including his/her response to the judicial officer's reasons for the reduction, and the completion of any other steps deemed appropriate by the judicial officer, the judicial officer shall take action on the voucher consistent with the Plan, the CJA and the interests of justice. The Panel Management Committee shall be available to make recommendation on voucher issues.

The Third Circuit shall approve all vouchers submitted by appellate counsel.