

Diversity, Equity & Inclusion Plan Workbook:

How to Create a DEI Plan for Your CJA Panel

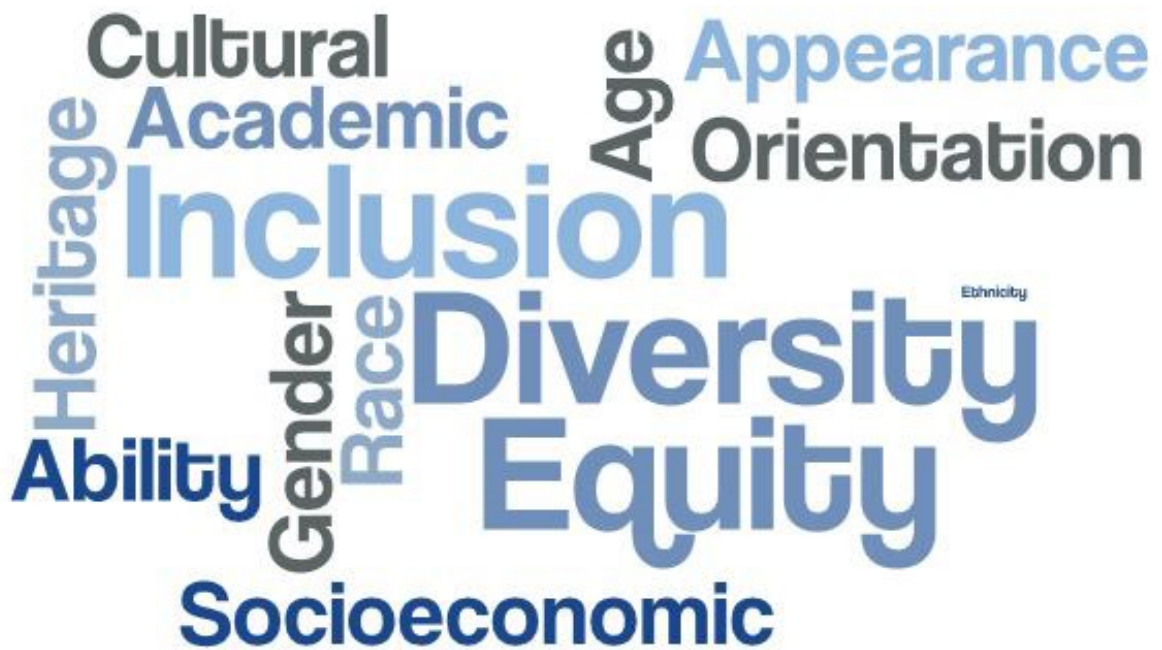


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Introduction¹

Over the last few years, the judiciary has worked to ensure that its commitment to diversity is clear. The *2017 Report of the Ad Hoc Committee to Review the Criminal Justice Act* (also known as the “Cardone Report”) outlines the importance of diversity for courts and those working under the Criminal Justice Act (CJA), 18 U.S.C. §3006A. *The Strategic Plan for the Federal Judiciary (September 2020)* further sets out goals and strategies related to diversity and inclusion. The defense bar has also worked to support more diverse representation. The Federal Bar Association’s [Diversity Statement](#) recognizes their responsibility in achieving diversity in representation. Diversifying the CJA community is critical to building public trust and confidence in our criminal legal system. This document offers some suggestions on how to work toward that goal. When judiciary employees and members of the federal defense bar more accurately represent the demographics of the public they serve we all benefit. [See Appx 1, Why Diversity Matters for Defense of Clients Who Cannot Afford Counsel.](#)

CJA panel management, local resources, and needs vary widely from district to district, so no one approach to Diversity, Equity, and Inclusion (DEI) can be applied to all districts with the same expectation of success. Districts are at different stages in their diversity efforts. It is also important to recognize that initiatives geared toward improving diversity in representation and education take time and commitment to plan and implement. For panel attorneys, this work is primarily voluntary, and carried out amid busy schedules and other professional and personal demands. In balancing these considerations, it is critical to remember that implementing a DEI plan for your CJA panel will benefit clients, panel attorneys, and the district.

Workbook Overview

This workbook is designed to assist CJA panel representatives, federal defenders, and CJA committees in creating a DEI plan for your CJA panel. Your DEI plan will

¹ This workbook is intended to assist districts in implementing [The Strategic Plan for the Federal Judiciary \(September 2020\)](#) (“The judiciary can retain public trust and confidence and meet workload demands only if it is comprised of a diverse complement of highly competent judges, employees, and CJA attorneys. It cannot attract and retain the most capable people from all parts of society, nor can it keep the public’s trust and confidence, unless it maintains a diverse and exemplary workplace in which all are treated with dignity and respect and are valued for their contributions regardless of race, color, sex, gender, gender identity, pregnancy, sexual orientation, religion, national origin, age, or disability.”), and [The Guide to Judiciary Policy, Vol. 7A, Appx. 2A: Model Plan for Implementation and Administration of the Criminal Justice Act.](#)

help you periodically review and improve current initiatives and adopt new approaches to create a diverse CJA panel.

Every district has a variety of characteristics, challenges, and opportunities that are as diverse as the different communities they serve, and as diverse as the clients they represent. This workbook, with step-by-step suggestions, will serve as a guide for each district to create a CJA Panel DEI plan that includes:

- Conducting a deliberate and analytical approach to assessing your district's needs,
- Facilitating constructive conversations among stakeholders that unites and strengthens the district's commitment to diversity,
- Supporting the efforts of existing panel attorneys and defender office staff as allies,
- Creating transparent achievable goals that create a foundation for long-lasting growth in diversity, and
- Embracing the need to review efforts to continually improve.

This workbook assumes your CJA Committee will be spearheading diversity initiatives, although some districts may choose to create a DEI Committee to focus exclusively on this CJA panel diversification initiative.

