

UNITED STATES DISTRICT COURT
FOR THE
DISTRICT OF VERMONT

CRIMINAL JUSTICE ACT (CJA) PLAN

18 U.S.C. § 3006A

Originally Adopted Jan. 18, 2000

Amended July 1, 2000

Amended November 30, 2007

UNITED STATES DISTRICT COURT
FOR THE
DISTRICT OF VERMONT

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CRIMINAL JUSTICE ACT (CJA) PLAN

I. AUTHORITY.

Pursuant to the Criminal Justice Act of 1964 (Public Law 88-455 approved August 20, 1964, as amended), Section 3006A of Title 18 United States Code and the *Guidelines for the Administration of the Criminal Justice Act and Related Statutes* (Section A, Volume 7 of the *Guide to Judiciary Policies and Procedures*), the District of Vermont hereby adopts this *Plan* for furnishing representation within this district to any individual accused of a criminal offense who is financially unable to obtain adequate private representation.

This *Plan* is subject to the review and approval by the Judicial Council for the United States Court of Appeals for the Second Circuit as required by 18 U.S.C. § 3006(A)(a).

II. STATEMENT OF POLICY.

A. Objectives.

1. The primary objective of this *Plan* is to attain the ideal of equality before the law for all persons charged with a criminal offense. This *Plan* will be administered so that those accused of crime or otherwise eligible for services pursuant to the Criminal Justice Act will not be deprived of any element of representation required for an effective defense due to inadequate financial resources.
2. A second objective of this *Plan* is to particularize the requirements of the Criminal Justice Act, the Anti-Drug Abuse Act of 1988 (codified in part at Section 848(q) of Title 21, United States Code) and the *Guidelines for the Administration of the Criminal Justice Act* in a way that meets the needs of this district.

B. Compliance.

1. The Court, its Clerk and staff, the Federal Public Defender, assistant defender staff and private counsel appointed pursuant to the Criminal Justice Act are required to comply with the policy directives as issued by the Judicial Conference of the United States, its Committee on Defender Services and the policies as specified by the *Guidelines for the Administration of the Criminal Justice Act* and this *Plan*.
2. The clerk of court is responsible for providing a copy of this *Plan* to counsel appointed pursuant to it and also for informing appointed counsel of the availability of the *Guidelines for the Administration of the Criminal Justice Act* for use and reference.

III. DEFINITIONS.

- A. The term "representation" includes counsel as well as investigative, expert or other services.
- B. The term "appointed attorney" includes private counsel appointed pursuant to this Plan, the Federal Public Defender and staff attorneys within the Office of the Federal Public Defender.

IV. PROVISIONS OF REPRESENTATION.

A. Circumstances.

1. **Mandatory Representation.** Representation will 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 seeking to set aside or vacate a death sentence under sections 2254 or 2255 of title 28, United States Code;
- j. is entitled to appointment of counsel in connection with prisoner transfer proceedings under Section 4109 of Title 18, United States Code; or
- k. is entitled to appointment of counsel under the Sixth Amendment of the Constitution or faces loss of liberty in a case and federal law requires the appointment of counsel;

2. **Discretionary Representation.** Whenever a judge or 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; or
- f. is held for international extradition under chapter 209 of Title 18, United States Code.

3. **Ancillary Matters.** Representation may also be furnished to financially eligible persons in ancillary matters appropriate to the proceedings pursuant to 18 U.S.C. § 3006A(c).

B. When Counsel Are To Be Provided.

Court appointed counsel will be provided to all individuals eligible for appointment as soon as feasible after being taken into custody, when first appearing before a federal judge or United States magistrate judge, when formally charged or when otherwise entitled to counsel pursuant to the Criminal Justice Act, whichever occurs earliest. The Court's overall goal is to have fact-finding involving a person's eligibility for appointment of counsel completed prior to the person's first appearance before the Court.

C. Number and Qualifications of Counsel.

1. **Number.** In any case determined by the Court to be legally complex, demanding or of a protracted nature, additional counsel may be appointed. In a capital offense 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 21 U.S.C. § 848(q)(4), if necessary for adequate representation, more than two attorneys may be appointed to represent a defendant in such a case.

2. **Qualifications.** The responsibility for evaluating the qualifications of counsel considered for appointment in capital offense cases rests with the Court. The following standards also apply:

- a. **Appointment of Counsel Prior to Judgment.** Pursuant to 21 U.S.C.

