CRIMINAL JUSTICE ACT (CJA) PLAN
18 U.S.C. § 3006A

NOVEMBER 30, 2015

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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 Administering the CJA and Related Statutes*, Volume 7 of the *Guide to Judiciary Policy*, 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 review and approval by the Judicial Council for the United States Court of Appeals for the Second Circuit ("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 a crime or otherwise eligible for services under 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, 18 U.S.C. § 3006A, and the *Guidelines for Administering the CJA*, 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 under 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 specified in the *Guidelines for Administering the CJA* and this *Plan*.

2. The Clerk of Court is responsible for providing a copy of this *Plan* to appointed counsel and informing appointed counsel of the availability of the *Guidelines for Administering the CJA* and the *CJA Policy and Procedural Manual* of the Second Circuit.

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 under this *Plan*, the Federal Public Defender and staff attorneys of the Office of the Federal Public Defender.

IV. PROVISIONS OF REPRESENTATION.

A. Circumstances.

1. Mandatory Representation. Representation must 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;
k. is entitled to appointment of counsel under the Sixth Amendment to the Constitution; or
l. 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 and 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; or
g. has been notified that he or she is the target of a grand jury investigation.

3. Ancillary Matters. Representation may also be furnished to financially eligible persons in ancillary matters appropriate to the proceedings under 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 or magistrate judge when formally charged, or when otherwise entitled to counsel under the Criminal Justice Act, whichever occurs earlier. The Court's overall goal is to determine a person's eligibility for appointment of counsel prior to the person's first appearance before the Court.

C. Number of Counsel.

When the Court determines a case is legally complex, demanding, or of a protracted nature, it may appoint more than one attorney.

D. Eligibility for Representation.

1. Factfinding. After making appropriate inquiry concerning the financial status of an accused, the determination of eligibility for representation 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. Erroneous determinations of eligibility may be corrected at any 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 insufficient to fully pay for retained counsel, the judicial officer will find the person eligible for appointment of counsel but direct the person to pay available excess funds to the Clerk of Court. At the discretion of the judicial officer, the amount of payment(s) ordered may be increased or decreased, or other conditions may be imposed.

4. Disclosure of Change in Eligibility. If, at any time after appointment, counsel obtains 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 a protected privileged communication, appointed counsel has a duty to so inform the Court.

5. Reimbursement. If a finding is 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 (f) and may order a defendant to pay for the cost of representation.

V. FEDERAL PUBLIC DEFENDER ORGANIZATION.

A. Establishment. 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 under 18 U.S.C. §§ 3006A(g)(1) and (g)(2)(A). See Appendix *1* to this *Plan*.

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. The Federal Public Defender has the discretion to reassign a case to an assistant staff 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 there is a conflict of interest, the Federal Public Defender or staff defender is unavailable, or other compelling reasons. The Federal Public Defender is responsible for informing the Clerk's Office in the event of a conflict of interest or unavailability.

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. All appointments to the Court's CJA Panel will occur through an application process and require review and recommendation by a Panel Selection Committee. See § VI. B.

2. Size. The Court will set the size of the CJA Panel with the recommendation of the Panel Selection Committee. The CJA Panel will be of a sufficient size to allow for the efficient handling of the Court's criminal caseload and afford Panel members ample opportunity to maintain proficiency so as to provide a high degree of quality legal representation.

3. Eligibility. Attorneys who serve on the CJA Panel must have been admitted to practice for a minimum of three years and be members in good standing of the Court's Bar. Applicants to the Panel must demonstrate the highest ethical standards, commitment to indigent defense, excellence in federal criminal practice, and have demonstrated experience in and knowledge of the Federal Rules of Criminal Procedure, the Federal Rules of Evidence, and the Sentencing Guidelines. Attorneys who meet the eligibility requirements will be evaluated for admission to the Panel in light of their qualifications and needs of the district.

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, also will be made available on the Court's website: http://www.vtd.uscourts.gov. See Appendix *2* 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 judges of the Court.

