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UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

IN THE MATTER OF) GENERAL ORDER NO. 13-09
PLAN FOR THE COMPOSITION,) (Supersedes General Order Nos. 98-06,
ADMINISTRATION, AND) 07-06, and 08-08)
MANAGEMENT OF THE PANEL OF)
PRIVATE ATTORNEYS UNDER THE)
CRIMINAL JUSTICE ACT)

The Criminal Justice Act of 1964, as amended (18 U.S.C. § 3006A) (the “CJA”), requires each United States district court to place in operation a plan for furnishing representation for any person financially unable to obtain adequate representation in certain circumstances. The Court has established such a plan (the “Criminal Justice Act Plan”).

IT IS HEREBY ORDERED that the attached Plan for the Composition, Administration and Management of the Panel of Private Attorneys under the Criminal Justice Act is adopted by the Court.

This General Order shall be effective upon approval of the Criminal Justice Act Plan by the Judicial Council of the Ninth Circuit.

CRIMINAL JUSTICE ACT PLAN

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1 I. AUTHORITY

2 Pursuant to the Criminal Justice Act of 1964, as amended (18 U.S.C. § 3006A) (the
3 “CJA”), and the *Guidelines for Administering the CJA and Related Statutes* (“CJA
4 *Guidelines*”), Volume 7A of the *Guide to Judiciary Policy*, the judges of the United
5 States District Court for the Central District of California adopt this amended Plan for
6 furnishing representation in federal court in accordance with the CJA for any person
7 financially unable to pay for adequate representation.

8
9 II. STATEMENT OF POLICY

10 A. Objectives

- 11 1. The objective of this Plan is to attain equality before the law for all
12 persons. Therefore, this Plan will be administered so that those
13 accused of crimes, or otherwise eligible for services under the
14 CJA, will not be deprived because they are financially unable to
15 pay for an adequate defense.
- 16 2. The further objective of this Plan is to tailor the requirements of
17 the CJA, the USA Patriot Improvement and Reauthorization Act
18 of 2005 (recodified at 18 U.S.C. § 3599), and the *CJA Guidelines*
19 in a way that meets the needs of this district.

20 B. Compliance

- 21 1. The Office of the Federal Public Defender (to the extent
22 applicable) and all private attorneys appointed under the CJA must
23 comply with: (1) the CJA Guidelines approved by the Judicial
24 Conference of the United States or its Committee on Defender
25 Services; (2) this Plan; (3) the Central District of California CJA
26 Trial Attorney Panel Manual (the “Panel Manual”); and (4) all
27 applicable local rules, General Orders, and local policies and
28 procedures.

1 2. The Clerk of Court will maintain and make available on the
2 Court’s website a current copy of this Plan, the Panel Manual, a
3 current copy of the *CJA Guidelines* and the Court-adopted
4 policies, guidelines, and procedures related to the CJA for the use
5 of members of the CJA Panel, and will make known to such
6 attorneys their availability.

7
8 III. DEFINITIONS

- 9 A. “Representation” includes counsel and investigative, expert, and other
10 services.
11 B. “Appointed attorney” includes private attorneys, the Federal Public
12 Defender, and staff attorneys of the Office of the Federal Public
13 Defender.

14
15 IV. PROVISION OF REPRESENTATION

16 A. Circumstance

17 1. Mandatory

18 Representation **shall** be provided for any financially eligible
19 person who:

- 20 a. is charged with a felony or a Class A misdemeanor;
21 b. is a juvenile alleged to have committed an act of juvenile
22 delinquency as defined in 18 U.S.C. § 5031;
23 c. is charged with a violation of probation;
24 d. is under arrest, when such representation is required by law;
25 e. is charged with a violation of supervised release or faces
26 modification, reduction, or enlargement of a condition, or
27 extension or revocation of a term of supervised release;
28

- f. is subject to a mental condition hearing under chapter 313 of title 18, United States Code;
- g. is in custody as a material witness;
- h. is entitled to appointment of counsel under the sixth amendment to the Constitution;
- i. faces loss of liberty in a case, and Federal law requires the appointment of counsel; or
- j. is entitled to the appointment of counsel under 18 U.S.C. § 4109;
- k. or otherwise provided by law.

