

REPORT OF THE SUPERIOR COURT CRIMINAL JUSTICE ACT PANEL
IMPLEMENTATION COMMITTEE TO CHIEF JUDGE LEE. F. SATTERFIELD
March 2013

The Criminal Justice Act Panels (“CJA Panels”) were originally created by Administrative Order 00-26 issued on July 17, 2000. Pursuant to the Administrative Order, panels of attorneys were established from which appointments were made for defendants found eligible for the appointment of counsel under the Criminal Justice Act (CJA) of the D.C. Code, Sections 11-2601 to 2609 (2001), in connection with criminal cases prosecuted by the United States and the District of Columbia.

On January 15, 2010, Chief Judge Lee F. Satterfield issued Administrative Order 10-02 through which the Court re-established the CJA Panel, based on recommendations from the CJA Panel Implementation Committee (“the Committee”).

Pursuant to the Administrative Order re-establishing the Panel, the Court allows attorneys to apply for the Panel at any time, and, consequently, the Committee considered applications from new applicants who applied and former applicants who re-applied. Accordingly, the Committee considered attorneys who filed applications on or before January 15, 2013. All applications filed after that date will be considered in the future.

The Application Process

Information about the application process and a copy of the application are posted on the D.C. Superior Court’s website throughout the application period.

The application for new and former applicants consists of questions and requests information concerning the applicant’s educational background, work experience, relevant training, and trial experience. The application asks for the names of Superior Court judicial officers familiar with the applicant’s work and a description of significant cases handled by the applicant. Applicants are asked to detail any criminal history and/or history with the Office of Bar Counsel and to provide a Certificate of Discipline from every jurisdiction in which they are admitted and a Certificate of Good Standing from the District of Columbia Bar.

The Committee considered a total of 46 applications from Provisional Members, new, and former applicants.

The Committee

Fifteen Associate Judges and Magistrate Judges participated in the Committee deliberations. Several members of the Committee had extensive experience as criminal defense counsel before their appointments to the Court. The majority of the Committee was on the original CJA Panel Committee that made recommendations for the U.S. Panel in 2000 and recommendations for additions to the Panels in 2004 and 2007, and for the re-establishment of the Panel in 2010. Thus, not only does the Committee as a whole have vast experience observing and evaluating attorneys, but it also has considerable experience in selecting attorneys qualified to represent indigent defendants.

The Committee followed the same selection procedures that were followed in the past. The sources of information about attorneys were as follows:

1. The responses provided by the applicants to the questions set out in the application form;
2. Input from Superior Court judicial officers whom the applicant identified as references;
3. Knowledge of the applicants derived from Committee members themselves;
4. Input from the Advisory Committee, as hereafter described, and
5. Input from references outside of the Superior Court whose names the applicant provided.

Consideration of Applicants by the Committee

The Administrative Order requires that no attorney will be considered for the CJA Panel unless he or she has the following qualifications: (a) membership in good standing in the D.C. Bar; (b) an office within the metropolitan D.C. area; (c) a commitment to complete hours of CLE each year as may be required by the Court; (d) a commitment to comply with all applicable Administrative Orders setting an annual cap for attorney compensation for appointed representation; (e) a commitment to accept appointments in D.C. prosecuted and Traffic matters; and (f) a commitment to comply with Superior Court Attorney Practice Standards.

By Administrative Order 5-03 the Chief Judge directed that the Committee solicit the views of the CJA Panel Advisory Committee (“the Advisory Committee”) concerning each applicant. Accordingly, the Committee submitted a list of all applicants to the Advisory Committee. The Advisory Committee submitted its recommendations to the Committee. The Committee gave substantial weight to the Advisory Committee recommendations, many of which the Committee followed. The Committee thanks the Advisory Committee for its work.

The Committee met on February 22, 2013, to discuss each applicant. In general, the Committee made decisions by consensus. After the meeting, follow up investigation and interviews were conducted with some applicants. Any initial Committee decision was subject to reconsideration upon request by any member.

In making its recommendations with regard to new applicants, the Committee looked for the most highly qualified new attorneys who would, at the very least, be able to handle a Felony II case capably. The Committee recommended for the Provisional Panel attorneys with excellent credentials but less Superior Court experience, who had a demonstrated interest in representing indigent persons in criminal law, and who were willing to serve on the Provisional Panel.

The Committee determined that the number of attorneys currently on the Panel appear to meet the Court’s present needs and caseload. Consequently, the Committee was highly selective in determining whether any of the new applicants should be added to the Panel. As a result, the Committee did not recommend some applicants who may have been considered favorably in the past. The Committee was also mindful that the Panel will be re-established at the end of this

year, at which time all interested attorneys can apply regardless of when they have applied in the past.

With regard to applicants who had previously applied to the Panel, the Committee considered any changes to the applicant's qualifications, additional work, training, or judicial evaluations that would warrant reconsideration of the Committee's previous recommendation.

