

UNITED STATES DISTRICT COURT
FOR THE
WESTERN DISTRICT OF VIRGINIA

CRIMINAL JUSTICE ACT
TRAINING PANEL PROGRAM

GUIDELINES



I. INTRODUCTION

The United States District Court (“the Court”), in conjunction with the CJA Advisory Committee Chairman and the Federal Public Defender, conducted a pilot program in which attorneys who do not have the requisite experience for membership on the regular CJA Panel assisted members of the Federal Public Defender’s Office in a “second-chair” capacity to gain the necessary experience required to provide high-quality representation in federal criminal cases to individuals who cannot afford to pay for those services.

For the purposes of this pilot program, the Federal Defender attorney assigned to a case was the “lead attorney” and the Mentee training panel attorney was the “second-chair” attorney. The second-chair attorney assisted the Federal Defender attorney as requested and was assigned to the case in a learning capacity, not as a full co-counsel. Training Panel attorneys had the same professional responsibilities to the client and the Court as they would in a case in which they were the appointed attorney.

The program was successful and will now be a permanent program incorporated into the Court’s CJA Plan for this district. The program will also be expanded to include CJA appointed counsel as mentors to the training panel attorneys.

II. OBJECTIVES

In order to increase the diversity of the members of the CJA Panel and ensure quality representation for all defendants, particularly the indigent, the Court and CJA Advisory Committee have designed a training program 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.

III. ADMINISTRATION OF THE CJA TRAINING PANEL PILOT PROGRAM

A. Overview

The program will be administered by the Federal Public Defender and CJA Advisory Committee Chairman with assistance from the Clerk’s Office. Mentor attorneys from the CJA Panel will be contacted for participation in the Mentee Training Program in July of each year. Each Mentee participating in the Training Program will be expected to serve up to two years on the Training Panel. Upon successful completion of training objectives, the Mentee may, thereafter, apply for admission to the CJA Panel. Mentees may also be offered the option to serve another term on the training panel.

B. Assignment of Mentee

Upon receipt of a new case and after an attorney from the office of the Federal Public Defender or the CJA Mentor Attorney has been appointed, the appointed counsel will review the case and determine if a Mentee Attorney member should be appointed in a second-chair capacity.

The CJA Mentor Attorney appointed counsel or Federal Public Defender will contact the clerk's office for the divisional location of the particular case and request that an attorney from the appropriate divisional Training Panel list be assigned to work with the lead attorney who was appointed to represent the criminal defendant. Appointments from the list of Training Panel attorneys shall be made on a rotational basis.

Once an assignment has been accepted by the Training Panel attorney, the clerk's office will provide the attorney with the pertinent information about the case, as well as contact information for the "lead" attorney. An order will be entered by the Court pursuant to Federal Rules of Criminal Procedure 6(e), 12.1, 12.2, 12.3, 16 and 26.2, pursuant to 26 U.S.C. §§ 6103(h)(4)(D) and 6103(i)(4)(A), and pursuant to the authority of the Court to regulate proceedings before it upon the acceptance of the case assignment by the Training Panel attorney. This order will permit the CJA Mentor Attorney and Federal Public Defender to disclose to the Mentee Attorney grand jury materials, sealed documents and other sensitive information which has been furnished to the CJA Attorney or Federal Public Defender attorney by the United States Attorney as part of the discovery in the case.

C. Supervision and Evaluation of the Mentee's Work

The assigned CJA Mentor Attorney or Federal Public Defender (hereinafter "Mentor Attorney") will supervise as lead attorney the Mentee who will act in the capacity of a second-chair attorney.

Before completing the two-year term, if the Mentor Attorney deems the Mentee Attorney has gained the requisite skills and exhibits the high degree of professionalism required to represent federal criminal defendants, the Mentor Attorney may submit a recommendation to the CJA Advisory Committee Chairman that the Mentee Attorney be considered for admission to the CJA Panel. The Chairman will confer with the lead attorney, obtain other recommendations regarding the Mentee Attorney, if necessary, and will communicate this information to the CJA Advisory Committee in a timely manner

The Federal Public Defender will invite Training Panel members to attend the CJA training seminars sponsored by the Federal Defender's Office and/or the Court. Such seminars are designed to assist CJA Panel members in keeping

current with new developments in the law and, thus, will be of value to the Training Panel members.

