[MS-0398.044.002.005]

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Ans'd.....

County of San Diego

CHIEF ADMINISTRATIVE OFFICER
(619) 531-5250
FAX: (619) 557-4060

CHIEF ADMINISTRATIVE OFFICE

1600 PACIFIC HIGHWAY, SAN DIEGO, CALIFORNIA 92101-2472

April 13, 1992

TO: Supervisor George F. Bailey, Chairman
Supervisor Brian P. Bilbray, Vice Chairman
Supervisor Susan Golding
Supervisor Leon L. Williams
Supervisor John MacDonald

FROM: David E. Janssen
Chief Administrative Officer

CORRESPONDENCE FROM JUDGE STIRLING

I have attached a copy of a letter from the Department of Revenue and Recovery to Judge Domnitz concerning appointed Counsel.

Judge Stirling recently sent all your offices a copy of Judge Domnitz's March 27, 1992 letter on this subject to Alex Martinez, Director of the Department of Revenue and Recovery. The Department is working with the Courts on this matter.

Please call me if I can be of further assistance.

Respectfully,

DAVID E. JANSSEN

DEJ:ss

Printed on recycled paper

ALEX A. MARTINEZ
DIRECTOR
(619) 338-2500

County of San Diego

DEPARTMENT OF REVENUE AND RECOVERY
POST OFFICE BOX 1909, SAN DIEGO, CALIFORNIA 92112-1909

CENTRAL OFFICE
1255 IMPERIAL AVE.
SAN DIEGO, CA 92101-7486
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EAST COUNTY OFFICE
1000 BROADWAY, SUITE 210
EL CAJON, CA 92021-4894
(619) 579-4300

SOUTH COUNTY OFFICE
344 F STREET, SUITE 100
CHULA VISTA, CA 91910-2625
(619) 498-2222

NORTH COUNTY OFFICE
325 S. MELROSE, SUITE 150
VISTA, CA 92083-6689
(619) 940-4508

COURTHOUSE OFFICE
222 WEST C, RM M060
SAN DIEGO, CA 92101-3814
(619) 531-4066

April 8, 1992

Honorable H. Ronald Domnitz
Municipal Court Presiding Judge
San Diego Judicial District
San Diego, California 92101

RE: APPOINTED COUNSEL

Dear Judge Domnitz:

Thank you for meeting with me and my staff last week to discuss the various problems associated with the cost of indigent defense. We have modified the pre-screening guidelines to reflect the stricter standards we discussed in our meeting. The revised guidelines are enclosed for your consideration.

Today I met with Mr. Daniel Grindle, Lawyer Referral and Information Service Chair, and LRIS Executive Director Mayumi Santohigashi to review the proposed changes to the pre-screening guidelines and discuss the noticeable decrease in referrals to the Borderline Indigent Referral Panels. Mr. Grindle expressed an interest in pursuing changes in the standards governing the entire referral program, and I committed the involvement of Revenue and Recovery Department to assist in any way possible.

In closing I also thank you for assisting this department in solving the problem of determining which agency represents defendants referred for reimbursement of fees. Our discussions with Assistant Court Administrator Sandra Carter have been quite productive and, because of your involvement, I foresee prompt resolution to this issue.

Sincerely,

Alex A. Martinez

ALEX A. MARTINEZ, Director
Department of Revenue and Recovery

Enclosures

cc: D. Janssen, CAO
D. Grindle, Esq.
M. Santohigashi, LRIS
G. Knoll, Legal Aid Society
K. Warburton, CAO Office

DEPARTMENT OF REVENUE AND RECOVERY
GUIDELINES FOR DETERMINING ABILITY TO PAY

The following are guidelines for determining the ability to pay of applicants for Court Appointed Attorneys. "Ability to pay" means the overall capability of the defendant to reimburse the costs, or a portion of the costs, of the legal assistance provided to him or her. These guidelines are to be followed by all Indigent Defense Collection, and Pre-screening personnel in determining ability and making recommendations to the Court.

I. The following applicants are to be referred to the Court for Court Appointed Counsel with a recommendation that they NOT be required to reimburse the County:

1. Applicants whose income is derived solely from SSI/SSA/SSP.
2. Recipients of cash assistance from the Department of Social Services (GR/AFDC).
3. Undocumented aliens without financial resources.
4. Defendants that are charged with a felony and have been unable to post bail.
5. Those with no visible means of income/assets.

II. The following are to be referred to the Court for Court Appointed Counsel with a further recommendation that their financial situation be reviewed at the conclusion of the trial:

1. Employed with limited ability to pay.
2. Employed part time with financial obligations that are minimal.
3. Unemployed but has capability to seek and maintain employment (i.e., seasonal trades subject to layoffs and rehire).

III. The following are to be referred to the Court with a recommendation that they be referred to the Borderline Indigent Panel:

1. Defendants with the ability to make monthly payments BEYOND those required to maintain housing, utilities, food and necessary monthly expenditures.

