

OFFICE OF THE CIRCUIT EXECUTIVE  
UNITED STATES COURT OF APPEALS  
FOR THE SIXTH CIRCUIT  
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October 23, 2013

Honorable Thomas A. Varlan, Chief Judge  
United States District Court  
for the Eastern District of Tennessee  
Howard H. Baker Jr. U.S. Courthouse  
800 Market Street, Room 143  
Knoxville, Tennessee 37902-7902

Dear Judge Varlan:

I am writing to you as Secretary to the Judicial Council to inform you that the Members of the Sixth Circuit Judicial Council voted by mail ballot to approve the amended Appendix I to the Criminal Justice Act Plan for the United States District Court for the Eastern District of Tennessee. Returned herewith is the Appendix I with the Certificate of Approval signed by Chief Judge Batchelder.

Sincerely,



Circuit Executive

Enclosure

cc: Members of the Sixth Circuit Judicial Council  
Debra Poplin, Clerk  
John Medearis, Chief Deputy Clerk

**APPENDIX I  
TO THE CRIMINAL JUSTICE ACT PLAN**

**PLAN FOR THE COMPOSITION, ADMINISTRATION,  
AND MANAGEMENT OF THE CJA PANEL**

**CHAPTER I**

**COMPOSITION OF PANEL OF PRIVATE ATTORNEYS**

**A. CJA Panel**

1. *Approval.* The Court will establish panels (hereinafter referred to as the "CJA Panels") of private attorneys who are eligible and willing to be appointed to provide representation under the Criminal Justice Act. There shall be a CJA Panel established for the Chattanooga, Greeneville and Knoxville divisions.<sup>1</sup> The Court will approve attorneys for membership on the CJA Panels after receiving recommendations from the Panel Selection Committees (the "Committees"), established pursuant to paragraph B of this Plan. Members of the CJA Panels will serve a term of three years at the pleasure of the Court.<sup>2</sup> Attorneys wishing to serve another term must submit an application prior to the expiration of their term.
2. *Size.* The Committees will fix periodically the size of the CJA Panels. The Panels shall be large enough to provide a sufficient number of experienced attorneys to handle the CJA caseload, yet small enough so that the CJA Panel members will receive an adequate number of appointments to maintain their proficiency in federal criminal defense work and thereby provide a high quality of representation.
3. *Eligibility.* Attorneys who serve on the CJA Panels must be members in good standing of the federal bar of this district and have demonstrated experience in, and knowledge of, the *Federal Rules of Criminal Procedure*, the *Federal Rules of Evidence*, and the *United States Sentencing Guidelines*.

An attorney may be appointed to only one CJA Panel which shall be the one closest to the attorney's home or place of doing business.

An attorney must have accepted at least two appointments per year to be eligible to serve an additional term.

4. *Mandatory Continuing Legal Education.* CJA Panel attorneys shall annually attend at their expense a minimum of three hours of continuing legal education related to federal criminal practice. All seminars presented by Federal Defender Services of Eastern

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<sup>1</sup> Appointments to Winchester cases will be from the Chattanooga panel.

<sup>2</sup> In order to stagger the terms and meet the size of the CJA Panel fixed by the Committee, following the approval of this Plan, all CJA Panel attorneys shall reapply and appointments will be made to terms of one, two and three years.

Tennessee or the Office of Defender Services will satisfy this requirement. CJA Panel attorneys must certify their attendance at other federal criminal practice seminars on forms provided by the Federal Community Defender by December 31 of each year. A copy of the agenda must also be attached to the form.

5. *Equal Opportunity.* All qualified attorneys shall be encouraged to participate in the furnishing of representation in CJA cases, without regard to race, color, religion, sex, age, national origin, or disabling condition.
6. *Application.* Application forms for membership on the CJA Panel will be made available, upon request, by the Clerk of the Court. Completed applications will be submitted to the Clerk of the Court who will transmit the applications to the Chairperson of the appropriate Panel Selection Committee.

B. Panel Selection Committee

1. *Establishment.* There shall be a Panel Selection Committee established by the Court for the Chattanooga, Greeneville and Knoxville divisions. The committees will include one District Judge, one Magistrate Judge, one attorney who has served on the CJA Panel for three years or more, the District's Panel Representative to the CJA Panel Attorney's Conference, and the Federal Community Defender. The District Judge serving on the committee may appoint additional members. The committees will select their chairperson.
2. *Duties.*
  - a. The Panel Selection Committees will meet at least semiannually. The Committees will review the qualifications of applicants and recommend, for approval by the Court, those applicants best qualified to fill any vacancies.

The Committees will also review the operation and administration of their CJA Panel over the preceding year, and recommend to the Court any changes deemed necessary or appropriate by the Committee regarding the appointment process and panel management. The Committees will also inquire annually as to the continued availability and willingness of each panel member to accept appointments.