7. Term of Membership. Attorneys appointed to the CJA Panel shall serve a term of three years. After a three-year term expires, a Panel attorney may apply to serve an additional term. Completion of a term does not create a right to selection for service for another term. Panel members seeking readmission shall reapply in writing to the Court no later than one month prior to the expiration of their membership term. Members who fail to reapply by the required deadline shall be deemed to have resigned from the CJA Panel, but may apply for membership at any subsequent time.

Should a Panel member's term expire while he or she is appointed to represent a defendant, the Panel member shall continue to represent the defendant until the conclusion of the matter.

8. Minimum Case Requirement. CJA Panel members are required to accept an average of two appointments per year during their term of membership.

9. 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 at the discretion of the judges of the Court.

10. Continuing Legal Education. All CJA Panel members are expected to earn not less than five continuing legal education credits annually in the areas of criminal practice.

11. Panel Lists. The Clerk of Court is responsible for maintaining an up-to-date listing of CJA Panel and Training Panel membership which will include the office location of the attorney serving on the Panel. The list will be maintained publicly and provided to the judges of the Court and the Federal Public Defender.

12. *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.

When the Court determines that, in the interests of justice, judicial economy or continuity of representation, an accused qualifies for court-appointed counsel and the appointment of an "off-panel" attorney, the Court may authorize the appointment of a non-CJA Panel attorney. Appointments should be made only under exceptional circumstances. Counsel appointed under this subsection must 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 different geographic regions of the district. The district judge shall serve as the Committee chairperson. The Clerk of Court, or designee, shall serve as an *ad hoc* member of the Committee to provide administrative support.

2. Duties.

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

C. Case 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, and the geographical location of the Panel member and the defendant will be among the factors considered in the appointment decision. The appointment process is intended to provide a balanced distribution of appointments so that Panel members are provided an equal opportunity to serve the Court and provide a high quality of representation to their clients.

2. Record of Assignments. The Clerk of Court, or designee, will be responsible for maintaining a record of all CJA Panel assignments, including those assigned to the Office of the Federal Public Defender. A record of each refusal (or "pass") and the reason will be recorded and made available to the Panel Selection Committee.

D. CJA Training Panel. The Court has established a CJA Training Panel to provide attorneys who do not have the qualifications for membership on the CJA Panel with a means to obtain sufficient experience in federal criminal practice to meet the standards for admission to the CJA Panel. Training Panel members will assist experienced attorneys in felony criminal cases. Training Panel members comply with the policy directives as specified by the district's *Criminal Justice Act Training Panel Program Guidelines.* See Appendix *3* to this *Plan.*

VII. REPRESENTATION IN CAPITAL CASES.

A. Federal Capital Prosecutions. Under 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 knowledgeable in the law applicable to capital cases. If necessary for adequate representation, more than two attorneys may be appointed to represent a defendant in such a case. (18 U.S.C. § 3599(a)(1).)

B. Qualifications. The Court is responsible for evaluating the qualifications of counsel considered for appointment in capital-offense cases. The following standards also apply:

1. Appointment of Counsel Prior to Judgment. Under 18 U.S.C. § 3599(b), at least one of the attorneys must be admitted to practice in this Court for at least five years and have at least three years' experience in felony trial prosecutions in this Court.

2. Recommendation of the Federal Public Defender. In appointing counsel, the Court shall consider the recommendations of the Federal Public Defender. (18 U.S.C. § 3005.)

3. Appointment of Counsel Post-Judgment. At least one of the appointed attorneys must be admitted to practice in the Second Circuit at least five years and must have at least three years' experience in felony appeals. (18 U.S.C. § 3599(c).)

4. Attorney Qualification Waiver. A judge may, for good cause, appoint an attorney who does not qualify for appointment under 18 U.S.C. §§ 3599(b) or (c), but has the necessary background, knowledge and experience to properly represent a defendant in a capital case, giving due consideration to the seriousness of the possible penalty and the unique and complex nature of the litigation. (18 U.S.C. § 3599(d).)

