

UNITED STATES DISTRICT COURT  
for the  
WESTERN DISTRICT OF KENTUCKY

GENERAL ORDER 21-05  
**CRIMINAL JUSTICE ACT PLAN**  
(Amended December 2020)

**I. AUTHORITY**

Pursuant to the Sixth Amendment to the United States Constitution; the Criminal Justice Act of 1964, as amended (18 U.S.C. § 3006A)(CJA); Fed. R. Crim. P. 44; and the Guidelines for the Administration of the Criminal Justice Act and Related Statutes (*CJA Guidelines*), Volume 7A of the *Guide to Judiciary Policy*; the judges of the U.S. District Court for the Western District of Kentucky adopt this CJA Plan, as approved by the U.S. Court of Appeals for the Sixth Circuit, for furnishing compensated legal representation in this Court for any accused person who is financially unable to retain counsel.

**II. STATEMENT OF POLICY**

A. Objectives:

1. The primary goal of this CJA Plan is to ensure that all eligible individuals accused of crimes in this district receive legal representation, irrespective of their financial ability to retain counsel. Accordingly, this CJA Plan shall be administered so that those accused of crime, or otherwise eligible for legal representation, will not be deprived of any element of representation necessary to an adequate defense.
2. This CJA Plan particularizes the requirements of the CJA, the USA Patriot Improvement and Reauthorization Act of 2005 (18 U.S.C. § 3599), Fed. R. Crim. P. 44, and the *CJA Guidelines*, in a manner that meets the needs of this district.

B. Compliance:

1. The Court, the Clerk of Court, the office of the Western Kentucky Federal Community Defender, Inc., and all private attorneys appointed pursuant to this CJA Plan shall adhere to the *CJA Guidelines*, as well as this CJA Plan.
2. This CJA Plan will be available on the Court's website. Each member of a CJA Panel, each attorney employed by the Western Kentucky Federal Community Defender, Inc., and each attorney appointed in a capital case should carefully review this CJA Plan as well as the *CJA Guidelines*, which may be found at

<https://www.uscourts.gov/rules-policies/judiciary-policies/criminal-justice-act-cja-guidelines>.

3. This CJA Plan supersedes and replaces all prior plans of this Court which addressed the appointment of counsel to represent indigent persons.
4. This CJA Plan grants no additional legal, administrative or procedural rights to the private attorneys appointed hereunder, except as specifically set out below.

### **III. DEFINITIONS**

- A. “Representation” includes investigative, expert, and other services attendant to the representation of a person charged with a crime. See Section X below.
- B. “Federal Defender” refers to the Western Kentucky Federal Community Defender, Inc., its Executive Director, attorneys and staff. See Section V below.
- C. “CJA Panel” refers to a roster of private attorneys assembled by the Court pursuant to this CJA Plan. CJA Panel members will receive appointments to represent accused persons who are financially unable to retain counsel. There shall be one CJA Panel for each of the Court’s four divisions: Bowling Green, Louisville, Owensboro and Paducah. See Sections VI and VII below.
- D. “Appointed Attorney” includes private attorneys appointed from a CJA Panel, attorneys appointed in a capital case, and the Federal Defender.
- E. “United States Attorney” includes the office of the U.S. Attorney for the Western District of Kentucky and any other authorized attorney for the government as defined in Fed. R. Crim. P. 1(b).
- F. “Judicial Officer” when used in this Plan refers to a U.S. Magistrate Judge or U.S. District Judge of this Court.
- G. “CJA Panel Committee” is an advisory committee established by this CJA Plan in Section VIII below. The Court intends for the CJA Panel Committee to improve communication between the Court and CJA Panel members and to assist in the effective management of this CJA Plan.

### **IV. DETERMINATION OF ELIGIBILITY FOR REPRESENTATION**

#### **A. Subject Matter Eligibility**

1. Mandatory Representation. Representation shall be provided for any financially eligible person who:
  - a. is charged in this Court with a felony or Class A misdemeanor;

- b. is a juvenile alleged to have committed an act of delinquency as defined in 18 U.S.C. 5031;
- c. 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, 18 U.S.C. 3583;
- d. 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), 18 U.S.C. § 3565;
- e. is subject to a competency hearing pursuant to 18 U.S.C. § 4241, et seq.;
- f. is in custody as a material witness, 18 U.S.C. § 3144;
- g. is seeking to set aside or vacate a death sentence pursuant to 18 U.S.C. §§ 2254 or 2255;
- h. in verification of consent proceedings in connection with a transfer of an offender to or from the United States for the execution of a penal sentence, 18 U.S.C. § 4109;
- i. is entitled to appointment of counsel under the Sixth Amendment to the Constitution, or any other federal statute or rule not listed here, as determined by a Judicial Officer;
- j. faces loss of liberty in a case and a Judicial Officer determines that federal law requires the appointment of counsel;
- k. is entitled to appointment of counsel in parole proceedings; or
- l. is under arrest, when a Judicial Officer determines that such representation is required by law.

2. Discretionary Representation.

Whenever a Judicial Officer 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, pursuant to 28 U.S.C. §§ 2241, 2254 or 2255;
- c. is charged with civil or criminal contempt in this Court and faces a loss of liberty;
- d. has been called as a witness before a federal grand jury of this district, a court of the United States, the Congress, or a federal agency or commission which has the power to compel testimony, and a Judicial Officer has concluded that 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, 18 U.S.C. § 3181 *et seq.*; or
- g. has received from the United States Attorney notice of and invitation to testify before a federal grand jury of this district as a target or subject of the grand jury's investigation.

3. Ancillary Matters.

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

- a. In determining whether a matter is “ancillary” to the proceedings, the responsible Judicial Officer should consider whether the matter, or the issues of law or fact in the matter, arose from, or are the same as or closely related to, the facts and circumstances surrounding the principal charge.
- b. In determining whether representation in an ancillary matter is “appropriate to the proceedings,” the responsible Judicial Officer should consider whether such representation is reasonably necessary to accomplish, among other things, one or more of the following objectives:
  - i. to protect a Constitutional right;
  - ii. to contribute in some significant way to the defense of the principal criminal charge;
  - iii. to aid in preparation for the trial or disposition of the principal criminal charge;

- iv. to enforce the terms of a plea agreement in the principal criminal charge;
- v. to preserve the claim of the CJA client to an interest in real or personal property subject to a civil forfeiture proceeding under 21 U.S.C. §881, 19 U.S.C. §1602 or similar statutes, which property, if recovered by the client, may be considered for reimbursement under subsection (f) of the CJA and §210.40.30 of the *CJA Guidelines*; or
- vi. to effectuate the return of real or personal property belonging to the CJA client which may be subject to a motion for return of property under Fed. R. Crim. P. 41(g), which property, if recovered by the CJA client, may be considered for reimbursement under subsection (f) of the CJA and §210.40.30 of the *CJA Guidelines*.