Definitions

CJA Committee – The stakeholders who manage, advise, and contribute to the operation of the CJA panel, including, but not limited to, judges, CJA panel representatives, federal defenders.

Cognitive diversity – A concept in academic research drawn from behavioral economics that highlights how groups that include different kinds of thinkers produce better outcomes than homogenous group across a broad range of organizations.²

Cultural competence - Cultural and linguistic competence is a set of congruent behaviors, attitudes, and policies that come together in a system, agency, or among professionals that enables effective work in cross-cultural situations. 'Culture' refers to integrated patterns of human behavior that include the language, thoughts, communications, actions, customs, beliefs, values, and institutions of racial, ethnic, religious, or social groups. 'Competence' implies having the capacity to function effectively as an individual and an organization within the context of the cultural beliefs, behaviors, and needs presented by consumers and their communities.³

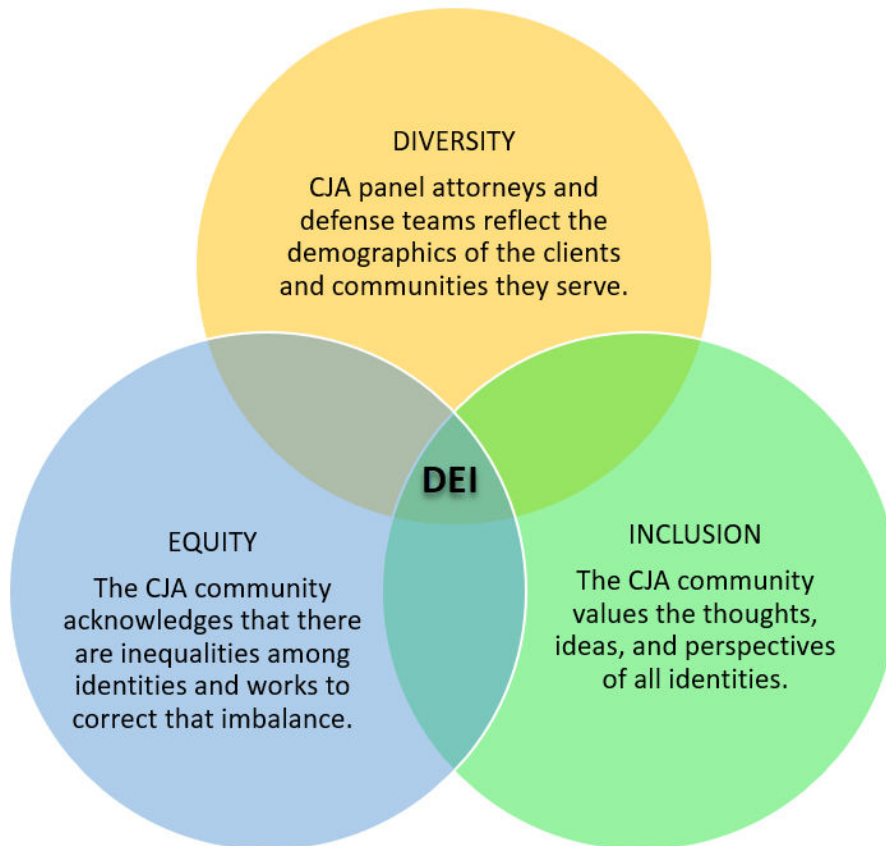
² [‘Cognitive diversity’: Why the best leaders build teams that disagree | Fortune](#)

³ [Cultural Competency Training: Preparing Law Students for Practice in Our Multicultural World | UCLA Law Review](#)

DEI Committee – The persons selected to spearhead diversity, equity, and inclusion efforts relating to the CJA panel. This may be your full CJA committee, or a separate committee created to focus on this initiative.

Diversity, Equity, and Inclusion (DEI)

The term “diversity efforts” incorporates three principles: diversity, equity, and inclusion. These principles operate equally and simultaneously to create an organization where all individuals feel included, supported, and respected, as illustrated in the graphic below:



For diversity efforts to be successful and sustainable, DEI will ideally become a fundamental part of your CJA panel attorney program. All panel attorneys and federal defender organization employees should be supported and encouraged in ongoing advocacy efforts to create a diverse workplace in which all are treated with dignity and respect and are valued for their contributions regardless of race, color,

sex, gender identity, pregnancy, sexual orientation, religion, national origin, age, or disability.

How to use this workbook:

This workbook identifies six (6) steps that CJA or district diversity committees can follow to develop a DEI plan for their CJA panel. These steps are geared toward building a more diverse, equitable, and inclusive environment which supports current panel attorneys and attracts new attorneys and service providers.⁴ Ideally, these steps will be reviewed annually, creating a cycle where your CJA committee is continually evaluating goals, policies, and procedures.⁵

STEP 1: Annually review the demographics of your district and CJA panel, and survey panel attorneys to determine their current assessment of diversity, equity, and inclusion in your district.

Demographic data collection is essential to your district's diversity, equity and inclusion efforts. The American Bar Association's 2021 report on the demographic diversity of the ABA's leadership and members, exemplifies the importance of measuring progress through objective data collection. "We can only make changes and advance the work of inclusion when we understand where we are as a profession and as an Association."⁶ Collecting and understanding the demographic diversity of your district and CJA panel will help your committee identify DEI needs, prioritize efforts, and track your progress.

You should review your district's demographics at least annually – the U.S. Census Bureau keeps statistics for individuals and businesses by state, county, town or zip code at: [U.S. Census Bureau QuickFacts: United States](#) Demographics Research Group at the Weldon Cooper Center for Public Service at the University of Virginia also provides an online guide to publicly available demographic data at: [Guide to Publicly Available Demographic Data | Weldon Cooper Center for Public Service](#). The Bureau of Justice Statistics provides data from the Department of Justice which may provide additional insight on your district: <https://bjs.ojp.gov/>.

⁴ Diversifying the composition of the CJA panel is the focus of this DEI workbook, however, increasing the use of diverse service providers will similarly benefit your district.

