

United States District Court
Middle District of Georgia
Criminal Justice Act Plan

I. Authority

Under the Criminal Justice Act of 1964 as amended (CJA), [section 3006A of title 18, United States Code](#), and the *Guidelines for Administering the CJA and Related Statutes (CJA Guidelines)*, Volume 7A of the *Guide to Judiciary Policy*, the judges of the United States District Court for the Middle District of Georgia, adopt this Plan for furnishing representation in federal court for any person financially unable to obtain adequate representation in accordance with the CJA.

II. Statement Of Policy

A. Objectives.

1. The objective of this Plan is to attain the ideal of equality before the law for all persons. Therefore, this Plan will be administered so that those accused of crime, or otherwise eligible for services under the CJA, will not be deprived, because they are financially unable to pay for adequate representation, of any element of representation necessary to an adequate defense.
2. The further objective of this Plan is to particularize the requirements of the CJA, the USA Patriot Improvement and Reauthorization Act of 2005 (recodified at 18 U.S.C. § 3599), and the *CJA Guidelines* in a way that meets the needs of this district.

B. Compliance.

1. The court, its clerk, and private attorneys appointed under the CJA must comply with the *CJA Guidelines* approved by the Judicial Conference of the United States and/or its Committee on Defender Services and with this Plan.
2. Each private attorney will be provided by the clerk of court with a current copy of this Plan upon the attorney's first appointment under the CJA or designation as a member of the Panel of Private Attorneys under the Criminal Justice Act (CJA Panel). The clerk will maintain a current copy of the *CJA Guidelines* for the use of members of the CJA Panel and will make known to such attorneys its availability.

III. Definitions

A. Representation

“Representation” includes counsel and investigative, expert, and other services.

B. Appointed Attorney

“Appointed attorney” includes private attorneys, the community defender and staff attorneys of community defender organization, and attorneys furnished by a bar association or legal aid agency.

IV. Provision Of Representation

A. Circumstance.

1. Mandatory. Representation **shall** be provided for any financially eligible person who:
 - a. is charged with a felony or with a Class A misdemeanor;
 - b. is a juvenile alleged to have committed an act of juvenile delinquency as defined in [section 5031 of title 18, United States Code](#);
 - c. is charged with a violation of probation, or faces a change of a term or condition of probation (unless the modification sought is favorable to the probationer and the government has not objected to the proposed change);
 - d. is under arrest, when such representation is required by law;
 - e. is entitled to appointment of counsel in parole proceedings (**See:** Guide, Vol 7A, § 210.20.10(e));
 - f. is charged with a violation of supervised release or faces modification, reduction, or enlargement of a condition, or extension or revocation of a term of supervised release;
 - g. is subject to a mental condition hearing under [chapter 313 of title 18, United States Code](#);
 - h. is in custody as a material witness;
 - i. is seeking to set aside or vacate a death sentence under [section 2254 or 2255 of title 28, United States Code](#);
 - j. is entitled to appointment of counsel in verification of consent proceedings in connection with a transfer of an offender to or from the United States for the execution of a penal sentence under [section 4109 of title 18, United States Code](#);

- k. is entitled to appointment of counsel under the Sixth Amendment to the Constitution (**see:** Guide, Vol 7A, § 210.20.10(i); or
 - l. faces loss of liberty in a case and federal law requires the appointment of counsel (**see:** § 210.20.10(i).
2. Discretionary. Whenever a district judge or United States magistrate judge determines that the interests of justice so require, representation **may** be provided for any financially eligible person who:
- a. is charged with a petty offense (Class B or C misdemeanor, or an infraction) for which a sentence to confinement is authorized;
 - b. is seeking relief, other than to set aside or vacate a death sentence under [sections 2241, 2254, or 2255 of title 28, United States Code](#) (**see:** Guide, Vol 7A, § 210.20.20(a)(2));
 - c. is charged with civil or criminal contempt who faces loss of liberty;
 - d. has been called as a witness before a grand jury, a court, the Congress, or a federal agency or commission which has the power to compel testimony, and there is reason to believe, either prior to or during testimony, that the witness could be subject to a criminal prosecution, a civil or criminal contempt proceeding, or face loss of liberty;
 - e. is proposed by the United States attorney for processing under a pretrial diversion program;
 - f. is held for international extradition under [chapter 209 of title 18, United States Code](#).

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

B. Timely Appointment of Counsel.

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 CJA, whichever occurs earliest.