#### 4. Civil Forfeiture Proceedings.

Under 18 U.S.C. § 983(B)(1), if a person with standing to contest the forfeiture of property in a judicial civil forfeiture proceeding under a civil forfeiture statute is financially unable to obtain representation by counsel, and the person is represented by an Appointed Attorney in connection with a related criminal case, the Court may authorize the Appointed Attorney to represent that person with respect to the claim.

In determining whether to authorize the Appointed Attorney to represent a person in a judicial civil forfeiture proceeding under a civil forfeiture statute, the responsible Judicial Officer shall consider:

- a. the person's standing to contest the forfeiture; and
- b. whether the claim appears to be made in good faith.

#### 5. Representation at Military Installations Within the District

##### a. Fort Knox Military Reservation

Fort Knox is a United States Army installation located within the district. The Federal Defender may be appointed to represent eligible persons appearing in court within the jurisdiction of the installation and pursuant to Section IV. A. of this CJA Plan.

b. Fort Campbell Military Reservation

Fort Campbell is a United States Army installation located within the Western District of Kentucky as well as within the Middle District of Tennessee. The Federal Public Defender for the Middle District of Tennessee may be appointed to represent eligible persons within the jurisdiction of the installation pursuant to an existing agreement between this district and the Middle District of Tennessee.

B. Timely Appointment of Counsel

An Appointed Attorney shall be provided to eligible persons at the earliest opportunity. This may be after they are taken into custody, when they first appear before a Judicial Officer, when they are arraigned, or when a Judicial Officer otherwise considers appointment of counsel appropriate under the CJA, whichever occurs earliest. Appointment of counsel may be made retroactive to include representation provided prior to appointment. See Fed. R. Crim. P. 44.

C. Number of Counsel Appointed

The Court anticipates that an Appointed Attorney from the CJA Panel shall be personally responsible for all substantive actions taken in the representation and shall not delegate to another lawyer any substantive pretrial or trial task or obligation without the permission of the presiding Judicial Officer. A second Appointed Attorney may be added to a non-capital case only when the Judicial Officer determines that the complexities of the case are such that a single Appointed Attorney will likely be unable to meet the standards set in *Strickland v. Washington*, 466 U.S. 668 (1984).

D. Eligibility for Representation

1. In every case where appointment of counsel is authorized under federal law, the Judicial Officer will advise the person that he or she has a right to be represented by counsel throughout the case and that, if requested, the Court will appoint counsel to represent the person if he or she is financially unable to obtain counsel.
2. Fact-finding. The determination of eligibility for representation under the CJA is a judicial function to be performed by a Judicial Officer after making appropriate inquiries concerning the person's financial condition. All statements made by a person requesting appointed counsel or during the inquiry into eligibility should be either:
  - a. Reflected on Form CJA 23 (Financial Affidavit) and the form should be completed and executed before a Judicial Officer or authorized employee of the Court; or

- b. Under oath in open court.
2. Standards for Eligibility. A person is “financially unable to obtain counsel” within the meaning of this CJA Plan if the person’s net financial resources and income are insufficient to enable him or her to retain qualified counsel. Any doubts as to an accused’s eligibility should be resolved in the accused’s favor. At the time of determining eligibility, the Judicial Officer should inform the person of the penalties for making a false statement and of the obligation to inform the Court and Appointed Attorney of any change in financial status. The initial determination of eligibility must be made without regard to the financial ability of the person’s family to retain counsel unless their family expressly indicates willingness and ability to do so promptly.
  3. Partial Eligibility. If an accused’s net financial resources and income anticipated prior to trial are in excess of the amount needed to provide that person’s dependents with the necessities of life and to provide the amounts necessary for release on bond, but are insufficient to pay fully for retained counsel, the Judicial Officer should find the person eligible for an Appointed Attorney under this Plan and should direct the person to pay the available excess funds to the Clerk of Court at the time of such appointment or from time to time thereafter. The Judicial Officer may increase or decrease the amount of such payments and may impose such other conditions from time to time as may be appropriate. Funds collected pursuant to this subsection are held and disbursed pursuant to 18 U.S.C. § 3006A(f).
  4. Disclosure of Change in Eligibility. If, at any time after appointment, the Appointed Attorney obtains information that a client is financially able to make payment, in whole or in part, for legal or other services in connection with the representation, and the source of the Appointed Attorney’s information is not protected as a privileged communication, the Appointed Attorney shall advise the Court. If at any stage of the proceedings a Judicial Officer finds that a person is no longer financially able to pay retained counsel, an Appointed Attorney may be provided in a manner consistent with the requirements of this CJA Plan.
  5. Use of Financial Information. The United States Attorney may not use, as part of its case-in-chief (other than in prosecution for perjury or making a false statement) any information provided by an individual in connection with the request for appointment of counsel pursuant to this CJA Plan.
  6. Procedures for appointment of counsel in cases where the defendant is charged with a crime that may be punishable by death, or where the defendant is seeking to vacate or set aside a death sentence in proceedings under 28 U.S.C. § 2254 or § 2255, are set out below in Section XI.

E. Presentation of an Accused for Financial Eligibility Determination

1. Duties of Law Enforcement. Upon arrest, and where the defendant has not retained or waived counsel, federal law enforcement officials must promptly notify the designated point of contact in the office of the Clerk of Court who will in turn notify the Federal Defender. Employees of law enforcement agencies should not participate in the completion of financial affidavits or seek to obtain information concerning financial eligibility.
2. Duties of the United States Attorney. Upon the return or unsealing of an indictment or the filing of an information, and where the defendant has not retained or waived counsel the United States Attorney will promptly notify the designated point of contact in the office of the Clerk of Court who will in turn notify the Federal Defender. Upon issuance of a target letter and where the individual has not retained or waived counsel the United States Attorney must notify the designated point of contact in the office of the Clerk of Court who will in turn notify the Federal Defender, unless the United States Attorney is aware of an actual or potential conflict between the target and the Federal Defender, in which case they must so inform the Court.