- b. If, at any time during the course of a year, the number of vacancies due to resignation, removal, or death significantly decreases the size of the panel, or if there is a need to increase the size of the panel because of a change in criminal filings, the Committee will solicit applications, convene a special meeting to review the qualifications of the applicants, and select prospective members for recommendation to the Court for approval.
  - c. When a Committee submits the names of applicants for panel membership to the Court for approval, the Committee will furnish information to the Court on

recruitment efforts undertaken by the Committee in furtherance of the Equal Opportunity statement in Paragraph I.A.5 of this Plan. At least once each year the Committees will provide the Court with information on the panel of attorneys in each of the categories listed in paragraph I.A.5 of this Plan.

C. CJA Training Panel

The Panel Selection Committees may establish a "CJA Training Panel" consisting of attorneys who do not have the experience required for membership on the CJA Panel. The Panel Selection Committees will establish district-wide requirements for Training Panel Attorneys. A Training Panel Attorney who does not complete the training requirements within two years of appointment to the Training Panel may be removed. Upon completion of the training requirements, a Training Panel Attorney may apply for membership to the CJA Panel.

Training Panel members may be assigned by the Court to assist members of the CJA Panel in a "second chair" capacity. Training Panel members may be eligible to receive appointments and compensation for their non-duplicative services in assisting CJA Panel members or the Federal Community Defenders in appropriate cases in the discretion of the appointing District or Magistrate Judge.

Prior service on the CJA Training Panel is not a requirement for membership on the CJA Panel, nor will service on the Training Panel guarantee admission of an attorney to the CJA Panel.

## CHAPTER II

### ADMINISTRATION AND MANAGEMENT

A. Maintenance of List and Distribution of Appointments

The Clerk's Office will maintain a current list of all attorneys included on the CJA Panel with current office addresses, e-mail addresses, and telephone numbers. The Clerk's Office will also maintain a record of assignments to private counsel and when appropriate, statistical data reflecting the proration of appointments between attorneys from the Federal Community Defender office and private attorneys according to the formula described in the CJA Plan for the District.

B. Method of Selection

Appointments from the list of private attorneys should be made on a rotational basis, subject to the Court's discretion to make exceptions due to the nature and complexity of the case, an attorney's experience, and geographical considerations. This procedure should result in a balanced distribution of appointments and compensation among the members of the CJA Panel and quality representation of each CJA defendant.

Once a District Judge or Magistrate Judge has determined that counsel should be appointed for a person pursuant to the CJA, the Federal Community Defender shall be appointed to the case unless there is a conflict or the Federal Community Defender has met or exceeded its quota of cases. In such an event, the Clerk's Office will arrange for the next available Panel member on the list with no known conflict to attend the hearing. If the appointing District Judge or Magistrate Judge determines that the attorney should be excepted due to a conflict, the nature and complexity of the case, the attorney's experience, geographical considerations, or some other bona fide reason, the appointing District Judge or Magistrate Judge may appoint the next available attorney on the list who is qualified. In the event of an emergency or if an appointment must be made on a weekend, holiday, or other non-working hour, the appointing District Judge or Magistrate Judge may appoint any attorney or attorneys from the list referred to in paragraph A.

When the District Judge or Magistrate Judge presiding over the case, or the Chief Judge if a District Judge has not yet been assigned to the case, determines that the appointment of an attorney who is not a member of the CJA Panel is in the interest of justice, judicial economy or continuity of representation, or there is some other compelling circumstance warranting appointment, the attorney may be admitted to the CJA Panel pro hac vice and appointed to represent the CJA defendant. Consideration for preserving the integrity of the Panel selection process suggests that such appointments should be made only in exceptional circumstances. Further, the attorney, who may or may not maintain an office in the District, should possess such qualities as would qualify him or her for admission to the District's CJA Panel in the ordinary course of Panel selection.

The Clerk's Office shall keep an up-to-date list of each appointment made of CJA Panel members showing the appointments made and appointments declined (with the reason therefore, including unable to contact the attorney).

Approved by the Court: August 16, 2013.

s/Thomas A. Varlan  
Chief United States District Judge

## CERTIFICATE OF APPROVAL

This is to certify that, in accordance with the Criminal Justice Act of 1964 as amended, 18 U.S.C. § 3006A, *et seq*, the foregoing Amended Appendix I to the Criminal Justice Act Plan for the United States District Court for the Eastern District of Tennessee has been duly received and approved as complying with the law by the Judicial Council of the Sixth Circuit of the United States. The said Amended Appendix I shall become effective upon the date of this approval.

This 21 day of October, 2013.



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Alice M. Batchelder, Chief Judge  
United States Court of Appeals  
for the Sixth Circuit