C. Number and Qualifications of Counsel.

1. Number. More than one attorney may be appointed in any case determined by the court to be extremely difficult. In a capital case, the following applies:

- a. Federal Capital Prosecutions. Under [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 must be learned in the law applicable to capital cases. Under [18 U.S.C. § 3599\(a\)\(1\)\(B\)](#), if necessary for adequate representation, more than two attorneys may be appointed to represent a defendant in such a case.
 - b. Habeas Corpus Proceedings. Under [18 U.S.C. § 3599\(a\)\(2\)](#), a financially eligible person seeking to vacate or set aside a death sentence in proceedings under [28 U.S.C. §§ 2254](#) or [2255](#) is **entitled** to appointment of one or more qualified attorneys. Due to the complex, demanding, and protracted nature of death penalty proceedings, judicial officers should consider appointing at least two counsel.
2. Qualifications. Qualifications for appointed counsel shall be determined by the court. In capital cases the following also applies:
- a. Appointment of Counsel Prior to Judgment. Under [18 U.S.C. § 3599\(b\)](#), 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. Under [18 U.S.C. § 3005](#), at least one of the attorneys appointed must be knowledgeable in the law applicable to capital cases.

Under [18 U.S.C. § 3005](#), in appointing counsel in federal capital prosecutions, the court shall consider the recommendation of the federal public defender or, if no such organization exists in the district, of the Administrative Office of the United States Courts.
 - b. Appointment of Counsel After Judgment. Under [18 U.S.C. § 3599\(c\)](#), 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 the court.
 - c. Attorney Qualification Waiver. Under [18 U.S.C. § 3599\(d\)](#), the presiding judicial officer, for good cause, may appoint an attorney who may not qualify under [18 U.S.C. § 3599\(b\) or \(c\)](#), but who has the background, knowledge, and experience necessary to represent the defendant properly in a capital case, giving due consideration to the seriousness of the possible penalty and the unique and complex nature of the litigation.

- D. Eligibility for Representation.
 - 1. Fact finding. The determination of eligibility for representation under the CJA is a judicial function to be performed by a district judge or United States magistrate judge after making appropriate inquiries concerning the person's financial condition.
 - 2. Disclosure of Change in Eligibility. If, at any time after appointment, counsel obtains information that a client is financially able to make payment, in whole or in part, for legal or other services in connection with his or her representation, and the source of the attorney's information is not protected as a privileged communication, counsel will advise the court.
- V. Community Defender Organization
 - A. Establishment.
 - 1. The Federal Defenders of the Middle District of Georgia, Inc., previously established in this district under the provisions of the CJA, is hereby recognized as a community defender organization for this district.
 - 2. The community defender organization will be capable of providing legal services throughout the district and will maintain its principal office in Macon, Georgia.
 - B. Supervision of Defender Organization. The community defender will be responsible for the supervision and management of the community defender organization. Accordingly, the community defender will be appointed in all cases assigned to that organization for subsequent assignment to staff attorneys at the discretion of the community defender.
- VI. Private Attorneys
 - A. Establishment and Organization of CJA Panel. The establishment and organization of the CJA Panel shall accord with the Plan for the Compensation, Administration, and Management of Private Attorneys under the CJA, found at Appendix II of this CJA Plan.
 - B. Ratio of Appointments. Where practical and cost effective, private attorneys from the CJA Panel will be appointed in a substantial proportion of the cases in which the accused is determined to be financially eligible for representation under the CJA. "Substantial" will usually be defined as

approximately 35% of the appointments under the CJA annually throughout the district.

VII. Representation In State Death Penalty Habeas Corpus Proceedings Under 28 U.S.C. § 2254

The court will appoint a member or members of the Special Death Penalty Habeas Corpus Panel, the community defender with his or her consent, or a qualified attorney recommended by the community defender, or other attorney who qualifies for appointment under [section 3599 of title 18, United States Code](#) to represent financially eligible persons seeking habeas corpus relief in state death penalty proceedings under section 2254 of title 28, United States Code.

VIII. Duties of Appointed Counsel

- A. Standards. The services to be rendered a person represented by appointed counsel will be commensurate with those rendered if counsel were privately employed by the person.
- B. Professional Conduct. Attorneys appointed under the CJA must conform to the highest standards of professional conduct.
- C. No Receipt of Other Payment. Appointed counsel may not request, request, or accept any other payment or promise of other payment or any other valuable consideration for representation under the appointment, unless such payment is approved by order of the court.
- D. Continuing Representation. Once counsel is appointed under the CJA, counsel will continue the representation until the matter, including appeals or review by certiorari (as governed by the circuit 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.