**V. FEDERAL COMMUNITY DEFENDER ORGANIZATION**

A. Western Kentucky Federal Community Defender

1. The Western Kentucky Federal Community Defender, Inc. (Federal Defender), as established in this district in 1994 with the authorization and consent of this Court and pursuant to the provisions of the CJA, is the community defender organization for this district.
2. When making appointments under this CJA Plan, the Judicial Officer shall refer merely to the Federal Defender and not to the Executive Director or any individual Assistant Federal Defender.
3. The Federal Defender shall provide upon appointment Representation to qualified accused persons in all divisions of the district.
4. The Federal Defender will continue to maintain its primary office in Louisville, Kentucky, establishing branch offices as necessary and as funding permits. Such branch offices shall be supervised by the Executive Director of the Federal Defender.
5. Neither the Executive Director of the Federal Defender nor any attorney employed by the Federal Defender may engage in the private practice of law.



6. The Federal Defender must conform to the highest standards of professional conduct.

B. Supervision and Assignment Responsibilities.

The Executive Director is responsible for the day-to-day supervision and management of the employees of the Federal Defender, including assignment of cases for which appointment of the Federal Defender is made by a Judicial Officer.

C. Management and Training of CJA Panels.

1. The Federal Defender is not responsible for management or supervision of the CJA Panels except as a member of the CJA Panel Committee, as provided below in Section VIII. A. 1. a.
2. The Executive Director of the Federal Defender shall take a lead role in providing educational programs for the CJA Panels. At least once each calendar year a training program on a topic or topics directly applicable to the representation of criminal defendants in federal court shall be offered by the Federal Defender to the membership of the CJA Panels and members of the Kentucky Bar Association. The training session must provide at least 3.0 hours of CLE credit as approved by the Kentucky Bar Association. The CJA Panel Committee may assist in the training per Section VIII. A. 4. c. below.

D. Priority of Appointments

Once it is determined by a Judicial Officer that an accused person is unable to retain counsel and is eligible for an Appointed Attorney under this CJA Plan, the Judicial Officer shall first determine the availability of the Federal Defender to provide the Representation before considering appointment of a CJA Panel member.

**VI. ESTABLISHMENT OF NEW CJA PANELS EFFECTIVE AUGUST 1, 2021**

A. Change to existing and future CJA Panels

1. After considerable study and consultation, the Court will set aside the current CJA Panel in each division of the Court and establish new panels, effective August 1, 2021. All succeeding terms of CJA Panel Membership shall begin August 1.
2. The purposes of these changes are to ensure ongoing quality representation of eligible persons, to improve the management and supervision of the CJA Panels, to provide new opportunities for qualified attorneys to join the CJA Panels, and to increase diversity on the CJA Panels. No Representation of a criminal defendant which commenced under the prior CJA plan shall be interrupted by implementation of this amended CJA Plan.

3. To establish staggered CJA Panel membership terms, the new CJA Panels will be divided into three groups, equal in number. Initially, new members will be assigned to one of the three groups on a random basis. CJA Panel members of the first group – Group A – will serve on the panel for an initial term of one year. CJA Panel members assigned to the second group – Group B – will serve on the panel for an initial term of two years. CJA Panel members assigned to the third group – Group C – will serve on the panel for an initial term of three (3) years. Thereafter, attorneys admitted to membership on a CJA Panel will each serve for a term of three years, subject to the appointment and reappointment processes outline in this CJA Plan.
4. Members of CJA Panels in good standing shall be eligible for reappointment to successive terms of three years.
5. The Court’s administration of and communication with the new CJA Panels will be aided by a new, voluntary CJA Panel Committee, established and described in Section VIII below.

B. Approval of new CJA Panels

1. Members of the existing panel of attorneys in each division of the Court are acknowledged and the Court extends its gratitude for their prior service. Those panel members interested in continuing membership on a new CJA Panel following implementation of this CJA Plan shall proceed with the application process as outlined in Section VII below.
2. The size of the CJA Panel for each division will be determined by the Court following additional consultation with the Federal Defender, peer-district analysis, and projections of need based upon caseload analysis. The Court anticipates reviewing and potentially adjusting annually the size of each CJA Panel, as necessary.

**VII. QUALIFICATIONS AND MEMBERSHIP OF CJA PANELS**

A. Application Procedures and Deadlines

1. The Clerk of Court shall ensure that notice of the adoption of this CJA Plan and a link to the application for the new CJA Panel in each division shall be provided to each attorney admitted to practice before the Court. The application shall also be posted on the Court’s website.
2. The Court will first accept applications for membership on each CJA Panel from March 1, 2021 to March 31, 2021. Thereafter the Court anticipates an annual open application period from March 1 to March 31 of each year.

3. Completed applications shall be submitted to the Court via email to CJA\_Application@kywd.uscourts.gov. No application should be submitted prior to March 1, and no application received after March 31 shall be accepted without consent of the Chief Judge. The Court may, from time to time, permit applications outside of the time period established here, if the Court first determines that additional CJA Panel members are necessary for the proper administration of this CJA Plan.

#### B. Equal Opportunity

All interested and qualified individuals are encouraged to seek appointment to a CJA Panel and will be considered for membership without regard to race, color, national origin, religion, sex, age or disability.

#### C. Eligibility for CJA Panel Membership

1. Applicants must be members in good standing of the Kentucky Bar Association for at least four (4) years and admitted to practice before this Court for at least two (2) years preceding the application.
2. Applicants must maintain an office in the division of the CJA Panel for which they seek membership.
3. Applicants must certify via the application process that they possess the necessary experience, litigation skills and proficiency with the federal sentencing guidelines, the Bail Reform Act, the Federal Rules of Criminal Procedure, and the Federal Rules of Evidence to provide competent representation of a federal criminal defendant.
4. Applicants should have a minimum of two (2) years of experience representing persons charged with criminal offenses and demonstrate a commitment to the defense of those who are financially unable to retain counsel.
5. Attorneys who do not possess the experience described above but believe they have equivalent experience are encouraged to apply and set forth in writing the details of that experience for consideration.
6. Attorneys who seek membership on a CJA Panel are expected to be available to accept appointments under this CJA Plan on a regular basis. While the Court recognizes that it may be necessary from time to time to decline an offer of appointment, no attorney should seek membership on a CJA Panel without a commitment to accept appointments regularly. Repeated refusal of appointments may be grounds for removal from the CJA Panel.

