

(g) for whom the Sixth Amendment to the United States Constitution requires the appointment of counsel, or for whom, in a case in which he or she faces loss of liberty, any federal law requires the appointment of counsel; or

(h) who is entitled to appointment of counsel in parole proceedings under 18 U.S.C. § 4208(d)(2); or

(i) who is entitled to appointment of counsel in verification of consent proceedings to transfer an offender to or from the United States for the execution of a penal sentence under 18 U.S.C. § 4109; or

(j) who is seeking to set aside or to vacate a sentence of death.

(2) Representation shall include counsel and investigative, expert, and other services necessary for an adequate defense.

(B) Provision for Furnishing Counsel.

(1) This Plan provides for the furnishing of legal services by a Federal Public Defender Organization (“Organization”), supervised by a Federal Public Defender, and serving the United States District Court for the Western District of Oklahoma. In addition, this Plan provides for the appointment and compensation of private counsel in a substantial proportion of cases. The term “private counsel” includes counsel furnished by a bar association or a legal aid agency, and a claim by such an organization for compensation will be approved on the same basis as in the case of the appointment of private counsel.

(2) The determination of whether a party entitled to representation will be represented by the Organization or by private counsel is within the discretion of the Court.

(3) Counsel shall be provided to eligible persons as soon as feasible after they are taken into custody, when they appear before a United States Magistrate Judge or District Judge, when they are formally charged or notified of charges if formal charges are sealed, or when a United States Magistrate Judge or District Judge otherwise considers appointment of counsel appropriate under the Act, whichever occurs earliest.

(C) **Federal Public Defender Organization.**

(1) The Court determined that the use of the Organization, as defined in subsection (g)(2)(A) of the Act, will facilitate the representation of persons entitled to the appointment of counsel under the Act. The Western District of Oklahoma has at least 200 persons annually who require the appointment of counsel. *See* 18 U.S.C. § 3006A(g)(1). The Organization, with offices in Oklahoma City, Oklahoma, has been properly established.

(2) The Organization shall operate pursuant to the provisions of subsection (g)(2)(A) of the Act, as well as the *Guidelines for Administering the CJA and Related Statutes* (“*CJA Guidelines*”), promulgated by the United States Judicial Conference pursuant to subsection (h) of the Act.

(3) The Organization’s attorneys may not engage in the private practice of law.

(4) The Federal Public Defender shall submit to the Director of the Administrative Office of the United States Courts (“Administrative Office”), at the time

and in the form prescribed by the Director, reports of the Organization's activities and its financial position.

(5) The Federal Public Defender shall furnish a roster of staff attorneys and shall report any changes to this Court.

(6) In order to ensure the effective supervision and management of the Organization, the Federal Public Defender will be responsible for the assignment of cases among the staff attorneys in the Organization office. Accordingly, the Court will assign cases in the name of the Organization rather than in the name of individual staff attorneys.

(7) The Organization is authorized to accept appointments in cases initiated in the Western District of Oklahoma and, if a need arises, in the Northern and Eastern Districts of Oklahoma. The Organization may accept appointments in the Northern and Eastern Districts of Oklahoma subject to the approval of the Chief Judge for the Western District and of the Chief Judge in the appointing Oklahoma District. The Federal Public Defender will comply with all reporting requirements for out of district appointments promulgated by the Office of Defender Services. These requirements do not apply to appointments in Capital Habeas Corpus cases for which the Federal Public Defender Organization is authorized to provide services in all three Federal Districts for the State of Oklahoma.

(8) The Organization will make such arrangements with federal, state, and local investigative and police agencies as will adequately assure that at the earliest

practicable stage persons arrested under circumstances where such representation is required by federal law may promptly have counsel furnished them by the Organization.