IX. Duties Of Law Enforcement And Related Agencies

- A. Presentation of Accused for Appointment of Counsel. Federal law enforcement and prosecutorial agencies, probation officers, and pretrial services officers in this district, and those acting on their behalf, must promptly ask any person who is in custody, or who otherwise may be entitled to counsel under the CJA, whether he or she is financially able to secure representation, and must, in such cases in which the person indicates that he or she is not able, notify the community defender who will discuss with the person the right to representation and right to appointed counsel, and if

appointment of counsel seems likely, assist in the completion of a financial affidavit ([Form CJA 23](#)) and arrange to have the person promptly presented before a United States magistrate judge or district judge of this court for determination of financial eligibility and appointment of counsel.

- B. Notice of Indictment or Criminal Information. Upon the return or unsealing of an indictment, the filing of a criminal information, or the filing of a petition to modify or revoke probation, the United States attorney or the probation officer, as appropriate, must immediately mail or otherwise deliver a copy of the document to appointed counsel, or to the defendant if he is without counsel, at the address shown on defendant's bond papers or to the jail in which the defendant is incarcerated.

X. Miscellaneous

- A. Forms. Standard forms, pertaining to the CJA and approved by the Judicial Conference of the United States or its Committee on Defender Services and prescribed and distributed by the Director of the Administrative Office of the United States Courts, must be used, where applicable, in all proceedings under this Plan.
- B. Claims. Claims for compensation of private attorneys providing representation under the CJA must be submitted on the appropriate CJA form, to the office of the clerk of the court. That office will review the claim form for mathematical and technical accuracy and for conformity with the *CJA Guidelines*, and, if correct, will forward the claim form for the consideration of the appropriate judge or United States magistrate judge. The court will exert its best effort to avoid delays in reviewing payment vouchers and in submitting them for further processing.
- C. Supersession. This Plan supersedes all prior Criminal Justice Act Plans of this court.

XI. Effective Date

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

Appendices:

- I. Bylaws of the Federal Defenders of Middle Georgia, Inc.
- II. Plan for the Composition, Administration, and Management of the Panel of Private Attorneys under the Criminal Justice Act

ENTER FOR THE COURT THIS 4TH DAY OF JANUARY, 2016.

s/ Clay D. Land _____
CLAY D. LAND
CHIEF JUDGE

APPROVED BY THE JUDICIAL COUNCIL OF THE ELEVENTH
CIRCUIT ON THIS _____ DAY OF _____, 2016.

CHIEF JUDGE, COURT OF APPEALS

UNITED STATES DISTRICT COURT

OFFICE OF THE CLERK
MIDDLE DISTRICT OF GEORGIA
475 MULBERRY STREET
P.O. BOX 128
MACON, GEORGIA 31202-0128

FILE COPY

GREGORY J. LEONARD
CLERK
PHONE: 478-752-3497
FAX: 478-752-3496

OFFICES

ALBANY	31701
ATHENS	30601
COLUMBUS	31902
MACON	31202
THOMASVILLE	31792
VALDOSTA	31601

September 12, 2005

Honorable Norman E. Zoller
Circuit Executive
U. S. Court of Appeals for
the Eleventh Circuit
56 Forsyth Street, NW, #304
Atlanta, GA 30303

RE: Community Defender Organization of the Middle District of Georgia

Dear Mr. Zoller:

Please find enclosed a copy of the "Initial By-Laws of Federal Defenders of the Middle District of Georgia, Inc." adopted by unanimous vote of the active district judges on September 9, 2005. On October 18, 2004, we were advised that the Judicial Council had approved an Addendum to the Criminal Justice Act Plan of this district to provide for a Community Defender Organization. According to the Addendum, these by-laws have been attached to the local Criminal Justice Act Plan.

If you need any further information, please advise.

Sincerely,



GREGORY J. LEONARD
CLERK

GJL/dhs

cc: Honorable W. Louis Sands
Chief United States District Judge

**INITIAL BY-LAWS OF
FEDERAL DEFENDERS OF THE MIDDLE DISTRICT OF GEORGIA, INC.**

Adopted September 1 , 2005

ARTICLE I

Purpose

The primary purpose of the Federal Defenders of the Middle District of Georgia, Inc. is set forth in its Articles of Incorporation.