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

The death penalty is not authorized by the State of Vermont; therefore, the provisions of 28 U.S.C. § 2254, as they pertain to state habeas death penalty relief, do not apply to this jurisdiction.

IX. DUTIES OF APPOINTED COUNSEL.

A. Professional Conduct. Attorneys appointed under this *Plan* must conform to the highest ethical and professional standards of conduct set forth in Local Rule 83.1 of this district.

B. **Professional Responsibility**. Other than as provided by this *Plan*, CJA counsel shall not delegate any substantive tasks or representation to another person other than a partner or associate member of the attorney's law firm.

C. **Receipt of Other Payments**. Except as authorized or directed by the Court, CJA counsel may not request, require or accept any form of payment, promise of payment, anything of value, or other consideration other than funds paid under the CJA appropriation.

D. **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.

E. **Continuity of Representation.** A person for whom counsel is appointed will be represented at every stage of the proceeding, from initial appearance through appeal, including any appropriate ancillary matters unless the appointment is modified or terminated by the Court.

F. **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 identifies the type and nature of services performed, and the expended time, rounded to the nearest tenth (0.1) of an hour.

X. 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, 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 is responsible for discussing with the person the right to court-appointed legal representation and if appointment of counsel is 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(c), the pretrial services officer will attempt to interview each defendant prior to the initial appearance in court. If the defendant has counsel, the pretrial services officer will attempt to coordinate a joint interview. In the event 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 for the purpose of providing to the Court financial and other information relevant to pretrial release conditions. In all cases, the pretrial services or probation officer will be required to advise an accused of his or her 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.

C. **Notice of Indictment or Criminal Information.** Upon the return or unsealing of an indictment, or filing of a criminal information or a petition to modify or revoke probation or supervised release, the United States Attorney's Office, Clerk's Office or 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 his or her counsel. Should a defendant be without counsel, the charging document will be forwarded to his or her last known address.

XI. ADMINISTRATIVE PROCEDURES.

A. **CJA eVoucher.** All CJA-related requests and claims for compensation must be submitted to the Court using the automated CJA eVoucher program.

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 authorized thresholds are within the Court's discretion and will conform with all policy and procedural requirements of 18 U.S.C. § 3006(A), the Judicial Conference of the United States, the *Criminal Justice Act Guidelines*, and the *CJA Policy and Procedural Manual* of the Second Circuit.

C. **Review and Payment.** The Clerk's Office will be responsible for reviewing CJA claims presented for technical accuracy and compliance with *Criminal Justice Act Guideline* policies. Claims that have undergone review will be forwarded to the presiding judge or magistrate judge for approval. The Court will attempt to avoid delays in reviewing payment requests in CJA eVoucher. Approved claims will be certified and paid promptly by the Clerk's Office through the CJA eVoucher system. Claims exceeding allowable cost thresholds will be forwarded to the Second Circuit for approval prior to payment. Claims seeking interim payment will require a justification of need and approval of the Court.

D. **Reduction of Claims.** If the Court determines the amount of payment claimed is not warranted, CJA counsel will be notified in advance of the proposed claim reduction. Prior to payment, counsel will be afforded the opportunity to request a second review of the claim and may provide additional or supplemental information justifying it. The Court will review the supplemental information and act on the claim consistent with the policies set forth by the *Criminal Justice Act Guidelines*, the *CJA Policy and Procedural Manual* of the Second Circuit, this *Plan*, *The American Bar Association Standards for Criminal Justice: Defense Function (1993)*, and the interests of justice.

E. **Investigative and Expert Services.** All requests for services other than counsel that are necessary for adequate representation will comply with all policy, procedural, and threshold requirements of 18 U.S.C. § 3006(A)(e), the Judicial Conference of the United States, the *Criminal Justice Act Guidelines*, the *CJA Policy and Procedural*

Manual of the Second Circuit, this *Plan,* and *The American Bar Association Standards for Criminal Justice: Defense Function (1993).*

F. Use of Financial Information. The Government may not use as part of its direct case in any prosecution, other than for perjury or false statements, the information provided by a defendant or an accused involving a request for appointment of counsel.