(9) In order to ensure availability of counsel and other resources, the Federal Public Defender shall monitor capital litigation in the State of Oklahoma and shall report to the Judges of the three federal districts as necessary to apprise the courts of reasonably anticipated program needs and resource requirements. The Federal Public Defender shall report this information to the Special Death Penalty Habeas Corpus Panel Selection Committee as necessary to aid the Panel Selection Committee in its efforts.

(10) The Organization includes the position of CJA Panel Administrator (“Panel Administrator”). The Federal Public Defender is authorized to delegate to the Panel Administrator appropriate duties or functions that are otherwise assigned by this Plan to the Federal Public Defender. All functions directly assigned to the Panel Administrator by this Plan shall be subject to the supervision and direction of the Federal Public Defender. To avoid conflicts of interest, the Panel Administrator shall be physically and administratively segregated from other functions of the Organization.

(D) Criminal Justice Act Panel of Private Attorneys.

(1) Composition of Panel of Private Attorneys.

(a) Approval. The Court shall establish a panel of private attorneys (hereinafter referred to as the “CJA Panel”) who are eligible and willing to provide representation under the Act. The Court shall approve attorneys for membership on the Panel, after receiving recommendations from the Panel Selection Committee established

pursuant to this section. Members of the CJA Panel shall serve at the pleasure of the Court.

(b) Size. The Court shall fix, periodically, the size of the CJA Panel. The Panel shall be large enough to provide a sufficient number of experienced attorneys to handle the Criminal Justice Act caseload, yet small enough so that Panel members will receive an adequate number of appointments to maintain their proficiency in federal criminal defense work, and thereby provide a high quality of representation.

(c) Eligibility. Attorneys who serve on the CJA Panel must (i) be members in good standing of the federal bar of this district, (ii) have been admitted to the practice of law not less than 5 years, (iii) have trial experience in either federal or state court, and (iv) have demonstrated experience in, and knowledge of, the Federal Rules of Criminal Procedure, the Federal Rules of Evidence, and the United States Sentencing Guidelines. To be eligible for appointment in federal capital prosecutions, counsel must meet the criteria enumerated in section (F)(6) of this Plan.

(d) Application. The application form for membership on the CJA Panel is posted on the Court's website. The completed application shall be submitted electronically to the Panel Administrator, who will transmit the applications to the chair of the Panel Selection Committee.

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

(f) Terms. Attorneys who are named to the CJA Panel will serve for three-year terms, subject to renewal.

(g) Continuing Legal Education. All members of the CJA Panel shall participate in at least six hours of continuing legal education (“CLE”) or equivalent training in federal criminal defense per year. To facilitate this requirement, the Panel Administrator, separately or in conjunction with the Federal Bar Association or the Oklahoma Bar Association, will present at least six hours of CLE per year.

(2) Panel Selection Committee.

(a) Membership. A Panel Selection Committee, consisting of no more than 7 voting members, shall be established by the Court. The Committee shall consist of one United States Judge, the Court Clerk or designee, the CJA Panel representative, at least one attorney who is a member of the CJA Panel, and at least one attorney who is not a member of the CJA panel. The Panel Selection Committee members shall serve three-year terms, subject to renewal, staggered to permit continuity of membership. The Federal Public Defender and Panel Administrator shall serve as non-voting members of the Panel Selection Committee. The Committee shall select its own chair.

(b) Duties.

(i) The Panel Selection Committee shall meet at least quarterly. At least one meeting shall be dedicated to (1) review of the applicants for the CJA Panel; (2) review of the applicants for the CJA Training Panel; (3) quality review of the current members of the CJA Panel; and (4) review of the Training Panel and the training plan. The Committee shall review the qualifications of applicants and recommend for approval

by the Court those applicants best qualified to provide representation. The Committee shall report to the Court regarding recruitment efforts undertaken by the Committee in furtherance of the Equal Opportunity statement contained in (D)(1)(e) of the Plan.

(ii) Periodically, the Committee shall review the operation and administration of the Panel over the preceding year and recommend to the Court any changes deemed necessary or appropriate by the Committee regarding the appointment process and Panel management, including the removal or non-renewal of counsel from the CJA Panel when the Committee deems appropriate.

