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CHIEF JUDGE

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LOCAL ADMINISTRATIVE ORDER 2016-02

STATE OF MICHIGAN
THIRTY SIXTH DISTRICT COURT

SUBJECT: PLAN FOR APPOINTMENT OF COUNSEL IN THE 36th DISTRICT COURT

This Local Administrative Order rescinds and replaces Administrative Order 2014-01.

Pursuant to MCR 8.112(B) and 8.123 (B), the 36th District Court (the Court) adopts the following as its Plan for the selection, appointment, and compensation of appointed counsel.

I. APPOINTMENT OF COUNSEL

A. Individual Attorneys and/or Attorney Groups

Counsel appointments for indigent defendants in traffic and criminal misdemeanor cases may be made by the appointment of specific groups of practicing attorneys or individual attorneys, at the Court's discretion.

The provisions of services provided by attorney groups shall be governed by contracts made with the attorney groups and as specified herein. The provisions of services provided by individual attorney appointments shall be governed as specified herein.

B. Attorney Eligibility

The Court requires that all attorneys, whether appointed individually or as a group, comply with the applicable Minimum Standards for Appointed Counsel as adopted by the Michigan Supreme Court under the Michigan Indigent Defense Commission (MIDC) Act.

1. New Individual Attorney Application

New attorneys applying for individual assignments must be active members, in good standing, with the State Bar of Michigan and shall

qualify for inclusion on the Eligibility List for traffic and misdemeanor ordinance violations as specified below:

a. **Forms and Documents.** The following forms must be submitted to House Counsel Services:

- House Counsel Application with a valid e-mail address and telephone number with voicemail capability
- Signed House Counsel Conduct Policy
- Signed House Counsel Verification and Acknowledgment of Requirements, indicating knowledge of applicable:
 - Michigan and Federal Law
 - Constitutional Law
 - Criminal Law and Procedure (MCR 6.610 through 6.625 – Criminal Procedure in District Court)
 - City of Detroit Ordinances (Municipal Code Chapter 38)
 - Michigan Rules of Evidence
 - Scientific Evidence and Applicable Defenses
 - Ethical Rules
 - Commonly Used Technology in the Legal Community and Courts

b. **Education and Training.** All new attorneys must complete the following training:

- Detroit/Wayne County Criminal Advocacy Program (CAP) and five (5) days of shadowing with a designated attorney, or

If not CAP certified

- Eighteen (18) hours of equivalent continuing legal education and training relevant to those areas of law set forth in section 1.a. above, five (5) Days of court observation and five (5) days of shadowing with a designated attorney.

2. Renewing Individual Attorney Application

Attorneys requesting to remain on the Eligibility List for individual appointments for the following calendar year must apply for renewal during the annual period designated by the Court, as detailed below.

a. **Forms.** Submit the House Counsel Application with a valid e-mail address and telephone number with voicemail capability.

- b. **Training.** All renewing attorneys must complete twelve (12) hours of continuing legal education relevant to those areas of law set forth in section 1.a. above. This may be accomplished through a variety of resources offering courses including the following:
- Detroit/Wayne County Criminal Advocacy Program (CAP)
 - State Bar of Michigan
 - Local Bar Associations
 - Institute of Continuing Legal Education (ICLE)
 - Other Local and Statewide Training and Conferences

3. Attorney Groups

Attorneys providing counsel services to indigent defendants within an appointed group must be active members, in good standing, with the State Bar of Michigan and meet the same requirements for New and Renewing Individual Attorneys, as applicable.

4. Complaint Process and Removal from the Eligibility List

- a. Attorneys who cancel three (3) consecutive days, exhibit a pattern of failing to appear or tardiness without good cause shown shall be referred to the Attorney Review Committee for evaluation and remedy, including but not limited to removal from the Eligibility List.
- b. Complaints from the Bench or the public regarding attorneys who are assigned cases shall be reduced to writing on the House Counsel Complaint Form and forwarded to House Counsel Services. The Attorney Review Committee shall review the formal complaints and, in its sole discretion, take such action as deemed necessary and appropriate, including but not limited to removal from the Eligibility List. Verbal complaints from the Bench or the public will not be acknowledged.
- c. If an attorney is removed from the Eligibility List, the attorney may apply for reinstatement after the required removal time or remedy is met.
- d. Upon being informed that an attorney has been suspended or disbarred from the practice of law, the attorney shall be removed from the Eligibility List without further notice. The attorney may reapply, in accordance with the renewal requirements, when his or her bar membership returns to active and in good standing status.