G. Compliance. The district court will comply with any supplemental policy directives or administrative guidance imposed by the Second Circuit.

H. Supersession. This *Plan* supersedes all prior *CJA Plans* issued by this Court.

XII. ADOPTION.

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

Dated at Burlington, in the District of Vermont, this 25th day of November, 2015.

Christina Reiss
Chief Judge

XIII. APPENDICES.

1. Judicial Council Approval for FPDO for the District of Vermont
2. Application for CJA Panel Membership
3. Training Panel Program Guidelines

XIV. APPROVAL.

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

Date of Approval: _____, 2015

_____
CHIEF JUDGE (OR DESIGNEE)
UNITED STATES COURT OF APPEALS
FOR THE SECOND CIRCUIT

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

CJA PANEL APPLICATION

(All applicants must attach a current copy of their resume denoting professional experience.)

1. GENERAL BACKGROUND

Name: _____

Firm Name: _____

Office Address: _____

City: _____ State: ____ Zip: _____

Office Telephone: _____ Office Fax: _____

Home or Cellular Telephone: _____

Email Address: _____

Law School Attended: _____

Degree: _____ Date Awarded: _____

Dates of Bar Admission:

U.S.D.C. District of Vermont: _____ State of Vermont: _____

2nd Circuit Court of Appeals: _____ U.S. Supreme Court: _____

Other: _____

Please indicate your primary area of practice:

_____

Do you hold any public office or positions? Yes ___ No ___

If yes, please specify:

_____

Please list any foreign languages in which you are fluent:

_____

I am applying for (choose only one):

__ Training Panel __ CJA Panel (new)

__ CJA Panel (from Training Panel) ___ CJA Panel (reappointment)

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

__ Brattleboro __ Burlington __ Rutland __ No preference

2. PROFESSIONAL EXPERIENCE

Please describe your experience with criminal practice, with particular attention to federal criminal practice:

_____

_____

_____

_____

_____

_____

_____

Please describe your commitment to providing criminal defense services to indigent clients.

_____

_____

_____

Please describe your experience and familiarity with the Federal Rules of Criminal Procedure, the Federal Rules of Evidence and the Sentencing Guidelines.

_____

_____

_____

_____

_____

Provide approximate numbers of <u>criminal</u> proceedings you have handled during the last five years in the following categories. Specify as to each category the number of cases in which you were lead counsel.

	Federal	Lead #	State	Lead#
Jury Trials	_____	_____	_____	_____
Bench Trials	_____	_____	_____	_____
Pleas/Sentencings	_____	_____	_____	_____
Appeals	_____	_____	_____	_____
Other Evidentiary Hearings	_____	_____	_____	_____

Provide approximate numbers of civil proceedings you have handled during the last five years in the following categories. Specify as to each category the number of cases in which you were lead counsel.

	Federal	Lead #	State	Lead#
Jury Trials	_____	_____	_____	_____
Bench Trials	_____	_____	_____	_____
Depositions	_____	_____	_____	_____
Appeals	_____	_____	_____	_____
Other evidentiary hearings	_____	_____	_____	_____

Please describe any other experience you believe is relevant to your application:

_____

_____

_____

For applicants to the Training Panel

The CJA Training Panel Program Guidelines require that applicants for the CJA Training Panel have observed at least parts of three federal criminal cases. **Describe how you have fulfilled this requirement, referring specifically to the names and dates of the cases you have observed, and the parts of the cases you have observed.**

_____

_____

_____

_____

_____

For applicants seeking to move from Training Panel to full CJA Panel:

The CJA Training Panel Standards for the District of Vermont require that in order for a Training Panel member to be considered eligible for appointment to the CJA Panel, the applicant must have either: A) primary responsibility for handing a minimum of three 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 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. **Please describe how you have satisfied these requirements. Please also arrange for any attorney with whom you have "second-chaired" a case to submit a statement to the Panel Selection Committee of his or her opinion regarding your readiness for consideration for the full CJA Panel.**

3. CONTINUING LEGAL EDUCATION

For new applicants to CJA Panel:

I have earned _____ continuing legal education credits in the areas of criminal practice and/or criminal defense work over the last five years (Note: The Criminal Justice Act Plan for the United States District of Vermont requires that each panel member earn not less than five continuing legal education credits annually in the areas of criminal practice and/or criminal defense work).

