



**INTERNAL OPERATIONAL GUIDELINES
FOR THE CJA ADVISORY COMMITTEE
WESTERN DISTRICT OF VIRGINIA**

Revised January 2013

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I. INTRODUCTION

These guidelines provide general and specific procedures for the internal operations of the CJA Advisory Committee. They serve to supplement the March 11, 2010, CJA Plan adopted by this court and approved by the Judicial Council of the Fourth Circuit.

These guidelines have been approved by the court. Upon recommendation by the CJA Advisory Committee and with the approval of the court, these guidelines may be revised and amended as necessary.

II. ADVISORY COMMITTEE

A. CJA Judicial Chair and Executive Committee

Pursuant to Standing Order 2013-1, the Honorable Robert S. Ballou shall serve as the Chair of the Criminal Justice Act Committee. As Chair and pursuant to Section I. B. of the 2010 Amended CJA Plan for the district, the Chair has established an Executive Committee to assist in the oversight of the operations of the CJA Panel and CJA Training Panel Program. In addition to the Honorable Robert S. Ballou, the members of the Executive Committee shall be the Chairman of the CJA Advisory Committee, the Federal Public Defender, and the Clerk of Court.

B. Designation of a Secretary for the Advisory Committee

The Clerk of Court shall act as the Secretary of the CJA Advisory Committee.

- The Secretary will assist the Chairperson in scheduling meetings and conference calls;
- The Secretary will assist the Chairperson with correspondence to the Court, the Committee members and the applicants.
- The Secretary will prepare and distribute the applications to the Committee members;

- The Secretary will compile and distribute to the Committee members statistics that show:
 - The total number of CJA appointments made during the preceding year in each division;
 - The number of cases each applicant accepted for appointment; and
 - The number of cases declined by the applicant and, when available, the reason for the declination.

C. Annual Meeting

The Chairperson, with the assistance of the Secretary, shall schedule the Committee's annual meeting.

- This meeting may be conducted via conference call or in person and will take place after April 30 of each year.
- The meetings of the Division Review Panels will take place on the same day as the Committee meeting or soon after the initial meeting of the Committee. The Division Review Panel meetings may also be held via conference call.
- The Secretary will make the arrangements for the conference calls.
- Prior to this initial meeting, the Secretary will provide copies of the applications to the Committee members in notebooks with the applications arranged by division of court. Copies of the applications can also be emailed upon request to the Committee members. Included in the notebooks will be statistics regarding the number of CJA appointments for each division and for each attorney and, when available, for each applicant.

D. Selection of a New CJA Advisory Committee Chairperson

1. Term limit

The Chairperson may serve no more than three consecutive, three-year terms as chair of the Advisory Committee unless otherwise directed by the Chief Judge. According to the CJA Plan for the District Court, the Chief Judge will appoint a Chairperson. It is expected that the Chairperson will be a current member of the Advisory Committee.

2. Eligibility for service as the Chairperson

Only the practicing attorneys on the Advisory Committee may be considered to serve as the Chairperson. The Secretary and/or Clerk of Court shall not be eligible to serve as the Chairperson of the Committee.

3. Resignation of the Chairperson

In the event that the Chairperson of the CJA Advisory Committee wishes to resign as Chair of the Committee before expiration of his term:

- He shall notify the Chief Judge of this decision before the annual meeting of the Committee and in a reasonable amount of time to allow the Chief Judge to appoint another committee member to assume the duties of Chair of the Committee;
- The Chairperson shall also send notice to the committee members of his intent to resign as Chairperson.
- The Advisory Committee may direct the Secretary to submit nominations or recommendations for designation of a new Chairperson to the Chief Judge.
- Pursuant to the CJA Plan for the Western District, the Chief Judge shall designate the Chairperson.

4. Removal of the Chairperson

If the members of the Committee determine that the best interests of the Committee would be served by selection and appointment of a new Chairperson:

- The Committee shall direct the Secretary to convey notice to the Chief Judge; and
- The Committee by majority vote shall recommend to the Chief Judge the appointment of a particular committee member to this position.

III. DIVISION REVIEW PANELS

A. Periodic Meetings

- Pursuant to the CJA Plan for the district, the Review Panel for each division is to meet periodically to advise the Advisory Committee as to appointments to the CJA Panel from that division.
- The Executive Committee will determine the necessity for and frequency of these meetings.
- These periodic meetings will be informal and may be conducted via conference call.

B. Selection of a New Division Panel Representative to the Advisory Committee

1. Annual appointment of the Division Panel Representative

Pursuant to the CJA Plan, the Chief Judge will appoint, by order entered in January of each year, the Division Review Panel Representative for each division of court.

