Tab 1

PROCEDURES FOR THE CJA TRIAL ATTORNEY PANEL FOR THE CENTRAL DISTRICT OF CALIFORNIA

Revised Effective June 21, 2019

I. INTRODUCTION

The United States District Court for the Central District of California has established a Criminal Justice Act Trial Attorney Panel to represent persons eligible for representation by appointed counsel, and who are not represented by the Federal Public Defender's Office. Attorneys may apply for membership in one or more of the Court's three divisions. The Panel is administered by the CJA Supervising Attorney under the supervision of the Chair of the Court's Criminal Justice Act Committee. The CJA Committee is comprised of judges of the Central District. The Federal Public Defender and his/her designee(s) and the Central District's CJA Panel Attorney National Representative(s) attend CJA Committee meetings, bring matters of concern to the Committee's attention, and are involved with issues concerning membership on the CJA Trial Attorney Panel as well as issues concerning the quality of representation of indigent defendants in the Central District.

The CJA Panel Attorney National Representative(s) are nominated by the Federal Public Defender and appointed by the Chief District Judge. The CJA Trial Attorney Panel Defense Advisory Committee consists of the Federal Public Defender or his/her designee, the Central District's CJA Panel Attorney National Representative(s), and additional skilled and experienced attorneys selected from the CJA Trial Attorney Panel in each of the three divisions. The Federal Public Defender recommends candidates for the Advisory Committee, who must be approved by the Chief District Judge.

II. QUALIFICATIONS

Members of the CJA Trial Attorney Panel are highly skilled criminal defense attorneys who are committed to defending the rights of persons charged with the commission of a federal crime.

Prospective members of the panel are evaluated by seeking input from their peers and the judicial officers before whom they appear. The selection process includes evaluation of the panel applicant's state and federal criminal trial experience, written work product, verbal advocacy skills, and demonstrated ability to represent indigent defendants.

Before a prospective member is recommended, the Advisory Committee seeks to confirm that an applicant has the following qualifications:

1. The applicant is in good standing with all relevant bar associations including the California State Bar, and is admitted to practice before the Central District of California and the Court of Appeals for the Ninth Circuit, or applications for admission are pending. Court or Bar charges or discipline,

including monetary sanctions, while not automatically disqualifying, must be explained to the satisfaction of the Advisory Committee and the Court.

2. The applicant possesses sufficient knowledge and experience in federal court criminal matters, with hands on experience in matters at the trial court level, including bail hearings, pre-trial motions, trial proceedings, and sentencing hearings.

Generally, the applicant must have: 1. practiced primarily criminal law in federal court for five years; 2. been employed for the last three years in the criminal division of the USAO or FPDO; or 3. had primary responsibility as counsel of record in at least 40 criminal cases (state or federal), including serving as second chair in at least two federal felony trials, and have chaired or second-chaired at least four sentencing hearings where the USSG applied. The applicant must also have recently completed 20 hours of MCLE in criminal law, criminal procedure, or related topics with an emphasis on criminal law. Applicants who do not meet these criteria must explain their relevant qualifications and experiences and how those will be transferable to federal felony practice in the Central District of California.

3. The applicant has a professional history that demonstrates that zealous and skilled advocacy for defendants charged with a variety of federal criminal offenses.

4. The applicant has experience or demonstrated ability to be able to communicate with and advocate for the indigent defendant.

5. The applicant has the ability to research, prepare, and present written and oral arguments on behalf of defendants beyond the filing of generic or canned briefs and the making of routine arguments.

6. The applicant exhibits good moral and ethical character and has demonstrated professional demeanor with the Court and court staff. Criminal charges, or convictions, while not automatically disqualifying, must be explained to the satisfaction of the Advisory Committee and the Court.

7. The applicant has sufficient computer-related skills to e-file documents in accordance with the Court's rules and orders, submit vouchers and funding authorizations in eVoucher, and competently review electronic discovery.

III. SELECTION, RENEWAL, AND REMOVAL OF PANEL MEMBERS

A. Application for Initial Appointment

Applications must be received by the CJA Supervising Attorney on or before June 1 (or the next business day if June 1st falls on a weekend or holiday) to be considered for panel service starting January 1 of the following calendar year. At the present time, positions are available to all qualified candidates, and all such candidates are encouraged to apply. To apply, the candidate must complete an application, submit three representative writing samples, and provide the names of two or more references who are familiar with the applicant's work, professional competence and reputation, commitment to indigent defense, qualifications to handle the rigors of federal felony trial work, and time management skills.