⁵ The district's CJA Committee and/or CJA Supervisory Attorney should annually review the operation and administration of the CJA panel over the preceding year and recommend any necessary or appropriate changes to the chief judge concerning the recruitment of qualified and diverse attorneys. See, *Guide to Judiciary Policy*, Vol. 7A, Appx. 2A, §VIII. B.3, p.14

⁶ See, *Goal III Report 2021 The Demographic Diversity of the ABA's Leadership and Members*, [2021 Goal III Report \(americanbar.org\)](#).

You should collect panel attorney, mentee, and intern data by tracking the race, ethnicity, gender identification, religion, national origin, age, and documented disability of all attorneys who serve on the panel, are enrolled in your district’s mentorship program if you have one, and law students who intern with panel attorneys. [See Appx. 2, Sample Online Survey Tools - March 2021](#); [Appx. 3, Demographic Sample Survey](#).

It is recommended that you complete a separate survey of all panel attorneys to gather their feedback on your district’s DEI efforts and current climate. A separate survey ensures that panel attorneys cannot be identified via their demographic information, and this assessment process will help build a sense of community and create a baseline for measuring the effectiveness of your activities. [See Appx. 4, Diversity, Equity, and Inclusion Sample Survey for CJA Panel Attorneys](#).

You may also want to survey federal defender organization employees to ensure support for panel diversity initiatives and gather feedback from this critical stakeholder. [See Appx. 5, Diversity, Equity, and Inclusion Sample Survey for Federal Defender Organization Employees](#).

STEP 1 Activities:	Task assigned to:	Target date:
<input type="checkbox"/> Review district demographics		
<input type="checkbox"/> Review CJA panel demographics		
<input type="checkbox"/> Complete annual panel survey		
<input type="checkbox"/> (Optional) Complete annual FDO survey		
Notes:		

STEP 2: Be deliberate, transparent, and analytical in your approach to assessing your district's DEI needs.

Conducting a deliberate, transparent, and analytical assessment of your district's DEI needs will help identify the factors unique to your district. Working with a broad range of stakeholders will help determine the most efficient way to utilize or overcome these factors. For example, a district may choose to eliminate small obstacles first which can help gain momentum (e.g., your CJA committee does not have regularly scheduled meetings, and you move to schedule quarterly meetings). In other instances, a district may determine that a large obstacle must be addressed before progress can be made (e.g., your panel is too large to have room for new, diverse panel attorneys, so you may need to reduce the size of your panel before taking on recruitment efforts).

Once the DEI assessment is complete, policies and procedures should be created, evaluated, and redesigned on a regular basis to accommodate changing circumstances. For example, current policy may be impacted by changes in the demographic makeup of the CJA clients you serve. Recruitment methods for panel attorneys, mentees, and interns may need to be adjusted to adapt to a change in caseload due to a new prosecutorial initiatives or a change in the law.

Sample DEI Analysis Worksheet		
Within your CJA Program	<p><u>Strengths</u> What does your CJA committee do well? What strengths and talents are available to your team?</p> <p>Examples: Strong judicial support for diversifying the panel; designated CJA panel administrator or resource counsel; active CJA committee; panel attorneys interested in working on project; buy-in from key personnel</p> <p><input type="checkbox"/> _____ <input type="checkbox"/> _____ <input type="checkbox"/> _____ <input type="checkbox"/> _____</p>	<p><u>Weaknesses</u> What challenges has your CJA committee faced? What training or tools does your team need to accomplish your DEI goals?</p> <p>Examples: CJA committee leadership lacks diversity⁷; committee members do not have the power to implement policies; committee needs administrative support and diversity training</p> <p><input type="checkbox"/> _____ <input type="checkbox"/> _____ <input type="checkbox"/> _____ <input type="checkbox"/> _____</p>
	<p><u>Advantages</u> What district or community resources are available to support diversity, equity, and inclusion initiatives? Do CJA stakeholders have a visible presence in the community?</p> <p>Examples: Racially diverse community; District judges and CJA stakeholders have faculty and alumni ties to local colleges and law schools; CJA panel attorneys active in local affinity groups.</p> <p><input type="checkbox"/> _____ <input type="checkbox"/> _____ <input type="checkbox"/> _____ <input type="checkbox"/> _____</p>	<p><u>Obstacles</u> What obstacles prevent you from pursuing new diversity, equity, and inclusion initiatives? Are there other projects within your districts competing for human and financial resources?</p> <p>Examples: Competing district projects and priorities; non-diverse community; time constraints.</p> <p><input type="checkbox"/> _____ <input type="checkbox"/> _____ <input type="checkbox"/> _____ <input type="checkbox"/> _____</p>

⁷ “The court should make a diligent effort to ensure that the composition of the CJA Panel Committee reflects the racial, ethnic, gender, and geographic diversity of the district.” *Guide to Judiciary Policy*, Vol. 7A, Appx. 2A, §VIII. A. 1. Defender Services Committee Comment, p. 13.

STEP 3: Understand the six (6) elements of effective DEI policies and initiatives.

When assessing your district for the best way to implement a DEI plan, understanding and organizing your efforts within these six elements (outreach, recruitment, retention, training, panel attorney appointments, and accountability) can help ensure that efforts are as comprehensive as possible. Due to the makeup of your district, you may have more initiatives in some areas than others. It is also expected that your initiatives will change as external factors like population and demographics change. It will be helpful to publicly acknowledge that this important work demands ongoing review and resources for continuous improvements.

(1) Outreach

Outreach activities work to educate the community about the administration and operation of the CJA program, and to build networks that increase communication and collaboration between the CJA panel and the community you serve. These activities will benefit clients by expanding knowledge of and access to community resources while working to educate and attract attorneys and non-attorneys to CJA work.

