



**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF IDAHO**

**In the Matter of the Adoption of the)
)
CRIMINAL JUSTICE ACT PLAN)
)
(And Amending General Order 94 and)
General Order 134)_____)**

GENERAL ORDER NO. 210

I. AUTHORITY

Pursuant to the Criminal Justice Act of 1964, as amended, (CJA), section 3006A of Title 18, United States Code, and the Guidelines for the Administration of the Criminal Justice Act, Volume VII, Guide to Judicial Policies and Procedures (CJA Guidelines), the judges of the United States District Court for the District of Idaho, adopt this Plan for furnishing representation in federal court for any person financially unable to obtain adequate representation in accordance with the CJA.

II. STATEMENT OF POLICY

A. Objectives.

1. The objective of this Plan is to attain the ideal of equality before the law for all persons. Therefore, this Plan shall be administered so that those accused of crime, or otherwise eligible for services pursuant to the CJA, will not be deprived because they are financially unable to pay for adequate representation, of any element of representation necessary to an adequate defense.
2. The further objective of this Plan is to particularize the requirements of the CJA, the Anti-Drug Abuse Act of 1988 (codified in part at 18 U.S.C. section 3599), and the CJA Guidelines in a way that meets the needs of this District.

B. Compliances.

1. The Court, its Clerk, the Community Defender Organization, and private attorneys appointed under the CJA shall comply with the CJA Guidelines approved by the Judicial Conference of the United States and/or its Committee on Defender Services and with this Plan.

2. The Clerk shall make available a current copy of this Plan to each private counsel appointed under the CJA. The Clerk shall also make available access to the current CJA Guidelines.

III. DEFINITIONS

- A. “Representation” includes counsel and investigative, expert, and other services.
- B. “Appointed attorney” includes private attorneys and attorneys employed by the Federal Defenders of Eastern Washington and Idaho, and the Federal Defender Services of Idaho, Inc..

IV. PROVISION OF REPRESENTATION

A. Circumstance.

1. Mandatory. Representation shall be provided for any financially eligible person who:
 - a. is charged with a felony or with a Class A misdemeanor;
 - b. is a juvenile alleged to have committed an act of juvenile delinquency as defined in section 5031 of Title 18, United States Code;
 - c. is charged with a violation of probation, or faces a change of a term or condition of probation (unless the modification sought is favorable to the probationer and the government has not objected to the proposed change);
 - d. is under arrest, when such representation is required by law;
 - e. is entitled to appointment of counsel in parole proceedings;
 - f. is charged with a violation of supervised release or faces modification, reduction, or enlargement of a condition, or extension or revocation of a term of supervised release;
 - g. is subject to a mental condition hearing under chapter 313 of Title 18, United States Code;
 - h. is in custody as a material witness;
 - i. is entitled to appointment of counsel under the Sixth Amendment to the Constitution, or faces loss of liberty in a case and federal law requires the appointment of counsel;
 - j. is seeking to set aside or vacate a death sentence under sections 2254 or 2255 of Title 28, United States Code; (See General Order 197 for further rules regarding appointments in these cases);

k. is entitled to appointment of counsel in verification of consent proceedings pursuant to a transfer of an offender to or from the United States for the execution of a penal sentence under section 4109 of Title 18, United States Code;

2. Discretionary. Whenever a 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;
- 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.
- g. Representation may also be furnished for financially eligible persons in “ancillary” matters appropriate to the proceedings pursuant to subsection (c) of the CJA.

In determining whether a matter is ancillary to the proceedings, the court should consider whether the matter, or the issues of law or fact, arose from the facts and circumstances surrounding the principal criminal charge. The court should consider whether such representation is reasonably necessary to accomplish the following objectives:

- (i) to protect a Constitutional right.
- (ii) to contribute in a 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 civil forfeiture pursuant to 21 U.S.C. §881, 19 U.S.C. §1602 or similar statutes.
- (vi) to effectuate the return of real property or personal property

belonging to the CJA client which may be subject to a motion for return of property pursuant to Fed.R.Crim.P. 41(e).

The scope of the representation in the ancillary matter should extend only to the part that relates to the principal criminal charge. Representation in an ancillary matter shall be compensable as part of the main representation in the principal matter and shall not be considered a separate appointment for which a separate compensation maximum would apply.

B. When Counsel Shall Be Provided.

Counsel shall be provided to eligible persons as soon as feasible after they are taken into custody, when they appear before a magistrate judge or judge, when they are formally charged or notified of charges if formal charges are sealed, or when a magistrate judge or 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. 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, if necessary for adequate representation, more than two attorneys may be appointed to represent a defendant in such a case.
 - b. Habeas Corpus Proceedings. Financially eligible persons seeking to vacate or set aside a death sentence in proceedings under 28 U.S.C. § 2254 or 2255 are entitled to appointment of one or more qualified attorneys. These appointments will be governed through General Order 197 and fee amounts as amended by General Order 209.
2. Qualifications for appointed counsel shall be determined by the court. In capital cases, the following also applies:
 - a. Appointment of Counsel Prior to Judgment. Pursuant to 18 U.S.C. § 3599, 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. Pursuant to 18

U.S.C. § 3005, at least one of the attorneys appointed must be knowledgeable in the law applicable to capital cases.