(iii) The Committee shall review one-third of the CJA Panel attorneys on an annual basis to determine if the attorneys have demonstrated the dedication, knowledge, and skill required to remain on the Panel. Attorneys will be assigned a number of 1, 2, or 3 when they join the CJA Panel; attorneys assigned number 1 will be reviewed during the first year of the three-year term, those with number 2 during year two, and those with number 3 during the third year. The Panel Administrator will notify the Court and the attorneys who are subject to review when the review period begins and will also inquire as to each attorney's availability and willingness to continue to accept appointments. If an attorney expresses the desire to remain on the panel, the Committee will conduct a quality review of the attorney's work, which may include interviews with the Judges of this Court before whom the attorney has appeared in the past year. The Committee will thereafter notify the Court whether it recommends retention or nonrenewal of each attorney reviewed.

(iv) If, at any time during the course of a year, the number of vacancies due to resignation, removal, or incapacity significantly decreases the size of the Panel, the Committee shall elevate members from the CJA Training Panel to the CJA Panel. If no CJA Training Panel members are suitable for the CJA Panel, the Committee 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.

(v) The Federal Public Defender shall prepare an annual report of the Panel activity during the preceding fiscal year. The report shall reflect the number of times each attorney was contacted for an appointment, the number of appointments accepted, and the reason for the appointments refused. The annual report shall reflect the efforts undertaken during the year to encourage diversity of the Panel's composition. If a CJA Panel member resigns, the Panel Administrator shall inquire regarding the reasons for that resignation and include those reasons in the annual report. The annual report shall be provided to the Chief Judge for distribution to other members of the Court and as the Chief Judge may direct. Unless otherwise authorized by the Chief Judge, the annual report will be kept confidential.

(3) CJA Training Panel.

(a) The Panel Selection Committee may establish a "CJA Training Panel," consisting of no more than ten attorneys per year.

(b) Members of the CJA Training Panel shall agree to participate in a one-year training program that will include attending three hours of mandatory federal

criminal justice training every month, which will be administered by the Panel Administrator.

(c) Training Panel members will be assigned a mentor from the CJA Panel and will be required to attend all aspects of cases assigned to the CJA Panel member, including acting as second-chair in any criminal trial to which the mentor is assigned. CJA Training Panel members shall be compensated for in-court time at a rate that will be set by the Court and published on the court's website.

(d) At the conclusion of the one-year training program, the training attorney will either graduate or be informed by the Panel Administrator that the Committee has determined that more training is required. If an attorney graduates, he or she may be placed on the CJA Panel if there is an opening. Otherwise, graduates will be placed on a Misdemeanor Panel from which they can be appointed in Class A misdemeanor cases by the presiding Magistrate Judge.

(e) Prior service on the CJA Training Panel is not a requirement for membership on the CJA Panel, nor will service on the Training Panel guarantee admission of an attorney to the CJA Panel.

(E) **Selection for Appointment.**

(1) **Maintenance of List and Distribution of Appointments.** The Panel Administrator shall maintain a current list of all attorneys included on the CJA Panel and CJA Training Panel, with current office addresses and telephone numbers, as well as a statement of qualifications and experience. Panel members are responsible for notifying the Panel Administrator of any changes to their contact information. The Panel

Administrator shall furnish a copy of this list to the members of the Court. The Panel Administrator shall maintain a record of assignments to CJA counsel. Statistical data reflecting the ratio of appointments between the Organization and the CJA Panel will be maintained.

(2) Method of Selection.

