

MCALLEN DIVISION

THE COMPOSITION, ADMINISTRATION, AND MANAGEMENT OF THE PANEL OF PRIVATE ATTORNEYS UNDER THE CRIMINAL JUSTICE ACT

I. COMPOSITION OF PANEL OF PRIVATE ATTORNEYS

A. CJA PANEL

The Court hereby establishes a panel of private attorneys, the CJA Panel, who are eligible and willing to be appointed to provide representation under the Criminal Justice Act. The Court shall approve attorneys for membership on the panel after receiving recommendations from the Panel Selection Committee, established pursuant to this District's CJA Plan. Members of the CJA Panel shall serve at the pleasure of the Court.

B. CJA PANEL COMMITTEE

1. Membership.

A CJA Panel Committee shall consist of the district judges and magistrate judges of the McAllen Division. The Federal Public Defender, the CJA Supervising Attorney and/or one or more attorneys from the McAllen Federal Public Defender office and one or more members of the CJA panel may be invited to be a member of, or provide input to, the Committee. The Committee shall select its own chairperson. The Committee need not have regular meetings but shall convene when necessary to accomplish the purposes desired in this Plan. No formal records need be made at such meeting.

2. Duties.

- a. The CJA Panel Committee shall meet as needed to review the operation of the CJA plan, which may include evaluating the adequacy of legal representation being provided, assessing the qualifications of attorneys appointed under the plan, and ensuring the availability of appropriate support, training, and continuing legal education for CJA Panel attorneys. The Committee may but need not classify Panel members according to level of experience and area of expertise.
- b. The Committee shall recommend to the Court any changes deemed necessary or appropriate regarding the appointment process and Panel management.

C. ESTABLISHMENT OF A CJA PANEL

1. Application.

Application forms for membership on the CJA Panel are available on the Court's website.

2. Eligibility.

- a. Attorneys who serve on the CJA Panel must be members in good standing of the federal bar of this district and be licensed and in good standing with the State Bar of Texas.
- b. Applicants must possess strong litigation skills and demonstrate proficiency with the federal sentencing guidelines, federal sentencing procedures, the Bail Reform Act, the Federal Rules of Criminal Procedure, and the Federal Rules of Evidence.
- c. Applicants must have significant experience representing persons charged with serious criminal offenses and demonstrate a commitment to the defense of people who lack the financial means to hire an attorney, specifically attorneys have at least one year of active experience in handling criminal cases in state or federal court.
- d. Attorneys who do not possess the experience above but believe they have equivalent other experience are encouraged to apply and provide in writing the details of that experience for the CJA Committee's consideration.

3. Appointment to CJA Panel.

After reviewing applications, the members of the CJA Committee will decide to appoint or reappoint attorneys to the CJA Panel.

4. Terms of the CJA Panel Members.

To establish staggered CJA membership terms, the current CJA Panel will be divided into three groups, equal in number. Initially, members will be assigned to one of the three groups on a random basis. Members of the first group will continue to serve on the CJA Panel for a term of one year, members of the second group will continue to serve on the CJA Panel for a term of two years, and members of the third group will continue to serve on the CJA Panel for a term of three years. Thereafter, attorneys admitted to membership on the CJA Panel will each serve for a term of three years, subject to the reappointment procedures in this plan.

5. Reappointment of CJA Panel Members.

- a. A member of the CJA Panel who wishes to be considered for reappointment must apply for appointment to an additional term at least three months prior to the expiration of his or her current term.
- b. The CJA Committee may solicit input concerning the quality of representation

provided by lawyers seeking reappointment.

- c. The CJA Committee will consider how many cases the CJA panel member has accepted and declined during the review period, whether the member has participated in training opportunities, whether the member has been the subject of any complaints, whether the member is subject to any voucher concerns, and whether the member continues to meet the prerequisites and obligations of CJA panel members as provided in this Plan.

6. Removal from the CJA Panel.

a. Mandatory removal.

Any member of the CJA Panel who is suspended or disbarred from the practice of law by the state court before whom such member is admitted, or who is suspended or disbarred from this court or any federal court, will be removed from the CJA Panel immediately.

b. Automatic disciplinary review.

The CJA Committee and/or CJA Supervisory Attorney will conduct an automatic disciplinary review of any CJA panel member against whom any licensing authority, grievance committee, or administrative body has taken action, or when a finding of probable cause, contempt, sanction, or reprimand has been issued against the panel member by any state or federal court.

c. Complaints.

