

**CRIMINAL JUSTICE ACT
MENTORING PROGRAM
for the
WESTERN DISTRICT OF PENNSYLVANIA**

Adopted Pursuant to the Criminal Justice Act of 1964, as amended.

Approved on November 9, 2018

A. CRIMINAL JUSTICE ACT MENTORING PROGRAM for the WESTERN DISTRICT OF PENNSYLVANIA

I. INTRODUCTION

(a) PURPOSES AND OBJECTIVES

1. Under Part XI.A.3 of the Criminal Justice Act Plan for the Western District of Pennsylvania, as modified on December 3, 2015 (hereinafter “the CJA Plan”), the United States District Court shall implement a program by which attorneys interested in participating on the Criminal Justice Act panel but lacking substantial federal criminal defense experience, may be invited to participate in a mentoring program, in which they work jointly with experienced criminal defense practitioners to gain meaningful federal criminal defense experience.

2. The mentoring program is intended: (a) to identify attorneys interested in developing federal criminal defense experience who meet minimal credentials required by the CJA Plan for service on the CJA Panel; (b) to provide exposure to and experience in federal criminal practice for persons otherwise meeting the Plan’s prerequisites; and (c) to diversify the panel by encouraging qualified applicants to serve on the CJA Panel without regard to age, race, sex, creed, religion or national origin;

(b) DEFINITIONS

1. The “Panel Selection and Review Committee” (hereinafter “the Committee”) is established by the District Court under the Criminal Justice Act Plan of the United States District Court for the Western District of Pennsylvania last revised on December 18, 2015, (“hereinafter “the CJA Plan”) Part XI.A.2, to consider applications for membership, to determine persons best qualified to serve on the CJA Panel, and to establish procedures for the administration of this Program consistent with the Plan. The Committee shall also be responsible for administering the Program itself, as set forth more fully herein.

2. In a case subject to this Program, a “Mentor” is an attorney with substantial criminal practice experience in the Western District of Pennsylvania and at least one other jurisdiction, along with a demonstrated interest in training, advising and/or educating eligible

lawyers who would benefit from, who volunteers to participate. A "Mentor" may be a CJA Panel member, the Federal Defender or any Assistant Federal Defender or a lawyer in private practice.

3. A "Mentee" is an attorney who has applied to serve on the CJA Panel and who substantially qualifies for Panel membership but who, in the opinion of the Committee, would benefit from developing experience in federal criminal practice by associating with attorney(s) having such experience. Consideration will be given to the Committee's goal of expanding the diversity of the panel.

II. PROGRAM ORGANIZATION

(a) Structure

1. Each Mentor will serve as the primary attorney under the Criminal Justice Act in a case subject to the Program, and remains responsible to the client and the Court for the representation.
2. As set forth more fully in Part IV, in a case in which a Mentee is appointed, a Mentee will provide actual legal services in a case subject to the Program and is expected to serve under the supervision and direction of the Mentor.
3. Attorneys participating as Mentees shall serve in the mentoring program until the completion of at least three separate and distinct matters. No Mentee shall serve under the same mentor twice, and at least one mentoring relationship shall include a mentor from the Office of the Federal Defender.
4. No Mentor will be assigned more than one Mentee at a time, as long as there are willing Mentors who have not yet been assigned a Mentee.
5. No Mentee may be authorized to serve for more than two (2) cases at a time.
6. Any Mentee must be identified as such to the Court and disclosed to the client.

(b) Authorization of Mentee

1. The Mentor must apply to the District Judge for authorization to engage the Mentee after arraignment or at such earlier time as the identity of the assigned district judge is of record.

2. Such authorization may be made *nunc pro tunc*, when appropriate. A Mentee may appear alongside the Mentor at an initial appearance or arraignment before the District Judge has entered the authorization, provided that (A) the Mentor has been or will be appointed counsel of record and (B) the Mentor informs the Magistrate Judge during the proceeding that the Mentor intends to seek authorization to engage the Mentee.

3. Applications to the District Court requesting authorization to engage the Mentee shall be made on CJA Form 21 via eVoucher under the category "other services." In addition to other facts justifying the engagement, the application shall warrant to the District Court that the Mentee:

(A) has been approved for participation in this Mentoring program and;

(B) understands and agrees that the engagement may include performance of services typically performed by appointed counsel of record or by a paralegal or legal assistant, as directed by the Mentor, and shall include performance of services *pro bono publico* as required herein.