§ 848(q)(5), at least one of the attorneys being appointed must be admitted to practice in the court which the case will be prosecuted for not less than five years and must have not less than three years experience in actual felony trial prosecutions in the court where the case will be prosecuted. Pursuant to 18 U.S.C. § 3005, at least one of the attorneys appointed must be knowledgeable in the law applicable to capital cases.

b. Recommendation of the Federal Public Defender. In appointing counsel in federal capital prosecutions, the Court shall consider the recommendations of the Federal Public Defender pursuant to 18 U.S.C. § 3005.

c. Appointment of Counsel Post Judgment. Pursuant to 21 U.S.C. § 848(q)(6), at least one of the attorneys appointed must be admitted to practice in the appellate court of jurisdiction not less than five years and must have not less than three years experience in the handling of felony appeal cases.

d. Attorney Qualification Waiver. Pursuant to 21 U.S.C. § 848(q)(7), the presiding judicial officer may, for good cause, appoint an attorney who does not qualify pursuant to 21 U.S.C. §§ 848(q)(5) or (q)(6) but has the background, knowledge and experience necessary to represent a defendant properly in a capital case, giving due consideration to the seriousness of the potential penalty and the unique and complex nature of the litigation.

D. Eligibility for Representation.

1. **Factfinding.** After making appropriate inquiry concerning the financial status of an accused, the determination of eligibility for representation pursuant to the Criminal Justice Act is a responsibility to be performed by a judicial officer.

2. **Standards for Eligibility.** A person is financially unable to obtain counsel within the meaning of subsection (b) of the Criminal Justice Act if net financial resources and income are insufficient to enable the accused to obtain qualified counsel. In determining whether an insufficiency of financial resources exists, consideration will be given to: (a) the cost of providing the accused and dependents of the accused with the necessities of life; and (b) the cost of the bail bond should financial conditions of release be imposed. Any doubt as to a person's financial eligibility will be resolved in favor of the accused as erroneous determinations of eligibility may be corrected at a later time.

3. **Partial Eligibility.** Should a person's net financial resources and income anticipated prior to trial be in excess of the amount needed to provide for the necessities of life and the defendant's release on bond but still be insufficient to fully pay for retained counsel, the judicial officer will find the person eligible for the appointment of counsel but will direct the person to pay available excess funds to the clerk of court. The amount of payment(s) ordered may be increased or decreased

by the judicial officer and other conditions may be imposed, as warranted by the Court.

4. **Disclosure of Change in Eligibility.** If at any time after appointment counsel obtain information that an accused has sufficient financial resources and is eligible to pay for legal representation, in whole or in part, and the source of the information is not protected as a privileged communication, appointed counsel have a duty to so inform the Court. Should a finding be made that funds are available for the payment of representation, the Court will take appropriate action as required by 18 U.S.C. §§ 3006A(c) or 3006A(f) and may order a defendant to pay for the cost of representation. See also § VIII. E.

V. FEDERAL PUBLIC DEFENDER ORGANIZATION.

A. Establishment.

1. The District of Vermont meets the criteria required to qualify for an independent Federal Public Defender Organization. Effective December 15, 2004, the Second Circuit Judicial Council approved the creation of an independent Federal Public Defender Organization for the District of Vermont pursuant to Title 18 U.S.C. §§ 3006A(g)(1) and (g)(2)(A). See Appendix *i* to this *Plan*.

2. Upon organization and staffing of the Office of the Federal Public Defender for the District of Vermont, the Federal Public Defender is responsible for notifying the Court that the Office is available for providing representation.

B. Management of the Defender Organization. The Federal Public Defender is responsible for the supervision and management of the Office of the Federal Public Defender. For any case assigned to the Office of the Federal Public Defender, the Federal Public Defender will be considered appointed to it. Any individual subsequent reassignment of a case to an assistant staff defender may be made subject to the discretion of the Federal Public Defender.

C. Automatic Assignment. Within the jurisdiction of the District of Vermont, all criminal cases will be considered automatically assigned to the Office of the Federal Public Defender unless a conflict of interest is present, the unavailability of the Federal Public Defender or staff defender exists or other compelling situation becomes known. When an assignment conflict becomes known or the unavailability of assignment occurs, the Federal Public Defender is responsible for so informing the Clerk's Office.