Pursuant to 18 U.S.C. § 3005, in appointing counsel in federal capital prosecutions, the court shall consider the recommendation of the federal public defender or, if no such organization exists in the district, of the Administrative Office of the United States Courts.

- b. Appointment of Counsel After Judgment. Pursuant to 18 U.S.C. § 3599, 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. Pursuant to 18 U.S.C. § 3599, the presiding judicial officer, for good cause, may appoint an attorney who may not qualify under 18 U.S.C. § 3599, but who has the background, knowledge, and experience necessary to properly represent the defendant 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. Factfinding. The determination of eligibility for representation under the CJA is a judicial function to be performed by a federal judge or magistrate judge after making appropriate inquiries concerning the person's financial condition.
- 2. Disclosure of Change in Eligibility. If, at any time after appointment, counsel obtains information that a client is financially able to make payment, in whole or in part, for legal or other services in connection with his or her representation, and the source of the attorney's information is not protected as a privileged communication, counsel shall advise the Court

V. **COMMUNITY DEFENDER ORGANIZATION**

A. Organization and Supervision of Defender Organization

- 1. The Federal Defender Services of Idaho, Inc., having been approved by the U.S. District Court for the District of Idaho and the Administrative Office of the U.S. Courts, and established pursuant to the Provisions of the CJA, is hereby recognized as the Community Defender Organization for this District to provide all legal services for the Southern and Eastern Divisions, as well as the Moscow Capital Habeas Unit, subject to the approval of the Judicial

Council of the Ninth Circuit. This includes representation pursuant to subsections (g)(1) and (g)(2)(B) of the CJA, 18 U.S.C. § 3006A, and the Guidelines for the Administration of the Criminal Justice Act and Related Statutes, Volume 7, *Guide to Judiciary Policies and Procedures*.

2. Until such time as the new CDO receives staff to cover the Northern/Central Divisions, appointments from these Divisions will continue to be made to the Federal Defenders of Eastern Washington and Idaho. However, the new CDO will continue to represent financially eligible persons seeking habeas corpus relief in state death penalty proceedings arising out of the District of Idaho and the Eastern District of Washington.
3. The bylaws of the Federal Defender Services of Idaho, Inc., are attached as an addendum to this plan.
4. The new Community Defender shall notify this court when he or she is available to accept appointments for representation. The Executive Director of the Federal Defender Services of Idaho shall be responsible for the supervision and management of the organization. Accordingly, the Community Defender shall be appointed in all cases assigned to that organization for subsequent assignment of staff attorneys at his or her discretion.

VI. PRIVATE ATTORNEYS

- A. Establishment of CJA Panel. The existing, previously established panel of attorneys (CJA Panel) who are eligible and willing to be appointed to provide representation under the CJA is hereby recognized.
- B. Organization. The Plan for the Composition, Administration, and Management of the Panel of Private Attorneys under the Criminal Justice Act is found at Appendix I of this CJA Plan.
- C. Ratio of Appointments. Where practical and cost effective, private attorneys from the CJA Panel shall be appointed in a substantial proportion of the cases in which the accused is determined to be financially eligible for representation under the CJA. "Substantial" shall usually be defined as approximately 25% 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

- A. Appointment of Counsel. The Court shall appoint the Capital Habeas Unit of the Federal Defenders of Idaho as lead counsel to represent financially eligible persons

seeking habeas corpus relief in all state death penalty proceedings under section 2254 of Title 28, United States Code. Upon request of the Capital Habeas Unit, the Court shall also appoint an attorney as second counsel. In the event of conflicts, existing workload, or other special factors, and the Capital Habeas Unit is unable to provide representation, it shall recommend to the Court that other counsel be appointed pursuant to section 3599 of Title 18, United States Code, or other applicable provisions of law.

B. Standards and Procedures for Payment of CJA Fees in Habeas Death Penalty Cases

In order to provide consistency in the payment of CJA fees and expenses in habeas corpus death penalty cases, the standards and procedures are governed by General Order #197, and fee amounts as amended by General Order #209.