4. A Mentor who expects that the Mentee will submit a voucher in excess of the then prevailing dollar value requiring advance authorization of a vendor's service, shall seek such prior authorization from the District Court on behalf of the Mentee, in accordance with Volume 7, Section A, Chapter III, Part A, Section 3.02(A) of the Guide to Judiciary Policies and Procedures. Likewise, a Mentee's voucher that is expected to exceed the dollar value the District Court is authorized to approve, will require certification of the District Judge and approval from the Chief Judge of the Circuit (or his or her designee) before payment can be issued.

(c) Compensation

1. Attorneys appointed as Mentors shall be compensated under the Act at the prevailing hourly rate for services by a lawyer serving on the CJA Panel.
2. Mentees are expected to contribute *pro bono publico* 15 hours of legal services for each matter. For hours in excess of the *pro bono* hours, Mentees may be paid at an hourly rate not to exceed one-half the then prevailing rate authorized for CJA Panel lawyers performing services in non-capital cases.
3. Mentor and Mentee shall bill for legal services actually rendered, over and above the mentee's fifteen *pro bono* hours. Mentor and Mentee should use best efforts to develop a reasonable division of labor to avoid duplication of effort wherever possible, and shall not claim time spent principally on training and teaching.
4. Upon completion of the representation or according to such other schedule as the District Court may prescribe, the Mentee shall submit voucher(s) for payment in consultation with the mentor on CJA form 21, under the category "other services.". The 15 hours of *pro bono* legal services performed by the Mentee, and the exact nature of those services, are to be reflected in the Mentee's worksheet attached to the completed CJA form 21.
5. The CJA Form 21 shall be in substantial compliance with with the Guidelines for Administering the Criminal Justice Act and Related Statutes, Chapter 3, §310 (relating primarily to when to seek advance authorization for third-party services). The Mentee's 15 hours of *pro bono* legal services, and the exact nature of those services, shall be included in the worksheet, invoice or other supporting documents attached to the CJA form 21.

(d) Administration

1. The Committee shall compile and maintain a roster of Mentees. It shall also identify a sufficient number of attorneys to serve as Mentors to the Mentees selected. If a qualified number of volunteer Mentors are unavailable, the Committee shall recruit Mentors from the Panel and other sources.

2. The Committee shall pair a Mentee to a Mentor as promptly as possible following the Mentor's appointment. It may assign a Mentee to any of the types of cases for which counsel shall or may be appointed under 18 U.S.C. §3006A(a)(1), (2); see also CJA Plan, Part IV.A. However, the Committee shall favor assignment of Mentees to cases in which there appears to be a demonstrated need for legal support so that the Mentee is able to learn from and meaningfully contribute to appointed counsel's efforts.

3. In pairing the Mentee with the mentor, the Committee shall, in consultation with the Mentor, consider the type of case, the nature of the crimes charged, available defenses, the volume of discovery, the complexity of evidentiary or other legal issues, the staff needs of appointed counsel, the client's apparent sentencing exposure, the interests and experience of available Mentees, the speedy trial posture of the case, and any other relevant factors.

4. The Board of Judges will inform the Clerk's Finance Office of the existence of this Mentoring program and its special procedures relating to authorization of a Mentee and voucher submission in Part II(b), above.

5. No member of the Committee will receive compensation for participating in the administration of the Mentoring Program.

III. RESPONSIBILITIES OF MENTORS

(a) Training

1. Mentors shall receive instruction concerning:

A. the goals and objectives of the Program;

B. the protocols and manner of instruction to be used by Mentors, including the selection of and type of cases to be used by the Program as teaching vehicles, and the critical need to assess and develop a Mentee's writing skills and computer proficiency;

C. the permissible roles and tasks available for Mentees;

D. the requirement of frank and candid evaluation, assessing the Mentee's performance, development over the course of the Mentee's

participation in the Mentoring program, and overall ability to practice in federal court.

(b) Evaluation and Assessment

1. Mentors shall evaluate Mentees at times requested and on forms provided by the Committee.

(c) Other Engagements

1. Mentors may engage Mentees in connection with appointed representations in this District not included by the Committee in the Mentoring program, provided that the Committee is notified and the District Judge authorizes the Mentee's engagement under Part II(b), above.