#### D. Appointment to CJA Panels

1. Approval of attorneys for membership on a CJA Panel will be made by the Court after review of all eligible applications, consideration of relevant case data and consultation with the CJA Panel Committee. See Section VIII. B. 3. below.
2. All applicants shall receive notice by June 1 of the Court's decision with respect to the application for membership on a CJA Panel. The membership term starts August 1. See Section VI.
3. The size of the CJA Panel for each division will be determined by the Court with input from the CJA Panel Committee, based in substantial part on the caseload and activity of the panel members, and in recognition of the Court's desire to have diverse CJA Panels.

#### E. Maintenance of List and Distribution of Appointments

The Clerk of Court shall maintain the membership lists of the CJA Panels with and shall furnish a copy to each Judicial Officer. The Clerk shall also maintain a public record of assignments to CJA Panel members and when appropriate, statistical data reflecting the proration of appointments between attorneys from the Federal Defender and CJA Panel members according to the formula described above in Section VI.

#### F. Method of Selection as an Appointed Attorney

The objective of this Plan is to ensure competent and effective representation of each person to whom legal services are provided. While appointments from the CJA Panel shall be made primarily on a rotational basis, the appointing Judicial Officer must evaluate the nature and complexity of the matter or case, an attorney's experience, language skills, geographical locations, availability, and any special circumstances in making the appointment.

If the Judicial Officer decides to appoint a member of a CJA Panel, the Clerk will determine the name of the next CJA Panel member on the list who has handled, or assisted in, a case of equal or greater complexity than the case for which appointment of counsel is required, and who is available for appointment, and will provide the name to the appointing Judicial Officer. See also Section V. D. above.

#### G. Reappointment of CJA Panel Members

1. The court will notify CJA Panel members, prior to the expiration of their current term, of the need to apply for reappointment to the CJA Panel.

2. A member of a CJA Panel who wishes to be considered for reappointment must apply for an additional term prior to the expiration of his or her current term in the manner set forth above in Section VI.
3. In making recommendations to the Court regarding reappointment, the CJA Panel Committee also may consider how many cases the CJA Panel member has accepted and declined during the review period, whether the member has participated in training opportunities, whether the member has been the subject of any complaints, and whether the member continues to meet the prerequisites and obligations of CJA Panel members as set forth in this Plan.

#### H. Duties of Appointed Attorneys

1. Standards. The services to be rendered a person represented by an Appointed Attorney shall be commensurate with those rendered if counsel were privately employed by the person.
2. Professional Conduct. Appointed Attorneys shall conform to the highest standards of professional conduct, including but not limited to the Rules of Professional Conduct adopted by the Supreme Court of Kentucky, and other standards for professional conduct adopted by this Court.
3. No Receipt of Other Payment. Appointed Attorneys may not require, request, or accept any payment or promise of payment or any other valuable consideration for representation that commenced under this CJA Plan.
4. Continuing Representation. Once appointment is made under the CJA, the Appointed Attorney shall continue the Representation until the matter, including appeal (as governed by the Sixth Circuit's CJA plan provisions concerning representation on appeal), 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.
5. Training and Continuing Legal Education.
  - a. Members of CJA Panels are expected to remain current with developments in federal criminal law, practice and procedure, including sentencing issues, and issues relating to discovery production of electronically stored information (ESI).
  - b. Members of CJA Panels are expected to attend trainings sponsored by the Court, the CJA Panel Committee, the U.S. Probation Office and/or the Federal Defender.

- c. Members of CJA Panels are expected to utilize online training materials offered by the Federal Judicial Center.
  - d. Members of CJA Panels shall annually attend at least 3.0 continuing legal education hours relevant to federal criminal practice.
  - e. Failure of a CJA Panel member to comply with these training and legal education requirements may be grounds for removal from the CJA Panel.
6. Facilities and Technology Requirements. CJA Panel members must maintain facilities, resources and technological capability to effectively and efficiently manage assigned cases. All CJA Panel members must comply with the requirements of electronic filing and eVoucher.
7. Case budgeting. In non-capital cases of unusual complexity that are likely to become extraordinary in terms of cost, the Court may require development of a case budget consistent with the Volume 7A of the *Guide to Judiciary Policy*.

I. Disciplinary Suspension or Removal from a CJA Panel

CJA Panel members must notify the Chief Judge of the Court within 30 days when any bar association, licensing authority, grievance committee, federal or state court, or administrative body has taken action against them; upon surrender of their license to practice law; upon retirement from the practice of law; or when a finding of contempt, sanction, or reprimand has been issued against the CJA Panel member by any state or federal court.

1. Mandatory suspension or removal

Any member of a CJA Panel who is suspended or disbarred from the practice of law by any state or federal court will be suspended or removed from the CJA Panel.

2. Automatic consideration of attorney discipline

The Court will review the membership of any CJA Panel member against whom any bar authority has taken action, or when a finding of contempt, sanction, or reprimand has been issued against the CJA Panel member by any state or federal court.

3. Other Grounds for Removal

The Court may appropriately consider other grounds for removal, including but not limited to the bases described in Sections VII. C. 6., VII. H., and VIII. B. 4. b. of this CJA Plan.

4. The Executive Director of the Federal Defender will be notified by the Clerk of Court when any member of a CJA Panel is suspended or removed.

## **VIII. CJA PANEL COMMITTEE**

The Court hereby establishes the CJA Panel Committee as an advisory committee. Membership on the committee shall be voluntary. It is created to improve communication between the Court and CJA Panel members and to assist all parties in the effective management of this CJA Plan.

### **A. Composition of the CJA Panel Committee**

1. The CJA Panel Committee will be comprised of the following members, appointed by the Chief Judge:
  - a. The Executive Director of the Western Kentucky Federal Community Defender;
  - b. At least one and up to three private practice lawyers with a principal office in the district, who are not members of a CJA Panel;
  - c. At least one CJA Panel member from each of the Bowling Green, Owensboro, and Paducah divisions and at least two CJA Panel members from the Louisville division; and
  - d. A Magistrate Judge selected by the Chief Judge.
2. The Federal Defender and Magistrate Judge positions constitute permanent members of the committee. The CJA Panel members will serve for a three-year term, which may be extended for no more than one additional term of three years. The private attorney members serving as non-CJA Panel members will serve for a two-year term, which may be extended for no more than one additional term of two years.
3. The Court will make a diligent effort to ensure that the composition of the CJA Panel Committee reflects the racial, ethnic, gender, and geographic diversity of the district.
4. No member of the CJA Panel Committee shall serve simultaneously as a member of the Board of Directors of the Federal Defender.
5. The CJA Panel Committee will meet at least once a year to address the issues outlined in Section B below, and at any other time the Court requests the committee to consider an issue. Meetings may take place via teleconference or videoconference, as approved by the Chief Judge.