IV. TRAINING PANEL MEMBERSHIP

A. Application for Appointment to the Training Panel

Posted on the Court's public website at <http://www.vawd.uscourts.gov>, under the CJA Members tab, will be a Program description as well as an application form in a downloadable format (PDF/Word). Attorneys who meet the eligibility requirements and would like to be considered for appointment must submit an application between the dates of January 1 and March 31 to the attention of the Clerk of Court, U.S. District Court in Roanoke.

B. Eligibility for Training Panel Membership

To be admitted to the CJA Training Panel, attorneys must:

- Have three years of practice in state and/or federal courts.
- Demonstrate his or her status as a member in good standing with the Virginia State Bar.
- Demonstrate a commitment to providing criminal defense services to indigent clients.
- Complete at least one training seminar on the United States Sentencing Guidelines.
- Demonstrate knowledge of the Federal Rules of Criminal Procedure and the Federal Rules of Evidence.
- Have observed in-court proceedings in portions of at least three federal criminal cases.

C. Selection of Training Panel Members

The CJA Advisory Committee will select and forward to the Court for its approval a list of the attorneys recommended to participate in the Training Panel. The list will be divided by division of court and each division of court will have attorneys appointed to the Training Panel. The CJA Advisory Committee Chairman will cause each of the attorneys selected to be notified of this action.

Attorneys may apply to the Training Panel independently. However, some attorneys who apply for the CJA Panel may be offered admission to the Training Panel only. If the applicant agrees to be considered for potential membership on the Training Panel, the attorney's name will be forwarded to the Court for consideration as a Training Panel member.

D. Length of Training Period

A Mentee attorney will be expected to serve on the training panel for two years. During that period of service, it is anticipated that each Mentee attorney will be assigned at least two cases. Although it is anticipated that the training program

will provide the Mentee Attorney the opportunity to gain the experience necessary to become a successful member of the CJA Panel, participation in the program does not guarantee admission to the CJA Panel (nor is Training Panel membership required for admission to the CJA Panel). Mentee Attorneys are not limited in the number of terms they may serve on the Training Panel.

Successful completion of one or more case assignments and upon recommendation by the Mentor attorney that the Mentee has the requisite level of knowledge and skills to represent federal criminal defendants, may make the Mentee eligible to apply for service on the CJA Panel prior to the expiration of the two-year term.

E. Removal or Resignation from the Program

A Mentee Attorney may be removed if unable to meet the expectations for membership. The decision as to removal from the Training Panel will be guided by the recommendation of the CJA Advisory Committee. Recommendations for removal will be submitted to the Court for consideration. Additionally, the Court may exercise its own discretion to cause the removal of an attorney from the Training Panel.

F. No Compensation

Mentee Attorneys will not be compensated independently for their service on the Training Panel. Nor will the Mentee Attorneys be reimbursed for any expenses incurred as a result of their participation in an assigned criminal case.

G. PACER Service

CJA Training Panel members will be eligible to receive, free of charge, PACER services in CJA related matters. In order to take advantage of this service, the Training Panel attorney will need to access the PACER website at: <http://pacer.psc.uscourts.gov> and complete the online registration form. Training Panel attorneys should, under "Firm Name," type in his or her name followed by "CJA Training Panel Attorney." Once the registration has been submitted, the Training Panel attorney will receive his or her own ID number and password directly from PACER. Training Panel attorneys should be aware, however, that PACER services are monitored and that the use of the free service is for CJA related matters only. Unauthorized use of the PACER service will result in removal from the Training Panel. Any Training Panel member who wishes to use PACER for non-related CJA matters must register under his or her own name and obtain a different account number.

H. EXPECTATIONS FOR PARTICIPANTS IN THE PROGRAM¹

A. Mentors As Lead Attorneys

Cases that will serve as teaching vehicles will be newly presented cases that will expose the Mentee attorney to myriad issues across the spectrum of representation (e.g., fast track program procedures, bail and release, discovery review, proffer sessions, plea negotiations, sentencing guideline calculations and negotiations, client interviews and conferences regarding various issues and themes, legal research and writing, and possible evidentiary hearing or trial).

Mentor Attorneys participating in the program shall supervise the Mentee attorneys. Mentor Attorneys shall have discretion regarding the extent of the Mentee Attorney's involvement, depending on the unique needs of the case and the experience of the attorney.

The Mentor Attorney will have the ultimate responsibility for any case in which a Mentee is assisting, including the final decision-making authority about legal strategy. The Mentor Attorney will also have the primary responsibility for communication with the client, although it is anticipated that the Mentee attorney will attend client meetings if the defendant consents.

