

PLAN FOR THE COMPOSITION AND ADMINISTRATION OF THE
CJA APPELLATE AND CAPITAL APPELLATE PANELS

(APPENDIX A TO THE PLAN IN IMPLEMENTATION OF THE CRIMINAL JUSTICE ACT)

I. COMPOSITION OF PANELS

A. PANEL TYPES.

The Court shall establish two panels of attorneys who are eligible and willing to accept appellate appointments of the types identified below. The Court shall approve attorneys for membership on the panels after receiving recommendations from the CJA Appellate Panel Committee established pursuant to section II of this Plan. An attorney may be a member of more than one panel.

1. CJA Appellate Panel. Members of the CJA Appellate Panel are appointed in criminal cases when new counsel must be appointed on appeal. To qualify for the CJA Appellate Panel, attorneys must be members in good standing of the Fourth Circuit bar and have demonstrated experience in, and knowledge of, federal criminal law and appellate procedure and the Sentencing Guidelines. CJA Appellate Panel members should maintain a physical office within the Circuit.

2. Capital Appellate Panel. Members of the Capital Appellate Panel are appointed in capital cases when new counsel must be appointed on direct appeal or on collateral appeal under 28 U.S.C. § 2254 or § 2255. The Capital Appellate Panel is composed of first-chair and second-chair counsel lists. First-chair counsel must have been a Fourth Circuit bar member for at least five years and have at least three years experience in the handling of felony appeals in the Fourth Circuit. See 18 U.S.C. § 3599. Qualification requirements for second-chair counsel are the same as for CJA Appellate Panel members. Members of the Capital Appellate Panel are not required to maintain a physical office within the Circuit.

B. PANEL SIZE.

The CJA and Capital Appellate Panels shall be large enough to provide a sufficient number of experienced attorneys to handle the caseload, yet small enough so that panel members will receive an adequate number of appointments to maintain their proficiency and thereby provide a high quality of representation.

C. TERMS OF PANEL MEMBERSHIP.

The initial CJA Appellate Panel established pursuant to this Plan will be divided into three groups, equal in number. Members will be assigned to one of the three groups on a random basis. Members of the first group will serve on the panel for a term of one year, members of the second group will serve on the panel for a term of two years, and members of the third group

will serve on the panel for a term of three years. Thereafter, attorneys admitted to the panel will each serve for a term of three years. Members of the Capital Appellate Panel will remain on the panel unless removed at their request or at the direction of the Court.

A panel member may be removed from any panel whenever the Court, in its discretion, determines that the member has failed to fulfill satisfactorily the obligations of panel membership, including the duty to afford competent counsel, or has engaged in other conduct that renders inappropriate his or her continued service on the panel.

D. PANEL REAPPOINTMENTS.

Upon expiration of the term of a CJA Appellate Panel member, the panel member must apply for renewal of membership if he or she wishes to continue as a member of the panel.

E. PANEL APPLICATIONS.

The Court will set and publicize an annual application period for panel appointments. Application forms for [membership](#) and [renewal](#) of membership shall be available on the Court's web site and from the Clerk. Completed applications shall be submitted to the Clerk, who will transmit the applications to the CJA Appellate Panel Committee.

II. CJA APPELLATE PANEL COMMITTEE

A. MEMBERSHIP.

A CJA Appellate Panel Committee shall be established by the Court. The Committee shall consist of the following members appointed by the Chief Circuit Judge: a Circuit Judge, a Federal Public or Community Defender from within the Circuit, at least one attorney from each District within the Circuit, the Circuit Executive, the Clerk, the Senior Staff Attorney, and the CJA Budgeting Attorney. The Committee shall be chaired by the Circuit Judge. Attorneys appointed to the Committee shall serve staggered three year terms and may serve two consecutive terms. The Federal Defender representative shall serve a three-year term and may serve two consecutive terms.

B. DUTIES.

The CJA Appellate Panel Committee shall meet at least once a year in person or by teleconference to consider applications for the CJA and Capital Appellate Panels. The Committee shall review the qualifications of applicants for the panels and recommend, for approval by the Court, those applicants best qualified to fill the panels.

At its annual meeting the Committee shall also review the operation and administration of the panels over the preceding year and the legal education and training opportunities provided to panel members and make any recommendations for improvement to the Court.

III. SELECTION FOR APPOINTMENT

A. CJA APPELLATE PANEL

1. Maintenance of List and Distribution of Appointments. The Clerk shall maintain a current list of all attorneys included on the CJA Appellate Panel, with law firm names, current office addresses, and telephone numbers. The Clerk shall also maintain a record of all new appointments made on appeal and statistical data reflecting the proration of new appointments between private attorneys and the Federal Public or Community Defender Offices.

2. Method of Selection. Appointments shall be initially offered to the Federal Public or Community Defender for the district out of which the appeal arises. If the Defender for that district cannot accept a case, appointments may be made to the Federal Public or Community Defender for another district within the Circuit or to a member of the CJA Appellate Panel. CJA Appellate Panel appointments should be made on a rotational basis to the next panel member from the district in which the appeal arises who is qualified and available for appointment. Exceptions to these guidelines may be made due to the nature and complexity of the case, an attorney's experience or expertise, the defendant's place of confinement or residence if on bail, or the relative unavailability of counsel within the district from which the appeal arises. When such an exception is appropriate, the attorney selected for appointment need not be a member of the CJA Appellate Panel. Any variance in the appointment of attorneys by rotation must be approved in advance by the Chief Judge or the Chief Judge's designee.

B. CAPITAL APPELLATE PANEL

1. Maintenance of List and Distribution of Appointments. The Clerk shall maintain a current list of all first-chair and second-chair attorneys included on the Capital Appellate Panel, with law firm names, current office addresses, and telephone numbers. The Clerk shall also maintain a record of all new appointments made on appeal in capital cases.

2. Method of Selection. Appointments shall be made after appropriate consultation with the Federal Public or Community Defender or the Administrative Office of the United States Courts, in accordance with 18 U.S.C. § 3005 and Chapter 6, Federal Death Penalty and Capital Habeas Corpus Representations, Vol. 7, Part A, Guide to Judiciary Policy. First-chair counsel must meet the qualification standards of 18 U.S.C. § 3599, as further articulated in Fourth Circuit Judicial Council Order 113 (Oct. 3, 1996); Appendix 6A, Recommendations Concerning the Cost and Quality of Defense Representation, Vol. 7, Part A, Guide to Judiciary Policy; and the American Bar Association Guidelines for the Appointment and Performance of Defense Counsel in Death Penalty Cases. Second-chair counsel should be appointed after consultation with first-chair counsel.