B. The CJA Panel Committee will undertake the following areas of responsibility:

1. Annual Recommendations

Reviewing the administration of the CJA Plan over the preceding year and recommending in writing to the Chief Judge proposed changes to the CJA Plan. The CJA Panel Committee may also from time to time communicate informally with the Court concerning recurring issues or difficulties encountered by CJA Panel members or their clients.

2. Disputed Voucher Review

At the request of a Judicial Officer or an Appointed Attorney, confidentially review and make recommendations to the Court with respect to the processing and payment of CJA vouchers in those cases when a Judicial Officer, for reasons other than mathematical or technical errors, declines to authorize payment for the amount claimed by a CJA Panel member.

3. Membership of the CJA Panel

Examining the qualifications of applicants for membership on the CJA Panel in each respective division of the district, and recommending the approval of applications of those attorneys who are deemed qualified and the rejection of the applications of those attorneys deemed unqualified.

4. Additional duties of the CJA Panel Committee may include the following:

a. Recruitment

Engaging in efforts approved by the Court to establish a diverse CJA Panel and ensure that all qualified attorneys are encouraged to participate in the furnishing of representation in CJA cases.

b. Removal

Recommending to the Court the removal of any CJA Panel member who fails to satisfactorily fulfill the requirements of CJA Panel membership during their term of service, including the failure to provide high quality representation as an Appointed Attorney or who has engaged in conduct that renders continued service on the CJA Panel inappropriate.

c. Training

Assisting the Court and the Federal Defender in providing training for the CJA Panels on substantive and procedural legal matters affecting representation of CJA Plan clients.



d. Mentoring

Assisting the Court and the Federal Defender in developing a mentoring program designed to identify and help prepare viable candidates to qualify for consideration for appointment to a CJA Panel. Experienced members of the federal criminal defense bar, without respect to current membership on a CJA Panel, will be selected to serve as volunteer mentors. The CJA Panel Committee will review the mentee applications, make recommendations concerning their participation in the mentoring program and provide guidance to the mentors.

- C. The Chief Judge shall make the appointments required by Section A above so that the CJA Panel Committee may hold its first meeting no later than May 1, 2021.

**IX. COMPENSATION OF CJA PANEL ATTORNEYS**

A. Policy of the Court Regarding Compensation

Providing fair compensation to Appointed Attorneys is a critical component of the administration of justice. CJA Panel attorneys must be compensated for time expended in court and time reasonably expended out of court, and reimbursed for expenses reasonably incurred.

B. Limitations

1. Counsel providing representation under this CJA Plan will be compensated and reimbursed as provided in 18 U.S.C. § 3006A(d), and compensation and reimbursement will be subject to all of the limitations appearing in that subsection or to such limitations as may be fixed from time to time by the Judicial Conference.
2. Compensation will not exceed the hourly rates set forth in the CJA or subsequently adjusted by the Judicial Conference for time reasonably expended in court or out of court. The hourly rates of compensation as designated are intended to be maximum rates and are to be treated as such.

C. Expenses

1. CJA Panel members appointed under this CJA Plan will be reimbursed for expenses reasonably incurred, including the costs of transcripts authorized by a Judicial Officer. Out-of-pocket expenses reasonably incurred may be claimed on the voucher, and must be itemized and reasonably documented.
2. Compensation may be approved for time spent in necessary and reasonable travel. Counsel must obtain prior approval from the presiding judicial officer

for unusually large amounts of travel, out-of-state travel, and travel which will involve an overnight stay.

3. Travel by privately owned automobile should be claimed at the rate currently prescribed for federal judiciary employees who use a private automobile to conduct official business, plus parking fees, etc. However, compensation will not be approved for travel by privately owned automobile to the courthouse when such travel is less than 10 miles. Parking expenses will be reimbursed regardless of the duration of travel.

#### D. Excess Payment

1. Payment in excess of any maximum amount provided in the CJA may be made for extended or complex representation whenever the court in which the representation was rendered, or the Magistrate Judge, if the representation was furnished exclusively before the Magistrate Judge, certifies that the amount of the excess payment is necessary to provide fair compensation, and the payment is approved by the District Judge and by the Chief Judge of the Sixth Circuit Court of Appeals, or that judge's designee.
2. In any case in which the compensation claimed exceeds the statutory case compensation maximum, counsel must submit, with the voucher, a detailed memorandum supporting and justifying counsel's claim that the representation given was in an extended or complex case, and the excess payment is necessary to provide fair compensation.
3. For purposes of determining whether or not an excess payment is warranted under this subsection, the case is considered "complex" if the legal or factual issues are unusual, thus requiring the expenditure of more time, skill, and effort by the attorney than would normally be required in an average case. The case is considered "extended" if more time is reasonably required for total processing than the average case, including pre-trial and post-trial hearings.
4. After establishing that a case is extended or complex, the approving Judicial Officer should determine if excess payment is necessary to provide fair compensation. The following criteria, among others, may be used in this regard: responsibilities involved measured by the magnitude and complexity of the case; manner in which duties were performed; knowledge, skill, efficiency, professionalism, and judgment required of and used by counsel; nature of counsel's practice and injury thereto; any extraordinary pressure of time or other factors under which services were rendered; and any other circumstances relevant and material to a determination of a fair and reasonable fee.
5. Upon preliminary approval of such claim, the presiding Judicial Officer should furnish to the Chief Judge of the Sixth Circuit Court of Appeals, a memorandum containing the recommendation and a detailed statement of reasons.