(a) Appointments from the CJA Panel should be made on a rotational basis, subject to the presiding judge's or Panel Administrator's discretion to make exceptions due to the nature and complexity of the case, an attorney's experience, and geographical considerations. This procedure should result in a balanced distribution of appointments and compensation among the members of the CJA Panel and quality representation for each CJA defendant. However, when the presiding judge, or the Chief Judge if a judge has not yet been assigned to the case, determines the appointment of an attorney who is not a member of the CJA Panel is in the interest of justice, judicial economy, or continuity of representation, or there is some other compelling circumstance warranting his or her appointment, the attorney may be admitted to the CJA Panel *pro hac vice* and may be appointed to represent the CJA defendant. To preserve the integrity of the panel selection process, *pro hac vice* appointments should be made only in exceptional circumstances and only for attorneys who possess the qualifications necessary for admission to the Court's CJA Panel in the ordinary course.

(b) Upon the determination of a need for the appointment of counsel, the presiding judge shall notify the Panel Administrator of the need for counsel and the nature of the case. The presiding judge may determine that the appointment of more than

one counsel is necessary in an extremely difficult, complex, or extended case. In the event the case is one in which the United States has or may seek the death penalty, the presiding judge shall determine the need for appointment of at least two counsel no later than the accused's first appearance.

(c) In the event an emergency arises on weekends, holidays, or other non-working hours, the presiding judge shall notify the Panel Administrator who will assist with the appointment process.

(F) **Determination of Need for Counsel.**

(1) **Advice of Right, Financial Inquiry, Appointment Procedure.**

(a) In every criminal matter in which a person who is entitled to representation as provided in the preamble of this Plan appears without counsel, the presiding judge shall advise the person of the right to be represented by counsel and that counsel will be appointed if the person is financially unable to afford adequate representation. The Panel Administrator or designee will assist the presiding judge in making the determination whether a person is financially unable to afford adequate representation by assisting the person's completion of a financial affidavit on a form prescribed by the Administrative Office.

(b) Unless the person waives representation by counsel in writing, the presiding judge, if satisfied after appropriate inquiry that the person is financially unable to obtain counsel, shall appoint counsel to represent the person. If the need for the assistance of counsel is immediate and apparent, and the person states under oath that he

or she is financially unable to obtain counsel, the inquiry may follow the person's request for appointment of counsel as soon thereafter as is practicable.

(c) In appointing counsel, the presiding judge shall select the Organization or an attorney from the Panel, except in extraordinary circumstances in which it becomes necessary to make another selection of a member of the Bar of this Court. *See, supra*, § E(2)(a).

(d) The presiding judge shall appoint separate counsel for persons having interests that cannot be represented by the same counsel or when other good cause is shown.

(2) Mandatory Representation.

(a) Unless waived, counsel shall be appointed for any person financially unable to obtain adequate representation who meets the applicability requirements of A(1), *supra*.

(3) Discretionary Representations.

(a) Any person who is the target of criminal charges, is a grand jury witness, is eligible for pretrial diversion, or is seeking relief under 28 U.S.C. §§ 2241, 2254, or 2255, or 18 U.S.C. § 4245 may be furnished representation pursuant to this Plan whenever the presiding judge determines the interests of justice so require and such person is financially unable to afford adequate representation. Such appointments are discretionary pursuant to subsection (g) of the Act, and payment for such representation shall be in accordance with the provisions of the Act and this Plan.

(4) Appointment of Counsel and Procedures in Federal Capital Prosecutions.

(a) 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 18 U.S.C. § 3599(a), more than two attorneys may be appointed to represent a defendant in such a case, if necessary for adequate representation.

(b) For cases in which appointment of counsel occurs prior to judgment, at least one of the attorneys appointed must have been admitted to practice in the court in which the case will be prosecuted 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. See 18 U.S.C. § 3599(b). Further, at least one of the attorneys appointed must be knowledgeable in the law applicable to death penalty cases. In appointing counsel in federal capital prosecutions, the presiding judge shall consider the recommendation of the Federal Public Defender, or in the Defender's incapacity, the Administrative Office. See 18 U.S.C. § 3005.