VI. PRIVATE COUNSEL.

A. Criminal Justice Act (CJA) Panel.

1. **Creation.** The judges of the Court will establish a panel of private attorneys

(hereinafter known as the “CJA Panel”) from counsel who have sufficient experience and training and are willing to accept appointment pursuant to the Criminal Justice Act. All appointments to the Court’s CJA Panel will occur through an application process and will require review and recommendation as made by a Panel Selection Committee. See § VI. B.

2. Size. The Court, through recommendation of the Panel Selection Committee, will set the size of the CJA Panel. The CJA Panel will be large enough to allow for the efficient handling of the Court’s criminal caseload yet small enough to afford panel members sufficient opportunity to maintain proficiency in criminal defense work so as to provide a high degree of quality legal representation.

3. Eligibility. Attorneys who serve on the CJA Panel must be members in good standing of the Court’s Bar, have demonstrated experience in and knowledge of the Federal Rules of Criminal Procedure, the Federal Rules of Evidence and the Sentencing Guidelines.

4. Application. The Clerk of Court will be responsible for providing public notice of the eligibility for CJA Panel membership at the time of application for general admission to the Court’s Bar. Information about the CJA admission process including the CJA Panel application form will also be made available at the Court’s website: <http://www.vtd.uscourts.gov>. See Appendix *ii* to this *Plan*.

5. Equal Opportunity. All appointments to the Court’s CJA Panel will be made without regard to race, color, religion, sex, age, national origin or disabling condition

6. Management. The management of the CJA Panel remains the responsibility of the district court.

7. Term. CJA Panel members serve at the pleasure of the Court. Members of the Panel serve continuously until such time as they resign, retire or are removed from the panel by the Court.

8. Removal. Membership on the Court’s CJA Panel is a privilege and not a right. Panel members may be removed from the Panel at any time by the Court as the judges, in their sole discretion, determine.

9. Continuing Legal Education. All CJA Panel members are expected to earn annually not less than five (5) continuing legal education credits in the areas of criminal practice and/or criminal defense work.

10. Panel Lists. The Clerk of Court is responsible for maintaining an up-to-date listing of CJA Panel and Training Panel membership. This listing will include the geographical office location of the attorney serving on the Panel. This list will be

maintained publicly and will be provided to the judges of the court and to the Federal Public Defender.

11. ***Pro Hac Vice* Appointments.** Title 18 U.S.C. § 3006(A)(b) provides in part:

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

In certain instances where the Court determines that in the interests of justice, judicial economy or continuity of representation that an accused qualifies for court appointed counsel and the appointment of an "off-panel" attorney best fulfills the circumstances at hand, the Court may authorize the appointment of a non-CJA panel attorney as defense counsel. Consideration for preserving the integrity of the panel selection process suggests that such appointments should only be made under compelling circumstances. For an appointment made pursuant to this subsection, counsel so appointed should possess the same qualifications required of a CJA Panel attorney.

B. Panel Selection Committee.

1. **Membership.** The judges of the court will establish a Panel Selection Committee whose responsibility will be to review and evaluate the professional qualifications and experience of CJA Panel applicants. The Committee will consist of one district judge, the magistrate judge, the Federal Public Defender and at least one experienced criminal defense attorney from each of the northern and southern geographic regions of the District. The district judge shall serve as the Committee chairperson. The clerk of court or other designated deputy clerk shall serve as an *ad hoc* member of the Committee for the purpose of providing administrative support.

2. **Duties.**

a. Provided that sufficient Panel applications are pending, the Panel Selection Committee will meet at least once during a calendar year to evaluate pending applications or to review the status of Training Panel members. Selection Committee members are responsible for reviewing the qualifications of CJA applicants and recommending those applicants best qualified for appointment to the Court's CJA Panel. At the annual meeting, the Panel Selection Committee may review the operation and administration of the existing CJA Panel and suggest any changes deemed necessary or appropriate regarding the appointment process and/or management of the Panel. The Committee may also inquire annually as to the continued availability and willingness of the panel members to accept CJA appointments.

b. The clerk of court is responsible for providing to the Panel Selection Committee statistical information regarding the total number of appointments made during any given period, a breakdown of the appointments made between panel attorneys and the Office of the Federal Public Defender and any other information deemed pertinent by Panel Selection Committee.

c. At any given time, should the number of Panel member vacancies result in the diminished operation of the Panel or should the size of the Panel become insufficient to provide for the adequate representation, the Panel Selection Committee may convene a special meeting to consider amending the size of the Panel or for supplementing its membership.