2. Discretionary

Whenever the United States magistrate judge or the court determines that the interests of justice so require, representation may be provided for any financially eligible person who:

- a. is charged with a Class B or C misdemeanor, or an infraction for which a sentence to confinement is authorized;
- b. is seeking relief under 28 U.S.C. §§ 2241, 2254, or 2255;
- c. is charged with civil or criminal contempt and faces loss of liberty;
- d. has been called as a witness before a grand jury, a court, the Congress, or a federal agency or commission which has the power to compel testimony, and there is reason to believe, either prior to or during testimony, that the witness could be subject to a criminal prosecution, a civil or criminal contempt proceeding, or face loss of liberty;
- e. is proposed by the United States attorney for processing under a pretrial diversion program; or

1 f. is held for international extradition under chapter 209 of
2 title 18, United States Code.

3 3. Ancillary Matters

4 Representation may also be furnished for financially eligible
5 persons in ancillary matters appropriate to the proceedings under
6 subsection (c) of the CJA.

7 B. Timely Appointment of Counsel

8 Counsel shall be provided to eligible persons as soon as feasible after
9 they are taken into custody, when they appear before a district judge or
10 magistrate judge, when they are formally charged or notified of charges
11 if formal charges are sealed, or when a district judge or magistrate judge
12 otherwise considers appointment of counsel appropriate under the CJA,
13 whichever occurs earliest.

14 C. Number and Qualifications of Counsel

15 1. Number

16 More than one attorney may be appointed in any case determined
17 by the Court to be extremely difficult. Such appointments of co-
18 counsel or associate counsel should be rarely made and only in
19 exceptional circumstances. Such appointments should be made
20 only upon a showing of good cause and in furtherance of the
21 interests of justice, the best interests of the client, and cost-savings
22 to the Court.

23 In a capital case, the following applies:

24 a. Federal Capital Prosecutions

25 Pursuant to 18 U.S.C. § 3005, a person charged with a
26 federal capital offense is entitled to the appointment of two
27 attorneys, at least one of whom must be learned in the law
28 applicable to capital cases. Pursuant to 18 U.S.C. §

1 3599(a)(1), if necessary for adequate representation, more
2 than two attorneys may be appointed to represent a
3 defendant in such a case.

4 b. Capital Habeas Corpus Proceedings

5 Pursuant to 18 U.S.C. § 3599(a)(2), a financially eligible
6 person seeking to vacate or set aside a death sentence in
7 proceedings under 28 U.S.C. §§ 2254 or 2255 is entitled to
8 appointment of one or more qualified attorneys. Due to the
9 complex, demanding, and protracted nature of death penalty
10 proceedings, judicial officers should consider appointing at
11 least two counsel.

12 2. Qualifications

13 Qualifications for appointed counsel shall be determined by the
14 Court. In capital cases, the following also applies:

15 a. Appointment of Counsel Prior to Judgment

16 Pursuant to 18 U.S.C. § 3599(b), at least one of the
17 attorneys appointed must have been admitted to practice in
18 the court in which the case will be prosecuted for not less
19 than five years, and must have had not less than three years
20 experience in the actual trial of felony prosecutions in that
21 court. Pursuant to 18 U.S.C. § 3005, at least one of the
22 attorneys appointed must be knowledgeable in the law
23 applicable to capital cases. Pursuant to 18 U.S.C. § 3005, in
24 appointing counsel in capital prosecutions, the Court shall
25 consider the recommendation of the Federal Public
26 Defender.

1 b. Appointment of Counsel After Judgment

2 Pursuant to 18 U.S.C. § 3599(c), at least one of the
3 attorneys appointed must have been admitted to practice in
4 the court of appeals for not less than five years, and must
5 have had not less than three years experience in the
6 handling of appeals in felony cases in the court.

7 c. Attorney Qualification Waiver

8 Pursuant to 18 U.S.C. § 3599(d), the presiding judicial
9 officer, for good cause, may appoint an attorney who may
10 not qualify under 18 U.S.C. § 3599(b) or (c), but who has
11 the background, knowledge, and experience necessary to
12 represent the defendant properly in a capital case, giving
13 due consideration to the seriousness of the possible penalty
14 and the unique and complex nature of the litigation.

15 d. Presumptive Qualification of the Office of the Federal
16 Public Defender

17 The Office of the Federal Public Defender is qualified for
18 assignment of any capital case without further inquiry.

19 D. Eligibility for Representation

20 1. Fact Finding

21 The determination of eligibility for representation under the CJA
22 is a judicial function to be performed by a district judge or
23 magistrate judge after making appropriate inquiries concerning the
24 person's financial condition.

25 2. Disclosure of Change in Eligibility

26 If, at any time after appointment, counsel obtains information that
27 a client is financially able to make payment, in whole or in part,
28 for legal or other services in connection with his or her

representation, and the source of the attorney’s information is not protected as a privileged communication, counsel shall advise the Court.