VIII. DUTIES OF APPOINTED COUNSEL

- A. Standards. The services to be rendered a person represented by appointed counsel shall be commensurate with those rendered if counsel were privately employed by the person.
- B. Professional Conduct. Attorneys appointed pursuant to the CJA shall conform to the highest standards of professional conduct, including but not limited to the provisions of the American Bar Association's Model Rules of Professional Conduct and the Idaho Rules of Professional Conduct.
- C. No Receipt of Other Payment. Appointed counsel may not require, request, or accept any payment or promise of payment or any other valuable consideration for representation under the appointment, unless such payment is approved by order of the Court.
- D. Continuing Representation. Once counsel is appointed under the CJA, counsel shall continue the representation until the matter, including appeals or review by certiorari (as governed by Circuit Rule 4-1), 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. Probation officers and pretrial services officers in this District, and those acting on their behalf, shall promptly ask any person who is in custody, or who otherwise may be entitled to counsel under the CJA, whether he or she is financially able to secure representation, and shall, in such cases in which the person indicates that he or she is not able, notify the Federal Defendants of Eastern Washington and Idaho which shall discuss with the person the right to representation and right to appointed counsel, and if appointment of counsel

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

- B. Pretrial Services Interview. The Judicial Conference recognizes the importance of the advice of counsel for persons subject to proceedings under 18 U.S.C. § 3142, *et seq.* prior to their being interviewed by a pretrial services or probation officer. Accordingly, the Conference encourages districts to take the steps necessary to permit the furnishing of appointed counsel at this stage of the proceedings to financially eligible defendants, having due regard for the importance of affording the pretrial services officer adequate time to interview the defendant and verify information prior to the bail hearing.
- C. Notice of Indictment or Criminal Information. Upon the return or unsealing of an indictment, the filing of a criminal information, or the filing of a petition to modify or revoke probation, the United States Attorney or the probation officer, as appropriate, immediately shall 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, shall be used, where applicable, in all proceedings under this Plan.
- B. Claims. Claims for compensation of private attorneys providing representation under the CJA shall be submitted on the appropriate CJA form, to the office of the Clerk of Court or, in capital habeas cases, pursuant to General Order 197 regarding Capital Case Budgeting Procedures, to the Federal Defender Services of Idaho. That office shall review the claim form for mathematical and technical accuracy and for conformity with the CJA Guidelines, and, if correct, shall forward the claim for the consideration of the appropriate judge or magistrate judge. The Court will exert its best effort to avoid delays in reviewing payment vouchers and in submitting them for further processing.
- C. Case Budgeting. The presiding judge at his/her discretion may request case budgeting techniques in representations that appear likely to become or have become extraordinary in terms of potential cost (ordinarily, a representation in which attorney hours are expected to exceed 300 hours or total expenditures are expected to exceed \$30,000 for appointed counsel and services other than counsel on behalf of an individual CJA defendant). If the court determines that case budgeting is appropriate, counsel should submit a proposed initial litigation budget for court approval, subject to

modification in light of developments that emerge as the case proceeds. All case budgets will be submitted ex parte and sealed.

Recognizing that investigative, expert or other services may be required before counsel has an opportunity to submit a case budget, or the court to approve it, the court will act upon requests for services where prompt authorization is necessary for adequate representation.

Case budgeting in capital cases is governed by General Order #197

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

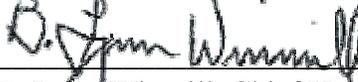
XI. EFFECTIVE DATE

This Plan shall become effective on October 1, 2006 upon approval by the Judicial Council of the Ninth Circuit.

APPENDICES:

- I. Plan for the Composition, Administration and Management of the Panel of Private Attorney Under the Criminal Justice Act.
- II. Bylaws of Federal Defender Services of Idaho, Inc.

DATED this 22st Date of September, 2006.



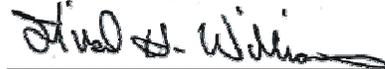
B. Lynn Winmill, Chief United States District Judge



Edward J. Lodge, United States District Judge



Larry M. Boyle, Chief United States Magistrate Judge



Mikel H. Williams, United States Magistrate Judge

APPENDIX I
PLAN FOR THE
COMPOSITION, ADMINISTRATION AND MANAGEMENT OF THE PANEL OF
PRIVATE ATTORNEYS UNDER THE CRIMINAL JUSTICE ACT¹

I. COMPOSITION OF PANEL OF PRIVATE ATTORNEYS

A. CJA Panel.

1. **Approval.** The Court shall establish a panel of private attorneys (hereinafter referred to as the “CJA Panel”) who are eligible and willing to be appointed to provide representation under the Criminal Justice Act. The Court shall approve attorneys for membership on the Panel after receiving recommendations from the “Panel Selection Committee,” established pursuant to Paragraph B of this Plan. Members of the CJA Panel shall serve at the pleasure of the Court.

2. **Divisions.** The District of Idaho shall be divided into three divisions for the purpose of this Plan and there shall be a separate roster of attorneys for each division within the CJA Panel. The counties included in the divisions are as follows:

Southern Division:

Ada	Elmore	Payette
Adams	Gem	Twin Falls
Blaine	Gooding	Valley
Boise	Jerome	Washington
Camas	Lincoln	
Canyon	Owyhee	

Northern /Central Divisions:

Benewah	Kootenai
Bonner	Latah
Boundary	Lewis
Clearwater	Nez Perce
Idaho	Shoshone

¹ This Appendix applies to the administration of the CJA Panel for all criminal proceedings except those cases where counsel is appointed under 18. U.S.C. § 3599. The administration of CJA Capital Habeas Panel is governed by Part VII of this CJA Plan.

