

PROGRAM DESCRIPTION
CRIMINAL JUSTICE ACT MENTORING PROGRAM
Eastern District of New York

I. OBJECTIVES

In order to increase the diversity of the members of the Criminal Justice Act Panel (the “CJA Panel”) and ensure quality representation for all defendants, particularly the indigent, the CJA Panel Committee (the “Committee”) has designed a mentoring program (the “Program”) to identify and help prepare viable candidates to qualify for consideration for appointment to the CJA Panel. Although an important objective of the Program is to encourage increased participation of women and minorities on the CJA Panel, its primary goal is to obtain the best qualified CJA Panel candidates. As such, the Program is open to all qualified candidates.

II. ORGANIZATION

A. CJA Panel Subcommittee

The Program will be administered by the CJA Subcommittee (“Subcommittee”), which currently consists of three members of the CJA Panel Committee (a district judge, a magistrate judge, and a CJA panel member). The Subcommittee will be responsible for overseeing and administering the Program and for providing continuing guidance concerning the overall objectives and administration of the Program.

The Subcommittee’s specific responsibilities include: 1) solicitation, recommendation, and review of applications from potential Mentors from both the CJA Panel and the private federal criminal bar; 2) review of Mentee applications and recommendations as to their admission into the Program; 3) administration of an orientation program for Mentors and Mentees; 4) identification of appropriate cases for the Program; 5) provision of guidance to Mentors on an ongoing basis regarding the objectives, protocol and methods of the Program; and 6) evaluation of the success of the Mentor - Mentee relationships under the Program, with periodic reports to the CJA Panel Committee.

The CJA Panel Committee will have final approval of Mentor and Mentee participants in the Program, and the pairing of Mentors with Mentees will be decided after consultation with the Subcommittee.

B. Mentors and Mentees

1. Mentors: The Subcommittee will solicit volunteers to act as Mentors in the Program, subject to review of their qualifications by the Subcommittee, with final approval subject to review by the CJA Panel Committee.

a) Qualifications: Mentors are expected to be experienced and respected members of the criminal bar who have practiced extensively in the federal courts, as a member of the CJA Panel, public defender, Assistant United States Attorney, or private criminal defense attorney, and who have worked closely with junior attorneys and law students or interns, or are willing to do so. Qualified Mentor volunteers will be drawn from both the CJA Panel and from the private federal criminal defense bar.

b) Applications: Mentors will be required to submit a brief resume and completed application form. Applications will be posted on the Court website at www.nyed.uscourts.gov under the CJA tab at the top of the webpage.

c) Assignments: No Mentor will be assigned more than one Mentee at a time.

d) Training: Mentors will be required to attend an orientation program for Mentors sponsored by the Subcommittee. The orientation program would provide instruction on:

i) the goals and objectives of the Program;

ii) the protocols and manner of instruction to be used in training Mentees, including the selection of appropriate cases to use as teaching vehicles, the critical need to expose Mentees to all aspects of federal criminal practice, as well as the assessment and development of a Mentee's oral and written advocacy skills, and computer/Electronic Case Filing ("ECF") proficiency;

iii) the permissible roles and tasks to be performed by Mentees;

iv) the review and frank assessment of the Mentee's progress and ability to practice in federal court.

e) It is expected that Mentors will give their Mentees feedback as to their performance on an ongoing basis throughout the program. Each Mentor must fill out an evaluation form as to his/her Mentee at the conclusion of the training period. The training period shall terminate when the matters the Mentor and Mentee have worked on together have concluded or at a time that may be mutually agreed upon by the Mentor and the Subcommittee. All evaluation forms will be confidential. Evaluation forms will be posted on the Court website at www.nyed.uscourts.gov under the CJA tab at the top of the webpage.

f) No Mentor shall bill the CJA Panel for time spent training Mentees. The Subcommittee is exploring the possibility of providing Continuing Legal Education ("CLE") credit for participation in the program.

2. **Mentees:** Qualified candidates include state and federal practitioners with five or more years of criminal experience, including substantial trial experience, either as lead counsel or second chair or other comparable in-court experience, who, with additional federal criminal experience obtained through the Program, would merit consideration for membership on the CJA Panel. In addition, prospective Mentee candidates must exhibit strong research and writing skills. Mentees also must attend CLE programs that focus on federal criminal practice. Although an important Program goal is to encourage women and minority applicants, the Program is designed to assist and benefit all interested and qualified candidates.

a) **Admission to the EDNY:** Candidates must be admitted to practice in the Eastern District of New York. Applicants will be required to submit a Certificate of Good Standing from the Bar of the state or states in which s/he is admitted.

b) **Applications:** All Mentee applicants will be required to submit a completed application form, brief resume and writing sample. Applications will be posted on the Court website at www.nyed.uscourts.gov under the CJA tab at the top of the webpage.

c) Each Mentee must fill out an evaluation form as to his/her Mentor at the conclusion of the training period. The training period will terminate when the matters the Mentor and the Mentee have worked on together have concluded or at a time that may be mutually agreed upon by the Mentor and the Subcommittee. All evaluations will be confidential. Evaluation forms will be posted on the Court website at www.nyed.uscourts.gov under the CJA tab at the top of the webpage.

d) Except under certain exceptional circumstances (*see* Section IV(A)(3)(a) below), Mentees will not receive payment as a Program participant. The Subcommittee is exploring the possibility of providing CLE or *pro bono* credit for participation in the program.