Outreach efforts have the additional benefit of creating positive connections with the community. Community members are not just our clients; they are client family members, employers, teachers, witnesses, and jurors. Unfortunately, the first contact an individual may have with the court system is more likely to be negative (a criminal charge for individual or family member) or intimidating (filing for bankruptcy). Creating positive contacts with the community has the potential to benefit your ability to represent your client. It can also help to increase trust if the first interaction the community has with panel attorneys and CJA committee members is a positive one.

Some suggested outreach activities:

- CJA committee members facilitate conversations about the judicial system at local schools and community organizations. (For example, Law Day activities or Street Law programs).
- Panel attorneys encourage and participate in the development and activities of diversity and inclusion subcommittees in their local, state, regional, and national bar associations, as well as investigator, paralegal, and other legal professionals' associations.
- Panel attorney district representatives schedule bi-annual meetings with CJA panel members to discuss diversity efforts and share successful practices.
- Develop CJA internship networks to attract and educate diverse pools of

student interns to work with CJA panel attorneys.

- Identify underrepresented communities within the district, and schools and organizations that serve those communities.
- Create a contact list of community organizations that serve underrepresented communities:
 - Extend an invitation for them to come speak to your committee
 - Consider extending an invitation for them to present at your next CJA panel attorney training

Outreach Notes:

(2) Recruitment

Recruitment activities span the entire recruitment process; needs assessment, development of a mentorship program, identifying recruitment target areas, applicant processing, interviewing, and selection.

For example, courts and FDOs get numerous requests for intern work each semester – interns not selected to work with judges and FDOs may accept the opportunity to work with a panel attorney. Be on the lookout for these sorts of unexpected opportunities.

Some suggested recruitment activities:

- Use informal person-to-person recruiting in underrepresented communities,
- Contact current or former members of the panel, or other prominent local attorneys who are members of underrepresented communities for potential panel attorney recommendations.
- Target bar associations comprised of diverse populations with information about CJA panel membership opportunities.
- Ensure panel attorney applicant screening is conducted by diverse interviewers.
 - If not possible within the district, consider asking a judge, FDO employee, or panel attorney district representative from another district to participate, either in person or remotely.
 - Ask someone outside the district to do a paper review of applications before interviews.

- Develop local practices (e.g., internship program, mentoring program, use of associate counsel) to allow more opportunities for less experienced attorneys to gain experience.
- Identify administrative support and resources for CJA committee members and panel attorney district representatives to follow up with attorneys who have expressed interest in panel membership but have not formally applied.

Recruitment Notes:

(3) Retention

Retention activities work to ensure that panel attorneys receive the necessary guidance and support to successfully represent clients and remain committed to serving on the CJA panel. You do this by ensuring that the work environment is inclusive and positive through efforts that are specifically geared toward inclusion – appreciation of the individual, acknowledgement of their challenges, actions that ensure all are treated equally, and an environment that is welcoming and supportive to all.

Some suggested retention activities:

- Identify experienced FDO or CJA panel attorneys to serve as mentors for new panel attorneys.⁸
- Use second attorney assignments to provide case-related experience for newer attorneys and assistance to experienced attorneys on large cases.
- Schedule periodic conference calls to encourage a sense of community among the panel and opportunity for members from different divisions to meet.
- Notify panel attorneys when an interesting case is going to trial or a unique legal issue is being argued in an evidentiary hearing to allow an opportunity to observe.
- Communicate regularly with panel attorneys to ensure they are receiving the training and support needed to remain on the panel.

⁸ Contact DSO Legal and Policy Division (LPD) duty day mailbox at DSO_LPD@ao.uscourts.gov for sample mentorship program materials.

Retention Notes:

(4) Panel Attorney Appointments

Panel attorney appointments should ensure that qualified panel attorneys have sufficient number of cases to maintain their proficiency in federal criminal defense work.⁹ To the extent it is possible, appointment practices should work to provide opportunities for panel attorneys to be involved in a variety of case types. The opportunity for panel attorneys to enhance their expertise through a broader range of appointments can increase engagement, which may support retention.

Some suggested assignment activities:

- Encourage the use of associate counsel to provide case-related experience for newer attorneys and assistance to experienced attorneys on large cases.
- Ensure the size of your panel is large enough to provide a sufficient number of experienced attorneys to handle the CJA caseload, yet small enough so that all CJA panel attorneys will receive an adequate number of appointments, enabling them to provide high quality representation consistent with the best practices of the legal profession.
- Ensure that training opportunities are accessible to all panel attorneys.
- If the district allows appointments across district divisions, identify attorneys willing to accept appointments from other divisions to allow for more panel diversity across divisions and greater case diversity for attorneys.
- Communicate with representatives from neighboring districts to identify opportunities to increase retention (e. g. multi-district panel attorney training).

⁹ “The CJA Panel must be large enough to provide a sufficient number of experienced attorneys to handle the CJA caseload, yet small enough so that CJA panel members will receive an adequate number of appointments to maintain their proficiency in federal criminal defense work enabling them to provide high quality representation consistent with the best practices of the legal profession and commensurate with those services rendered when counsel is privately retained.” *Guide to Judiciary Policy*, Vol. 7A, §IX. B. p. 16.

Panel Attorney Appointment Notes:

(5) DEI Training

DEI training activities provide all panel attorneys the opportunity to learn about diversity, and racial bias (implicit or otherwise), and cultural differences. Training activities can improve client outcomes, attorney-client relationships, and provide an opportunity for inclusion and community building among panel attorneys. You may reach out to the DSO Training Division,¹⁰ your district court, local non-profits and affinity groups for available trainings and speakers.

Some suggested DEI training activities:

- Obtain administrative resources and funding for diversity training programs.
- Consult with panel attorneys periodically to assess training needs related to diversity and inclusion in the district.
- Provide annual training for all panel attorneys on diversity, implicit racial bias, and cultural competency issues.
- Require panel attorneys to attend at least one annual training session on DEI principles.
- Share information with panel attorneys about local and national trainings offered by DSO and other affinity groups on DEI.