The Mentor Attorneys are expected to give feedback to their Mentee attorneys as to their performance on an ongoing basis.

The Mentor Attorneys will also report annually to the CJA Advisory Committee Chairman regarding the training needs and progress of the Mentee attorneys with whom they have been working.

B. Mentee Attorneys

Each Mentee attorney will make his or her best effort to be available to serve through various stages of a federal criminal case and should strive to assist with and/or attend the following, if possible:

- Initial appearance
- Arraignment/detention hearing
- Jail visit/client meeting
- Plea negotiation
- Discovery review
- Sentencing guidelines calculations and analyses
- Sentencing hearing
- Motion drafting
- Composing sentencing memoranda
- Pre-trial hearings and conferences
- Trial

¹ See Appendix A, Mentee Duties and Responsibilities and Appendix B, Mentee Evaluation Form.

Mentee attorneys will assist the lead attorney as requested. Mentee attorneys will have the same professional responsibilities to the client and the court as in a case in which they were the appointed attorney. The Mentee attorneys will not act as co-counsel during the course of the lead attorney's representation of the client.

Mentee attorneys will be expected to keep current with developments in federal criminal defense law, practice and procedure. The attorneys will be invited to attend the CJA orientation and training seminars sponsored by the Federal Defender's Office. Attendance by the Mentee Attorneys at these and other similar training sessions is strongly encouraged.

V. OBLIGATIONS OF THE MENTORS

A. Post-Case Written Evaluation of Mentee Attorney

Upon the conclusion of a case (*e.g.*, jury verdict, guilty plea, sentencing), the Mentor Attorney must complete a confidential written evaluation of the second-chair attorney's performance. *See* Appendix B of the Training Panel Program. The evaluation should be sent via email or regular mail to the attention of the Clerk, U.S. District Court.

The Clerk will provide copies of the evaluation to the CJA Advisory Committee Chairman, the Federal Public Defender, and the CJA Panel Division Representative. In the discretion of the Chairman, a copy of the evaluation will be provided to the Chief Judge.

B. December 1 Deadline For Evaluations and Recommendations

Mentors must submit the evaluations no later than December 1 of the year for which the Mentee worked with the Mentor.

C. Early-Termination Recommendations by the Mentor Attorney

Deficient Performance.

If the Mentor recommends early termination from the program for deficient performance, the Mentor must submit that recommendation in writing to the CJA Advisory Committee as soon as the Mentor deems prudent. The recommendation must be sent to the Clerk, U.S. District Court, via regular mail or email.

- The matter will be scheduled for discussion among the CJA Advisory Subcommittee for the division of court in which the Mentee Attorney performed the duties as soon as practicable. Input from other attorneys with whom the Mentee worked will be sought as well as input from the district judges before whom the Mentee appeared.

Superior Performance.

If the Mentor recommends that the Mentee be considered ready for early termination and consideration for appointment to the CJA Panel in light of superior performance, knowledge and skills, the Mentor must submit that recommendation in writing to the CJA Advisory Committee as soon as he deems prudent. Mentor attorneys are encouraged to complete and submit these evaluations prior to December 1 so that the Mentee attorney will have the opportunity to submit an application for consideration for appointment to the CJA Panel.

- The matter will be scheduled for discussion among the CJA Advisory Subcommittee for the division of court in which the Mentee’s practice is located. The Committee will seek input from other Mentor attorneys as well as from the district judges before whom the Mentee has appeared.

VI. CONCLUSION OF SERVICE ON THE TRAINING PANEL

A. Notification of Completion of the Training Program

When the Mentee attorney successfully has completed the program, the CJA Advisory Committee Chairman will notify the Mentee and invite the Mentee to consider applying for admission to the CJA Panel.

If the CJA Advisory Committee has determined that continued service on the Training Panel would benefit the Mentee, the Chairman will notify the Mentee that he or she may either leave the Training Panel or continue on the Training Panel for another term.

B. Notification of Termination from the Program

If the CJA Advisory Committee recommends that a Mentee be removed from the Training Program for deficient performance or other conduct deemed unsuitable for practice before the Court, the Chairman will notify the Mentee that he or she is being removed from the Training Program.

C. Consideration for Admission to CJA Panel

Successful completion of the Training Program does not guarantee automatic admission to the CJA Panel, but it is an important factor and one that the Advisory Committee will consider.