The Advisory Committee will review the applications, contact the references, independently investigate prior casework, and decide which applicants will be recommended to the CJA Committee for addition to the panel. The CJA Committee will decide which applicants will be recommended to the Executive Committee. The Executive Committee's decision to add an applicant to the panel must be approved by the full Court. Members are added to the panel for an initial term of two years, on the condition that they attend an initial mandatory orientation session and any subsequent annual mandatory training seminars.

In the event new panel members are not available to accept assignments on January 1 of the year following the date of application, extensions may be granted by the Chair of the CJA Committee.

B. Applications for Renewal

After the initial two-year term, membership may be renewed for subsequent three-year terms. Early in the year in which a term expires, panel members will receive a letter advising that they must apply for renewal or they will be terminated from the panel at the end of the year. Each panel member seeking renewal must submit a renewal application which will require applicants to provide an updated summary of the trial level work performed over the preceding term.

Renewal is granted at the discretion of the CJA Committee, which considers, among other factors, the recommendations of the Advisory Committee, the quality of the panel member's work, complaints and evaluations received from the Court, clients, or other counsel, sanctions threatened or imposed, timeliness issues, the quality of other applications received, and whether the panel member's performance over the preceding term has conformed to applicable standards for the provision of services to indigent criminal defendants, including, but not limited to, the ABA Standards for Criminal Justice (4th ed. 2015) ("The Defense Function"), available at https://www.americanbar.org/groups/criminal_justice/standards/DefenseFunctionFourthEdition/. In some circumstances, the CJA Committee may determine that a member should be renewed for less than a three-year term.

C. Suspension, Removal, or Non-Renewal

Panel attorneys serve at the pleasure of the Court, as membership is a privilege, not a right. An attorney may be suspended or removed from the panel at any time at the discretion of the CJA Committee. The CJA Committee may also decide to do one or more of the following: renew an attorney for a term less than three years, place the attorney on probation, require training, or take any other action or impose any other conditions it deems appropriate. While the suspension or removal is considered final by the Court, an attorney may submit a new application for panel membership, if performance issues have been adequately addressed. A new application may not be submitted until at least one full year has passed from the date of non-renewal, suspension, or removal.

1. Summary Removal from the CJA Panel

Pursuant to the Court's responsibilities to assure compliance with the Sixth Amendment and notwithstanding Local Rule 83-3.2.1, in the event a panel attorney is disbarred from the practice of law by the California Supreme Court or by this Court, the CJA Committee shall summarily remove that

individual from the CJA Panel and that attorney shall not be appointed to represent future indigent defendants. The Chair of the CJA Committee or the Chair's designee shall immediately notify the panel attorney of the action taken and the reasons therefor. The attorney's representation of then-existing panel clients shall cease, and substitute counsel will be appointed.

2. Other Grounds for Suspension, Removal, or Non-Renewal

Suspension, removal, or non-renewal may result if the CJA Committee determines that a panel attorney has failed to fulfill the obligations of panel membership or has engaged in other conduct warranting such action. The procedures governing such measures are set forth below. In addition to the grounds for summary removal mentioned in the preceding paragraph, grounds for suspension, removal, or non-renewal may include, but are not limited to, suspension or disbarment from the practice of law in any jurisdiction; conviction of a felony or any misdemeanor involving moral turpitude; inclusion of false or misleading information in CJA vouchers; unjustified or frequent failure to comply with the obligation to accept appointments; failure to comply with the eligibility requirements for membership; failure to comply with the applicable CLE requirements; violation of applicable Rules of Professional Conduct; violation of the rulings or orders of a judicial officer; failure to provide assistance of counsel within the standards of the Sixth Amendment of the United States Constitution; general lack of professional competence; and mental or emotional instability affecting professional responsibilities.

3. Representation of Existing Clients Following Suspension, Removal, or Non-Renewal

(a) The Chair of the CJA Committee or the CJA Supervising Attorney shall notify the judges of the Court regarding any panel attorney who has been suspended, removed, or whose application for renewed membership is denied, or who has voluntarily withdrawn from the panel.