(c) For cases in which the appointment of counsel occurs after judgment, at least one of the attorneys appointed must have been admitted to practice in the Court of Appeals for not less than five years, and must have had not less than three years' experience in the handling of appeals in felony cases in that Court. See 18 U.S.C. § 3599(c).

(d) The presiding judge, for good cause shown, may appoint an attorney who does not qualify under 18 U.S.C. § 3599(b) or (c), but who has the background,

knowledge, and experience necessary to represent the person properly in a capital case, giving due consideration to the seriousness of the possible penalty and the unique and complex nature of the litigation.

(e) The Panel Selection Committee is directed to inquire of applicants to the regular CJA Panel and to survey members of the Special Death Penalty Habeas Corpus Panel to determine the qualifications and willingness of Panel members to serve in federal capital prosecutions.

(5) Continuity and Duration of Appointment.

(a) A person for whom counsel is appointed shall be represented at every stage of the proceedings from initial appearance before the United States Magistrate or District Judge through appeal, including ancillary matters appropriate to the proceedings.

(6) Appeal. In the event a criminal defendant enters a plea of guilty or is convicted following trial, appointed counsel shall advise the defendant of the right of appeal and of the right to counsel on appeal. If requested to do so by the defendant in a criminal case, counsel shall file a timely Notice of Appeal. Counsel's duties under his appointment by the trial court include: (a) arranging for timely transmission of the record on appeal as provided by Fed. R. App. P. 10 & 11, and 10th Cir. R. 10.1, 10.2 and 10.3; (b) filing a docketing statement in accordance with 10th Cir. R. 3.4; and, if requested, (c) filing a memorandum opposing summary disposition (*see* 10th Cir. R. 27.3). Counsel's appointment remains in full force and effect until relieved of duty by order of the district court or the Court of Appeals.

(7) Partial Payment or Reimbursement.

(a) If, at any time after appointment of counsel, the presiding judge finds that the person is financially able to obtain counsel or to make partial payment for the representation, or that funds are available for payment from or on behalf of a person furnished representation, the presiding judge may terminate the appointment of counsel or authorize payment as provided in subsection (f) of the Act, as the interests of justice may dictate.

(b) If, at any time after appointment, counsel obtains information from a non-privileged source that a client is financially able to make payment, in whole or in part, for legal or other services in connection with the representation, counsel shall advise the presiding judge. The presiding judge may permit assigned counsel to continue to represent the party with part or all of the cost of representation defrayed by such party. In such event, the amount so paid or payable by the party shall be considered by the presiding judge in determining the total compensation to be allowed to such attorney. No appointed counsel may require, request, or accept any payment or promise of payment for representing a party, unless such payment is approved by order of the presiding judge.

(c) If, at any stage of the proceedings, including an appeal, the presiding judge finds that the party is financially unable to pay retained counsel, the presiding judge may appoint counsel as provided in the Act and authorize such payment as the interests of justice may dictate.

(d) The presiding judge, in the interests of justice, may substitute one appointed counsel for another at any stage of the proceedings.

(G) **Investigative, Expert, and Other Services.**

(1) **Upon Request.**

(a) Counsel for a party who is financially unable to obtain investigative, expert, or other services necessary for adequate representation may request such services in an ex parte application before the presiding judge. Upon finding, after appropriate inquiry in such ex parte proceedings, that the services are necessary and that the person is financially unable to obtain them, the presiding judge shall authorize counsel to obtain the services.

(b) The maximum which may be paid to a person or organization for services so authorized shall not exceed the limit set by the CJA, exclusive of reimbursement for expenses reasonably incurred, unless payment in excess of that limit is certified by the presiding judge as necessary to provide fair compensation for services of an unusual character or duration, and the amount of the excess payment is approved by the Chief Judge of the Court of Appeals for the Tenth Circuit, or the Chief Judge's designee.