C. Method of Assignment.

1. **Rotational Basis.** Appointments made from the Court's standing CJA Panel will be made on a rotational basis. The nature of the case, its complexity, the geographical location of the prospective CJA panel appointee and the location where a defendant may be detained or incarcerated, along with any other pertinent information, will be taken into consideration at the time of appointment. The overall goal in the assignment process is to obtain a balanced distribution of appointments between Panel members so that Panel members are provided with an equal opportunity to serve the Court and to provide a high quality of representation to the CJA defendant they are appointed to represent.

2. **Record of Assignments.** The clerk of court or other designated deputy clerk will be responsible for maintaining a record of all assignments made from the CJA Panel including those made to the Office of the Federal Public Defender. A record of each refusal (or "pass") along with the reason for refusal will also be maintained. This information will be made available to the Panel Selection Committee.

3. **Ratio of Appointments.** Where practical and cost effective, CJA Panel attorneys will be appointed to a substantial proportion of the cases in which the determination has been made that an accused is financially eligible for representation pursuant to the Criminal Justice Act. The term "substantial" is defined as approximately 25% of the total number of CJA appointments made annually throughout the district.

4. **Emergency Appointments.** During an "emergency" situation (i.e. a weekend, holiday or other non-work period), a presiding judge or magistrate judge may appoint an attorney from the CJA Panel out-of-sequence. In such instances, the Court shall notify the Clerk's Office of the appointment.

D. **CJA Training Panel.** The Panel Selection Committee may establish a CJA "Training Panel." The Training Panel will consist of attorneys who have applied for admission to the Court's CJA Panel but lack sufficient experience and/or training required for CJA Panel membership. Training panelists may be paired or assigned in a "second-chair" capacity with another CJA Panel attorney, with the Federal Public Defender or assistant federal defender

for the purpose of gaining additional experience in criminal defense work. Training Panel members are not eligible to receive appointments independently and are not eligible to receive compensation for their services while performing in a training capacity. Service on the Court's CJA Training Panel is not a guarantee nor prerequisite for appointment to the Court's CJA Panel. See Appendix iii to this *Plan*.

VII. STATE DEATH PENALTY HABEAS CORPUS PROCEEDINGS UNDER 28 U.S.C. § 2254.

A. Non-applicability. The death penalty is not authorized by the State of Vermont. As such the provisions of 28 U.S.C. § 2254 as they pertain to state habeas death penalty relief do not apply to this jurisdiction.

VIII. DUTIES OF APPOINTED COUNSEL.

- A. Standards. The services rendered to a person represented by appointed counsel shall be commensurate and equal to those rendered if counsel were privately employed by the person.
- B. Professional Conduct. Attorneys appointed pursuant to this *Plan* must conform to the highest ethical and professional standards of conduct as set forth and defined by Local Rule 83.2 of this district.
- C. Professional Responsibility. Other than as provided for by this *Plan*, when representing an accused, CJA counsel shall not delegate any substantive tasks or representation to another person other than to a partner or associate member of the attorney's law firm.
- D. Receipt of Other Payments. Except as authorized or directed, CJA counsel may not request, require or accept any form of payment, promise of payment, anything of value or other consideration when representing an accused or a defendant, other than funds as paid under the CJA appropriation.
- E. Availability of Funds. Counsel have a duty to inform the Court of any change in the financial status of the person they are appointed to represent. See also § IV.D.4.
- F. Continuity of Representation. A person for whom counsel is appointed will be represented at every stage of proceeding from initial appearance through appeal, including any ancillary matters appropriate to the proceeding unless the appointment is modified or terminated by court order.
- G. Supporting Documentation. When submitting claims, CJA counsel are required to itemize all time claimed for services and include with each claim supporting documentation in the form of client billing records which clearly identify the types and the nature of services performed and the amounts of time incurred. All time submitted will be rounded to the nearest tenth (0.1) hour.