III. Identifying Potential Mentees and Promotion of the Program

A. Posted on the Court's website at www.nyed.uscourts.gov under the CJA tab at the top of the webpage, will be a Program description, as well as Mentee and Mentor application and evaluation forms, in fillable or downloadable format (PDF/WORD).

B. The Committee will refer applicants deemed potential Mentees to the Subcommittee.

C. Endorsement and Appointment of Mentee:

1. **Participants in the Program are not guaranteed appointment to the Panel.** No person has a right either to be appointed to the Panel or to be selected as a Mentee.

2. Mentees who successfully complete the Program will be encouraged to apply for appointment to the Panel. If a Mentee does apply, in addition to following the normal application review process, the Committee will solicit the views of the Mentor, the

Subcommittee, and the judge(s) before whom the Mentee has appeared as to whether the Mentee qualifies for appointment.

IV. Mentee Parameters

A. Program Cases

1. Cases that will serve as teaching vehicles for the Program (a “Program case”) will be newly presented cases that will expose the Mentee to myriad issues across the spectrum of representation (*e.g.*, fast track program procedures, bail and release, discovery review, proffer sessions, plea negotiations, sentence guideline calculations and negotiations, client interviews and conferences regarding various issues and themes, legal research and writing, and possible evidentiary hearing or trial).

2. In keeping with the District’s preference for random assignment of cases to defense counsel and judges alike, once a Mentee is paired with a Mentor, the Mentor shall notify the Mentee when s/he has a Duty Day or is called in by the court to provide additional CJA counsel coverage. The Mentee should be prepared to spend the day with the Mentor and to work on those cases that the Mentor is randomly assigned that day. The Mentee may also work on other cases to which the Mentor may be assigned. Mentors who are members of the private defense bar (*i.e.*, not CJA Panel members) should bring their assigned Mentee into the appropriate case as close to its commencement as possible, *e.g.*, grand jury, arraignment on a complaint or indictment, or initial status conference.

3. Mentees will not be paid under the Criminal Justice Act, but will provide their services *pro bono*. Mentees should consider participation in the Program as an investment in their future that could lead to their acceptance on the CJA Panel.

a) Under certain *exceptional* circumstances, for example, in cases designated “complex,” the district judge presiding over the matter may, upon application by the Mentor, approve payments to the Mentee at the paralegal rate, with the understanding that the first 15 hours are *pro bono* and uncompensated. However, the presiding district judge should ensure that the Mentee is being utilized more as an associate than a paralegal.

b) The Mentor may not bill for work actually performed by the Mentee, except that, in the case of CJA Panel attorneys, the Mentor may submit vouchers on behalf of the Mentee, if s/he has been approved for payment as a paralegal. (*See* § 3(a) above). Moreover, the Mentor and Mentee agree that they will not bill for time spent principally on training and teaching, which time must be provided on a *pro bono* basis.

4. Any Mentee must be identified as such to the Court and to the defendant by the Mentor. The Court may authorize the Mentee to act as co-counsel. However, the Court, in its discretion, may preclude the Mentee from participating in certain aspects of the defendant’s representation.

B. Mentee Protocols

Mentees will be expected and permitted to:

1. Appear and argue on the record on behalf of the defendant. The Mentor, as counsel of record, must be present in court with the Mentee at all times. The Mentee will be required to register for and otherwise comply with the Court's ECF requirements.
2. Under the direction and in the presence of the Mentor, confer on behalf of the defendant with: the government, chambers, U.S. Pretrial Services Agency personnel, U.S. Probation Officers, federal, state and local law enforcement agents and agencies, U.S. Bureau of Prison personnel, defendant's family, friends and potential witnesses, interpreters, and other members of the defense team, such as investigators or paralegals.
3. Obtain, organize, and review discovery material, perform legal research, draft and file submissions, pleadings, memoranda and motions, under the direction, review and co-authorship of the Mentor, organize exhibits, and engage in other trial preparation activities.
4. Under the direction and in the presence of the Mentor, participate in hearings, trials and evidentiary proceedings. Examination of witnesses or any addresses or statements to a jury will be done only under the direction of the Mentor and with the Mentor present during the examination, the address, or statement.
5. Mentees will be required to complete a minimum of six (6) CLE credits that focus on federal criminal practice skills. In addition, Mentees must attend Program orientation sessions and other seminars and workshops coordinated by the Subcommittee or Committee on specific CJA Panel requirements and federal criminal practice skills.

###

*Dated: Brooklyn, NY
June 26, 2012*

The CJA Committee of the Eastern District of New York:

*Hon. Cheryl L. Pollak, U.S.M.J., Committee Chair
Hon. Sandra J. Feuerstein, U.S.D.J.
Hon. John Gleeson, U.S.D.J.
Hon. Dora L. Irizarry, U.S.D.J.
Hon. William D. Wall, U.S.M.J.
Paul B. Bergman, Esq., Member, EDNY CJA Panel
Randi L. Chavis, Esq., Attorney-in-Charge, Federal Defenders Office, EDNY-Central Islip Office
Ronald P. Fischetti, Esq., Member, EDNY CJA Panel
Paul Gianelli, Esq., Member, EDNY CJA Panel
Peter Kirchheimer, Attorney-in-Charge, Federal Defenders Office, EDNY - Brooklyn Office
Gary S. Villanueva, Esq., Member, EDNY CJA Panel
Douglas Palmer, Clerk of the Court, U.S. District Court, EDNY*