#### E. Payment Procedures

1. Claims for compensation must be submitted on the appropriate CJA form through the Court's eVoucher system.
2. Claims for compensation should be submitted to the Clerk of the Court no later than 45 days after final disposition of the case, unless good cause is shown.
3. The Clerk will review and audit the claim for mathematical and technical accuracy and for conformity with the *Guide to Judiciary Policy*, Vol. 7A. If correct, the Clerk will promptly forward the claim to the assigned Magistrate Judge.
4. In most cases, the Court will act on CJA compensation claims within 30 days of submission.
5. If a Judicial Officer determines that a claim for compensation is not justified or should be declined, the Appointed Attorney shall be provided with prior notice of the proposed reduction, a brief statement of the reason(s) for the reduction, and an opportunity to respond. The notice and opportunity to respond will be provided regardless of whether the amount is over or under the statutory maximum following the reduction. However, such notice and opportunity to respond need not be provided when the reduction is based on mathematical or technical errors. Nothing contained in this CJA Plan should be construed as creating procedural rights, requiring a hearing, or as discouraging the Judicial Officer or designee from communicating informally with the Appointed Attorney about questions or concerns. The Judicial Officer or the Appointed Attorney may also submit any disputed voucher for confidential review and recommendation by the CJA Panel Committee, as set forth in Section VIII. B. 2. above.

#### F. Interim Payments to Appointed Attorney

Where it is considered necessary and appropriate in a specific case, the presiding Judicial Officer may arrange for periodic and interim payments for both services and expenses to be made to the Appointed Attorney from the CJA Panel.

#### G. Filing Claims

1. The Appointed Attorney from the CJA Panel must maintain contemporaneous time and attendance records for all work performed, including work performed by support staff, as well as expense records. Such records, which may be subject to audit, must be retained for three years after approval of the final voucher for an appointment under this Plan.

2. A separate claim for compensation and reimbursement must be made for representation in the District Court, and to each appellate court before which the attorney provided representation for the person involved.
3. Each claim must be submitted on a form CJA Form 20 and supported by a sworn written statement specifying the time expended, services rendered, and expenses incurred while the case was pending before the Court and the compensation and reimbursement applied for or received in the same case from any other source.
4. Each claim will be further supported by such documentation as the Administrative Office of the United States Courts may require and itemized on such forms as the Administrative Office may from time to time prescribe.

#### H. Review and Approval by Judicial Officer

After completion of the audit and review process described in this Section above in paragraph E. 3., the assigned Magistrate Judge will review the claim and approve as appropriate those vouchers for Representation in connection with a case disposed of entirely before the Magistrate Judge. Following review of the claims for Representation in connection with a case before a District Judge, the Magistrate Judge shall recommend approval by the District Judge. Further review by the presiding District Judge should only be necessary if the claim includes a request for Excess Payment, per paragraph D of this Section above, or under other circumstances as initiated at the request of the Magistrate Judge, to include the issues addressed above in paragraph E. 5. of this Section.

#### I. New Trials

For purposes of compensation and other payments authorized under this CJA Plan, an order by the Court granting a new trial will be deemed initiation of a new case.

### **X. SERVICES OTHER THAN COUNSEL**

As stated in Section III. A. above, Representation of an accused person under this CJA Plan will often involve the procurement of investigative, expert or other services. These services may be procured under the following circumstances.

#### A. With Prior Authorization

An Appointed Attorney may request authority to obtain and pay for additional services necessary for effective Representation in an ex parte application before a judicial officer as provided in 18 U.S.C. § 3006A(e)(1). Upon finding, after appropriate inquiry in an ex parte proceeding, that the services are necessary and that the person is financially unable to obtain them, the Judicial Officer shall authorize counsel to obtain the services requested.

Compensation for services under this subsection is limited to the statutorily authorized amounts set out in the *CJA Guidelines*. Payment in excess of the compensation limit for services authorized prior to the performance thereof may be made when certified by a Judicial Officer and approved by the Chief Judge of the Circuit, as being necessary to provide fair compensation for services of an unusual character or duration. If it can be anticipated that the compensation will exceed the statutory maximum, advance approval should be obtained from this Court and the Chief Judge of the Circuit.

B. Without Prior Authorization

An Appointed Attorney may obtain, subject to later review, investigative, expert or other services without prior authorization if necessary for an adequate defense. The total cost of services obtained without prior authorization may not exceed the financial limitations set forth in 18 U.S.C. § 3006A(e)(2), including expenses reasonably incurred. However, these limitations may be waived if the presiding Judicial Officer, in the interest of justice, finds that timely procurement of necessary services could not await prior authorization.

C. Consulting Services in Capital Federal Habeas Corpus Cases

Where necessary for adequate representation, 18 U.S.C. § 3006A(e) and 18 U.S.C. § 3599(t) authorize the reasonable employment and compensation of consultants to provide services to Appointed Attorneys in federal capital habeas corpus cases and in federal death penalty cases in such areas as records completion, determination of need to exhaust state remedies, identification of issues, review of draft pleadings and briefs, etc. See Section XI.

An expert consultant may not be paid an hourly rate exceeding that which an Appointed Attorney could be authorized to be paid.

D. Services for Pro Se Litigants

Persons who are eligible for representation under the CJA, but who have elected to proceed pro se, may, upon request, be authorized to obtain investigative, expert, and other services in accordance with 18 U.S.C. § 3006A(e). All such requests must be made to the presiding Judicial Officer for advance approval.

**XI. CAPITAL CASE REPRESENTATION**

A. Applicable Legal Authority

The appointment and compensation of counsel in capital cases and the authorization and payment of persons providing investigative, expert, and other services are

governed by 18 U.S.C. §§ 3005, 3006A, and 3599, and *Guide to Judiciary Policy*, Vol. 7A, Ch. 6, and this CJA Plan.