It shall operate a Community Defender Organization of the Middle District of Georgia, as provided for in 18 U.S.C. Section 3006A(2)(B) and manage the Criminal Justice Act Plan of the Middle District of Georgia. In administering said Plan the corporation shall in its capacity as a community nonprofit defender organization be specifically responsible for furnishing attorneys and rendering services to persons entitled to representation and services under the Criminal Justice Act, as amended, to receive payments under said Act and to provide educational services related to these purposes.

The corporation also has such powers as are now or may hereinafter be granted by the Georgia Nonprofit Corporation Code.

ARTICLE II

Offices

The principal office of the Federal Defenders of the Middle District of Georgia, Inc. shall be located in Macon, Georgia. The corporation shall have and continuously maintain in this state a registered office and a registered agent whose office is identical with such registered office, and may have other offices within the State of Georgia, as the Board of Directors may from time to time determine.

ARTICLE III

Board of Directors

SECTION 1. QUALIFICATIONS. The Board of Directors shall be composed primarily (if not exclusively) of attorneys, who are licensed in and residents of, Georgia. In the Board's discretion not more than two non-lawyer Directors may serve. The

majority of Directors should be actively engaged in the practice of criminal defense law in Federal and/or state court within the Middle District of Georgia. No Director shall hold a position as a regularly sitting judge, a criminal prosecutor, or a court administrator during his or her term of office on the Board.

SECTION 2. GENERAL POWERS. All corporate powers of the corporation shall be exercised by or under the authority of the Board of Directors. The Board of Directors shall have the responsibility to manage and direct the property, affairs, and business of the corporation.

SECTION 3. NUMBER and TENURE. The number of Directors shall be a maximum of thirteen (13) and a minimum of six (6) persons. Each Director shall serve a term of three years, beginning on October 1 of each year, and in order to provide and insure a continuity of experience, the terms of office of the Directors shall be staggered into three "classes" in the following manner: Of the original Directors, one third shall be appointed for a term of three years, one third shall be appointed for a term of two years, and the remaining Directors shall be appointed for a term of one year. Thereafter, successor Directors shall be elected to succeed the initial Directors upon the expiration of their respective initial terms of three (3) years.

SECTION 4. ELECTION AND APPOINTMENT OF DIRECTORS. Directors shall be elected at each annual meeting of the Directors to replace those Directors whose term will expire. These Directors shall be elected by the affirmative vote of a majority of the remaining Directors whose terms will not expire. The names of the Directors so chosen shall be submitted to the chief judge of the United States District Court for the Middle District of Georgia. Those chosen shall become members of the Board of Directors unless within twenty-one (21) calendar days following submission of the names to the chief judge, the District Court notifies the corporation that any of those so selected are disapproved by the court. Any person disapproved by the court may not serve as a Director and the Board of Directors shall select another person if necessary to meet the minimum Board size and may select another person if the Board elects to do so. Directors may be reelected for successive terms but are expected to serve no longer than a total of six (6) years. The initial members of the Board of Directors, all of whom have been approved by the chief judge, are listed on the attached addendum along with their terms or service.

SECTION 5. INITIAL BOARD. The initial Board of Directors referred to above and its Chairman have been selected by the judges of the United States District Court for the Middle District of Georgia.

SECTION 6. VOTING RIGHTS. Each Director shall be entitled to one vote on each matter submitted to a vote of the Directors. Written proxy votes shall be permitted.

SECTION 7. RESIGNATION. Any Director may resign by filing a written resignation with the Secretary or with the other Directors.

ARTICLE IV

Meetings of the Board of Directors

SECTION 1. ANNUAL MEETING. An annual meeting of the Board of Directors shall be held on the second Tuesday in September, at a time and location to be determined by the Board (or subject to appropriate notice, at any alternate approximate date), for the purpose of installing officers, electing new directors and for conducting such other business as may come before the meeting.

SECTION 2. OTHER MEETINGS. Regular meetings of the Board of Directors for any purpose or purposes shall be called at any time by the President or by any two Directors. Directors shall participate in meetings of the Board of Directors in person or by telephone conference call.

SECTION 3. PLACE OF MEETING. The Board of Directors may designate any place, within the Middle District of Georgia, as the place of meeting for an annual or other meeting called by the Board of Directors. If no designation is made, the place of the meeting shall be the office of the corporation, provided, however, that if all of the members shall meet any time and place and consent to the holding of a meeting, such meeting shall be valid without call or notice, and as such meeting any corporate action may be taken.