Name of Course and Sponsoring Agency	Date Attended	# of Credits

For applicants for re-appointment to CJA Panel:

I ___ have ___ have not earned five continuing legal education credits annually in the areas of criminal practice and/or criminal defense work since my last appointment to the CJA panel.

Name of Course and Sponsoring Agency	Date Attended	# of Credits

If the answer to the above is negative, please describe any facts or extenuating circumstances you think are relevant to the Committee's review of your application for re-appointment :

_____

_____

_____

_____

For applicants seeking to move from Training Panel to full CJA Panel:

I ___ have ___ have not attended a minimum of two criminal practice training seminars, one of which specifically addressed the United States Sentencing Guidelines.

Name of Course and Sponsoring Agency	Date Attended	# of Credits

For applicants to the Training Panel:

I ___ have ___ have not attended a minimum of one training seminar in the last five years on the United States Sentencing Guidelines.

Name of Course and Sponsoring Agency	Date Attended	# of Credits

4. CHARACTER AND ETHICS

Have you ever been convicted of any crimes or violations, other than minor traffic infractions not involving damage to persons or property? ___ Yes ___ No

Do you have any prior or pending disciplinary complaint(s) as to which a finding has been made that the complaint(s) should proceed to a hearing? ___ Yes___ No

Have you ever been denied admission to, been disciplined by, resigned from, surrendered your license to practice before, or withdrawn an application for admission to practice while facing a disciplinary complaint before, this court or any other court? ___ Yes ___ No

If you answer in the affirmative to any of the three previous questions, please describe the full circumstances of any conviction, complaint, denial, discipline, resignation, surrender or withdrawal, including the reasons therefore. You must also describe any penalty, sanction, or other discipline imposed, whether the discipline was satisfied, and whether you are currently in good standing in the relevant jurisdiction(s).

FOR CJA ADMISSIONS COMMITTEE USE ONLY

Approved for Active CJA Panel: ☐ Date Approved:

Approved for Training Panel: ☐ Date Approved:

CRIMINAL JUSTICE ACT
TRAINING PANEL PROGRAM

GUIDELINES

APPENDIX 3

I. INTRODUCTION

The United States District Court, in conjunction with the Panel Selection Committee, will oversee a pilot program in which attorneys who do not have the requisite experience for membership on the regular Criminal Justice Act (CJA) Panel will be eligible to assist members of the CJA Panel and 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. (*See* 18 U.S.C. § 3006A; *Guide to Judiciary Policies and Procedures,* Volume 7) The Federal Public Defender attorney or the CJA panel attorney in each case shall be the court-appointed counsel and will be referred to below as the "lead attorney." The training panel attorney shall be referred to as the "second-chair" attorney.

II. ADMINISTRATION OF THE CJA TRAINING PANEL PROGRAM

The program will be administered by the Clerk's Office with assistance from the Panel Selection Committee. The assigned CJA Panel members and the Federal Public Defender's Office will supervise the second-chair attorneys. The Federal Public Defender's Office will provide training programs in defending federal criminal cases.

III. TRAINING PANEL

A. Eligibility Requirements

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

1. Three years admitted in good standing with a state Bar.
2. Membership in good standing in the Bar of the United States District Court for the District of Vermont.
3. Demonstrated commitment to providing criminal defense services to indigent clients.

4. Completion of at least one training seminar on the United States Sentencing Guidelines.
5. Knowledge of the Federal Rules of Criminal Procedure and the Federal Rules of Evidence.
6. Having observed at least parts of three federal criminal cases.