5. Replacement of Counsel – Removal from an Assigned Courtroom

- a. If the assigned attorney is removed from a docket/courtroom for good cause, the judge shall contact House Counsel Services for replacement. Replacement counsel will be assigned using the assigned On-Call Counsel, if feasible and timely, otherwise in the manner as House Counsel Services deems most efficient.
- b. The judge removing the assigned attorney shall submit a House Counsel Complaint form stating the reasons for removal. House Counsel Services shall refer the matter to the Attorney Review Committee for the appropriate action deemed necessary and appropriate.

6. Designated Dockets

Appointed counsel for designated dockets are assigned by the Judge presiding over that particular docket, i.e. Drug Court, Veterans Court and Community Court. Those attorneys may be subject to additional specialized training.

7. Attorney Requirements – Duty to Notify

All attorneys have the duty to inform House Counsel Services within three (3) business days of the following:

- Suspension or disbarment from the practice of law
- Name change
- Business name change
- Change of address
- Change of e-mail address
- Change of telephone and/or cellular number

8. Eligibility List Distribution and Annual Review

House Counsel Services shall distribute to the Bench, semi-annually, an Eligibility List of attorneys qualified to receive individual assignments. House Counsel Services shall review the Eligibility List, at least annually, to ensure that all attorneys are active members, in good standing, with the State Bar of Michigan.

C. Attorney Review Committee

The Attorney Review Committee (the Committee) includes the Chief Judge or Chief Judge's designee, the Presiding Judge of the Traffic/Criminal Division, at least one other judge serving in the Traffic/Criminal Division (as selected by the Presiding Judge of the Traffic/Criminal Division), and the Court Administrator or Court Administrator's designee.

1. The Committee shall meet periodically to review attorney applications and determine whether an attorney is qualified, under the foregoing provisions for placement on the Eligibility List.
2. Written complaints regarding attorneys who are assigned cases under the above-referenced provisions shall be forwarded to the Committee by House Counsel Services.
3. The Committee shall meet to evaluate and remedy written complaints, including but not limited to, violations of this LAO, violations of Court policy, the Code of Professional Conduct or the inability to provide effective representation filed against the assigned Counsel.
4. The Complainant shall remain confidential unless disclosure is deemed appropriate by the Committee, in its sole discretion, and necessary for remedy or removal.
5. The Presiding Judge of the Traffic/Criminal Division, or Presiding Judge's designee, shall inform the attorney, in writing, of any remedial action taken by the Committee, including removal from the Eligibility List.

D. Counsel Assignment System – Individual Attorney Appointments

1. Attorneys will be appointed/assigned to cover specific courtrooms or dockets.
2. Judges must receive prior approval from the Chief Judge or Chief Judge's designee prior to appointing an attorney to a specific case. A completed Request for Court-Appointed Attorney and Order (MC 222) must be submitted with the request for approval.
3. Each judge assigned to the Traffic/Criminal Division is allotted a two-week period for which he/she will appoint counsel to cover applicable dockets. The Assigning Judge will also select On-Call Counsel to cover courtrooms in which the assigned counsel does not appear, or if there is an inordinately large volume of cases scheduled on a docket or in a particular courtroom.
4. The Assigning Judge is supplied with an updated copy of the Eligibility List six (6) weeks prior to the judge's two-week assignment period.
5. The Assigning Judge has one (1) week to return his or her selections for assignment to House Counsel Services, who shall notify the selected attorneys of their assignments.
6. Attorneys are required to report to House Counsel Services as directed by the Court.

7. The Court may require, based on its needs, half or full day assignments. On-Call attorneys shall be utilized if the selected attorney cannot fulfill the per diem requirements set by the Court.