Finally, with respect to Provisional Members seeking to become Full Panel Members, the Court considered whether the attorney complied with all requirements of becoming a Full Member, including participating in two jury trials and obtaining the recommendation of the Advisory Committee.

The Committee's Recommendations

The Committee recommends six Provisional Attorneys appointed as a Full Member, two attorneys appointed as a Full Member, one attorney appointed as a Conditional Member and five attorneys appointed as a Provisional Member. In the Committee's judgment these applicants have a demonstrated special interest in criminal law or in representing indigent persons; and have excellent credentials or have experience working in the Court and have shown great potential.

The Committee continues to recommend that (1) the terms of Provisional Members be two years and (2) they participate in two felony jury trials before applying to become a Full Member. The Committee also recommends that a Provisional Member may apply to become a Full Member at any time during the two-year term, provided (1) the attorney has participated as a second chair in two felony jury trials, and (2) the Advisory Committee recommends that the attorney be appointed as a Full Member. Whether it appoints a Provisional Member before the expiration of the two-year term will be at the Committee's discretion.

With respect to the Conditional Full Member, as in the past, the Committee recognizes that an applicant may be currently employed in a position that makes him or her unable to accept immediate appointments. The Committee recommends that this applicant, who the Committee has concluded is otherwise qualified, be conditionally approved for the Panel. Such conditional membership does not entitle an attorney to accept appointments. Rather, the attorney conditionally approved may become a Full Member by notifying the Chairperson of the CJA Panel Committee that (a) he or she is now available to accept appointments; (b) he or she is still members in good standing of the Bar, and (c) no disciplinary action or investigation has been instituted against him or her since the filing of the application. Upon such a notification, the attorney will become Full Member of the Panel and may accept appointments. Any attorney who fails to make such a notification within nine (9) months of the date of his or her conditional appointment is no longer eligible to become a member of the Panel based on conditional membership.

1. Compliance with Panel obligations:

In their applications, the applicants specifically affirmed their commitment to accept appointment in D.C.-prosecuted matters, including matters on the Traffic Calendar. In the future, in determining whether an attorney will be recommended for future participation on the Panel, the Committee anticipates giving significant weight to whether attorneys have been active

members of the Panel and, in particular, whether they have fulfilled their obligations in connection with accepting appointments in D. C. and Traffic Calendar cases.

The Committee also anticipates giving great weight to whether a Panel Member has complied with all Administrative Orders concerning annual compensation limits and to the appropriateness of Panelists' vouchering practices.

2. Training and necessary actions:

It is the responsibility of Panel Members to take all actions necessary to become familiar with the appointment and vouchering process. As in the past, the Committee recommends that all new Panel members contact the SCTLTA, which has in the past graciously agreed to assist new members of the Panel by providing them with the technical information necessary to begin receiving appointments to cases. The Committee also recommends that new Panel members work with the Public Defender Service to obtain training as necessary. As in the past, the Committee will consult with SCTLTA and the Public Defender Service to confirm that the member received the necessary training prior to becoming eligible to accepting appointments.

3. Re-application time period:

To bring regularity to the process and to ensure that an attorney re-applying to the Panel has sufficient time to demonstrate new circumstances warranting reconsideration of his or her application, the Committee recommends that, in the future, any eligible applicant who is not appointed to the Panel during this round, must wait at least eighteen (18) months after the issuance of the Administrative Order before re-applying to the Panel. The Committee recognizes, however, the Panel is scheduled to be re-established at the end of this calendar year at which time all attorneys will be eligible to apply to the Panel.

4. Effective date

The Committee recommends that the effective date of the additions to the Panels be the date of the issuance of the Administrative Order, or as soon thereafter as practicable.

Respectfully Submitted:

CJA Panel Implementation Committee

Judge Robert E. Morin, Chair
Judge Jennifer Anderson
Judge Ronna L. Beck
Judge Erik P. Christian
Judge Natalia M. Combs Greene
Judge Harold L. Cushenberry
Judge Marissa Demeo
Judge Todd Edelman
Judge Wendell P. Gardner
Judge William Jackson
Judge Peter Krauthamer
Judge John McCabe
Judge Juliet McKenna
Judge Robert I. Richter
Judge Richard Ringell

Date: March 12, 2013

CJA IMPLEMENTATION RECOMMENDATIONS FOR CJA PANEL

March 2013

Full Panel Members:

1. Gain, Edward
2. Hill, Grandison
3. Mykytiuk, Jay
4. Nieto, Christopher
5. Scanlon, Anna
6. Scrofano, Joseph
7. Smith, Lee
8. Sulton, Patrice

Conditional Full Member:

1. Judkins, Quo

Provisional Members:

1. Cargill, Jeffrey
2. Gnocchi, Paolo
3. Mohammed, Aisha
4. Zahar, Nicola
5. Ogilvie, Steven