2. Resignation of the division review panel representative from the Advisory Committee

In the event the Representative wishes to resign from the CJA Advisory Committee before expiration of his term:

- He shall notify the Chairman of the CJA Advisory Committee of his decision in a reasonable amount of time before the annual meeting of the Advisory Committee to allow the Executive Committee to make a recommendation to the Chief Judge as to the appointment of another committee member to the Advisory Committee;
- Provided the Chief Judge agrees, the Chairperson shall send notice to the other members of the of the division's CJA Panel and solicit recommendations from those attorneys as to the appointment of another panel representative to serve on the Advisory Committee;
- The Chairperson shall convene a meeting of the Advisory Committee, gather input from the members as to appointment of another panel member to the Advisory Committee, and prepare a recommendation for the court; and
- The Chairperson shall communicate that recommendation to the Chief Judge.

3. Removal of division review panel representative from the Advisory Committee

If the members of the Advisory Committee or the Division Review Panel determine that the best interests of the Committee would be served by the selection and appointment of a new Division Panel Representative to serve on the Advisory Committee:

- The Chairperson shall direct the Secretary to send notice to the Chief Judge; and
- The Chairperson and Committee will follow the procedures in section 1, above, in order to make a recommendation to the Chief Judge for the appointment of a new Division Review Panel member to the Advisory Committee.

IV. PROTOCOL FOR REVIEW OF CJA APPLICATIONS

A. Technical Analysis of the Applications

Upon receipt of an application, the Clerk of Court will review the application to determine if the application is timely and contains all required information.

B. Courtesy Contact with Expiring Panel Members

- In the event an attorney whose term is expiring has failed to submit a timely application for reappointment, the Clerk upon direction by the Chairperson, the Federal Public Defender or the Division Review Panel Representative shall contact the attorney in order to find out if the attorney desires to submit an application for reappointment.
- If the attorney desires to submit an application outside the time set forth in the CJA Plan, the Advisory Committee shall accept that application for reappointment.

C. Solicitation of Opinions and Information

1. The legal community

- Prior to the annual meeting, the Committee members will contact attorneys who practice in federal court to solicit feedback regarding the performance and character of the attorneys who have applied for appointment to the CJA panel. Additionally, committee members may seek the advice and opinions of others in the community who may be familiar with the applicant and who may have relevant information about the applicant's fitness to serve on the Panel.
- Specific feedback from the United States Attorney's Office and Federal Public Defender's Office will be sought.
- This information will be shared during the annual meeting and the meetings of the Division Review Panels.

2. Federal judges

- The Clerk of Court will contact the judges in the Western District to solicit feedback.
- The Clerk will relay that information to the Committee prior to the annual and division review panel meetings.

D. Discussion and Review of Applications

1. Meeting of the Advisory Committee

- The Chairperson will prepare the agenda and the Secretary will distribute it to the members.
- The Chairperson will determine whether the meeting will take place in person or via a conference call.
- The Chairperson will determine whether the meeting of the Division Review Panels will take place prior to the full committee meeting, and should the review panel meetings precede the full committee meeting, the Chairperson will communicate the results of those meetings to the full committee.
- The Secretary will ensure that all Committee members have copies of the applications and all statistical materials prior to the meeting.
- The committee members will review each of the applications and all relevant information before reaching a decision.
- The Chairperson will prepare a letter setting forth the Advisory Committee's recommendations regarding each applicant and will send the letter to the Chief Judge.

2. Meeting of the division review panels

- The Chairperson will participate in the review panel meetings in person or by telephone.

- The committee members will review each of the applications for the division panel and all relevant information regarding the applicants before reaching a decision on each of the applications.
- The Chairperson will report back to the Advisory Committee the results of the analysis and discussion held by the review panels.

3. **Analysis of prior year's appointment statistics**

- The Secretary shall compile statistics and prepare a report for the Advisory Committee that shows the following:
 - Total CJA appointments for each division during the preceding year;
 - The total number of CJA appointments for each panel member;
 - The number of CJA appointments offered but declined by an attorney;
 - The reasons, if available, for declination of a case; and
 - The current panel list for each division.
- The Committee will review the number of CJA appointments made in each division and consider whether the total number of panel members in each division is too large or too small.
- Based on consideration of the statistical evidence compared to the number of attorneys on a division's panel, the Committee shall establish an appropriate number of attorneys (i.e., a quota) to serve each division of court for the coming year. The quota for each division panel shall be determined on an annual basis.
 - Should the Committee determine that the panel members are not being appointed an adequate number of cases to maintain their proficiency in federal criminal-defense work,

the Committee will recommend to the court that the number of members on the panel be reduced.