V. OFFICE OF THE FEDERAL PUBLIC DEFENDER

A. Establishment

1. The Office of the Federal Public Defender of the Central District of California, previously established in this district pursuant to the provisions of the CJA, is the federal public defender organization for this district.
2. The Office of the Federal Public Defender shall be responsible for providing legal services throughout the district.

B. Supervision of the Office of the Federal Public Defender

The Federal Public Defender shall be responsible for the supervision and management of the Office of the Federal Public Defender. Accordingly, the Federal Public Defender will be appointed in all cases assigned to that office for subsequent assignment to staff attorneys at the discretion of the Federal Public Defender.

VI. PRIVATE ATTORNEYS

A. Establishment of the CJA Trial Attorney Panel

This District maintains a panel of attorneys (“CJA Trial Attorney Panel”) who are eligible and willing to be appointed to provide representation under the CJA.

1 1. Appointment of Counsel

2 Private attorneys from the CJA Trial Attorney Panel shall be
3 appointed in the cases in which the Federal Public Defender has a
4 conflict of interest or is otherwise unable to accept appointment.

5 2. Appointment of Non-Panel Attorneys in Exceptional
6 Circumstances

7 In exceptional circumstances where good cause has been shown
8 (such as the interest of justice, judicial economy, or continuity of
9 representation), an attorney who is not a Deputy Federal Public
10 Defender or a member of the CJA Trial Attorney Panel may be
11 appointed to represent the financially eligible person. Non-panel
12 attorneys are subject to all of the CJA Trial Attorney Panel duties
13 and obligations. In order to preserve the integrity of the panel
14 selection process, such appointments should be rare.

15 3. Composition, Administration, and Management

16 Details regarding the organization and management of the CJA
17 Trial Attorney Panel are contained in the Court's CJA Trial
18 Attorney Panel Manual, and may be amended as necessary.

19 4. Continuing Legal Education and Training

20 Panel members are required to complete eight hours of continuing
21 legal education in the area of criminal law each year. The Office of
22 Defender Services and the Federal Public Defender's Office
23 provide a wide variety of training programs that are available to
24 panel members at no cost. Many of the training programs offered
25 by the Office of Defender Services qualify for California's MCLE
26 requirements. The Federal Public Defender for the Central District
27 of California is an approved MCLE provider for the State Bar of
28 California. In addition, panel members are required to attend one

1 annual meeting of the entire CJA Trial Attorney Panel. This
2 meeting addresses issues concerning the administration of the
3 panel, and provides training for panel members. Additional
4 professional conduct requirements and panel member
5 qualifications are referenced in the Panel Manual.

6 5. Removal

7 Panel attorneys serve at the pleasure of the Court, as membership is
8 a privilege, not a right. An attorney may be suspended or removed
9 from the panel at any time at the discretion of the CJA Committee.
10 The CJA Committee may also decide to do one or more of the
11 following: renew an attorney for a term less than three years, place
12 the attorney on probation, require training, or take any other action
13 or impose any other conditions it deems appropriate. While the
14 suspension or removal is considered final by the Court, an
15 attorney may submit an application for panel membership, if he
16 or she believes performance issues have been adequately
17 addressed. An application may be submitted for a term
18 beginning at least one full year after the suspension, removal, or
19 non-renewal.

20 There is no right to review the CJA Committee's decisions
21 concerning panel membership, including selection, non-renewal,
22 and removal.

23 B. Establishment of Capital Habeas Attorney Panel

24 This District maintains a panel of attorneys qualified for appointment to
25 represent petitioners in capital habeas corpus cases ("Capital Habeas
26 Attorney Panel").
27
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1 1. Appointment of Counsel

2 In cases in which appointment of counsel is mandatory under Part
3 IV.A.1.i, *supra*, the Court shall appoint the Federal Public
4 Defender as counsel of record where there is no conflict of
5 interest, up to a fixed number of cases each year consistent with
6 funding and staffing levels of the Office of the Federal Public
7 Defender related to these types of cases. If the Office of the
8 Federal Public Defender has already been assigned the maximum
9 number of cases as determined by the Defender Services
10 Committee of the United States Judicial Conference, and has not
11 agreed to an excess appointment, or is otherwise prevented from
12 accepting the appointment, the Court shall appoint counsel from
13 the Capital Habeas Attorney Panel, pursuant to Local Rule 83-17
14 of the Local Rules for the United States District Court for the
15 Central District of California, and General Order 10-08, or any
16 successor local rule or general order.