B. General Applicability and Appointment of Counsel Requirements

1. Unless otherwise specified, the provisions of this Section apply to all capital proceedings in this district, whether those matters originated in a district court (federal capital trials) or in a state court (habeas proceedings under 28 U.S.C. § 2254). Such matters include those in which the death penalty may be or is being sought by the prosecution, motions for a new trial, direct appeal, applications for a writ of certiorari to the Supreme Court of the United States, all post-conviction proceedings under 28 U.S.C. §§ 2254 or 2255 seeking to vacate or set aside a death sentence, applications for stays of execution, competency proceedings, proceedings for executive or other clemency, and other appropriate motions and proceedings.
2. Any person charged with a crime that may be punishable by death who is or becomes financially unable to obtain representation is entitled to the assistance of Appointed Attorney(s) throughout every stage of judicial proceedings, including pretrial proceedings, trial, sentencing, motions for new trial, appeals, applications for writ of certiorari to the Supreme Court of the United States, and all available post-conviction processes, together with applications for stays of execution and other appropriate motions and procedures, competency proceedings, and proceedings for executive or other clemency as may be available to the defendant. *See* 18 U.S.C. § 3599(e).
3. Qualified Appointed Attorneys will be provided in capital cases at the earliest possible opportunity.
4. Given the complex and demanding nature of capital cases, where appropriate, the Court will utilize the expert services available through the Administrative Office of the U.S. Courts, Defender Services Death Penalty Resource Counsel projects (Resource Counsel projects), which include: (1) Federal Death Penalty Resource Counsel and Capital Resource Counsel Projects (for federal capital trials), (2) Federal Capital Appellate Resource Counsel Project, (3) Federal Capital Habeas § 2255 Project, and (4) National and Regional Habeas Assistance and Training Counsel Projects (§ 2254). These counsel are death penalty experts who may be relied upon by the Court for assistance with selection and appointment of counsel, case budgeting, and legal, practical, and other matters arising in federal capital cases.
5. The Federal Defender should promptly notify and consult with the appropriate resource counsel described above in paragraph 4 regarding federal capital trial, appellate, and habeas corpus cases, and consider their recommendations for appointment of counsel.

6. In appointing counsel in capital cases, Judicial Officers should consider and give due weight to the recommendations made by the Federal Defender and resource counsel referred to in paragraph 4 above.
  7. The presiding judge may appoint an attorney furnished by a state or local public defender organization or legal aid agency or other private, non-profit organization to represent a person charged with a capital crime or seeking federal death penalty habeas corpus relief provided that the attorney is fully qualified. Such appointments may be in place of, or in addition to, the appointment of the Federal Defender or a CJA Panel attorney. *See* 18 U.S.C. § 3006A(a)(3).
  8. All Appointed Attorneys in federal capital cases must be well qualified, by virtue of their training, commitment, and distinguished prior capital defense experience at the relevant stage of the proceeding, to serve as counsel in this highly specialized and demanding litigation.
  9. All Appointed Attorneys in federal capital cases must have sufficient time and resources to devote to the Representation, taking into account their current caseloads and the extraordinary demands of federal capital cases.
  10. All Appointed Attorneys in federal capital cases should be familiar with the performance standards set out in American Bar Association's 2003 Guidelines for the Appointment and Performance of Defense Counsel in Death Penalty Cases (Guidelines 1.1 and 10.2 et seq.), and the 2008 Supplementary Guidelines for the Mitigation Function of Defense Teams in Death Penalty Cases.
  11. All Appointed Attorneys in federal capital cases should consult regularly with the appropriate Resource Counsel projects as described above in paragraph 4.
  12. Consistent with applicable guidance, the Court will not utilize a formal or informal non-statutory budgetary cap in capital cases.
  13. Where appropriate, capital cases should be budgeted with the assistance of the resources described in paragraph 4 above.
  14. With respect to compensation of Appointed Attorneys in capital cases, the Court will generally follow the processes and procedures outlined above in Sections IX and X, as applicable.
- C. Appointed Attorneys Serving as Trial Counsel in Federal Death-Eligible Cases
1. General Requirements

- a. Appointment of qualified capital trial counsel must occur no later than when a defendant is charged with a federal criminal offense where the penalty of death is possible. *See* 18 U.S.C. § 3005.
  - b. To protect the rights of an individual who, although uncharged, is the subject of an investigation in a federal death-eligible case, the Court may provide Appointed Attorney(s) upon request.
  - c. At the outset of every capital case, the Court will provide two Appointed Attorneys, at least one of whom meets the qualifications for “Learned Counsel” as described in paragraph 2 below. If necessary for adequate representation, and as determined by the presiding Judicial Officer, more than two Appointed Attorneys may be provided in a capital case. *See* 18 U.S.C. § 3005.
  - d. When appointing counsel, the Judicial Officer will consider the recommendation of the Federal Defender, who will consult with Federal Death Penalty Resource Counsel (see paragraph B. 4. above) to recommend qualified counsel to serve as an Appointed Attorney in a capital case.
  - e. In appointing counsel in capital cases, the Judicial Officer will give due weight to the recommendations made by the Federal Defender and where appropriate consult the resources discussed in Section B. 4. above.
  - f. Consistent with applicable guidance, the Court will not maintain a separate roster of attorneys for appointment in capital cases. Appointed Attorneys in capital cases shall be selected based upon the individualized recommendations of the Federal Defender and, as appropriate, following consultation with the offices and resources described above in paragraph B. 4.
  - g. Out-of-district counsel who possess the requisite expertise may be considered for appointment in capital trials to achieve high quality representation together with cost and other efficiencies.
  - h. In evaluating the qualifications of proposed Appointed Attorneys to serve as trial counsel in capital cases, consideration should be given to their demonstrated commitment to the defense of capital cases, their current caseload including other capital cases, and their willingness to effectively represent the interests of the client.
2. Qualifications of Appointed Attorneys Serving as Learned Counsel
- a. Appointed Attorneys serving as “Learned Counsel” must either be admitted to practice before this Court or be eligible for admission pro hac vice based on their qualifications. The Court notes that appointment of counsel from



outside the jurisdiction to serve as Learned Counsel is common in federal capital cases.

- b. For an Appointed Attorney to serve as Learned Counsel they must meet the minimum experience standards in 18 U.S.C. §§ 3005 and 3599.
  - c. Appointed Attorneys serving as Learned Counsel should have distinguished prior experience in the trial, appeal, or post-conviction review of federal death penalty cases, or distinguished prior experience in state death penalty trials, appeals, or post-conviction review that, in combination with co-counsel, will assure high quality representation.
  - d. “Distinguished prior experience” as used above in paragraph c contemplates recognized excellence, not simply prior experience.
  - e. The suitability of the proposed Learned Counsel will be assessed by the Judicial Officer with respect to the particular demands of the capital case, the stage of the litigation, and the characteristics of the defendant.
  - f. Appointed Attorneys serving as Learned Counsel must be willing and able to adjust other caseload demands to accommodate the extraordinary time required by the capital representation.
  - g. Appointed Attorneys serving as Learned Counsel should satisfy the qualification standards endorsed by bar associations and other legal organizations regarding the quality of representation in capital cases.
3. Qualifications of Appointed Attorneys Serving as Second and Additional Counsel
- a. Appointed Attorneys serving as second and additional counsel may, but are not required to, satisfy the qualifications for Learned Counsel, as provided above in paragraph 2.
  - b. Appointed Attorneys serving as second and additional counsel must be well qualified, by virtue of their distinguished prior criminal defense experience, training and commitment, to serve as counsel in this highly specialized and demanding litigation.
  - c. Appointed Attorneys serving as second and additional counsel must be willing and able to adjust other caseload demands to accommodate the extraordinary time required by the capital representation.
- D. Appointed Attorneys Serving as Direct Appeal Counsel in Federal Death Penalty Cases