DEI Training Notes:

¹⁰ Contact DSO Training Division at 800-788-9908.

(6) Transparency and Accountability

Transparency and accountability activities ensure that the CJA community is aware of district policies relating to diversity and inclusion, and that the federal defender, panel representative, and CJA committee evaluate current practices and procedures to ensure that existing policies support DEI goals.

Some suggested transparency and accountability activities:

- Create or amend the CJA plan mission statement to include a commitment to diversity and inclusion.
- Review diversity and inclusion policies annually and ensure that these are accessible to panel attorneys.
- Prepare an annual report for the district which outlines the work done and the goals set for the next year. Districts may choose to post the DEI annual report on the court’s website or submit DEI annual reports or activity summaries to DSO to inform on your progress, share successful initiatives, and provide tips on lessons learned that may assist other districts. [See Appx. 6, CJA DEI Annual Report template.](#)
- Routinely share updates and feedback with other panel representatives on diversity initiatives.

Transparency and Accountability Notes:

STEP 4: Identify at least one realistic goal within each element and assign DEI team members to create and implement each goal.

Using the results of your panel survey, DEI analysis, and your understanding of the six DEI elements, set at least one realistic goal for each element. A realistic goal may be small or large. Assigning each goal to a specific person or persons ensures that the workload is shared and assists with accountability. You should seek to involve as many people as possible from diverse backgrounds to assist with your DEI efforts.

STEP 5: Set quarterly review dates to assess goal progress

A clear meeting schedule will assist DEI team members in staying on target and allow for continued conversations on diversity issues in your district. Quarterly meetings are also an opportunity for invited guests to speak to your team.

STEP 6: Annually, determine if goals have been met or are still in progress; identify successes and areas needing improvement or review.

A review of your work each year will help determine how to proceed in the next year. This can also be a time to review task assignments and assess workload before beginning the next annual cycle.

A worksheet to help organize your district's activities for each element for steps 4-6 is on the next page.

DEI Goals, Actions and Review Dates				
Quarterly meeting schedule:				
Goal(s):	Assigned to:	Target date(s):	Quarterly review status	Annual review and future steps
Outreach				
(1)			3mos:	
			6mos:	
			9mos:	
(2)			3mos:	
			6mos:	
			9mos:	
Recruitment				
(1)			3mos:	
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Retention				
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DEI Training				
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Accountability				
(1)			3mos:	
			6mos:	
			9mos:	
(2)			3mos:	
			6mos:	
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Conclusion

Thank you for embarking on this effort. The representation of CJA clients is a responsibility and a privilege.

We know diversifying your CJA panel is a challenging priority that will require additional volunteer hours in your already busy schedules. However, we also know that your panel, clients, and the community will benefit from these efforts.¹¹

This workbook is designed to help guide your activities to diversify and improve on inclusion and equity for your CJA panel. Use what you can based on the time and resources you have available. Every step you take, no matter how small, is an opportunity to learn and grow.

Also, as you use this workbook, we would appreciate your feedback. We are learning with you and want to continue to support your DEI goals. Please send your questions and comments to the DSO Legal and Policy Division duty day mailbox at DSO_LPD@ao.uscourts.gov.

¹¹ For more information, see Appx. 1. See also, [Diversity & Inclusion: An Imperative for the FBA | FedBarBlog](#)

Appendix 1 – *Why Diversity Matters for Defense of Clients Who Cannot Afford to Hire Counsel*, DSO Diversity Fellowship Ad Hoc Performance Measurement Committee, June 2021.¹²

Demographic Disconnect

The Defender Services Committee’s efforts to establish a Diversity Fellowship Program stemmed from findings that there is a pronounced need to increase diversity among attorneys in the Defender Services Program and recognition that a more diverse corps of attorneys can improve the representation provided.

In June 2020, the Defender Services Committee reviewed the Fair Employment Practices reports from federal defender organizations for FY 2018. The “legal professional” category of staff included 1,699 people.¹³ The staff were split relatively evenly between women and men (842 women and 857 men). The breakdowns below show racial and ethnic identity and the related comparisons to U.S. Attorney Offices.

	White (non-Hispanic)	African American	Hispanic/Latinx	Asian	Native American	Pacific-Islander	No Answer
FDO (Legal Professional only)	69.3%	10.4%	11.9%	4.5%	<1%	<1%	3.4%
USAO (all staff)	69.8%	14%	9.5%	5.6%	0.7%		

In June 2020, the Defender Services Committee also reviewed the results of a survey on the demographic characteristics of CJA panel attorneys, which was conducted in 2019. Of the 10,350 panel attorneys contacted, approximately 5,300 responded. This survey found that over 80% of the responding panel attorneys identified as white (with or without also identifying as Hispanic) and 77% identified as male. The average age of responding panel attorneys was 55 years, but over 30% were 60 years or older.

¹² Author: Margaret S. Williams, Senior Research Associate, Federal Judicial Center.

¹³ The “Legal Professional” category includes assistant federal defenders and research and writing specialists. It does not include the Federal Public Defender or the Executive Director.

Both the federal criminal defense bar and the prosecution show greater racial and ethnic diversity than the bar as a whole. The American Bar Association's survey of the bar for 2019 showed similar homogeneity: 64% of respondents identified as male and 85% identified as white, non-Hispanic.¹⁴ Lack of diversity in the legal profession, including among public defense attorneys, stands in contrast to the rest of the country and the clients served by defense attorneys. [Census](#) reports show the demography of the country as different.¹⁵ As of July 1, 2019, 13.4% of the U.S. population identified as Black or African-American, while 18.5% identified as Hispanic or Latinx. A small minority of the population, 2.8%, identified as two or more races. In terms of [age](#), 35.6% of the population was between the ages of 18 and 44.

