

REPORT
OF THE
SUPERIOR COURT CRIMINAL JUSTICE ACT
CONTINUING LEGAL EDUCATION COMMITTEE
(CJA/CLE COMMITTEE)
FOR
CHIEF JUDGE RUFUS G. KING, III

DECEMBER 3, 2002

At your direction, a committee was formed in December 2001 to examine the issue of whether to institute a requirement of continuing legal education for U.S. and D.C. Panel attorneys practicing in the Superior Court of the District of Columbia pursuant to the Criminal Justice Act, D.C. Code, Sec. 11-2601 *et seq.*, and, if so, the terms of such a requirement. Pursuant to your direction, the committee was composed of representatives from the Superior Court, the Public Defender Service, the Superior Court Trial Lawyers Association, the District of Columbia Association of Criminal Defense Lawyers and non-institutional panel attorneys. The original members were the following:

Judge Noel Anketell Kramer, Chair
Judge Harold Cushenberry, Vice Chair
Judge Rhonda Reid Winston
Judge Lynn Leibovitz
Magistrate Judge Ronald A. Goodbread
Betty Ballester, President, Superior Court Trial Lawyers
Association
Richard Gilbert, President, D.C. Association of Criminal
Defense Lawyers
Nina Masonson, Vice-President, D.C. Association of
Criminal Defense Lawyers
A. Eduardo Balarezo
Janet Mitchell
Julia Leighton, then the Deputy Chief of Legal Services of
the D.C. Public Defender Service
Jonathan Rapping, then the Training Director of the D.C.
Public Defender Service

Subsequently added were:

Atiq R. Ahmed
Joseph Bernard
Martin Rosendorf

In deciding whether the Superior Court should adopt a requirement that attorneys appointed under the Criminal Justice Act to represent adult criminal defendants would be required to participate in a pre-determined number of continuing legal education hours, the committee examined the continuing legal education requirements of other federal, state, county and local jurisdictions, including all 50 states. Following discussion of the requirements of the other jurisdictions, Martin Rosendorf formulated a series of seven questions that the committee adopted as its structure for deciding what recommendations to make. Those questions are as follows:

1. How many annual credit hours should be required?
2. How should credits/hours be calculated?
3. What courses should be accepted?
4. Who should decide what courses are acceptable?
5. Who should keep the records of compliance?
6. How should the panel members report their course attendance?
7. What should be the repercussions if a panel member is not in compliance?

After the discussions of the requirements, if any, of other jurisdictions, Mr. Rosendorf's questions were then circulated to all members of the committee. Responses were submitted by eleven members of the committee. Those responses were then compiled and circulated to the members. At the following meeting, the members of the committee were asked to vote on the answers to the questions. The results were as follows with respect to each question:

1. Question: How many annual credit hours should be required?

All members except one favored mandatory continuing legal education. The votes for the number of hours required were 7 votes for 8 hours, 1 vote for 6 hours, 1 vote for 9 hours and 1 vote for 15 hours.

The committee concluded that this vote best supported a recommendation of 8 hours of mandatory continuing legal education to be completed within one year. The committee voted 7 to 2 against the ability to carry over credits from one year to another. It also reserved the possibility of requiring more CLE for newly practicing attorneys.

2. How should credits/hours be calculated?

The committee was unanimous in concluding that to accrue a credit hour of continuing legal education, a class must be at least 50 minutes long. Moreover, half-hour classes should not count toward the continuing legal education requirement.

The committee was also unanimous in concluding that programs put on by the following institutions should automatically qualify for continuing legal education credits provided the subject matter for an individual course falls within one of the subject matter categories that has been approved:

- D.C. Public Defender Service
- Superior Court Trial Lawyers' Association
- D.C. Association of Criminal Defense Lawyers
- National Association of Criminal Defense Lawyers
- Federal Defender Training Program
- National Institute for Trial Advocacy (NITA)

Moreover, the committee unanimously agreed that additional institutions might be added to this list over time.

3. What courses should be accepted?

In answering this question, the committee changed the question slightly to ask what subject areas should qualify for continuing legal education credits. The following list was unanimously agreed upon:

- Substantive criminal law, including traffic law
- Criminal procedure
- Evidence
- Trial advocacy
- Forensic issues which may arise in a criminal trial
- Ethics
- Immigration law
- Investigation
- Sentencing and diversion alternatives in D.C. Superior Court

The committee noted that complaint sessions or dialogue sessions should not count toward the credit hours. Rather, to qualify, the focus of the course should be on training and should be of a reasonable caliber and seriousness. After considerable discussion, the committee also concluded that, as of this time, there should not be any particular number of hours required in a particular subject area.

4. Who should decide what courses are acceptable?

The committee unanimously concluded that a standing committee chosen by the Chief Judge should make these decisions. That committee should include two representatives from the Superior Court Trial Lawyers' Association, one each from the D.C. Association of Criminal Defense Attorneys and the Public Defender Service, and a judge of the Superior Court.

5. Who should keep the records of compliance?

The committee unanimously concluded that the court should keep the records of compliance and administer that compliance.

6. How will the panel members report their course attendance?

The committee unanimously concluded that the reporting of court attendance should be on a form that includes the date of the course, the title of the course, the course sponsor, the number of hours and a certification of compliance. The attorney should certify by his or her signature that the attorney has attended the course and that the information on the form is true and accurate.

7. What should be the repercussions if a panel member is not in compliance?

The committee unanimously agreed that this system should be run based on a calendar year – that is, that the requirements should begin on January 1st of each year. Further, it agreed that a warning letter should be sent out three months before the end of the year, that is, by October 1st. It also concluded that except for newly practicing lawyers, the requirement to take 8 hours worth of CLE courses should not begin until the first full year after joining the U.S. or D.C. Panel. For those now members of the panel, the requirement would begin January 1, 2003.

If the CLE requirements have not been fulfilled in a timely fashion, an attorney will become ineligible for new appointments. An automatic grace period of three months into the following year will exist.

If an attorney is out of compliance for as long as a year, then the attorney loses his/her place on the panel and must re-apply. An automatic grace period of three months into the following year will exist.

Exceptions will be granted upon a showing that an attorney was in an extended trial of at least six months' duration, personally suffered from a serious and extended illness or otherwise suffered from an exceptional hardship.

Respectfully submitted,

CJA/CLE COMMITTEE

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