SECTION 4. NOTICE OF MEETING. Written or printed notice stating the place, day and hour of meeting of Directors shall be delivered, either personally by facsimile telecopy or by mail, to each Director entitled to vote at such meeting, not less than seven nor more than forty days before the day of such meeting, by or at the direction of the President, or the secretary, or the persons calling the meeting. In case of a special meeting or when required by statute or by these by-laws, the purpose for which the meeting is called shall be stated in the notice. If mailed, the notice of a meeting shall be deemed delivered when deposited in the United States Mail addressed to the member at the member's address on the records of the corporation, with postage thereof prepaid.

SECTION 5. MANNER OF ACTING. The act of a majority of the Directors present at a meeting at which a quorum is present shall be the act of the Board of Directors, except where otherwise provide by law of by these by-laws.

SECTION 6. INFORMAL ACTION BY DIRECTORS. Any action required to be taken at a meeting of the Directors of the corporation, or any other action which may be taken at a meeting of Directors, may be taken without a meeting if a consent in writing, setting forth the action so taken, shall be signed by at least four of the Directors entitled to vote with respect to the subject matter thereof, or such action may be taken by the Executive Committee of the Board of Directors.

SECTION 7. QUORUM. Any five Directors shall constitute a quorum at a meeting. If a quorum is not present at any meeting of Directors, a majority of the Directors present may adjourn the meeting from time to time without notice.

SECTION 8. COMPENSATION. Directors as such shall not receive any stated salaries for their services.

SECTION 9. VACANCIES. Subject to the procedures set out in Article III, Section IV, any vacancy occurring in the Board of Directors or any directorship to be filled by reason of an increase in the number of Directors, shall be filled by a majority vote of the Directors then in office. A Director elected to fill a vacancy shall be elected for the expired term of the predecessor in office.

ARTICLE V

Officers

SECTION 1. OFFICERS. The officers of the corporation shall be a President, who shall serve as Chairman of the Board, a Vice President, a Treasurer, a Secretary and such other officers as may be elected in accordance with the provisions of this Article. The Board of Directors may elect or appoint such other officers as it shall deem desirable, such officer to have the authority and perform the duties described from time to time by the Board of Directors. Any two or more offices may be held by the same person, except the offices of President, Secretary and Treasurer. All officers shall be chosen from any of the Board members.

SECTION 2. EXECUTIVE DIRECTOR. The Directors shall employ an Executive Director as a full-time employee of the corporation. The Executive Director shall have the general responsibility of carrying out the purposes and business of the corporation subject to approval and direction from the Board of Directors and officers of the corporation.

SECTION 3. ELECTION AND TERM OF OFFICE. The officers shall be elected annually by the Board of Directors at its annual meeting. If the election of officers shall not be held at such meeting, such election shall be held as soon as convenient thereafter. Vacancies may be filled or new offices created and filled at any meeting of the Board of Directors. Each officer shall hold office until a successor shall have been duly elected and shall have qualified.

SECTION 4. REMOVAL. Any officer or agent elected or appointed by the Board of Directors may be removed by the Board of Directors whenever in its judgment the best interests of the corporation would be served thereby.

SECTION 5. VACANCIES. A vacancy in any office because of death, resignation, removal, disqualification or otherwise, may be filled by the Board of Directors for the unexpired portion of the term.

SECTION 6. PRESIDENT. The President shall be the principal executive officer of the corporation and Chairman of the Board of Directors and shall in general supervise and control all of the business and affairs of the corporation as authorized by the Board of Directors. The President shall perform all duties incident to the office of President and such other duties as may be prescribed by the Board of Directors from time to time.

SECTION 7. VICE PRESIDENT. In the absence or inability of the President, the Vice President shall perform the duties of President, and when so acting, shall have all the powers of and be subject to all of the restrictions upon the President, and shall perform such other duties as from time to time may be assigned to the office by the President or the Board of Directors.

SECTION 8. TREASURER. The Treasurer shall have charge and custody of and be responsible for all funds and securities of the corporation; receive, and give receipts for moneys due and payable to the corporation in such banks, trust companies or other depositories as shall be selected in accordance with the provisions of Article VII of these By-laws; and in general perform all the duties incident to the office of treasurer and such other duties as from time to time may be assigned by the President or by the Board of Directors.

SECTION 9. SECRETARY. The Secretary shall keep the minutes of the meetings of the Board of Directors in one or more books provided for that purpose; see that all notices are fully given in accordance with the provisions of these by-laws or as required by law; be custodian of the corporate records and of the seal of the corporation and see that the seal of the corporation is affixed to all documents, the execution of which on behalf of the corporation under its seals duly authorized in accordance with the provisions

of these by-laws; and in general perform all duties incident to the office of secretary and such other duties as from time to time may be assigned to the member by the President or by the Board of Directors.