Much like the rest of the country, people who encounter the criminal justice system are more diverse than the lawyers who represent them. There is no available information on the demography of clients represented by CJA-appointed counsel; however, it is possible to extrapolate from certain population data that includes CJA clients. [BOP reports](#), as of January 16, 2021, that federal prisoners, while still more likely to be white than any other group, include a larger percentage of African-Americans than is true of the population generally. Of the federal prison population, 38.6% of inmates identify as Black. The survey of federal prisoner demography separates [ethnicity](#) from race, reporting 30.1% of prisoners are Hispanic. In [terms of age](#), more than half the federal prison population is under the age of 40. In addition, [data](#) from the Department of Justice's Bureau of Justice Statistics on the demographic characteristics of defendants charged in U.S. district court (Table 5) shows that, in FY 2018, 19% identified as White (non-Hispanic), 20% as Black, 57% as Hispanic, and 4% as Other. Although this data does not purport to describe only those federal prisoners represented by CJA counsel, given that the Defender Services program represents the vast majority of federal criminal defendants, these statistics strongly imply a significant demographic disconnect between CJA counsel and the clients they represent.

¹⁴ See ABA National Lawyer Population Survey, *available at* https://www.americanbar.org/content/dam/aba/administrative/market_research/national-lawyer-population-demographics-2010-2020.pdf (last visited 2/3/2021).

¹⁵ Unlike some of the surveys of the legal profession noted above, the Census asks questions about race and ethnicity separately, also allowing respondents to select all categories with which they identify. Because of the difference in survey questions, making comparisons between the results in specific categories can be challenging. The overall point, however, about a legal profession that is predominantly white and male compared to a population that is more diverse remains no matter how finely grained the categories are.

Perceptions of Justice

Research has shown that “legal procedures influence litigant satisfaction” more than the actual outcome of the litigation.¹⁶ Studies have identified four characteristics of legal procedures that impact the perception of fairness in the judicial system: (1) opportunities for participation; (2) neutrality of the forum; (3) trustworthiness of legal authorities; and (4) the extent to which court proceedings are conducted with dignity and respect.¹⁷ Diversity in representation implicates each of these factors. Diversity in representation “has the potential to enhance both the actual fairness of public proceedings and the public’s perception of fairness and confidence in those proceedings.”¹⁸ If clients perceive the system as including them, through attorneys who come from the same demographic groups and processes that value their participation in their own defense, they will trust the criminal justice system more. Greater attorney client trust improves the quality of representation.

Consistent with this research, the *Strategic Plan for the Federal Judiciary* notes that “[p]ublic trust and confidence is enhanced when the judiciary’s workforce – judges, employees, and CJA attorneys – broadly reflects the diversity of the public it serves.”

¹⁶ Jonathan D. Casper, Tom Tyler, Bonnie Fisher, *Procedural Justice in Felony Cases*, 22 L. & Soc’y. Rev. 483, 484 (1988); see also Florida Supreme Court Standing Committee on Fairness and Diversity, *Final report: Perceptions of fairness and diversity in the Florida courts*, at 8 (2008), citing *Procedural Fairness: A Key Ingredient in Public Satisfaction*, A White Paper of the American Judges Association, Judge Kevin Burke and Judge Steve Leben, (September 26, 2007) and *Trust and Confidence in the California Courts*, Judicial Council of California/ Administrative Office of the Courts (2006).

¹⁷ Hon. William G. Young & Jordan M. Singer, *Bench Presence: Toward A More Complete Model of Federal District Court Productivity*, 118 Penn St. L. Rev. 55, 80 (2013) (citing Tom R. Tyler, Social Justice: Outcome and Procedure, 35 Int’l J. Psychol. 117, 120 (2000)).

¹⁸ Report of the Second Circuit Task Force on Gender, Racial, and Ethnic Fairness in the Courts, at 4 (Nov. 21, 1997).

Quality of Representation

Diverse participants in the criminal justice system not only produce greater feelings of inclusion, they have the potential to change the substance of outcomes as well. Academic research drawing from behavioral economics highlights how groups that include different kinds of thinkers, a concept known as “cognitive diversity,” produce better outcomes than homogenous groups across a broad range of organizations.¹⁹ The more complex the problem groups are trying to solve, the greater the need for diversity.

Providing high-quality representation to defendants in federal court is the kind of complex problem diverse thinking can improve. However, to foster more diverse thinking, the Defender Services program must attract attorneys from a broader array of backgrounds and experiences than the majority of those currently being appointed under the CJA. Diverse people bring diverse experiences to decision making, thereby increasing cognitive diversity and improving quality of decision making. Moreover, there is already evidence that culturally competent representation leads to increased trust, better lawyer-client relationships, and more satisfactory and therapeutic outcomes for clients and their lawyers.²⁰

¹⁹ Scott Page, *The Difference: How the Power of Diversity Creates Better Groups, Firms, Schools, and Societies*, Princeton University Press (2008).

²⁰ Carolyn Copps Hartley, Ph.D. & Carrie J. Petrucci, Ph.D., *Practicing Culturally Competent Therapeutic Jurisprudence: A Collaboration Between Social Work and Law*, 14 Wash. U. J.L. & Policy 133, 181 (2004).

Appendix 2 – Sample Online Survey Tools – March 2021

SurveySparrow: <https://surveysparrow.com/>

SurveyMonkey: <https://www.surveymonkey.com/>

Typeform: <https://www.typeform.com/>

SurveyGizmo (now Alchemer): <https://www.alchemer.com/>

Zoho Survey: <https://www.zoho.com/survey/>

JotForm: <https://www.jotform.com/>

SoGoSurvey: <https://www.sogosurvey.com/>

AskNicely: <https://www.asknicely.com/prices>

Formstack: <https://www.formstack.com/pricing>

Appendix 3 – Demographic Sample Survey

Demographic Information – This survey asks you to provide some basic demographic information about yourself, including your age, gender, race, and disability. The results will help our district understand the diversity of the CJA panel and assess ongoing efforts to make the program more inclusive.