Eastern Division:

Bannock	Clark	Madison
Bear Lake	Custer	Oneida
Bingham	Franklin	Power
Bonneville	Fremont	Teton
Butte	Jefferson	Cassia
Caribou	Lemhi	Minidoka

3. Size. The Court shall fix, periodically, the size of the CJA Panel. The Panel shall be large enough to provide a sufficient number of experienced attorneys to handle the CJA caseload, yet small enough so that Panel members will receive an adequate number of appointments to maintain their proficiency in federal criminal defense work, and thereby provide a high quality of representation.
4. Eligibility. Attorneys who serve on the CJA Panel must be members in good standing of the federal bar of this District, have demonstrated experience in, and knowledge of, the Federal Rules of Criminal Procedure, the Federal Rules of Evidence, the Sentencing Guidelines, have been admitted to practice for at least three years, and be a registered ECF participant.
5. Continuing Legal Education. Attorneys who serve on the CJA Panel are expected to have eight (8) hours of continuing legal education in criminal and constitutional law areas every two years.
6. Electronic Case Filing. Attorneys who are members of the CJA Panel are required to be registered participants in the District of Idaho's Case Management and Electronic Case Filing program.
7. Equal Opportunity. All qualified attorneys shall be encouraged to participate in the furnishing of representation in CJA cases, without regard to race, color, religion, sex, age, national origin or disabling condition.
8. Application. Application forms for membership on the CJA Panel shall be obtained from the Court's website at: www.id.uscourts.gov, under Attorney Resources / CJA. Completed applications shall be submitted via e-mail to the Clerk of Court who will transmit the applications to the Chairperson of the Panel Selection Committee.

B. Panel Selection Committee.

1. Membership. A Panel Selection Committee shall be established by the Court. The Committee shall consist of one district judge, one magistrate judge, at least one attorney, and the Executive Director of Federal Defenders or a designated representative. The Committee shall be chaired by the district judge.

2. Duties.

- a. The Panel Selection Committee shall meet at least once a year to consider applications from attorneys to be on the CJA Panel. The Committee shall review the qualifications of applicants and recommend, for approval by the Court, the best qualified applicants.

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

- 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 court may add names to the CJA panel upon the discretion of the Chief Judge.
- c. When the Committee submits the names of applicants for Panel membership to the Court for approval, the Committee shall furnish information to the Court regarding 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 shall 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.

II. SELECTION FOR APPOINTMENT

A. Maintenance of List and Distribution of Appointments

The Clerk of Court shall maintain a current list of all attorneys appointed to the CJA Panel, with current office addresses and telephone numbers, as well as a statement of qualifications and experience. The Clerk shall make available a copy of this list to each district judge and magistrate judge. The Clerk shall also maintain a public record of assignments to private counsel, and, when appropriate, statistical data reflecting the proration of appointments between attorneys from the Community Defender Organization and private attorneys, according to the formula described in Section VI.C. of the CJA Plan for this District.

B. Method of Selection.

1. Appointments. 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 for

each CJA defendant. Attorneys who, in the opinion of the Court, consistently refuse to accept cases when it would otherwise be their turn for an appointment, shall be removed from the list.

2. Exceptions. However, when a judge 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, such appointment may be made without consultation of the CJA Selection Committee. The attorney may also be admitted to the CJA Panel *pro hac vice* (without payment of fee). Consideration for preserving the integrity of the panel selection process suggests that such appointments should be made only in exceptional circumstances.
3. Ratio of Appointments. The Clerk of Court shall advise the district judge or magistrate judge as to the status of distribution of cases, where appropriate, as between the Community Defender Organization and the Panel of private attorneys. If the magistrate judge or district judge decides to appoint an attorney from the Panel, the Clerk shall 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 shall provide the name of the appointing district judge or magistrate judge.
4. Emergency Appointments. In the event of an emergency, i.e., weekends, holidays, or other non-working hours of the Clerk of Court's office, the presiding judge or magistrate judge may appoint any attorney from the list. In all cases where members of the CJA Panel are appointed out of sequence, the appointing district judge or magistrate judge shall notify the Clerk of Court as to the name of the attorney appointed and the date of the appointment.

ADDENDUM II
BYLAWS
OF
FEDERAL DEFENDER SERVICES OF IDAHO, INC.

1. OFFICES.

1.1 Principal Office. The principal office of Federal Defender Services of Idaho, Inc., an Idaho corporation ("Corporation"), shall be located at 350 N. 9th Street, Suite 304, Boise, Idaho 83702. The Corporation may have such other offices as the Board of Directors may designate or as the business of the Corporation may require from time to time.