(2) **Without Prior Request.**

(a) Counsel appointed under the Act may obtain, subject to later review, investigative, expert, or other services without prior authorization, if necessary for adequate representation. However, the total cost for services obtained without prior authorization may not exceed the maximum set by the CJA, and expenses reasonably incurred, for each person or organization providing the services. This limit may be waived, however, if the presiding judge finds, in the interests of justice, that timely

procurement of necessary services could not await prior authorization. Counsel may request ratification for investigative, expert, or other services within the limit by submitting an application for ex parte review by the presiding judge.

(3) Ex Parte Applications.

(a) Ex parte applications for services other than counsel shall be heard *in camera*, and shall not be revealed without the consent of the person represented. The application shall be placed under seal until the final disposition of the case in the trial court, subject to further order of the presiding judge.

(4) Claims.

(a) Claims, in other than capital habeas cases, for compensation of persons providing investigative, expert and other services under the Act shall be submitted on the appropriate CJA form to the Panel Administrator, who shall review the claim for mathematical accuracy, conformity with the CJA Guidelines, and reasonableness. If the claim is questionable in some respect, the Panel Administrator shall confer with the submitting attorney and/or claimant to attempt to resolve the issue. After review and attempted resolution of any issue, the Panel Administrator shall forward the claim to the presiding judge for consideration. If the conference with the claimant results in a new or amended claim agreed to by the claimant, the new or amended claim shall be submitted. If there are unresolved questions or issues, the original claim and any correspondence between the Panel Administrator and the claimant as to the issue shall be submitted.

(5) Federal Public Defender Organization.

(a) The Organization may obtain investigative, expert, or other services without regard to the requirements and limitations of this section, provided that total expenditures of the Organization for investigative, expert, and other services do not exceed its budget authorization for these specific categories.

(H) Payment for Representation.

(1) Hourly Rates.

(a) Any private attorney appointed under this Plan shall, at the conclusion of the representation or any segment thereof, be compensated at a rate not to exceed the hourly rate approved by the Judicial Conference of the United States and funded by Congress. Such attorney shall be reimbursed for expenses reasonably incurred, including the costs of transcripts authorized by the presiding judge.

(2) Maximum Amounts.

(a) The compensation to be paid to a private attorney appointed under this Plan shall not exceed the maximum amounts prescribed in the Act for each attorney in a case in which one or more felonies are charged, for each attorney in a case in which only misdemeanors are charged, for representation in connection with a post-trial motion made after entry of judgment, a probation revocation proceeding, a parole proceeding, or for discretionary appointments as provided in subsection (a)(2) of the Act.

(3) Waiving Maximum Amounts.

(a) Payment in excess of any maximum amount provided in the previous paragraph may be made for extended or complex representation whenever the

presiding judge certifies that the amount of the excess payment is necessary to provide fair compensation and the payment is approved by the Chief Judge of the Court of Appeals for the Tenth Circuit, or the Chief Judge's designee.

(4) Death Penalty Representation.

(a) The hourly rates and maxima for cases involving the imposition of the death penalty shall be set by the presiding judge commensurate with the current recommendations of the Judicial Conference of the United States. Claims shall be submitted on the forms provided by the Administrative Office for use in death penalty cases, at the intervals recommended by the Administrative Office.

(5) Filing Claims.

(a) Claims for compensation in other than capital habeas cases shall be submitted on the appropriate CJA form to the Panel Administrator, who shall review the claim for mathematical accuracy, conformity with the CJA Guidelines, and reasonableness. If the claim is questionable in some respect, the Panel Administrator shall confer with the submitting attorney to attempt to resolve the issue. After review and attempted resolution of any issue, the Panel Administrator shall forward the claim to the presiding judge for consideration. If the conference with the attorney results in a new or amended claim agreed to by the attorney, the new or amended claim shall be submitted. If there are unresolved questions or issues, the original claim and any correspondence between the Panel Administrator and the attorney as to the issue shall be submitted.

(b) In cases in which representation is furnished other than before the Court, the presiding judge shall fix the compensation and reimbursement to be paid.