IX. DUTIES OF LAW ENFORCEMENT AND RELATED AGENCIES.

- A. Right to Counsel. Federal law enforcement and prosecutorial agencies, probation and pretrial services officers, including those acting in their behalf, will promptly inform any person in custody or anyone who otherwise may be entitled to counsel under the Criminal Justice Act, prior to questioning, of their right to counsel and that counsel will be provided without cost should the person be unable to afford private counsel. In instances where a person indicates that private representation is unlikely, the Office of the Federal Public Defender will be promptly notified. The Federal Public Defender will be responsible for discussing with the person the right to court-appointed legal representation and should appointment of counsel seem likely, assist in the completion of a Financial Affidavit (CJA form 23). Completed Financial Affidavits will be presented promptly to the Court for determination as to the eligibility for appointed counsel.
- B. Pretrial Services Interview. In conformity with Local Rule 57.2(d), the pretrial services officer will attempt to interview each defendant prior to the initial appearance in court. If the accused or the defendant has counsel, the pretrial services officer will attempt to coordinate a joint interview. In the event that an accused is without counsel or counsel cannot attend the initial interview, the pretrial services officer may interview an accused in the absence of counsel with the purpose of providing to the court financial information involving pre-trial release conditions. In all cases, the pretrial services or probation officer will be required to advise an accused of their right to decline an interview until such time as counsel is either retained or appointed. The pretrial services or probation officer will also be responsible for assisting an accused with the preparation and completion of the CJA Form 23 Financial Affidavit should one not be completed.
- 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 Office of the United States Attorney, the Office of the Clerk or the U.S. Probation and Pretrial Services Office, as appropriate, is responsible for providing or otherwise delivering a copy of the charging document to the defendant or counsel for the defendant. Should a defendant be without counsel, the charging document will be forwarded to the address shown by the defendant's conditions of release paperwork.

X. ADMINISTRATIVE PROCEDURES.

- A. Forms. Standard forms pertaining to the Criminal Justice Act as approved by the Judicial Conference of the United States and as distributed by the Director of the Administrative Office of the United States Courts will be used for all proceedings involving the Criminal Justice Act and appointments made pursuant to this *Plan*.
- B. Compensation and Maximum Thresholds. All rates of compensation and maximum amounts of pay as authorized by statute and the Judicial Conference of the United States apply to this *Plan*. Payments beyond the maximum thresholds authorized may be made at the discretion of the Court and will conform with all policy and procedural

requirements authorized by 18 U.S.C. § 3006(A), the Judicial Conference of the United States and the *Criminal Justice Act Guidelines* in effect.

- C. Investigative and Expert Services. All requests for services other than counsel which are necessary for adequate representation will comply with all policy, procedural and threshold requirements authorized by 18 U.S.C. § 3006(A)(e), the Judicial Conference of the United States and the *Criminal Justice Act Guidelines* in effect.
- D. Claims. Within this district, the Clerk's Office will be responsible for preparing and issuing the proper forms required for CJA Panel compensation, including claims made for investigative or expert services. Claims submitted for compensation must be:
1) fully completed by the Panel attorney appointed; 2) submitted on the original payment voucher provided at the time of initial appointment; and 3) returned to the Office of the Clerk of Court with supporting documentation, as required. See also § VIII. G.
- E. Review and Payment. The Clerk's Office will be responsible for reviewing CJA claims presented for: 1) mathematical correctness; 2) technical accuracy; and 3) compliance with *CJA Guideline* policies. Claims which have undergone review will be forwarded to the presiding judge or magistrate judge for approval. The Court will extend its best effort to avoid delays in reviewing payment vouchers. Approved claims will be entered and paid promptly by the Clerk's Office using the automated Criminal Justice Act Attorney Payment System. Claims exceeding allowable cost thresholds will be forwarded to the circuit court for approval prior to issuance of payment. Claims seeking interim payment will require a justification of need for the interim payment and approval of the Court prior to payment.
- F. Reduction of Claims. In any case where the Court determines that the amount of payment claimed is not warranted, CJA counsel requesting payment will be notified of the claim reduction. Prior to voucher payment, counsel will be afforded the opportunity to request a second review of the claim and may provide at that time additional or supplemental information involving the claim. The Court will then review the supplemental information, if provided, and will take action on the claim consistent with the policies set forth by this *Plan*, the *Criminal Justice Act Guidelines* and the interests of justice. The final action taken by the Court involving the amount of payment authorized is non-appealable.
- G. Use of Financial Information. The Government may not use as part of its direct case in any prosecution, other than prosecution for perjury or false statements, the information provided by a defendant or an accused involving a request for appointment of counsel.
- H. Compliance. The district court will comply with any supplemental policy directives or administrative guidance imposed by the Second Circuit Court of Appeals.
- I. Supersession. This *Plan* supersedes all prior *CJA Plans* previously issued by this court.