1.2 Registered Office. The registered office of the Corporation required by the Idaho Nonprofit Corporation Act, Chapter 3, Title 30, Idaho Code ("Act"), to be maintained in the State of Idaho shall be located at 350 N. 9th Street, Suite 304, Boise, Idaho 83702, and may be changed from time to time by the Board of Directors.

2. BOARD OF DIRECTORS.

2.1 General Powers and Standard of Care. All corporate powers shall be exercised by or under the authority of, and the business and affairs of the Corporation shall be managed under the direction of, the Board of Directors except as may be otherwise provided in the Act or the Articles. If any such provision is made in the Articles, the powers and duties conferred or imposed upon the Board of Directors by the Act shall be exercised or performed to such extent by such person or persons as shall be provided in the Articles.

A Director shall perform such Director's duties as a Director, including such Director's duties as a member of any committee of the Board upon which such Director may serve, in good faith, in a manner such Director reasonably believes to be in the best interests of the Corporation, and with such care as an ordinarily prudent person in a like position would use under similar circumstances. In performing such Director's duties, a Director shall be entitled to rely on information, opinions, reports or statements, including financial statements and other financial data, in each case prepared or presented by:

- a. one (1) or more officers or employees of the Corporation whom the Director reasonably believes to be reliable and competent in the matters presented;
- b. counsel, public accountants or other person as to matters that the Director reasonably believes to be within such person's professional or expert competence; or
- c. a committee of the Board upon which such Director does not serve, duly designated in accordance with a provision of these Bylaws, as to matters within its designated authority, which committee the Director reasonably believes to merit confidence;

but such Director shall not be considered to be acting in good faith if such Director has knowledge concerning the matter in question that would cause such reliance to be unwarranted. A person who performs such duties shall have no liability by reason of being or having been a Director of the Corporation.

2.2 Presumption of Assent. A Director of the Corporation who is present at a meeting of its Board of Directors at which any action on any corporate matter is taken shall be presumed to have assented to the action unless such Director's dissent shall be entered in the minutes of the meeting or unless such Director shall file such Director's written dissent to such action with the Secretary of the meeting before the adjournment thereof or shall forward such dissent by certified or registered mail to the Secretary of the Corporation within three (3) days after the adjournment of the meeting. Such right to dissent shall not apply to a Director who voted in favor of such action.

2.3 Number, Election and Qualification of Directors. The Board of Directors of the Corporation shall consist of thirteen (13) members who shall each serve for a term of three (3) years. Of these thirteen (13) members, nine (9) shall be attorneys and four (4) shall be non-attorneys. In selecting the thirteen (13) members of the Board of Directors, appropriate consideration shall be given to the value of diversity, including regional, gender and racial factors. The names and addresses of the members of the first Board of Directors have been stated in the Articles. Such persons shall hold office until the first meeting of Board of Directors following the adoption of these Bylaws and until their successors shall have been elected and qualified. At such time, the positions for which Directors are to be elected shall be divided into three (3) classes, each class to be as nearly equal in number as possible, and Directors shall be elected accordingly by the existing Directors. The Directors elected to the first class shall hold office until the first annual meeting of the Board of Directors following the initial election of Directors and until their successors have been elected and qualified. The Directors elected to the second class shall hold office until the second annual meeting of the Board of Directors following the initial election of Directors and until their successors have been elected and qualified. The Directors elected to the third class shall hold office until the third annual meeting of the Board of Directors following the initial election of Directors and until their successors have been elected and qualified. At each annual meeting of the Board of Directors thereafter, the number of Directors equal to the number in the class whose term expires at the time of such meeting shall be elected to hold office until the second succeeding annual meeting of the Board of Directors.

2.4 Vacancies. Any vacancy occurring in the Board of Directors may be filled by the affirmative vote of a majority of the remaining Directors though less than a quorum of the Directors. A Director elected to fill a vacancy shall be elected for the unexpired term of such Director's predecessor in office. Any directorship to be filled by reason of an increase in the number of Directors may be filled by the Board of Directors for a term of office continuing only until the next regular election of Directors.

2.5 Removal of Directors. At a meeting of the Board of Directors called expressly for that purpose, any Director may be removed with cause by a vote of a majority of the Directors then in office. Any Director may be removed at such a meeting without cause by a vote of two-thirds of the Directors then in office.

2.6 Committees of Directors.

2.6.1 Membership. The Board of Directors, by resolution adopted by a majority of the Directors then in office, may designate and appoint one or more Director committees, each of which shall consist of two or more Directors.

2.6.2 Authority. Director committees, to the extent provided in the resolution establishing the committee, shall have and exercise the authority of the Board of Directors in the management of the Corporation; provided, however, that no Director committee shall have the authority of the Board of Directors to (i) authorize distributions, (ii) approve dissolution, merger or the sale, pledge or transfer of all or substantially all of the Corporation's assets, (iii) elect, appoint or remove directors or fill vacancies on the Board of Directors or on any of its committees, or (iv) adopt, amend or repeal the Articles or these Bylaws.