(c) Vouchers shall be submitted at the conclusion of the representation on forms prescribed by the Administrative Office. The presiding judge may authorize periodic or interim payments.

(d) All vouchers shall be submitted within 45 days after the representation is concluded. Any voucher submitted more than 45 days after the case is concluded shall be accompanied by a letter demonstrating good cause for the delay. The voucher and any accompanying explanation will be submitted for the consideration of the presiding judge. Vouchers should receive disposition by the presiding judge within 30 days after submission.

(e) Except in cases involving mathematical corrections, no claim for compensation submitted for services provided under the Act will be reduced without affording counsel notice and the opportunity to be heard.

(I) **Procedures for Capital Habeas Cases.**

(1) **Appointment of Counsel.**

(a) The Court shall consider requests for appointment of counsel promptly and counsel shall be appointed as soon as possible.

(b) The Organization shall be authorized to serve as counsel of record, and shall recommend to the Court those cases in which its appointment as counsel of record is appropriate. The authority to accept appointments shall extend to cases in all three federal districts within the State of Oklahoma.

(c) If appointment of the Organization is not feasible, the Panel Administrator shall provide to the Court the name of a member of the Special Death Penalty Habeas Corpus Panel.

(2) Special Death Penalty Habeas Corpus Panel.

(a) The Special Death Penalty Habeas Corpus Panel shall be composed of private attorneys specially qualified to serve in death penalty federal habeas corpus cases. Qualification to serve shall be based on counsel's experience in death penalty representation, complex civil litigation, complex appellate practice, or other, similar, experience.

(b) The members of the Special Death Penalty Habeas Corpus Panel shall be selected by a Special Death Penalty Habeas Corpus Panel Selection Committee, which shall be composed of five members: one practicing attorney from each of the three federal districts, one attorney serving as member of the faculty of one of the State's accredited law schools, and one Death Penalty Law Clerk. The Federal Public Defender for the Western District of Oklahoma and the Chief Judges for each of the three Federal Districts in Oklahoma, or their designees, shall serve as non-voting members of the Committee. The members shall serve five-year terms, staggered to ensure continuity of the majority of the Committee. The Death Penalty Law Clerk member shall rotate among the three districts, by consensus of the Chief Judges.

(c) All qualified attorneys shall be encouraged to participate in the furnishing of representation in federal death penalty habeas corpus proceedings, without regard to race, color, religion, gender, age, national origin, or disabling condition.

(d) The Panel Administrator shall submit the applications of members of the private bar interested in serving on the Special Death Penalty Habeas Corpus Panel to the Special Death Penalty Habeas Corpus Panel Selection Committee.

(e) The Panel Administrator shall submit an annual panel activity report to the Chief Judges of the three Federal Districts and to the Chief Judge of the United States Court of Appeals for the Tenth Circuit, noting the number of appointments accepted by each attorney during the year, the number of pending cases maintained by the attorney, and the Special Death Penalty Habeas Corpus Panel Selection Committee's efforts to increase diversity of the Panel's membership during the year. Any recommendations for action with regard to an attorney serving on the Special Death Penalty Habeas Corpus Panel shall be forwarded to the Selection Committee.

(3) Case Management.

(a) The presiding judge or a United States Magistrate Judge shall, in a written order, direct counsel for the petitioner to submit a written budget estimating the time and resources necessary to prepare the petition. The resource requirements shall specify the nature and type of services counsel anticipate will be required to prepare the petition and estimate of costs associated with the services.

(b) The proposed budget will be reviewed by the presiding judge or the judge's designee at an ex parte litigation budget conference. Any revision to the budget shall be noted on the written budget.

(c) The budget shall remain sealed during the pendency of the proceedings. For purposes of voucher auditing only, the dollar amounts approved in each expense category shall be disclosed to the Court Clerk.

(d) In the event counsel determines the budget will be exceeded prior to the completion of the petition, counsel shall submit a written advisement to the presiding judge, advising the Court of the nature of the anticipated deficit. The presiding judge may approve expenses in excess of the initial budget, subject to the requirements of paragraph (4)(f).

