

**FIRST JUDICIAL DISTRICT OF PENNSYLVANIA
ADMINISTRATIVE GOVERNING BOARD
Administrative Order No. 02-2012**

In Re: Payment of Court Appointed Counsel for Indigent Representation -
Fiscal Year 2013 (July 1, 2012 to June 30, 2013) and thereafter

ORDER

AND NOW, this 3rd day of April 2012, the court finds as follows:

a) The Public Defender Act (which became effective on January 1, 1969) establishes the office of public defender, selected by the county commissioners, whose salary is set by the county's salary board, and who is responsible to furnish legal counsel to any person in certain types of cases who lacks sufficient funds to obtain legal counsel. The Public Defender Act authorizes the appointment of an attorney other than the public defender to represent a party, for cause (i.e. conflict of interest in representation) either at the request of the public defender or by the court. When so appointed, the attorney "shall be awarded reasonable compensation, and reimbursement for expenses necessarily incurred, to be fixed by the judge . . . and **paid by the county.**" 16 P.S. § 9960.1, et seq.; § 9960.7 (emphasis supplied);

b) The Public Defender Act does not apply to Philadelphia County. Rather, a non-profit corporation, the Defender Association of Philadelphia, has provided legal representation to indigent persons since 1934, and is funded by the City of Philadelphia on an annual basis through a Legal Services Provider Agreement, the first such agreement having been entered on January 28, 1969 and was designed to provide the same types of services covered by the Public Defender Act. The Legal Services Provider Agreement specifically provides that the Defender Association shall not provide legal representation where such representation would constitute a conflict of interest under the Pennsylvania Rules of Professional Responsibility, and in those cases, the appointments are made by the court pursuant to general rules of court; and

c) at the request of the Administrative Governing Board of the First Judicial District of Pennsylvania ("AGB") appointed by the Supreme Court of Pennsylvania to, *inter alia*, develop an appropriate budget for the First Judicial District ("District") and to negotiate the budget needs of the District with the City of Philadelphia as the District's funding authority, the District's Court Administrator communicated the AGB's decision to the City of Philadelphia on and after September 16, 2011 that commencing with Fiscal Year 2013, the Budget of the District not include any sum for indigent representation since payment for indigent representation is a City of Philadelphia obligation.

NOW, therefore, in order to implement the decision of the Administrative Governing Board, it is hereby ORDERED, ADJUDGED and DECREED that effective with any counsel fee petition approved for payment on or after July 1, 2012 and any fee petitions approved for payment before July 1, 2012 but for which payment is not issued to the court-appointed counsel

before July 1, 2012, shall be forwarded to the Treasurer of the City of Philadelphia so that payment can be issued to the court-appointed counsel directly by the City of Philadelphia, in light of the fact that compensation to counsel appointed to represent indigent persons, and related expenses, are a “charge upon the county in which the person is charged,” i.e., Philadelphia County.

It is further ORDERED, ADJUDGED and DECREED that:

1) all District counsel fee petitions and other forms which contain instructions regarding payment to court appointed counsel shall be revised, and are deemed to have been revised, to reflect that commencing on July 1, 2012, upon approval of the amount to be paid, payment to court appointed counsel shall be made by the City of Philadelphia directly to the court-appointed counsel. The District’s Counsel Fee Department shall send an electronic copy of any fee petition approved for payment to the Treasurer of the City of Philadelphia or the Treasurer’s designee;

2) questions regarding the status of the payment of any District approved fee petition are to be referred to the Treasurer of the City of Philadelphia or the Treasurer’s designee; and

3) should the District’s Budget for Fiscal Year 2013 as approved by the City of Philadelphia as funding authority for the District include any sum which has been earmarked in any way for payment of court-appointed counsel, the District will refuse to accept same.

This Administrative Order is issued in accordance with the April 11, 1986 order of the Supreme Court of Pennsylvania, Eastern District, No. 55 Judicial Administration, Docket No. 1; and with the March 26, 1996 order of the Supreme Court of Pennsylvania, Eastern District, No. 164 Judicial Administration, Docket No. 1, as amended, and shall become effective immediately. This Order shall be filed with the Prothonotary and the Clerk of Courts in a docket maintained for Orders issued by the First Judicial District of Pennsylvania, and certified copies of this Order and a copy on a computer diskette, shall be distributed to the Legislative Reference Bureau for publication in the *Pennsylvania Bulletin*. One certified copy of this Order shall be filed with the Administrative Office of Pennsylvania Courts and will also be published on the Unified Judicial System's web site at <http://ujportal.pacourts.us/localrules/ruleselection.aspx> and posted on the First Judicial District’s website at <http://courts.phila.gov>. Copies shall be published in *The Legal Intelligencer* and will be submitted to *American Lawyer Media*, *Jenkins Memorial Law Library*, and the Law Library for the First Judicial District.

BY THE COURT:

/s/ John W. Herron
HONORABLE JOHN W. HERRON
Chair, Administrative Governing Board
Administrative Judge, Trial Division
Court of Common Pleas
First Judicial District of Pennsylvania