NOTE: Items that **DO NOT QUALIFY** as necessary monthly expenditures are usually found listed as **INSTALLMENT PAYMENTS** on the R&R form CR-47. Examples are payments for Automobiles, Auto Insurance, Credit Cards, Charge Accounts, Cable TV, Personal Loans, etc.

Using the R&R form CR-47, subtract items listed under **"My monthly expenses are"** column from the **"net monthly income"** column. If the difference is $100 or more, **RECOMMEND THE NEAR INDIGENT PANELS.**

IV. The following defendants should be referred to the Court with a recommendation that they retain their own counsel:

1. Ownership in real property or business.
2. Savings account of $300.00 or more on a Misdemeanor Case, or $750.00 or more on a Felony Case which is the per case average charge by a private attorney.
3. Multiple vehicles with appropriate value - recreational vehicles, boats, planes, etc. - luxury type property that could be converted to cash.
4. Has posted bail in an amount which clearly demonstrates ability to retain own attorney.

GENERAL INFORMATION:

At the conclusion of each interview, the interviewer will advise each applicant that he/she is signing the financial statement under penalty of perjury.

All pre-screeners/officers involved in the program are reminded to break down each specific source of income and clarify same to the Court.

(Exceptional or unusual circumstances may require the consideration of factors not listed here.)

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III. The following are to be referred to the Court with a recommendation that they be referred to the Borderline Indigent Panel:

1. Defendant<u>s</u> with <u>the</u> ability to ~~obtain the required down payment, within one week of the arraignment, and the ability to make $100 monthly payments.~~ <u>make monthly payments BEYOND those required to maintain housing, utilities, food and necessary monthly expenditures.</u>

~~**Required Down Payments**~~
~~San Diego Misdemeanor $250, Felony $500.~~
~~North County Misdemeanor $250, Felony $350.~~
~~South Bay Misdemeanor $125, Felony $400.~~
~~East County Misdemeanor up to $175, Felony up to $500.~~

~~(Revenue and Recovery will continue to monitor the minimum requirements of each Borderline Indigent Panel and update guidelines when necessary.)~~

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INSTRUCTIONS FOR COMPLETION OF DECLARATION OF FINANCIAL CIRCUMSTANCES

This Statement of financial circumstances will be used to determine ability to pay a portion or all of the costs for court-appointed counsel as required under Section 987.8 of the Penal Code. Read each question carefully and answere factually. At the conclusion of the criminal proceedings, if the court determines that you are at that time able to pay, the court will order you to pay all or a part of such cost. Such an order will have the same force and effect as a judgment in a civil action and will be subject to execution.

SUPERIOR COURT OF CALIFORNIA, COUNTY OF SAN DIEGO
MUNICIPAL COURT – SAN DIEGO / EL CAJON / SOUTH BAY / NORTH COUNTY JUDICIAL DISTRICT

(Circle appropriate court)

THE PEOPLE OF THE STATE OF CALIFORNIA

Plaintiff

vs.

Defendant

CASE NUMBER

DECLARATION OF FINANCIAL STATUS
SUBMITTED IN ACCORDANCE WITH
PENAL CODE SECTION 987.8

INCOME

Gross monthly income, including child support, welfare, Social Security, Unemployment, VA, etc. .... $ .....

Less deductions:

Income taxes ....
Social Security ....
Unemployment insurance ....
Medical insurance ....
Union dues, etc. ....
Retirement fund ....
Savings plan ....
Total Deductions $ _____

Net Monthly Income $ _____

Occupation: .....
Social Security # .....
Birth Date .....

My monthly expenses are:

Rent or mortgage ..... $ .....
Food ....
Clothes ....
Transportation ....
Utilities ....
Medical, Dental ....
Child Care ....

The names and ages of my dependents are: .....
.....
.....
.....

Nearest living relative other than spouse: ..... Relationship .....
Address..... City..... State .....
Phone Number.....

ASSETS

Savings ..... $ .....
Checking ....
Credit Union ....
Bonds and Stocks ....
Home ....
Other Real Estate..... .....
Furniture ....
Auto or Truck ....
(Make and Year) ....
Veh. Lic. #..... .....
Driver's Lic. #..... .....
Total Assets $ _____

Employer: .....
Address: .....
.....

Other:

Installment payments:

Creditor	For	Mon. Pymt	Balance
		$	$

Total monthly expenses ..... $ _____

I hereby authorize the Director, Bureau of Revenue and Recovery or his duly appointed officer to contact my bank or any of my creditors regarding any of my accounts. I declare under penalty of perjury that this is a full and true statement of my assets and obligations to the best of my knowledge.

Executed at ....., California, on .....
Home Phone .....
Date .....

Signature .....
Address .....
.....
City State Zip Code

Having reviewed the financial circumstances of the above-named defendant concerning a request for court-appointed counsel, under Section 987.8, the Department of Revenue and Recovery recommends that the defendant: retain own attorney ( ); be referred to Near Indigent Panel ( ); has no ability to either retain attorney or reimburse County ( ); has the ability to reimburse the County for the amount of $_____, payable at $_____, per month beginning _____, 19____. The Court accepts and agrees with the findings and orders reimbursement.

DATED:

_____
Judge of the Superior/Municipal Court