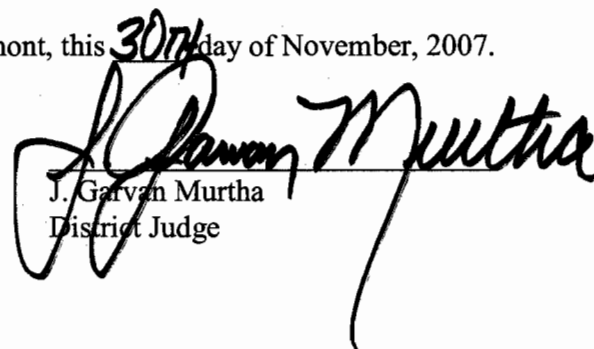
XI. ADOPTION.

The District of Vermont's *Criminal Justice Act (CJA) Plan* is hereby adopted and shall become effective upon approval by the Judicial Council for the Second Circuit Court of Appeals.

Dated at Burlington, in the District of Vermont, this 29 day of November, 2007.


William K. Sessions III
Chief Judge

Dated at Brattleboro, in the District of Vermont, this 30~~th~~ day of November, 2007.


J. Garvan Murtha
District Judge

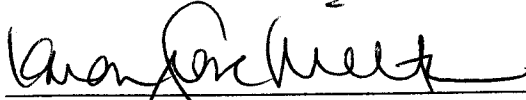
XII. APPENDICES.

- i.* Judicial Council Approval for FPDO for the District of Vermont
- ii.* Application for CJA Panel Membership
- iii.* Training Panel Standards

XIII. APPROVAL.

Pursuant to the review process as established by Title 18 U.S.C. § 3006(A)(a), the Judicial Council for the United States Circuit Court of Appeals for the Second Circuit hereby APPROVES the District of Vermont's *Criminal Justice Act (CJA) Plan*.

Date of Approval: 1/18/08, ~~2007~~



CHIEF JUDGE (OR DESIGNEE)
SECOND CIRCUIT COURT OF APPEALS

**SECOND JUDICIAL CIRCUIT OF THE UNITED STATES
UNITED STATES COURTHOUSE
40 FOLEY SQUARE-ROOM 2904
NEW YORK, NEW YORK 10007
(212) 857-8700 PHONE
(212) 857-8680 FACSIMILE**

JOHN M. WALKER, JR.
CHIEF JUDGE

KAREN GREVE MILTON
CIRCUIT EXECUTIVE

By Facsimile: 202-502-3099

December 16, 2004

Theodore Lidz, Assistant Director
Office of Defenders Services
Administrative Office of the U.S. Courts
Thurgood Marshall Federal Judiciary Building
One Columbus Circle, N.E.
Washington, D.C. 20544

Re: **Vermont Federal Public Defenders Office**

Dear Mr. Lidz:

I am writing to advise you that, on December 15, 2004, the Second Circuit Judicial Council approved the separation of the combined Federal Public Defenders Office for the Districts of Northern New York and Vermont into two independent offices. Early in the new year, we intend to conduct a national search for qualified candidates for the Vermont Defender position.

It is our understanding that your office has certified this new Vermont FPD Office for three attorneys, the Defender plus two assistants and three administrative positions, including an office administrator. In the event the Defender is not selected from among the current three attorneys on staff, the fourth legal position would be eliminated within a finite period of time, approximately six months. We also understand that although the new Vermont office would share with NDNY the administrative officer position until such time as Vermont selects its own office administrator, the two offices would continue to share the IT position even after the splitting of the two offices.

Thank you for your attention to this matter. Please contact me if I can be of further assistance to you.

Very truly yours,


Karen Greve Milton
Circuit Executive

cc: Chief Judge John M. Walker, Jr.
Members of the Second Circuit Judicial Council
Judge John Gleeson, JCUS Defenders Services Committee
Alex Bunin, FPD for NDNY and Vermont
Larry Baerman, Clerk, NDNY
Richard Wasko, Clerk, District of Vermont