ARTICLE VI

Committees

SECTION 1. EXECUTIVE COMMITTEE. The officers of the corporation shall act as an Executive Committee. The Chairman of the Board of Directors shall serve as Chairman of the Executive Committee. Other than the authority to employ or discharge the Executive Director, and the authority to approve the annual budget, the Executive Committee shall have and exercise the full and complete authority of the Board of Directors in the management of the corporation between meetings of the Board. A majority of the Executive Committee shall constitute a quorum.

SECTION 2. COMMITTEES OF DIRECTORS. The Chairman of the Board of Directors may designate one or more committees, each of which shall consist of two or more Directors.

SECTION 3. TERM OF OFFICE. Each member of the committee shall continue as such until the next annual meeting of the Directors of the corporation and until a successor is appointed, unless the committee shall be sooner terminated, or unless such member be removed from such committee, or unless such member shall cease to qualify as a member thereof.

SECTION 4. CHAIRMAN. One member of each committee is appointed chairman.

SECTION 5. VACANCIES. Vacancies in the membership of any committee may be filled by appointments made in the same manner as provided in the case of original appointments.

SECTION 6. INFORMAL ACTION BY COMMITTEES. Any action required to be taken at a meeting of a committee or any other action which may be taken at a meeting of a committee may be taken without a meeting if a consent in writing setting forth the action so taken be signed by all members of the committee entitled to vote with respect to the subject matter thereof.

SECTION 7. RULES. Each committee may adopt rules for its own government not inconsistent with these by-laws or with rules adopted by the Board of Directors.

ARTICLE VII

Contracts, Checks, Deposits and Funds

SECTION 1. CONTRACTS. The Board of Directors may authorize any officer or offices., agent or agents of the corporation, to enter into any contract or execute and deliver any instrument in the name of and on behalf of the corporation and such authority may be general or confined to specific instances.

SECTION 2. CHECKS, DRAFTS, ETC. All checks, drafts or other order for payment of money, notes or other evidences of indebtedness issued in the name of the corporation, shall be signed by such officer or officers, agent or agents of the corporation and in such manner as from time to time be determined by resolution of the Board of Directors. In the absence of such determination by the Board of Directors such instruments shall be signed by the President, Vice President, or the Treasurer or an Assistant Treasurer of the corporation.

SECTION 3. DEPOSITS. All funds of the corporation shall be deposited from time to time to the credit of the corporation in such banks, trust companies or other depositories as the Board of Directors may select.

SECTION 4. GIFT. The Board of Directors may accept on behalf of the corporation any contribution, gift, bequest or devise for the general purpose or for any special purpose of the corporation.

SECTION 5. INDEMNIFICATION OF OFFICERS AND DIRECTORS. The corporation shall indemnify the Directors and officers of the corporation and may purchase and maintain liability insurance on their behalf.

Books and Records

The corporation shall keep correct and complete books and records of account and shall also keep minutes of the proceedings of the Board of Directors and committees having any of the authority of Board of Directors. All books and records of the corporation may be inspected by any Director, or the Director's agent or attorney, for any proper purpose at any reasonable time; There shall be an annual audit of the books of the corporation by a certified public accountant.

ARTICLE IX

Fiscal Year

The fiscal year of the corporation shall begin on the first day of October and end on the last day of September in each year.

ARTICLE X

Seal

The Board of Directors shall provide a corporate seal which shall be in the form of a circle and shall have inscribed thereof the name of the corporation and the words "Corporate Seal, Georgia."

ARTICLE XI

Waiver of Notice

Whenever any notice whatever is required to be given under the provisions of the Georgia Nonprofit Corporation Code or under the provisions of the Article of Incorporation of the by-laws of the corporation, a waiver thereof in writing signed by the person or persons entitled to such notice, whether before or after the time stated herein, shall be deemed equivalent to the giving of such notice.

ARTICLE XII

Operating Plan

The corporation shall establish and maintain a staff of attorneys and employees of the Middle District Federal Defenders, Inc. for the United States District Court for the Middle District of Georgia, and recruit, select and supervise panel attorneys in accordance with the Plan adopted by the judges of that court and approved by the Judicial Council of the Eleventh Circuit pursuant to the Criminal Justice Act of 1964, as amended.