- Initiation

A complaint against a panel member may be initiated by the CJA Committee and/or CJA Supervisory Attorney, a judge, another panel member, a defendant, or a member of the [federal public defender/community defender] office. A complaint need not follow any particular form, but it must be in writing and state the alleged deficiency with specificity. Any complaint should be directed to the CJA Committee and/or CJA Supervisory Attorney, which will determine whether further investigation is necessary.

- Notice

When conducting an investigation, the CJA Committee will notify the panel member of the specific allegations.

- Response

A panel member subject to investigation may respond in writing and appear, if so directed, before the CJA Committee or its subcommittee.

- Protective action

Prior to disposition of any complaint, the CJA Committee may recommend temporary suspension or removal of the panel member from any pending case, or from the panel, and may take any other protective action that is in the best interest of the client or the administration of this Plan.

- Review and recommendation

After investigation, the CJA Committee Attorney may recommend dismissing the complaint, or recommend appropriate remedial action, including removing the attorney from the panel, limiting the attorney's participation to particular types or categories of cases, directing the attorney to complete specific CLE requirements before receiving further panel appointments, limiting the attorney's participation to handling cases that are directly supervised or overseen by another panel member or other experienced practitioner, or any other appropriate remedial action.

- Final disposition by the Court

The CJA Committee will forward its recommendation to the chief judge for consideration and final disposition.

- Confidentiality

Unless otherwise directed by the court, any information acquired concerning any possible disciplinary action, including any complaint and any related proceeding, will be confidential.

None of these procedures create a property interest in being on or remaining on the CJA Panel.

D. CJA PANEL SUPPORT AND TRAINING

A CJA Panel attorney may use the Federal Public Defender eOrganization as a resource to assist in addressing issues that may arise during the course of a representation, including but not limited to assistance with sentencing guideline questions. Periodic training in federal criminal practice, including programs offered by the Federal Public Defender

Organization, will also be available to assist CJA Panel attorneys, who are strongly encouraged to attend such programs at least once per year.

II. THE APPOINTMENT PROCESS

A. MAINTENANCE OF LIST AND DISTRIBUTION OF APPOINTMENTS

The Clerk shall maintain the current CJA Panel list and shall furnish a copy to each judge upon request. The Clerk shall also maintain a record of appointments of CJA Panel attorneys that reflects the dates and nature of each attorney's appointments under the plan.

B. METHOD OF APPOINTMENT

1. Appointments from the list of private attorneys should be made on a rotational basis, subject to the Court's discretion to consider the nature and complexity of the case, an attorney's experience, and the ability of the person to be represented to communicate in Spanish. This procedure will assist in producing a balanced distribution of appointments among the members of the CJA Panel and providing quality representation for each person entitled to appointment of counsel.
2. Under special circumstances the court may appoint a member of the bar of the court who is not a member of the CJA Panel. Such special circumstances may include cases in which the court determines that the appointment of a particular attorney is in the interests of justice, judicial economy, or continuity of representation, or for any other compelling reason. It is not anticipated that special circumstances will arise often, and the procedures provided in the Plan are presumed to be sufficient in the vast majority of cases in which counsel are to be appointed. Appointments made under this section will be reported to the CJA Committee.

III. DUTIES OF CJA PANEL MEMBERS

A. STANDARDS AND PROFESSIONAL CONDUCT

1. CJA panel members must provide high quality representation consistent with the best practices of the legal profession and commensurate with those services rendered when counsel is privately retained.
2. Attorneys appointed under the CJA must conform to the highest standards of professional conduct.
3. CJA panel members must notify within 30 days the chair of the CJA Committee and/or CJA Supervisory Attorney when any licensing authority, grievance committee, or administrative body has taken action against them, or when a finding of contempt, sanction, or reprimand has been issued against the panel member by any state or federal court.
4. While nothing in this provision limits a CJA panel member's responsibilities to their client,

CJA panel members are expected to be fiscally responsible, truthful, and accurate when submitting their vouchers for payment.

B. TRAINING AND CONTINUING LEGAL EDUCATION

1. Attorneys on the CJA Panel are expected to remain current with developments in federal criminal defense law, practice, and procedure.
2. Attorneys on the CJA Panel are expected to attend trainings sponsored by the Federal Public Defender.

IV. COMPENSATION - FILING OF VOUCHERS

Claims for compensation should be submitted, through the court's eVoucher system, to the office of the Clerk of the Court. The Clerk of the Court shall review the claim for conformity with the Guidelines for the Administration of the Criminal Justice Act (volume VII, Guide to Judiciary Policies and Procedures) and, if correct, shall forward the claim form for the consideration and action of the presiding judge or magistrate.