Instructions: While we would like you to answer all of the questions, your response is voluntary, and you may skip any questions that you do not wish to answer.

All of your responses will remain confidential. Your responses (or failure to respond) will have no effect on your CJA panel membership or the appointments and payments you receive under the CJA and related statutes.

Thank you for your participation.

What is your gender identity?

- Man
- Non-binary/non-conforming/gender fluid
- Woman
- Prefer to self-describe: _____
- Prefer not to answer

What is your sexual orientation?

- Asexual
- Bisexual
- Gay
- Heterosexual or straight
- Lesbian
- Pansexual
- Queer
- Prefer to self-describe: _____
- Prefer not to answer

What category or categories best describe your racial and/or ethnic identity?
(Check all that apply.)

- American Indian or Alaskan Native
- Asian
- Black or African American
- Hispanic or Latino
- Native Hawaiian or Pacific Islander

- White or Caucasian
- Other, please specify: _____
- Prefer not to answer

Do you have a documented disability?

- Yes
- No
- Prefer not to answer

If you have a documented disability, please choose the category/categories of documented disability that you have. (Check all that apply.)

- Ambulatory difficulty
- Cognitive difficulty
- Hearing difficulty
- Independent living difficulty
- Self-care difficulty
- Vision difficulty
- Prefer not to answer

How many years have you worked as a panel attorney?

- 0-5 years
- 6-10 years
- 11-15 years
- 16-20 years
- More than 20 years
- Prefer not to answer

What is your age?

- 20-30 years
- 30-40 years
- 40-50 years
- 50-60 years
- More than 60 years
- Prefer not to answer

Appendix 4 –Diversity, Equity, and Inclusion Sample Survey for CJA Panel Attorneys

This survey is voluntary. Your answers will help our district improve on our diversity, equity, and inclusion efforts. You may choose to respond anonymously.						
Overall Diversity, Equity, and Inclusion Culture	Strongly Agree	Agree	Neutral	Disagree	Strongly Disagree	Do Not Know
The CJA committee shows that diversity, equity, and inclusion is important through its actions.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
The federal defender shows that diversity, equity, and inclusion is important through its actions.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
The district court judges show that diversity, equity, and inclusion is important through its actions.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

The CJA panel district representative shows that diversity, equity and inclusion is important through its actions.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Panel attorneys, federal defender organization employees, and court employees appreciate others with different backgrounds and beliefs.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Comments or suggestions:						
Outreach	Strongly Agree	Agree	Neutral	Disagree	Strongly Disagree	Do Not Know
The CJA committee encourages panel attorneys to create connections with the community.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Comments or suggestions:						

Recruitment	Strongly Agree	Agree	Neutral	Disagree	Strongly Disagree	Do Not Know
The CJA committee actively works to recruit diverse candidates.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
There is diversity among the people recruiting candidates for panel membership.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Comments or suggestions:						
Retention	Strongly Agree	Agree	Neutral	Disagree	Strongly Disagree	Do Not Know
Panel attorneys are equally valued in the district, no matter their background.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Panel attorneys are provided with district and/or national leadership opportunities.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Comments or suggestions:						

Panel Attorney Appointments	Strongly Agree	Agree	Neutral	Disagree	Strongly Disagree	Do Not Know
Panel attorney appointments are distributed equally.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Comments or suggestions:						
DEI Training	Strongly Agree	Agree	Neutral	Disagree	Strongly Disagree	Do Not Know
There are educational opportunities that promote diversity, equity, and inclusion in the district.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Panel attorneys are encouraged to seek educational opportunities that promote diversity, equity, and inclusion outside of the district.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Comments or suggestions:						

Accountability	Strongly Agree	Agree	Neutral	Disagree	Strongly Disagree	Do Not Know
There are written policies that encourage diversity, equity, and inclusion.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Comments or suggestions:						

Appendix 5 –Diversity, Equity, and Inclusion Sample Survey for Federal Defender Organization Employees

This survey is voluntary. Your answers will help inform our CJA committee on how diversity, inclusion and equity is viewed in our district. You may choose to respond anonymously.						
Overall Diversity, Equity, and Inclusion Culture	Strongly Agree	Agree	Neutral	Disagree	Strongly Disagree	Do Not Know
The CJA committee shows that diversity, equity, and inclusion are important through its actions.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
The federal defender office shows that diversity, equity, and inclusion are important through its actions.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
The district court judges show that diversity, equity, and inclusion are important through their actions.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
The CJA panel district representative shows that diversity, equity, and inclusion are important through their actions.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Panel attorneys, federal defender organization employees, and district court employees	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

appreciate others with different backgrounds and beliefs.						
Comments or suggestions:						
Outreach	Strongly Agree	Agree	Neutral	Disagree	Strongly Disagree	Do Not Know
The federal defender encourages employees to create connections with the community.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Comments or suggestions:						
Recruitment	Strongly Agree	Agree	Neutral	Disagree	Strongly Disagree	Do Not Know
The federal defender actively works to recruit diverse candidates.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
There is diversity among the people recruiting candidates for federal defender organization positions.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Comments or suggestions:						

Retention	Strongly Agree	Agree	Neutral	Disagree	Strongly Disagree	Do Not Know
Employees of the federal defender are equally valued in the district, no matter their background.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Employees of the federal defender organization are provided with district and/or national leadership opportunities.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Comments or suggestions:						
DEI Training	Strongly Agree	Agree	Neutral	Disagree	Strongly Disagree	Do Not Know
There are educational opportunities that promote diversity, equity, and inclusion in the district.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Employees are encouraged to seek educational opportunities that promote diversity, equity, and inclusion outside of the district.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Comments or suggestions:						

Accountability	Strongly Agree	Agree	Neutral	Disagree	Strongly Disagree	Do Not Know
There are written policies for employees of the federal defender organization that encourage diversity, equity, and inclusion.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Comments or suggestions:						