ARTICLE XIII

Amendments to By-laws

These by-laws may be altered, amended, or repealed and new by-laws may be adopted by the vote of a majority of the members of the Board of Directors at any Directors' meeting. Provided, however, that no changes to the by-laws may take effect until approved by the United States District Court, for the Middle District of Georgia.

APPROVED BY VOTE OF THE ACTIVE DISTRICT JUDGES ON SEPTEMBER 9, 2005.

INITIAL BOARD OF DIRECTORS

Ms. Althea L. Buafo
Buafo & Associates
201 Spring Street
P. O. Box 4012
Macon, Georgia 31208-4012

Ms. Mary Donovan (Chairman)
Assistant Dean
Mercer University
Walter F. George School of Law
1021 Georgia Avenue
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Mr. Sam D. Dennis
Attorney at Law
1107 N. Patterson Street
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Mr. Franklin J. Hogue
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341 Third Street
Post Office Box 1795
Macon, Georgia 31202-1795

Mr. M. Stephen Hyles
Hagler & Hyles
927 Third Avenue
Post Office Box 2121
Columbus, Georgia 31902-2121

Mr. Richard Arthur Hull
Attorney at Law
778 Mulberry Street
Macon, Georgia 31201

Mr. Thomas C. James, III
James, Bates, Pope & Spivey, LLP
438 Cotton Avenue
P. O. Box 4283
Macon, Georgia 31208-4283

United States District Court
Middle District of Georgia
Plan for the Composition, Administration, and Management
Of the Panel of Private Attorneys Under the Criminal Justice Act

I. Composition Of Panel Of Private Attorneys

A. CJA Panel

1. *Approval.* The court will establish a panel of private attorneys (“CJA Panel”) who are eligible and willing to be appointed to provide representation under the Criminal Justice Act. The court will approve attorneys for membership on the panel after receiving recommendations from the “Panel Selection Committee,” established under paragraph B of this Plan. Members of the CJA Panel will serve at the pleasure of the court.
2. *Size.* The court will fix, periodically, the size of the CJA Panel. The panel shall be large enough to provide a sufficient number of experienced attorneys to handle the CJA caseload, yet small enough so that panel members will receive an adequate number of appointments to maintain their proficiency in federal criminal defense work, and thereby provide a high quality of representation.
3. *Eligibility.* Attorneys who serve on the CJA Panel must be members in good standing of the federal bar of this district, and have demonstrated experience in, and knowledge of, the Federal Rules of Criminal Procedure, the Federal Rules of Evidence, and the United States Sentencing Guidelines.

Subsection (b) of the Act provides, in part, that:

Counsel furnishing representation under the plan shall be selected from a panel of attorneys designated or approved by the court, or from a bar association, legal aid agency, or defender organization furnishing representation pursuant to the plan.

However, when the district judge presiding over the case, or the chief judge if a district judge has not yet been assigned to the case, determines that the appointment of an attorney, who is not a member of the CJA Panel, is in the interest of justice, judicial economy or continuity of representation, or there is some other compelling circumstance warranting his or her appointment, the attorney may be

admitted to the CJA Panel *pro hac vice* and appointed to represent the CJA defendant. Such appointments shall be made only in exceptional circumstances. Further, the attorney, who may or may not maintain an office in the district, should possess such qualities as would qualify the attorney for admission to the district's CJA Panel in the ordinary course of panel selection.

4. *Equal Opportunity.* All qualified attorneys are encouraged to participate in the furnishing of representation in CJA cases, without regard to race, color, religion, sex, age, national origin or disabling condition.
5. *Terms.* Members of the CJA Panel shall serve continuously until they resign or are removed.
6. *Application.* Application forms for membership on the CJA Panel will be made available by the clerk of the court during admission cycles onto the CJA Panel. Completed applications will be submitted to the clerk of the court who will transmit the applications to the chairperson of the Panel Selection Committee.

B. Panel Selection Committee

1. *Membership.* A Panel Selection Committee will be established by the court. The Committee will consist of one district judge, one United States magistrate judge, the community defender, and two attorneys practicing within the district. The Committee will be representative of the district, with one member specifically chosen from each division of the court. The Committee will be chaired by the district judge.
2. *Duties.*
 - a. The Committee will initially meet for the establishment of the CJA Panel. Thereafter, the Committee will meet at least once a year to consider applications for vacancies. The Committee will review the qualifications of applicants and recommend, for approval by the court, those applicants best qualified to fill the vacancies.