The designation and appointment of any such Director committee and the delegation of authority to a Director committee shall not operate to relieve the Board of Directors, or any individual Director, of any responsibility imposed upon the Board of Directors, or any individual Director.

2.6.3 Standing Director Committees. There shall be three standing committees:

a. Nominating Committee. The Nominating Committee shall be responsible for resolving Board membership issues such as staggering of terms, nomination of new Board members and yearly nomination of Board officers.

b. Finance Committee. The Finance Committee shall be responsible for budget reviews and proposals before they are presented to the full Board of Directors; development of an employee pension plan; and any other financial matters at the Executive Director's request.

c. Personnel Committee. The Personnel Committee shall be responsible for the Corporation's employment policies and procedures, and to assist with specific personnel issues at the Executive Director's request.

2.6.4 Tenure. Each member of a committee shall continue as such until the next annual meeting of the Board of Directors of the Corporation and until a successor is appointed unless (i) the committee is sooner terminated, (ii) such member is removed from the committee, or (iii) such member ceases to qualify as a member of the committee.

2.6.5 Chairperson. One member of each committee shall be appointed chairperson by the Board of Directors.

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

2.6.7 Resignation. Any committee member may resign at any time by giving written notice to the Board of Directors, the President, or the Secretary of the Corporation. Unless otherwise specified in the notice of resignation, the resignation shall take effect upon receipt. Acceptance of the resignation shall not be necessary to make the resignation effective.

2.6.8 Removal. Any committee member may be removed by the person or persons authorized to appoint such member with or without cause.

2.6.9 Quorum. Unless otherwise provided in the resolution of the Board of Directors designating a committee, a majority of the whole committee shall constitute a quorum and the act of a majority of the members present at a meeting at which a quorum is present shall be the act of the committee.

2.6.10 Rules of Order. The rules contained in the then most current edition of Robert's Rules of Order shall govern the meetings of committees where not inconsistent with these Bylaws or with rules adopted by the Board of Directors.

2.7 Directors' and Committee Meetings. Meetings of the Board of Directors, regular or special, or meetings of any committee designated thereby, may be held either within or without the State of Idaho. Unless otherwise specified in this section or in the notice for such meeting, all meetings shall be held at the principal office of the Corporation.

Except as otherwise provided in this section, regular or special meetings of the Board of Directors or any committee designated thereby may be called by or at the request of the President, any Director or the chair of a committee, as the case may be, upon written or oral notice thereof given to all other Directors or committee members, as the case may be, at least three (3) days before the meeting. The Board of Directors may provide, by resolution, the time and place for the holding of additional regular meetings without other notice than such resolution.

Members of the Board of Directors or any committee designated thereby may participate in a meeting of the Board of Directors or such committee by conference telephone or similar communications equipment that will allow participants to hear each other at the same time, and the participation by such means shall constitute presence in person at a meeting. For any meeting held by conference telephone or similar communications equipment, notice of the meeting shall be given at least one (1) hour prior thereto by telephone or other communication directly with the Directors and/or committee members.

The attendance at or participation of a Director or committee member in any meeting shall constitute a waiver of notice of such meeting, except where a Director or committee member attends or participates for the express purpose of objecting to the transaction of any business on the ground that the meeting is not lawfully called or convened.

Neither the business to be transacted at, nor the purpose of, any regular or special meeting of the Board of Directors or any committee designated thereby need be specified in the notice or waiver of notice for such meeting.

2.8 Waiver of Notice. Whenever any notice is required to be given to any Director or committee member under the provisions of the Act, the Articles or these Bylaws, a waiver thereof in writing signed by the person or persons entitled to such notice, whether before or after the time stated therein, shall be equivalent to the giving of such notice.

2.9 Quorum and Voting Requirements. A majority of the number of Directors fixed by section 2.3, 2.4 of these Bylaws shall constitute a quorum for the transaction of business at meetings of the Board of Directors. The act of the majority of the Directors present at a meeting at which a quorum is present shall be the act of the Board of Directors. A majority of the number of committee members fixed and appointed by the Board of Directors or the President, as the case may be, shall constitute a quorum for the transaction of business at a meeting of such committee. The act of the majority of the committee members present at a meeting at which a quorum is present shall be the act of the committee.

2.10 Action Without a Meeting. Any action required by the Act to be taken at a meeting of the Board of Directors of the Corporation, or any action that may be taken at a meeting of the Directors or of a committee, may be taken without a meeting if a consent in writing, setting forth the actions so taken, shall be signed by all of the Directors, or all of the members of the committee, as the case may be. Such consent shall have the same effect as a unanimous vote.

2.11 Compensation. No Director or committee member shall receive a salary or other compensation for service in that capacity, but may be reimbursed for actual expenses incurred in the performance of such service.