Appendix 6 – CJA DEI Annual Report Template

District CJA DEI Annual Report Template – This template provides a guide for compiling an annual report on your district’s DEI efforts		
District:		
DEI report for year:		
CJA Panel Representative:		
Federal Defender:		
Number of CJA panel attorneys for the district:		
CJA Panel demographic information		
Did your district conduct a demographic survey of your CJA panel this year? <input type="checkbox"/> Yes <input type="checkbox"/> No If Yes, please complete the chart below. If No, please continue to the next section.		
Number of completed surveys received:		
Gender identity	Survey response options	Number of responses
	Man	
	Non-binary/non-conforming/gender fluid	
	Woman	
	Prefer to self-describe:	
	Prefer not to answer	
If “Prefer to self-describe” was selected, please list responses received here:		

Sexual orientation	Survey response options	Number of responses
	Asexual	
	Bisexual	
	Gay	
	Heterosexual or straight	
	Lesbian	
	Pansexual	
	Queer	
	Prefer to self-describe	
Prefer not to answer		
If “Prefer to self-describe” was selected, please list responses received here:		
Racial and/or ethnic identity? (Survey respondents were directed to check all that apply.)	Survey response options	Number of responses
	American Indian or Alaskan Native	
	Asian	
	Black or African American	
	Hispanic or Latino	
	Native Hawaiian or Pacific Islander	
	White or Caucasian	
	Other, please specify:	
	Prefer to self-describe	
	Prefer not to answer	
If “Other, please specify” was selected, please list responses received here:		
Documented disability?	Survey response options	Number of responses
	Yes	
	No	
	Prefer not to answer	

Category of documented disability (survey respondents were directed to check all that apply.)	Survey response options	Number of responses
	Ambulatory difficulty	
	Cognitive difficulty	
	Hearing difficulty	
	Independent living difficulty	
	Self-care difficulty	
	Vision difficulty	
	Prefer not to answer	
Years as panel attorney?	Survey response options	Number of responses
	0-5 years	
	6-10 years	
	11-15 years	
	16-20 years	
	More than 20 years	
	Prefer not to answer	
	Age?	Survey response options
20-30 years		
30-40 years		
40-50 years		
50-60 years		
More than 60 years		
Prefer not to answer		
Additional comments:		
CJA Panel DEI survey information		
<p>Did your district conduct a DEI survey of your CJA panel this year?</p> <input type="checkbox"/> Yes <input type="checkbox"/> No		
<p>If Yes, please complete the chart below. If No, please continue to the next section.</p>		
Number of completed surveys received:		

Survey questions	Survey responses (indicate number of answers for each response)					
Overall Diversity, Equity, and Inclusion Culture	Strongly Agree	Agree	Neutral	Disagree	Strongly Disagree	Do Not Know
The CJA committee shows that diversity, equity, and inclusion is important through its actions.						
The federal defender shows that diversity, equity, and inclusion is important through its actions.						
The district court judges show that diversity, equity, and inclusion is important through its actions.						
The CJA panel district representative shows that diversity, equity, and inclusion is important through its actions.						
CJA panel attorneys, federal defender organization employees, and court employees appreciate others with different backgrounds and beliefs.						

Comments or suggestions:						
Outreach	Strongly Agree	Agree	Neutral	Disagree	Strongly Disagree	Do Not Know
The CJA committee encourages panel attorneys to create connections with the community.						
Comments or suggestions:						
Recruitment	Strongly Agree	Agree	Neutral	Disagree	Strongly Disagree	Do Not Know
The CJA committee actively works to recruit diverse candidates.						
There is diversity among the people recruiting candidates for panel membership.						
Comments or suggestions:						
Retention	Strongly Agree	Agree	Neutral	Disagree	Strongly Disagree	Do Not Know
Panel attorneys are equally valued in the district, no matter their background.						

Panel attorneys are provided with district and/or national leadership opportunities.						
Comments or suggestions:						
Panel Attorney Appointments	Strongly Agree	Agree	Neutral	Disagree	Strongly Disagree	Do Not Know
Panel attorney appointments are distributed equally.						
Comments or suggestions:						
DEI Training	Strongly Agree	Agree	Neutral	Disagree	Strongly Disagree	Do Not Know
There are educational opportunities that promote diversity, equity, and inclusion in the district.						
Panel attorneys are encouraged to seek educational opportunities that promote diversity, equity, and inclusion outside of the district.						
Comments or suggestions:						

Accountability	Strongly Agree	Agree	Neutral	Disagree	Strongly Disagree	Do Not Know
There are written policies that encourage diversity, equity, and inclusion.						
Comments or suggestions:						
CJA Panel DEI district demographics assessment						
Did your district complete a district demographics assessment? <input type="checkbox"/> Yes <input type="checkbox"/> No						
CJA Panel DEI needs assessment						
Did your district complete a DEI needs assessment? <input type="checkbox"/> Yes <input type="checkbox"/> No						
CJA Panel DEI annual goals						
Did your district identify any DEI goals this year? <input type="checkbox"/> Yes <input type="checkbox"/> No						
What goals did you identify?						
If Yes, did your district assign personnel to create and implement each DEI goal? <input type="checkbox"/> Yes <input type="checkbox"/> No						
If Yes, did you meet quarterly to review progress? <input type="checkbox"/> Yes <input type="checkbox"/> No						

In your annual review, what was the status of the goals set by your district?
If No, do you plan to try to identify goals for the next year? <input type="checkbox"/> Yes <input type="checkbox"/> No
If No, what were obstacles to identifying goals?
What support can DSO provide to your district to assist in creating, developing and/or implementing your DEI goals?
Did you find the CJA DEI Workbook useful in your DEI efforts?
What suggestions for improvement would you recommend?

The submission of this annual report to DSO is voluntary. For CJA committees that elect to submit an annual report to DSO, please send it to the Legal and Policy Division duty day email at DSO_LPD@ao.uscourts.gov.