E. Judge's Two-Week Assignment

1. The Assigning Judge may not make more than five (5) appointments to any Individual Attorney to serve as appointed or on-call counsel during the judge's two-week assignment.
2. Failure to make and return assignments within one (1) week shall default to the Chief Judge, or Chief Judge's designee, for selection.
3. If an Assigning Judge is unable to complete assignments on more than two (2) consecutive days during his or her two-week assignment period, or if unavailable to do so, the Assigning Judge may request to exchange his or her two-week assignment with another judge. Failure to timely select or exchange with another judge shall result in default to the Chief Judge, or the Chief Judge's designee, for selection. House Counsel Services must be notified promptly of any exchanges.

F. Judicial Compliance

Any judge exceeding the assignment limit or in violation of any other rule outlined in this LAO may be removed from the assignment schedule by the Chief Judge. A judge so removed may be returned to the schedule at the discretion of the Chief Judge.

G. Compensation

1. Appointed attorneys shall be compensated at the half or full day rate established by the Court.
2. Compensation to an attorney exceeding the half or full day rate must be pre-approved by the Chief Judge or Chief Judge's designee.
3. Vouchers shall be submitted to House Counsel Services for processing immediately following the conclusion of the docket and must be in conformance with Court requirements. Failure to comply may result in the delay of voucher payment and/or referral to the Attorney Review Committee.
4. The Office of Fiscal Services will process vouchers for payment of services and forward to the City of Detroit's Fiscal Department for payment disbursement.

5. If an Individual Attorney disputes his/her payment, the attorney must inform House Counsel Services within five (5) business days of receipt of the disputed payment.
6. Upon receipt of a timely attorney inquiry concerning an alleged payment discrepancy, House Counsel Services shall review and investigate the alleged discrepancy and make any recommendations for fee adjustments to Fiscal Services.
7. Attorney Groups shall be compensated according to the terms and conditions of the applicable contract between the Court and the Attorney Group. Any disputes regarding compensation shall be governed in accordance with the terms and conditions of the contract.

II. JUDICIAL APPOINTMENTS

- A. A judge shall not appoint an attorney with whom:
 1. The judge was a partner of the attorney or a member of the same law firm as the assigned attorney within the preceding two years, or
 2. The judge is the attorney's spouse, parent or child, a person within third degree of relationship to the attorney, or has a relationship with an attorney that creates an appearance of impropriety or partiality, or which would otherwise lead to the disqualification of a judge under MCR 2.003.
- B. Previous 36th District Court judicial officers shall be ineligible for appointments for two (2) years from the date his/her relationship with the Court concluded.

III. CONFLICTS

Conflicts of interest between an individual assigned attorney or attorney group and a defendant shall be reassigned to another attorney by the judge presiding over that docket.

IV. REPORTS AND RECORDS

At the end of each calendar year, the Court shall compile an annual electronic report of the total public funds paid to each attorney for appointments by the Court.

The reports shall be made available for inspection at no cost in House Counsel Services, Suite 418A and the Office of the Chief Judge, Suite 528. Copies shall be available at the rate indicated in the Court's Local Administrative Order regarding Access, Inspection, Reproduction, and Creation of Court Records.

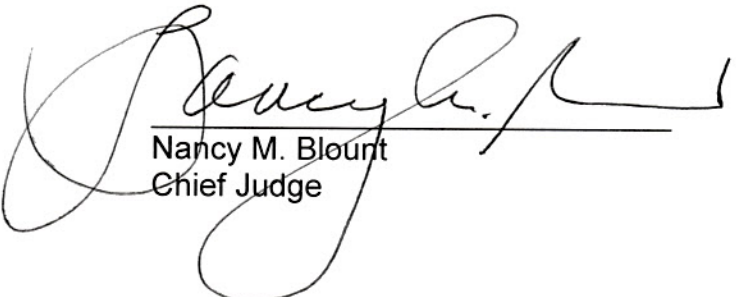
V. ADMINISTRATION OF THE PLAN

The Court Administrator shall have overall responsibility for the administration of this Plan.

VI. EFFECTIVE DATE

This Local Administrative Order shall be effective upon approval of the State Court Administrative Office.

Dated: 6-21-2016



Nancy M. Blount
Chief Judge

Date Approved by SCAO: 7-15-16