

PROCEDURES FOR THE CJA APPELLATE PANEL FOR THE CENTRAL DISTRICT OF CALIFORNIA (REVISED October 2013)

I. DELEGATION OF AUTHORITY

The Ninth Circuit Court of Appeals has delegated authority to manage the CJA panel and assign appointments to a designee in each district within the circuit. In the Central District of California, the delegation has been made to the Federal Public Defender, and the program is currently administered by Deputy Federal Public Defender Gail Ivens and her assistant, Andrew Schulsinger.

II. SELECTION, REAPPOINTMENT, AND REMOVAL OF PANEL MEMBERS

Once a year, generally in early November, the Federal Public Defender's Office will notify current trial and appellate panel members and others who have expressed interest in membership of any vacancies on the CJA appellate panel and invite applications. To apply, a candidate must complete an application form, submit two representative writing samples, and provide names of two or more references who are familiar with the applicant's work, professional reputation commitment to indigent defense, and time management skills. Applications are accepted annually during the month of December.

A committee of experienced appellate practitioners will review the applications, contact the references, and decide which applicants will be selected for addition to the panel. Members are added to the panel for a term of 3 years, on the condition that they attend an initial mandatory orientation session and the annual mandatory training seminar. Experience, performance, and the preference of counsel is considered in determining the type and number of appeals assigned to individual panel members, particularly in the area of complex trial matters, habeas litigation and capital appeals.

Approximately two months before a term expires, panel members will receive a letter asking whether they want to be considered for another 3 year term. Each panel member is asked to send a letter of intent, along with a copy of his or her most recently filed non-*Anders* opening brief. In addition, each panel member is asked to disclose whether over the course of the last term, he or she has been subject to any type of sanction by the Ninth Circuit or received a default letter.

Terms are renewable at the discretion of the Federal Public Defender who considers, among other things, the quality of the panel member's work, complaints received from the circuit about the attorney, complaints received by the Federal Public Defender's Office from clients or other counsel, sanctions threatened or imposed, other timeliness issues, the quality of other applications received, and whether the panel member's performance over the past three years has conformed to applicable standards for the provision of services to indigent criminal defendants and petitioners, including but not limited to the ABA Standards for Criminal Justice (3d ed. 1993) ("The Defense Function"), available at http://www.abanet.org/crimjust/standards/dfunc_toc.html. The views of Ninth Circuit judges, the Appellate Chief of the United States Attorney's Office, the Appellate Commissioner, and

the Supervisor of the Writs and Appeals Section of the Federal Public Defender's Office are also solicited and considered.

An attorney may be removed from the panel at the discretion of the Federal Public Defender. The attorney will be advised of the proposed removal, and be offered an opportunity to respond to the reasons for the proposed removal. The selection committee will consider all available options, including a temporary suspension from the panel. Attorneys are free to reapply the following year if they are removed from the panel.

Occasionally, the Appellate Commissioner will sanction an attorney by removing their eligibility to serve as CJA counsel on appointed matters. Such removal of the attorney's eligibility to receive CJA appointments by the Commissioner will result in their automatic and unappealable removal from the panel. Upon reinstatement by the Commissioner, the former panel member is eligible to apply for membership on the panel during the next application period.

In addition, if you are removed from eligibility to receive appointments by any other federal court, district or circuit, you must notify Ms. Ivens immediately. Failure to do so may result in removal from the panel.

III. ASSIGNMENT OF CASES

When the Ninth Circuit determines that appointment of counsel is appropriate, the Circuit e-mails the order to the Office of the Federal Public Defender and sends the order to the client and/or former counsel. The order will direct the FPD to locate counsel and will also schedule briefing dates. If the order involves an appeal of a §§ 2254 or 2255 matter, the order may also include a statement of the issues in the certificate of appealability.

Upon receipt of the order, Ms. Ivens or her designee determines whether the appeal will be assigned to an attorney in the Federal Public Defender's Office or to a panel member. If the case will be assigned to a member of the panel, she determines whether the case will likely require specialized expertise, and appoints accordingly. A conflicts check is conducted prior to assignment. You will be notified via e-mail when a case is assigned to you.

IV. OTHER REQUIREMENTS

Unless you notify Mr. Schulsinger in advance that you would like to be taken out of rotation for a period of time, you are expected to keep and not seek to be relieved (other than on the basis of a conflict or pursuant to an *Anders* brief) from any case assigned to you pursuant to the rotation.

Panel members are required to keep Mr. Schulsinger informed of any phone number, email, or address changes. Additionally, you must notify him of any disciplinary actions, formal or informal investigations by any federal or state government, court, administrative agency or bar association. ***You are required to forward to his attention a copy of any Order to Show cause issued to you by any court, along with your response, as well as any motion you file to be relieved as counsel, other than an Anders brief.***

Failure to comply with court orders, rules, regulations, and/or these policies and procedures may lead to removal from the panel.

V. NOTICE TO AND INQUIRY FROM THE CLIENTS

The Federal Public Defender's Office does not notify the client of the initial assignment. It is counsel's responsibility to *immediately communicate directly with the client*. Occasionally, the client, who has received a copy of the order of appointment from the Ninth Circuit, will write to the FPD inquiring about the assignment. If Ms. Ivens responds, she will give the client the name, address, and telephone number of assigned counsel and will copy the appointed attorney on the correspondence sent to the client.

Occasionally the client will write to complain about the assigned attorney. Ms. Ivens will contact the assigned attorney and, if appropriate, send a follow-up letter to the client.

VI. TRAINING

Ms. Ivens schedules an all-day Appellate Practice Seminar once a year. This seminar is mandatory for CJA appellate panel members, and open to other CJA attorneys.

VII. MOOT COURTS

Ms. Ivens will arrange moot courts for any panel member who so requests and will insist, to the extent possible, on moot courts for any panel member arguing a case of exceptional significance to criminal defendants or habeas petitioners, or before an en banc panel of the Ninth Circuit or the United States Supreme Court.

VIII. MISCELLANEOUS

Ms. Ivens is available to answer inquiries from the court and keeps in regular contact with Ninth Circuit Appellate Commissioner Peter Shaw. In addition, she troubleshoots for panel members with the courts and federal agencies and otherwise is available to help resolve problems that arise in the course of their representation of their clients. The Office has a duty appellate attorney available each weekday to assist panel members with substantive or procedural questions relevant to appeals. To speak with the duty attorney, call (213) 894-2854 and ask to be connected.