(b) Each judge assigned to a case in which a panel attorney has been suspended, removed, or whose application for renewed membership is denied, has the discretion to appoint substitute counsel, or to permit the attorney to remain counsel of record provided that the attorney remains eligible to practice law. The panel attorney must continue representing the client unless and until the assigned judge approves a substitution of counsel. The grounds for removal will be provided to the judges of this Court to assist in their determination, and may be provided to other courts or agencies if the chairperson of the CJA Committee and Chief Judge of the Court determine it is in the best interest of the public to do so.

4. Complaints

Judicial officers and attorneys may communicate a complaint about a panel attorney to the Chair of the CJA Committee, or the Chair's designee, in writing, telephonically, via email or in person. Other persons, including client-defendants, shall set forth any complaint in writing, and submit it to either the assigned judge or the Chair of the CJA Committee. The complaint should describe with particularity the matter(s), conduct, and circumstances triggering the complaint. Documents, transcripts, or other materials may be submitted in support of the complaint. The CJA Committee will not suspend, remove, or decline to renew a panel attorney from the panel in response to a complaint by

a client, unless the panel attorney was provided with a reasonable opportunity to respond to the complaint.

5. Investigations

The CJA Committee shall determine whether it will investigate a complaint and what manner to investigate a complaint. Where warranted, the panel attorney will be given a reasonable opportunity to respond to the complaint.

6. Determinations

The CJA Committee has discretion to determine what, if any, action shall be taken in response to a complaint or other notice of a panel attorney's failure or inability to adhere to the requirements of panel membership. The decision of the CJA Committee shall be final.

7. Confidentiality

Except as otherwise provided above, all proceedings involving suspension, removal, or non-renewal shall be confidential, other than the outcome.

D. No Right to Review

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

IV. ASSIGNMENT OF CASES

It is the responsibility of each panel member to manage his or her caseload in accordance with the appropriate standards of practice under the California Rules of Professional Responsibility as well as other standards for insuring high quality representation of indigent defendants. It is the responsibility of each panel member to notify the Court if the panel member is unable to accept appointment on a case as a result of caseload, calendar, or personal issues. Each panel member must ensure that the panel member's duty days are properly covered by other panel members in the event the panel member on duty is unavailable for any reason.

Repeated requests to continue trials or sentencings based on heavy caseloads, or excessive hours, may be considered grounds to place panel members on inactive status temporarily or take other action.

The Court expects that each panel member will accept appointment in cases regardless of the nature of the case consistent with the panel member's ethical duties and obligations under the standards of practice of the California Rules of Professional Responsibility.

V. OTHER REQUIREMENTS

Panel members must notify the CJA Supervising Attorney **within seven days** of any changes in the panel member's phone number, email address, or office address.

Panel members must also notify the CJA Supervising Attorney **within seven days** of learning of any new information that would have been responsive to the questions on the initial application relating to the following: (1) felony or misdemeanor arrests, charges, or convictions; (2) removal or voluntary resignation from any indigent defense panel (except for reasons of relocation or rotation as part of the panel's regular procedures) or removal from eligibility to receive appointments by any state, county, federal district, or circuit court; (3) discharge, disbarment, suspension, disqualification, discipline, or failure to permit renewal of any license by any federal or state government, court, administrative agency, or bar association; (4) citation for contempt by any court or other body having the power of contempt; (5) any written inquiry by any court, administrative agency, or bar association concerning the attorney's professional conduct or professional ethics (including billing practices); (6) any admonishment or sanction by any court or agency; (7) any removal or request for removal from representation of a client (unless it was due to substitution by private counsel or due to a conflict with another client); and (8) any finding by any court, or any assertion by the attorney to a court, that the attorney has provided ineffective assistance of counsel. Panel members are required to forward to the CJA Supervising Attorney all relevant information and documents concerning such matters.

A panel member's failure to comply with court orders, rules, regulations, or these policies and procedures may lead to discipline, including non-renewal or removal from the panel.

VI. TRAINING

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

In addition, panel members are required to attend one annual meeting of the entire CJA Trial Attorney Panel. This meeting addresses issues concerning the administration of the panel, and provides training for panel members.

VII. MISCELLANEOUS

Applicants must be familiar with, and comply with, all Federal Rules of Criminal Procedure, all relevant Federal Rules of Civil Procedure, this Court's General Orders and Local Rules, the ethical and other requirements of the State Bar of California and California law relating to representation of criminal defendants, and the Guide to Judiciary Policy, Vol.7A.

Revised Version
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