(4) Claims for Services.

(a) Claims for compensation shall be submitted on the appropriate CJA form to the Panel Administrator. The Panel Administrator shall review the claim form for mathematical and technical accuracy and for conformity with the *CJA Guidelines*. After review, the Panel Administrator shall forward the original claim form to the United States Magistrate Judge who approved the budget. The United States Magistrate Judge shall review the claim for reasonableness and compliance with the approved budget, and shall then transmit the original form to the presiding judge with his or her recommendation.

(b) In cases in which representation is furnished other than before the Court, the presiding judge shall fix the compensation and reimbursement to be paid.

(c) Vouchers shall be submitted at the conclusion of the representation on forms prescribed by the Administrative Office. The presiding judge may authorize periodic or interim payments.

(d) All vouchers shall be submitted within 45 days after the representation is concluded. Any voucher submitted more than 45 days after the case is concluded shall be accompanied by a letter demonstrating good cause for the delay. The voucher and any accompanying explanation will be submitted for the consideration of the judicial officer presiding over the case. Vouchers should receive disposition by the presiding judge within 30 days after submission.

(e) Except in cases involving mathematical corrections, no claim for compensation submitted for services provided under the Act will be reduced without affording counsel notice and the opportunity to be heard.

(J) **Miscellaneous.**

(1) **Forms.**

(a) Where standard forms have been approved by the Judicial Conference of the United States or an appropriate committee thereof, and have been distributed by the Administrative Office, such forms shall be used by the Court, the Court Clerk, the Organization, and counsel. The Court will ensure that such forms, along with this Plan, will be available on the Court's website.

(2) **Guidelines for the Administration of the Criminal Justice Act.**

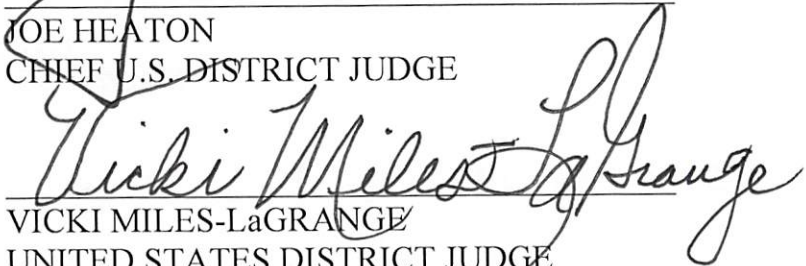
(a) The Court, Clerk of the Court, Organization, and CJA Panel attorneys appointed under the Act and this Plan shall comply with the provisions of the Judicial Conference's CJA Guidelines.

This Order supersedes General Order 15-03 filed September 23, 2015.

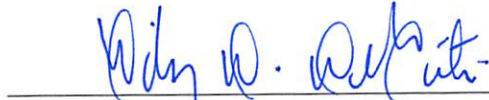
DATED this 11th day of October, 2016.



JOE HEATON
CHIEF U.S. DISTRICT JUDGE



VICKI MILES-LaGRANGE
UNITED STATES DISTRICT JUDGE



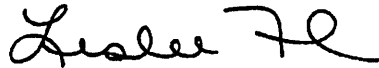
TIMOTHY D. DeGIUSTI
UNITED STATES DISTRICT JUDGE

**MINUTES OF THE JUDICIAL COUNCIL
OF THE TENTH CIRCUIT**

September 28, 2016

The Judicial Council has approved the proposed amendments to the CJA Plan of the United States District Court for the Western District of Oklahoma, which were submitted on August 10, 2016. The court may choose the effective date of the new plan and should send a copy of the final CJA Plan to the Circuit Executive.

The Judicial Council



By:

Leslee Fathallah
Deputy Circuit Executive

for David Tighe
Circuit Executive and Secretary to the
Judicial Council of the Tenth Circuit