

REPORT OF THE SUPERIOR COURT CRIMINAL JUSTICE ACT PANEL  
IMPLEMENTATION COMMITTEE TO CHIEF JUDGE LEE F. SATTERFIELD  
March 20, 2015

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 May 23, 2014, Chief Judge Lee F. Satterfield issued Administrative Order 14-09, 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, the Court is required to re-establish the Panel every four years. Between periods of re-establishment, the Committee shall accept applications to the Panels from qualified attorneys and make recommendations to the Chief Judge to add such qualified attorneys to the Panel as the Committee deems appropriate in accordance with the needs of the Court, reserving the right to act expeditiously with regard to any application, while deferring action with regard to any other application. In addition, Administrative Order 14-09 provided that, unless promoted to full membership, Provisional Members shall remain in such status until the end of their original two-year term, prior to the expiration of which they must apply to become a Full Member.

The Committee received applications from 26 new attorneys seeking to become members of the CJA Panel between January 13, 2014 and February 6, 2015. Two Provisional Members, whose original term expires in March 2015, applied to become Full Panel Members. This Report summarizes the Committee’s process and recommendations.

### The Application Process

Information about the application process and a copy of both the new and provisional attorney applications are posted on the D.C. Superior Court’s website. (<http://www.dccourts.gov/internet/documents/CJA-Panel-Application.pdf>, <http://www.dccourts.gov/internet/documents/CJA-Short-Application.pdf>).

The application consisted of questions and requested information concerning the applicant’s educational background, work experience, relevant training, and trial experience. The application asked 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 were 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. In addition, current Provisional Attorneys were asked to provide a description of at least two felony jury trials in which they have been lead counsel or second chair.

## The Committee

Fourteen Associate Judges and Magistrate Judges participated in the Committee deliberations. Several members of the Committee had extensive experience as criminal trial attorneys before their appointments to the Court. Other members have been assigned to the Criminal Division for several years. Many members were on the original CJA Panel Committee that made recommendations for the U.S. Panel in 2000 and for additions to the Panels in 2004 and 2007, and the majority of the Committee made recommendations for the re-establishment of the Panel in 2010 and 2014. 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, including those 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 27, 2015 to discuss each applicant. In general, the Committee made decisions by consensus. Any initial Committee decision was subject to reconsideration upon request by any member. Finally, the names of attorneys who the

Committee was considering recommending were submitted to Bar Counsel to confirm that no disciplinary matters were pending that would disqualify the applicant from consideration.

#### Recommendation of Provisional and Full Panel Attorneys

As noted in the Committee's May 13, 2014 Report to the Chief Judge, the Committee advocates continuing to add Provisional Members to the Panel, regardless of the number of attorneys on the Panel, as experience has demonstrated that including new members strengthens the Panel by allowing attorneys with significant commitment to representing indigent persons an opportunity to contribute to the work of the Court.

With respect to new Provisional Members the Committee recommended only attorneys with excellent credentials, who had a demonstrated interest in representing indigent persons in criminal law and who were willing to serve on the Provisional Panel.

With respect to current Provisional Members, the Chief Judge appointed each for a two-year term during which the attorney is required to second chair two felony jury trials, comply with the Standards of Representation, comply with the annual cap on income, satisfy Continuing Legal Education requirements, and apply to become a Full Member before the expiration of the term. The Committee recommended only Provisional attorneys who fulfilled these requirements for promotion to the Full Panel.

Any current Provisional Member who remains on the Panel must meet the requirements and apply to become a Full Member before the expiration of his/her original term.

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

#### The Committee's Recommendations

The Committee recommends two attorneys as Full Members as set forth in the Appendix, both of whom are currently Provisional Attorneys. The Committee recommends five attorneys to be appointed Provisional Members.

#### Compliance with Panel Obligations

In their applications, applicants specifically affirmed their commitment to accept appointment in D.C. prosecuted matters, including cases on the Traffic Calendar. In addition applicants agreed to comply with all Administrative Orders concerning annual compensation limit, as well as to satisfy their continuing legal education requirements on an annual basis.

#### Training and Necessary Actions

It is the responsibility of Panel Members to take all actions necessary to become familiar with the appointment and vouchering processes. As in the past, the Committee recommends that all new Panel Members contact the Superior Court Trial Lawyers Association (SCTLA), which has previously 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 Panel Member received the necessary training prior to being eligible to accept appointments.

Re-application time period:

To bring regularity to the process and ensure that attorneys re-applying have sufficient time to demonstrate additional circumstances warranting reconsideration of their applications, the Committee recommends that any eligible applicant whose application was submitted prior to February 6, 2015 and considered by the Committee following the re-establishment of the Panel on May 23, 2014, must wait at least 18 months after the issuance of the Administrative Order announcing additions to the Panel before re-applying.

Effective date

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

Respectfully Submitted:

CJA Panel Implementation Committee

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Judge Juliet McKenna, Chair  
Judge Jennifer Anderson  
Judge Ronna L. Beck  
Judge Rainey Brandt  
Judge Erik P. Christian  
Judge Harold L. Cushenberry  
Judge Marissa Demeo  
Judge Todd Edelman  
Judge Wendell P. Gardner  
Judge William Jackson  
Judge Peter Krauthamer  
Judge John McCabe  
Judge Michael O'Keefe  
Judge Yvonne Williams

Date: March 20, 2015

## **ATTACHMENT**

### **CJA IMPLEMENTATION COMMITTEE RECOMMENDATIONS FOR ADDITIONS TO THE CJA PANEL**

#### **FULL PANEL MEMBERS**

1. Steven Ogilvie
2. Nicola Zahara

#### **PROVISIONAL PANEL MEMBERS**

1. Morgan Blackledge
2. Fareed Hayat
3. Daniel Kovler
4. Sweta Patel
5. Craig Ricard