CRIMINAL JUSTICE ACT
TRAINING PANEL PILOT PROGRAM
WESTERN DISTRICT OF VIRGINIA

G U I D E L I N E S

I. INTRODUCTION

The United States District Court ("the Court"), in conjunction with the CJA Advisory Committee Chairman and the Federal Public Defender, will oversee a pilot program in which attorneys who do not have the requisite experience for membership on the regular CJA Panel will be eligible to assist 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 shall be the court-appointed attorney and will be referred to *infra* as the "lead attorney." The training panel attorney shall be referred to as the "second-chair" attorney. The second-chair attorney will assist the Federal Defender attorney as requested but will be assigned to the case in a learning capacity, not as a full co-counsel. However, Training Panel attorneys will have the same professional responsibilities to the client and the Court as they would in a case in which they were the appointed attorney.

These Guidelines are meant to supplement the Court's CJA Plan (Plan For The Composition, Administration, And Management Of The Panel Of Private Attorneys Under The Criminal Justice Act For The United States District Court For The Western District of Virginia), particularly Section I.C, CJA Training Panel.

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

The program will be administered by the Federal Public Defender and CJA Advisory Committee Chairman with assistance from the Clerk's Office.

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

The 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 from the Federal Public Defender's office. 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 Federal Public Defender to disclose to the Training Panel attorney grand jury materials, sealed documents and other sensitive information which has been furnished to the Federal Public Defender attorney by the United States Attorney as part of the discovery in the case.

The assigned Federal Public Defender attorney (lead attorney) will supervise the second-chair attorney.

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.

The Federal Public Defender may develop a formal evaluation program for the Training Panel attorneys in order to sufficiently monitor the progress of each attorney. To that end, the Federal Public Defender may send letters or evaluation forms to the Training Panel attorneys reporting on their progress and the quality of work performed (e.g., research and writing skills, demeanor with the client, professionalism, etc.). Formal evaluations of the Training Panel attorney's work will be strongly considered should the Training Panel member apply for appointment to the CJA Panel.

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 February 1 and February 28 to the attention of the CJA Coordinator, U.S. District Court Clerk's Office in Roanoke.

B. Eligibility for Training Panel Membership

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

1. Have three years of practice in state and federal courts.
2. Demonstrate his or her status as a member in good standing with the Virginia State Bar.
3. Demonstrate a commitment to providing criminal defense services to indigent clients.
4. Complete at least one training seminar on the United States Sentencing Guidelines.
5. Demonstrate knowledge of the Federal Rules of Criminal Procedure and the Federal Rules of Evidence.
6. Have observed at least parts of 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 second-chair attorney will serve on the training panel for two years. During that period of service, it is anticipated that each second-chair attorney will be assigned at least two cases. Although it is anticipated that the training program will provide the Training Panel 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). Training Panel attorneys are not limited in the number of terms they may serve on the Training Panel.

E. Removal or Resignation from the Program

A training Panel attorney may be removed if s/he is unable to meet the expectations for members. 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

Second-chair attorneys will not be compensated independently for their service on the Training Panel. Nor will the second-chair 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/her name followed by "CJA Training Panel Attorney." Once the registration has been submitted, the Training Panel attorney will receive his/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/her own name and obtain a different account number.

V. EXPECTATIONS FOR PARTICIPANTS IN THE PROGRAM[1]

A. Lead Attorneys

Cases that will serve as teaching vehicles will be newly presented cases that will expose the second-chair 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).

Lead attorneys participating in the program shall supervise the second-chair attorneys. Lead attorneys shall have discretion regarding the extent of the second-chair attorney's involvement, depending on the unique needs of the case and the experience of the attorney.

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

The lead attorneys are expected to give feedback to their second-chair attorneys as to their performance on an ongoing basis.

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

The lead attorneys will also report to the Federal Public Defender and, if required, to the CJA Advisory Committee Chairman regarding the training needs and progress of the second-chair attorneys with whom they have been working.

B. Second-Chair Attorneys

Each second-chair attorney will make his/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

Second-chair attorneys will assist the lead attorney as requested. Second-chair 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 second-chair attorneys will not act as co-counsel during the course of the lead attorney's representation of the client.

Second-chair 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 second-chair attorneys at these and other similar training sessions is strongly encouraged.

VI. CONCLUSION OF THE PILOT PROGRAM

After the Program has been in effect for one year, the Federal Public Defender and the CJA Advisory Committee Chairman will report to the Chief Judge of this Court regarding the progress of the Program. At this time, the Chief Judge will make decisions regarding whether the Program should undergo changes, continue in its present form, or be discontinued completely.