UNITED STATES DISTRICT COURT
DISTRICT OF VERMONT

CJA PANEL APPLICATION FORM

1. Name _____
(First) (Last) (M.I.)

2. Firm Name _____

3. Office Address _____

4. County _____ 4A. Federal Bar ID No. _____

5. Office Telephone No. _____ 5A. Fax No. _____

6. Home Phone No. _____ 6A. Email Address _____

7. Employer ID No. _____ - _____ 7A. Social Security No. _____ - _____ - _____

8. Law School Attended _____

9. Degree _____ 9A. Date Awarded _____

10. Dates of Bar Admission:

- A. **U.S.D.C. for Vermont** _____
- B. State of Vermont _____
- C. **U.S. 2nd Circuit Court of Appeals** _____
- D. U.S. Supreme Court _____
- E. Other _____

11. Please indicate your primary area of practice _____

12. Do you hold any public office or positions? _____
(Specify office or position)

13. I have experience with the following types of cases:

- Criminal Personal Injury Medical Malpractice Employment Discrimination
- Contract Law Education Social Security Other _____

14. Experience (Include the number of trials you have handled during the last five years.)

A. CRIMINAL TRIAL EXPERIENCE

- 1. Number of federal felony trials _____
- 2. Number of federal misdemeanor trials _____
- 3. Number of state felony trials _____
- 4. Number of state misdemeanor trials _____

B. CIVIL TRIAL EXPERIENCE

- 1. Number of federal civil trials _____
- 2. Number of state civil trials _____

C. APPELLATE EXPERIENCE

- 1. Number of federal appeals _____
- 2. Number of state appeals _____

D. OTHER RELEVANT EXPERIENCE

15. Have you functioned as either: A) independent, retained counsel; or B) served in a “second chair” capacity with any of the following: retained counsel, a CJA Panel Attorney, or a staff attorney with the Federal Public Defenders Office for three (3) criminal cases?

- Identify the cases:
- 1. _____
 - 2. _____
 - 3. _____

16. Have you attended a minimum of two (2) federal Sentencing Guideline seminars? Yes/No

- Specify dates and locations:
- 1. _____
 - 2. _____

17. Have you completed course work in criminal law?

Examples with dates: _____

18. Are you fluent in a foreign language? _____
(Please specify the language)

19. I prefer assignment of cases in the following areas of Vermont:

- ___ Burlington
- ___ Brattleboro
- ___ Rutland
- ___ No Preference

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FOR CJA ADMISSIONS COMMITTEE USE ONLY

Approved for Active CJA Panel _____ Approved for Training Panel _____

Date Approved: _____ Date Approved: _____

CJA Training Panel Standards
Required for Completion of Training Period

At its January 8, 2002 meeting, the CJA Panel Selection Committee discussed the need for quantifying the standards required of Training Panel members seeking appointment consideration to the Court's CJA Panel. The Office of the Federal Public Defender agreed to oversee and supervise the training efforts of Training Panel attorneys and to provide an annual status report of those individuals undergoing training. The Panel Selection Committee agreed that Training Panel members were required to possess the following standards in order to be considered eligible for appointment to the Court's CJA Panel:

1. be admitted to practice in the United States District Court for the District of Vermont;
2. be admitted to practice in the United States Court of Appeals for the Second Circuit;
3. have either: A) primary responsibility for handling a minimum of three (3) federal criminal cases as retained counsel; or B) serve in a "second-chair" capacity to a CJA Panel Attorney, the Federal Public Defender, or a Federal Public Defender staff attorney in a minimum of three (3) criminal cases. As a minimum for each case, the Training Panel member would also be required to conduct or "second-chair" an initial appearance, including a detention hearing; review all discovery material for the case (including the standing discovery order in place for the District of Vermont, all other applicable Local Rules and Federal Rules of Criminal Procedure); analyze the evidence for possible motions; participate in any evidentiary hearings or trials scheduled; review the United States Sentencing Guidelines and the Pre-sentence Report; participate in drafting defense positions; conduct or attend the sentencing hearing; and review the file for potential appellate issues; and
4. attend a minimum of two (2) criminal practice training seminars, one of which must specifically address United States Sentencing Commission Guidelines.

Should the Training Panel attorney "second chair" cases with a CJA Panel attorney, the CJA Panel attorney must: 1) agree to provide a statement documenting participation of the Training Panelist; and 2) inform the Panel Selection Committee of his or her opinion whether the Training Panelist is ready for consideration to the full CJA Panel or whether additional training is required.

The Office of the Federal Public Defender will assume responsibility for contacting Training Panel members to advise them of these requirements, The Office of the Federal Public Defender will also assume responsibility for collecting information as to the status of training panelist progress and for reporting this information to CJA Panel Selection Committee members.