B. Selection of Program Participants

The Panel Selection Committee will select and forward to the court for its approval a list of the second-chair attorneys to participate in the program. The Clerk's Office will notify the selected attorneys.

C. Length of Training Period

A second-chair attorney will serve on the training panel until he/she completes the requirements for eligibility on the Criminal Justice Act Panel. The Training Panel member shall submit a cover letter and CJA Panel application to the clerk of court to be considered for the CJA Panel. The Panel Selection Committee will forward to the court its recommendation as to whether the participant should be considered for membership on the CJA Panel. (Although it is anticipated the program will provide a second-chair attorney the opportunity to gain the necessary experience to become a member of the CJA Panel, participation in the program does not guarantee admission to it).

D. Removal or Resignation from the Program

A second-chair attorney may be removed from the program if unable to meet the expectations for training panel members. The presiding Judicial Officer of the Panel Selection Committee will have the authority to remove an attorney from the panel.

IV. EXPECTATIONS FOR PARTICIPANTS IN THE PROGRAM

A. Lead Attorney

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 and the final decision-making authority about legal strategy.

B. Second-Chair Attorneys

Second-chair attorneys will be required to attend the training seminars sponsored by the Federal Public Defender's Office for CJA Panel members, and expected to keep current with developments in federal criminal defense law, practice and procedure.

The second-chair attorney 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.

Non-Continuity of Representation by Training Panel Members

Section VIII(E) of the Revised Plan for Furnishing Representation Pursuant to the Criminal Justice Act for the District of Vermont ("the CJA Plan") provides that once counsel is appointed pursuant to the CJA Plan representation shall remain continuous, including for purposes of any appeal or review taken by certiorari, or the occurrence of other specified events. The requirement of continuity of representation set forth in the CJA Plan does not apply to second chair attorneys appointed pursuant to this Training Panel Program and such second chair appointments shall be terminated fourteen days after entry of the judgment, or as otherwise ordered by the court.

V. ASSIGNMENT OF CASES

The clerk of court will assign second-chair attorneys to work with lead attorneys who are participating in the program.

VI. COMPENSATION AND EXPENSES OF APPOINTED COUNSEL

A. Hourly Rates

Compensation to be paid to CJA Training Panel members will be $100.00 per hour for in-court and out-of-court services up to a maximum of $2,000 per case.

B. Expenses

The only expenses allowed to be incurred by a second-chair attorney are travel-related expenses, such as mileage and parking. Travel expenses will be reimbursed at the current mileage rate prescribed for federal judiciary employees at the time of the claim.

Any other expenses, such as costs associated with experts (including interpreters), investigators, reproduction of transcripts or briefs, computer-assisted legal research, filing fees, etc., shall not be reimbursable to a second-chair attorney. It will be the responsibility of the lead attorney to bear these expenses and seek reimbursement when appropriate. (*See Guide*, Volume 7, Chapter II, Part C – Compensation and Expenses of Appointed Counsel and Chapter III, Parts A and B – Authorization and Payment for Investigative, Expert, or Other Services.)

C. Source of Payment

Payments made to second-chair attorneys will be paid from the United States District Court's attorney admission funds (Special Court Fund).

D. Payment Process

At the conclusion of the case, the second-chair attorney shall complete a detailed memorandum supporting and justifying the total number of hours claimed. The memorandum should include an itemization of services provided, by date, and indicate the number of hours (in hours and tenths of an hour) for each separate service provided. The claim for services shall be reviewed by the lead attorney for accuracy and be forwarded to the clerk of court for review and approval by the presiding judge.

The Criminal Justice Act Training Panel Guidelines and the procedures specified herein are hereby APPROVED.

Dated at Burlington, in the District of Vermont, this 23rd *day of March, 2012.*

Christina Reiss
Chief Judge

Dated at Burlington, in the District of Vermont, this 16 *day of March, 2012.*

William K. Sessions III
U.S. District Judge

Dated at Brattleboro, in the District of Vermont, this 8th *day of March, 2012*

J. Garvan Murtha
Senior U.S. District Judge