- Should the Committee determine that a division panel contains an insufficient number of attorneys to provide adequate CJA representation, the Committee will recommend to the court that steps be taken to add attorneys to the panel.
- The Committee will also review the appointments to ascertain the reasons why non-division panel attorneys are being appointed to CJA cases in a division. Where it appears the non-panel appointments are numerous and an adequate explanation is not found, the Chairperson will contact the Chief Judge.
- Generally, the Committee will not recommend appointment of an attorney to multiple panels. In filling the quota that has been determined for each division panel, the Advisory Committee shall first select attorneys from the division. If there is not a sufficient number of applicants for that division to fill the quota for the division, the Committee may choose applicants from other divisions of the court who have also requested assignment to multiple panels.
- In those situations where the number of applications received is less than the number of expiring terms, the Chairperson and Committee members may reach out to well-qualified attorneys in the division, i.e., those who are experienced in representing federal criminal defendants, to ascertain interest in applying for appointment to the CJA Panel. The Chief Judge shall be notified of this situation by the Chairperson.

E. Confidentiality of the Process

In order to promote full, fair and open discussion of an applicant's suitability to serve on the CJA Panel and to ensure the Committee recommends the most qualified attorneys for appointment to the CJA Panel, the discussions held during the review and recommendation process are confidential in nature. The information received by the

members of the Advisory Committee and Division Review Panels is non-public information.

- Each member of the Advisory Committee shall hold in confidence any and all discussions relating to the review and recommendation of attorneys for appointment to the district's CJA Panel.
- Disclosure of this confidential information will be brought to the attention of the Chairperson and the Chief Judge.
- The Chief Judge will determine whether it is necessary and advisable to take action to address this breach of confidentiality.

F. Submission of the Committee's Recommendations

- The Advisory Committee will recommend appointment of the most qualified attorneys for each division's panel.
- The Chairperson with the assistance of the Secretary, if needed, will prepare a letter for the Chief Judge setting forth the recommendations of the Advisory Committee regarding each application.
 - This letter may also include any other issues identified by the Committee that need action or attention by the court.
 - The letter to the Chief Judge will be sent on or before June 30 of each year.

G. Review of the Advisory Committee's Actions and Recommendations

- Having had the opportunity to make comments about the attorneys making application for appointment to the CJA Panel during the beginning of the evaluation process, it is expected that the judges will adopt the Advisory Committee's recommendations regarding appointment of attorneys to the CJA Panel, except in extraordinary circumstances. Ultimately, the judges of the court are responsible for the composition of the CJA Panel.

- The Chairperson will respond directly to any requests for reconsideration made by attorneys regarding the Committee's recommendations. Attorneys who are aggrieved by a response from the Chairperson may request review of the decision by the Chief Judge. The Chairperson shall direct the attorney to contact the Chief Judge.
- Committee members who receive questions from CJA applicants will forward the questions to the Chairperson.

V. CJA TRAINING PANEL PILOT PROGRAM

A. Objective of the Program

- The Court, in conjunction with the CJA Executive Committee, will oversee a pilot program beginning in 2013 to identify and help prepare viable candidates to qualify for consideration for appointment to the CJA Panel. Although an important objective of the program is to encourage increased participation of women and minorities on the CJA Panel, its primary goal is to obtain the best qualified CJA Panel candidates. As such, the training program is open to all qualified candidates.
- Participation in the program is intended to expose the attorneys to myriad issues across the spectrum of representation of federal criminal defendants and help develop and sharpen the skills necessary for providing quality federal criminal representation.
- Participation in this program will not automatically entitle or guarantee a Training Panel attorney admission to the court's CJA Panel.
- The Mentees will not be appointed as co-counsel and will not receive compensation for their services.

B. Mentor-Mentee Relationship

During this pilot program, the attorneys of the Federal Public Defender's Office for the Western District will act as mentors to the attorneys who are selected to participate on this Training Panel. The Mentee will act as a "second-chair" attorney and will handle only the

specific duties assigned or directed by the Mentor and as allowed by the court.

C. Selection of Training Panel Attorneys

- Attorneys wishing to apply for consideration for selection to the Training Panel must submit an application between February 1 and February 28 of each year by completing the form and sending it to the Clerk's Office. The eligibility requirements for service on this Training Panel are set forth in the CJA Training Panel Pilot Program Guidelines posted on the court's public website under the CJA Members tab.
- At the close of the application period, the Clerk will copy and distribute the completed applications to the Division Panel Representatives, the Federal Public Defender and the CJA Advisory Committee Chairman.
- The CJA Advisory Committee Chairman will schedule conference calls in March with Division Panel Representatives to review and discuss the applications.
- The protocol for review of CJA applications set forth in Part IV A., C., D.1. and 2., E. and F. of these Guidelines may be followed for selection of the Training Panel attorneys. Notification of selection to the Training Panel will be given to the attorneys by April 15 of each year.