2.12 Director Conflicts of Interest. A Director shall inform the Board of Directors of any direct or indirect conflict of interest that the Director has with regard to any transaction contemplated by the Board of Directors (a "Conflict of Interest"). A Conflict of Interest shall exist in Board actions including, but not limited to, actions concerning a transaction: (a) in which the Director has a material financial interest, or (b) in which the Director is presently serving as director, trustee, officer of general partner of another entity. Idaho Code §30-3-81 shall govern any actions that the Board of Directors takes with respect to a Conflict of Interest.

2.13 Loans to Directors. The Corporation shall not lend money to or use its credit to assist its Directors or officers.

2.14 Liability of Directors for Wrongful Distribution of Assets. In addition to any other liabilities imposed by law upon the Directors of the Corporation, the Directors who vote for or assent to any distribution of assets, other than in payment of its debts, when the Corporation is insolvent or when such distribution would render the Corporation insolvent, or during the liquidation of the Corporation without the payment and discharge of or making adequate provisions for all known debts, obligations and liabilities of the Corporation, shall be jointly and severally liable to the Corporation for the value of such assets which are thus distributed, to the extent that such debts, obligations and liabilities of the Corporation are not thereafter paid and discharged.

A Director shall not be liable under this section if, in the exercise of ordinary care, such Director relied and acted in good faith upon written financial statements of the Corporation represented to such Director to be correct by the President or by the officer of the Corporation having charge of its books of account, or certified by an independent licensed or certified public accountant or firm of such accountants to reflect fairly the financial condition of the Corporation, nor shall such Director be so liable if, in the exercise of ordinary care and good faith, in determining the amount available for such distribution, such Director considered the assets to be equal to their book value.

A Director shall not be liable under this section, if, in the exercise of ordinary care, such Director acted in good faith and in reliance upon the written opinion of an attorney for the Corporation.

A Director against whom a claim shall be asserted under this section and who shall be held liable thereon shall be entitled to contribution from persons who accepted or received such distribution knowing such distribution to have been made in violation of this section in proportion to the amounts received by them respectively.

3. OFFICERS.

3.1 Number. The officers of the Corporation shall consist of a President, Vice President, Secretary, and Treasurer, each of whom shall be elected by the Board of Directors from among their number. Such other officers and assistant officers as may be deemed necessary may be elected or appointed by the Board of Directors. Except for the offices of President and Secretary, which must be held by different persons, and as otherwise required by the Idaho Nonprofit Corporation Act or similar law, any two (2) or more offices may be held by the same person.

3.2 Election and Term of Office. The officers of the Corporation shall be elected annually at the annual meeting of the Board of Directors. If the election of officers shall not be held at such meeting, such

election shall be held as soon as practicable thereafter. Each officer shall hold office until a successor shall have been duly elected and shall have qualified, until such officer's death, or until such officer shall resign or shall have been removed in the manner hereinafter provided.

3.3 Removal. Any officer or agent may be removed by the Board of Directors whenever in its judgment the best interests of the Corporation will be served thereby, but such removal shall be without prejudice to the contract rights, if any, of the person so removed. Election or appointment of an officer or agent shall not of itself create contract rights.

3.4 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.

3.5 President. The President shall be the principal executive officer of the Corporation and, subject to the control of the Board of Directors, shall in general supervise and control all of the business and affairs of the Corporation. The President shall, when present, preside at all meetings of the members of the Board of Directors. The President may sign, with the Secretary or any other proper officer of the Corporation thereunto authorized by the Board of Directors, any promissory notes, deeds, mortgages, leases, contracts, or other instruments that the Board of Directors has authorized to be executed, except in the cases where the signing and execution thereof shall be expressly delegated by the Board of Directors or by these Bylaws to some other officer or agent of the Corporation, or shall be required by law to be otherwise signed or executed. The President, in general, 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.

3.6 Vice President. In the absence of the President or in the event of the President's death, inability or refusal to act, the Vice President shall perform the duties of the President and, when so acting, shall have all the powers of and be subject to all the restrictions upon the President and shall perform such other duties as from time to time may be assigned to the Vice President by the President or by the Board of Directors.

3.7 Secretary. The Secretary shall attend all meetings of the Board of Directors and shall prepare and maintain proper minutes of those meetings. The Secretary shall be the custodian of the official seal of the Corporation, if any, and shall affix that seal on all documents executed on behalf of the Corporation, pursuant to authorization by the Board of Directors. The Secretary shall have the custody of and properly protect all executed deeds, leases, agreements and other legal documents and records to which the Corporation is a party or by which it is legally affected. The Secretary shall 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 Secretary by the President or the Board of Directors.