At its annual meeting, the Committee will also 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 on the appointment process and panel management. The Committee will also inquire annually as to the continued availability and willingness of each panel member to accept appointments.

A presiding judge may refer an attorney for removal from the panel to the panel selection committee. The panel shall consider the circumstances and take appropriate action.

- b. If, at any time during the course of a year, the number of vacancies due to resignation, removal, or death significantly decreases the size of the panel, the Committee will 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.
- c. When the Committee submits the names of applicants for panel membership to the court for approval, the Committee will furnish information to the court on recruitment efforts undertaken by the Committee in furtherance of the Equal Opportunity statement in Paragraph I.A.4. of this Model Plan. At least once each year the Committee will provide the court with information on the panel of attorneys in each of the categories listed in paragraph I.A.4 of this Model Plan.

C. CJA Training Panel

The Panel Selection Committee may establish a "CJA Training Panel," consisting of attorneys who do not have the experience required for membership on the CJA Panel. Training Panel members may be assigned, by the court, to assist members of the CJA Panel in a "second chair" capacity. Training Panel members are not eligible to receive appointments independently, and will not be eligible to receive compensation for their services in assisting CJA Panel members. 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.

II. Selection For Appointment

A. Maintenance Of List And Distribution Of Appointments

The clerk of the court will maintain a current list of all attorneys included on the CJA Panel, with current office addresses, email address, and telephone numbers, as well as a statement of qualifications and experience. The clerk will furnish a copy of this list to each district judge and United States magistrate judge. The clerk will also maintain a public record of assignments to private counsel, and, when appropriate, statistical data reflecting the proration of appointments between attorneys from the federal public or community defender office and private attorneys, according to the formula described in the CJA Plan for the district.

B. Method Of Selection

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

Upon the determination of a need for the appointment of counsel, the district judge or United States magistrate judge will notify the clerk of court of the need for counsel and the nature of the case.

The clerk of court will advise the district judge or United States magistrate judge as to the status of distribution of cases, where appropriate, as between the federal public or community defender and the panel of private attorneys. If the United States magistrate judge or district judge decides to appoint an attorney from the panel, the clerk will determine the name of the next 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 district judge or United States magistrate judge.

In the event of an emergency, i.e., weekends, holidays, or other non-working hours of the clerk of court's office, the presiding judge or United States magistrate judge may appoint any attorney from the list. In all cases where members of the CJA Panel are appointed out of sequence, the appointing judge or United States magistrate judge will notify the clerk of court as to the name of the attorney appointed and the date of the appointment.

III. Compensation – Filing Of Vouchers

- A. Procedures. The clerk of court shall furnish the administrative procedures for compensation claims to each member of the CJA Panel.
- B. Submission of Claims. Claims for compensation must be submitted, on the appropriate CJA form, to the office of the clerk of the court in accordance with the administrative procedures. The clerk of court will review the claim form for mathematical and technical accuracy, and for conformity with the Guidelines for Administering the CJA and Related Statutes (CJA Guidelines) (Guide to Judiciary Policy, Vol. 7A) and, if correct, will forward the claim form for the consideration and action of the presiding judge or United States magistrate judge.
- C. Grievances.
 - 1. If a panel attorney's voucher is reduced due to technical or mathematical

inaccuracy, or due to decision by the presiding judge, the panel attorney will receive notice explaining the reduction. The attorney shall have fourteen days to file a grievance with the clerk of court for reconsideration of the voucher.

2. A panel attorney shall have fourteen days to file a grievance related to the denial of expert, investigative, paralegal, or court reporter services.

JUDICIAL COUNCIL
OF
THE UNITED STATES ELEVENTH JUDICIAL CIRCUIT

JAMES P. GERSTENLAUER
CIRCUIT EXECUTIVE

TEL. 404/335-6535
56 FORSYTH STREET, NW
ATLANTA, GEORGIA 30303

24 February 2016

VIA EMAIL

Honorable Clay D. Land
Chief United States District Judge
U.S. District Court, Middle District of Georgia
120 12th Street, 2nd Floor
Columbus, GA 31902

Dear Chief Judge Land:

The revised Criminal Justice Act Plan for the Middle District of Georgia as submitted on 15 January 2016, by David W. Bunt, Clerk of Court, has been approved by the Judicial Council's Executive Committee on behalf of the full Council.

Sincerely,



Secretary to the Judicial Council

/kla

c: Members of the Judicial Council
Mr. David W. Bunt, Clerk of Court