IV. DUTIES OF MENTEES

(a) Mentees shall:

1. complete a minimum of six (6) continuing legal education credits relating to federal criminal practice skills, including but not limited to the federal sentencing guidelines, and;
2. attend training and develop proficiency in the operation of relevant computer systems in the Western District of Pennsylvania, including training in Courtroom Technology, eVoucher, and the CM/ECF and PACER filing systems.

(b) Mentees may, under the supervision and in the judgment of a Mentor, perform any and all in-court and out of court services that the Act authorizes counsel to perform, including but not limited to:

1. Appear and argue on the record as counsel for the defendant, with the Mentor, as counsel of record, present.
2. Confer, on behalf of the defendant and under the direction of the Mentor, as counsel of record, with: counsel for the government; judicial chambers; U.S. Pretrial Services Agency; U.S. Probation Office; federal, state and local law enforcement agents and agencies; U.S. Bureau of Prison personnel; defendant's family, friends and potential lay or expert witnesses; interpreters; and other members of the defense team, such as investigators or paralegals.

3. Perform traditional paralegal assignments, such as: organizing and review of discovery material; legal research; organizing, indexing of exhibits; obtaining discovery or reproducing discovery, etc.
 4. Write and file submissions, pleadings, memoranda and motions, under the direction, review and co-authorship of the Mentor.
 5. With the consent of the defendant, and under the direction 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.
- (c) Completion of the mentoring program does not assure a mentee of membership on the CJA Panel. Upon completion, a mentee may update the application for panel service, and the Committee will consider his or her qualifications, including participation in the mentoring program, in light of the mentors' evaluations and other factors the Plan makes relevant.

V. RESPONSIBILITIES OF PANEL SELECTION AND REVIEW COMMITTEE

- (a) Taking into consideration the objectives, protocol and methods of the Program, the Plan and the Criminal Justice Act, the Committee shall be responsible:
1. to nominate Mentors;
 2. to identify prospective Mentees from the list of CJA Panel applicants;
 3. to identify appropriate cases and/or classes of legal matters for the Program;
 4. to pair Mentors with Mentees, except that no Mentee shall be authorized to serve in a capital case unless the Presiding Judge finds that the Mentee has the requisite training and experience to serve as capital counsel as set forth in 18 U.S.C. 3599(b)-(d), 18 U.S.C. 3005, and the Guidelines for Administering the Criminal Justice Act and Related Statutes, Section 620 and Part IV(C)(1) of the CJA Plan;
 5. to design and implement training programs for Mentors;

6. to participate in the design of continuing education programs to assist in the development of mentees' skills, and to coordinate presentation of such programs with the Federal Defender, the Panel and/or the organized bar;

7. to promote the Program by notifying the organized bar and law schools within the Western District of Pennsylvania of its features and benefits, by describing the program on the District's website, on the CJA Panel application, and by other appropriate means.

8. to collect and maintain information necessary to administer the program and to study the extent to which the objectives of the Program are being achieved, provided that no such information shall be disclosed publicly except as required by law, by the Plan or by this Program document;

9. upon request and with the consent of the Board of Judges, to share data distilled from the information so collected with the Committee on Defender Services of the Judicial Conference and/or the Defender Services Office of the Administrative Office of the U.S. Courts, provided that no information identifying individual mentors or mentees is disclosed without the consent of the affected attorney(s).

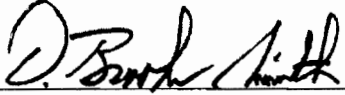
VI. MISCELLANEOUS

a. This Mentoring Program Statement, and any amendments to the CJA Plan made necessary by its adoption, shall be submitted to the 3rd Circuit for approval upon its adoption by the Board of Judges, and shall take effect immediately upon its approval by the Judicial Council of the Third Circuit.

ENTER FOR THE COURT ON JANUARY 11, 2019
(based on Judicial Council Approval
of November 9, 2018)

JOY FLOWERS CONTI, CHIEF JUDGE
Mark R. HORVAK

APPROVED BY THE JUDICIAL COUNCIL OF THE THIRD CIRCUIT



D. BROOKS SMITH, CHIEF JUDGE

ON 11/9/18