17 2. Composition, Administration, and Management

18 Details regarding the establishment and administration of the
19 Capital Habeas Attorney Panel are contained in General Order 10-
20 08, or any successor local rule or general order, and the Court's
21 CJA Trial Attorney Panel Manual, and may be amended as
22 necessary.

23 C. Establishment of Appellate Attorney Panel

24 This District maintains a panel of attorneys qualified for appointment to
25 represent petitioners in appellate cases ("Appellate Attorney Panel").
26 The appointment, composition, administration, and management of the
27
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1 appellate panel was delegated by the Ninth Circuit to the Office of the
2 Federal Public Defender in 1996.

3
4 VII. DUTIES OF APPOINTED COUNSEL

5 A. Standards

6 The quality of representation to be rendered to a person represented by
7 appointed counsel will be commensurate with the quality rendered if
8 counsel were privately employed by the person. Counsel shall fulfill his
9 or her professional responsibility as an officer of the Court, and the
10 limited amount of compensation accruing in no respect diminishes such
11 responsibility. Counsel who is unable to personally fulfill his or her
12 obligation to a defendant for any reason should immediately so notify the
13 assigned judge and the CJA Committee Chair in writing.

14 B. Professional Conduct

15 Attorneys appointed pursuant to the CJA must conform to the highest
16 standards of professional conduct. Each attorney must be familiar with
17 and comply with the standards of professional conduct required of
18 members of the State Bar of California and contained in the State Bar
19 Act, the Rules of Professional Conduct of the State Bar of California,
20 and the decisions of any applicable court. These statutes, rules, and
21 decisions are the standards of professional conduct. The Model Code of
22 Professional Conduct of the American Bar Association may be
23 considered for guidance.

24 C. No Receipt of Other Payment

25 Appointed counsel may not require, request, or accept any payment or
26 promise of payment or any other valuable consideration from any source
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1 for representation or expenses under the appointment, unless such
2 payment is approved by order of the Court.

3 D. Continuing Representation

4 The objective of this Plan is to maintain continuity of counsel wherever
5 possible barring a conflict of interest. Once counsel is appointed under
6 the CJA, counsel shall continue the representation through the earliest of
7 the following: (1) exhaustion of all appeals and any review by certiorari
8 (as governed by Ninth Circuit Rule 4-1 or any successor Rule or Plan
9 addressing appointment and continuity of counsel); (2) substitution of
10 counsel has been approved by the Court; or (3) entry of an order
11 allowing the person represented to proceed pro se. Counsel desiring to
12 be relieved from representation on appeal must comply with Ninth
13 Circuit Rule 4-1, or any successor Rule or Plan.

14 Appointment as counsel also requires representation of the client in
15 connection with issues concerning probation revocation, supervised
16 release violations and remand following appeal, provided the client
17 qualifies for representation under the CJA, and the trial attorney panel
18 member remains on the panel, unless either of items (2) or (3) above has
19 occurred, or unless otherwise specifically ordered by the Court.
20

21 VIII. RESOURCES

22 Answers to questions concerning appointment under the Act can generally be found
23 in the applicable federal statutes: 18 U.S.C. § 3006A-Adequate Representation of
24 Defendants, 18 U.S.C. § 3005-Counsel and Witnesses in Capital Cases, 18 U.S.C. §
25 3599 -Counsel for Financially Unable Defendants, 18 U.S.C. § 983(b)-Civil
26 Forfeiture Proceedings), the Guide to Judiciary Policy, Vol. 7, the CJA section of the
27 Court's website (<http://www.cacd.uscourts.gov/attorneys/cja>), and this Court's CJA
28

1 Trial Attorney Panel Manual. All other questions should be directed to the CJA
2 Supervising Attorney.

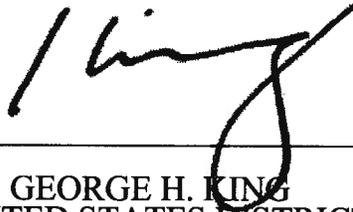
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4 IX. SUPERSESION

5 This Plan supersedes all prior Criminal Justice Act Plans of this Court.

6
7 X. EFFECTIVE DATE

8 This Plan shall become effective when approved by the Judicial Council of the Ninth
9 Circuit.

10
11 IT IS SO ORDERED.



12
13 _____
14 GEORGE H. KING
15 CHIEF UNITED STATES DISTRICT JUDGE

16 *Date of Approval by the Court:* July 30, 2013
17
18 *Date of Approval by the Judicial Council:* September 10, 2013
19
20 *Date of Filing by the Clerk:* September 17, 2013
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