3.8 Treasurer. The Treasurer shall be the principal financial officer of the Corporation and shall have charge and custody of and be responsible for all funds of the Corporation. The Treasurer shall sign all checks and promissory notes of the Corporation and shall receive and give receipts for moneys due and payable to the Corporation from any source whatsoever and deposit all such moneys in the name of the Corporation in such banks, trust companies or other depositories as shall be selected in accordance with the provisions of Article 5 of these Bylaws. The Treasurer shall keep or cause to be kept, adequate and correct accounts of the Corporation, including accounts of its assets, liabilities, receipts and disbursements. The Treasurer shall submit to the Board of Directors and the President, when required, statements of the financial affairs of the Corporation. The Treasurer shall in general perform all of the financial duties incident to the office of Treasurer and such other duties as from time to time may be assigned to the Treasurer by the President or the Board of Directors. If required by the Board of Directors, the Treasurer shall give a bond for the faithful discharge of the Treasurer's duties in such sum and with such surety or sureties as the Board of

Directors shall determine.

4. STAFF.

4.1 Employment. The Board of Directors shall have the authority to employ an Executive Director.

4.2 Other Staff. The Executive Director shall be authorized to hire such other staff as the Corporation may from time to time require.

4.3 Removal. The Executive Director may only be terminated by the Board of Directors at a special meeting called for such purpose.

5. MISCELLANEOUS.

5.1 Indemnification of Officers, Directors, Employees and Agents. The Corporation may indemnify Directors, officers, employees and agents of the Corporation to the extent permitted by, and in accordance with, the Act. The Corporation may purchase and maintain insurance on behalf of any person who is or was a Director, officer, employee or agent of the Corporation, or is or was serving at the request of the Corporation as a director, officer, employee or agent of another corporation, partnership, joint venture, trust or other enterprise against any liability asserted against such person and incurred by such person in any such capacity or arising out of such person's status as such, whether or not the Corporation would have the power to indemnify such person against such liability.

5.2 Books and Records. At its registered office or principal place of business, the Corporation shall keep: (i) correct and complete books and records of account; (ii) minutes of the proceedings of its members and Board of Directors; and (iii) a record of the names and addresses of all Members. Any books, records and minutes may be in written form or in any other form capable of being converted into written form within a reasonable time.

5.3 Loans. No loans shall be contracted on behalf of the Corporation and no evidences of indebtedness shall be issued in its name unless authorized by a resolution of the Board of Directors. Such authority may be general or confined to specific instances.

5.4 Contracts. The Board of Directors may authorize any officer or officers, agent or agents of the Corporation, in addition to the officers so authorized by these Bylaws, 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.

5.5 Checks, Drafts, etc. All checks, drafts, or other orders for the 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 as provided in these Bylaws or in such manner as shall from time to time be determined by the Board of Directors.

5.6 Deposits. All funds of the Corporation not otherwise employed 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.

5.7 Gifts. The Board of Directors may accept on behalf of the Corporation any contribution, gift, bequest or devise for the general purposes or for any special purpose of the Corporation.

5.8 Annual Financial Statements. The officers of the Corporation shall cause a balance sheet as of the closing date of the last fiscal year, together with a statement of income and expenditures for the year ending on that date, to be prepared and presented to the Directors at each annual meeting of the Board of Directors.

5.9 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, except that the first fiscal year shall begin on the date of incorporation.

5.10 Regulation of Internal Affairs. The internal affairs of the Corporation shall be regulated as set forth in these Bylaws to the extent that these Bylaws are lawful under the Act. With respect to any matter not covered in these Bylaws, the provisions of the Act shall be controlling so long as such provisions of the Act are not inconsistent with the lawful provisions of these Bylaws.

5.11 Amendments. These Bylaws may be altered, amended or repealed and new Bylaws may be adopted by the Board of Directors of the Corporation at any regular or special meeting.

The undersigned, being the duly elected Secretary of the Corporation, does hereby certify that the foregoing Bylaws were duly adopted as the official Bylaws of the Corporation by unanimous consent of the Directors of the Corporation on the 27th day of July, 2006

/s/ Candy Dale
Candy Dale, Secretary

OFFICE OF THE CIRCUIT EXECUTIVE

UNITED STATES COURTS FOR THE NINTH CIRCUIT

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GREGORY B. WALTERS, CIRCUIT EXECUTIVE
PHONE: (415) 556-9585
FAX: (415) 556-6179

TO: Chief Judge B. Lynn Winmill, District of Idaho
Clerk Cameron S. Burke, District of Idaho

FROM: Dr. Robert E. Rucker, Assistant Circuit Executive, Court Management
& Research

DATE: October 6, 2006

RE: Amended CJA Plan for the District of Idaho

This memo is to inform you that the Executive Committee of the Judicial Council for the Ninth Circuit has approved the District of Idaho's amendments to their Criminal Justice Act Plan.

If you have not already done so, please send a copy of the approved plan to the Defender Services Division of the Administrative Office.

If you have any questions or comments, please let me know.

cc: Theodore J. Lidz, Chief, Defender Services Division, AO