1. When appointing appellate counsel, Judicial Officers must consider the recommendation of the Federal Defender, who will consult with Federal Capital Appellate Resource Counsel to recommend qualified counsel.
  2. Counsel appointed to represent a death-sentenced federal appellant should include at least one Appointed Attorney who did not represent the appellant at trial.
  3. Each Appointed Attorney who withdraws from Representation should be replaced with similarly-qualified counsel to represent the defendant on appeal.
  4. Out-of-district counsel, including federal defender organization staff, who possess the requisite expertise may be considered for appointment in capital appeals to achieve high quality representation.
  5. Appointed Attorneys serving as appellate counsel, between them, should have distinguished prior experience in federal criminal appeals and capital appeals.
  6. At least one of the Appointed Attorneys serving as appellate counsel must have the requisite background, knowledge, and experience required by 18 U.S.C. § 3599(c) or (d).
  7. In evaluating the qualifications of proposed Appointed Attorneys to serve as appellate counsel, the Judicial Officer may consider the qualification standards endorsed by bar associations and other legal organizations regarding the quality of legal representation in capital cases.
  8. In evaluating the qualifications of proposed Appointed Attorneys to serve as appellate counsel, the Judicial Officer may consider the proposed attorney's commitment to the defense of capital cases, their current caseload including other capital cases, and their willingness to effectively represent the interests of the client.
- E. Appointed Attorneys Serving as Post-Conviction Counsel in Federal Death Penalty Cases (28 U.S.C. § 2255)
1. A financially eligible person seeking to vacate or set aside a death sentence in proceedings under 28 U.S.C. § 2255 is entitled to appointment of fully qualified counsel. *See* 18 U.S.C. § 3599(a)(2).
  2. Due to the complex, demanding, and protracted nature of death penalty proceedings, the Court may consider providing two Appointed Attorneys.
  3. When appointing counsel in a capital § 2255 matter, the Judicial Officer will consider the recommendation of the Federal Defender, who should consult with the Federal Capital Habeas § 2255 Project.

4. Out-of-district counsel who possess the requisite expertise may be considered for appointment in capital § 2255 cases to achieve high quality representation together with cost and other efficiencies.
  5. Appointed Attorneys in § 2255 cases should have distinguished prior experience in the area of federal post-conviction proceedings and in capital post-conviction proceedings.
  6. When possible, Appointed Attorneys serving as post-conviction counsel should have distinguished prior experience in capital § 2255 representations.
  7. In evaluating the qualifications of proposed Appointed Attorney(s) to serve as post-conviction counsel, the Judicial Officer may consider the qualification standards endorsed by bar associations and other legal organizations regarding the quality of legal representation in capital cases.
  8. In evaluating the qualifications of proposed Appointed Attorney(s) to serve as post-conviction § 2255 counsel, the Judicial Officer may consider the proposed attorney's commitment to the defense of capital cases, their current caseload including other capital cases, and their willingness to effectively represent the interests of the client.
- F. Appointed Attorneys Serving as Counsel in Federal Capital Habeas Corpus Proceedings (28 U.S.C. § 2254)
1. A financially eligible person seeking to vacate or set aside a death sentence in proceedings under 28 U.S.C. § 2254 is entitled to the appointment of qualified counsel. *See* 18 U.S.C. § 3599(a)(2).
  2. Due to the complex, demanding, and protracted nature of death penalty proceedings, the Judicial Officer may consider providing two Appointed Attorneys.
  3. When appointing counsel in a capital § 2254 matter, the Judicial Officer will consider the recommendation of the Federal Defender.
  4. Out-of-district counsel who possess the requisite expertise may be considered for appointment in capital § 2254 cases to achieve cost and other efficiencies.
  5. Unless precluded by a conflict of interest, or replaced by similarly qualified counsel upon motion by the attorney or motion by the defendant, Appointed Attorneys in capital § 2254 counsel must represent the defendant throughout every subsequent stage of available judicial proceedings and all available post-conviction processes, together with applications for stays of execution and other appropriate motions and procedures, and must also represent the defendant in

such competency proceedings and proceedings for executive or other clemency as may be available to the defendant. *See* 18 U.S.C. § 3599(e).

6. Appointed Attorneys in capital § 2254 cases should have distinguished prior experience in the area of federal post-conviction proceedings and in capital post-conviction proceedings.
7. In evaluating the qualifications of proposed Appointed Attorney(s) to serve as capital § 2254 counsel, the Judicial Officer may consider the qualification standards endorsed by bar associations and other legal organizations regarding the quality of legal representation in capital cases.
8. In evaluating the qualifications of proposed Appointed Attorney(s) to serve as capital § 2254 counsel, the Judicial Officer may consider the proposed attorney's commitment to the defense of capital cases, their current caseload including other capital cases, and their willingness to represent effectively the interests of the client.

## **XII. EFFECTIVE DATE**

This CJA Plan will become effective upon approval by the Judicial Council of the Sixth Circuit, as indicated below.

APPROVED by the judges of the U.S. District Court for the Western District of Kentucky,  
December 16, 2020.

GREG N. STIVERS  
CHIEF JUDGE

## CERTIFICATE OF APPROVAL

This is to certify that, in accordance with the Criminal Justice Act of 1964 as amended, 18 U.S.C. § 3006A, *et seq*, the foregoing revised Criminal Justice Act Plan for the Western District of Kentucky, has been duly received and approved via mail ballot dated January 7, 2021 as complying with the law by the Judicial Council of the Sixth Circuit of the United States. The said revised plan shall become effective upon the date of this approval.

This 25th day of January, 2021.

A handwritten signature in black ink, appearing to read "R. Guy Cole, Jr.", written over a horizontal line.

R. Guy Cole, Jr., Chief Judge