

STATE OF SOUTH CAROLINA )  
 )  
COUNTY OF GREENVILLE )

IN THE COURT OF GENERAL SESSIONS  
FOR GREENVILLE COUNTY

IN RE: )  
 )  
S.C.A.C.R. 602 AND )  
S.C. CODE ANN. SEC. 17-3-60 )  
(1976, as amended) )

**STANDING ORDER**

FILED IN CLERK OF COURT  
2005 MAR 30 PM 3:43

Pursuant to Standing Administrative Order dated July 21, 1981, the Greenville County Office of Indigent Defense was established to provide attorney case assignments for indigent criminal defendants. This office was established independently from the Defender Corporation of Greenville County, which was established pursuant to S.C. Code Ann. Sec. 17-3-60. The Greenville County Office of Indigent Defense is funded by Greenville County through the Greenville County Council and receives no State funds. Greenville County has a unique two-prong system of providing legal services to indigent criminal defendants; the state funded Office of the Public Defender and the county funded Contract Attorney system. The key role of the Office of Indigent Defense, in managing the case assignments to each of these independent systems, has been established and recognized in previous orders of this court dating back to 1975 when the Honorable Frank Eppes designated the first "special investigator" to assign indigent criminal cases.

A Standing Order was issued on June 24, 2003 which fundamentally changed the management structure for the Office of Indigent Defense. This Order removed the Office of Indigent Defense as an independent agency of Greenville County and placed the Office of Indigent Defense under the direct control of the Office of the Clerk of Court for Greenville County. While the Standing Order of June 24, 2003 proclaimed the independence of the attorneys who are awarded annual contracts by the Office of Indigent Defense, the placing of the Office of Indigent Defense

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under the direct control of the Office of the Clerk of Court has given rise to a series of conflicts, either real, perceived or potential in nature.

The power and responsibility to appoint attorneys to represent indigent criminal defendants comes necessarily from the judiciary, and it has been the consistent intention of the circuit court judges in Greenville County to create an independent office, from the time of the "special investigator" to his successor, the "criminal justice planner" to the current Office of Criminal Defense. The employees of the Office of Indigent Defense serve a unique role in Greenville County's criminal justice system. They have direct contact with the defendants, make decisions as to financial status, make case assignments to attorneys, oversee and manage the attorney contracts and develop forms and procedures to guide the contract attorneys.

The effective representation of indigent criminal defendants, as guaranteed by both the Constitutions of the United States of America and the State of South Carolina, requires that the contract attorneys be independent contractors free from any and all real, perceived and/or potential conflicts which could damage their ability to effectively represent the client to which they are appointed. Not only does the law and the Code of Professional Responsibility mandate this, but it is essential to the continued operation of the Greenville County General Sessions Court that the indigent criminal defendant be assured that his/her appointed counsel is working in the best interest of their case absent any and all outside influences.

The Office of the Clerk of Court is necessarily involved in virtually every aspect of the proceedings which occur in General Sessions Court. From the keeping of all criminal records, collection of fines and court costs, issuance of bench warrants to the maintenance and issuing of jury summons, the Office of the Clerk of Court is intertwined in the administration of the criminal justice system in Greenville County. With the substantial involvement of the Office of the Clerk of Court in the criminal justice system processes, it becomes clear that the independence of the

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Contract Attorneys may very well be called into question. This appearance, real and/or apparent, cannot be allowed, as it will cause undue burdens upon the Contract Attorneys and the criminal justice system itself in undue delays in dealing with any and all conflicts of interest, real and otherwise.

Historically the Office of Indigent Defense has operated as an independent agency within Greenville County. Oversight of the Office exists through the Indigent Defense Board, and through the Office of the Chief Administrative Judge for General Sessions along with other resident judges of the Thirteenth Judicial Circuit. The Office of Indigent Defense, while having no direct control over the attorneys who are awarded contracts, is an important and most necessary link between the criminal defendants, the Contract Attorneys, and the Court. For anything or anyone to question the independence of the Office of Indigent Defense, real or perceived, is to place the attorney-client relationship between the indigent criminal defendants and their appointed counsel in a strained and unnecessary position.

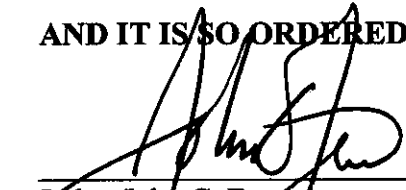
The Contract Attorney system has helped to allow Greenville County General Sessions Court to function at a high level of performance since its inception almost twenty-three years ago. Importantly, it has afforded the indigent criminal defendant with a high level of representation. Each Contract Attorney, while independent, relies heavily on the staff and resources of the Office of Indigent Defense. The continued success of the Contract Attorney system requires that true independence be maintained not only by the Contract Attorneys, but by the Office of Indigent Defense as well. The judiciary recognizes the importance of a management structure for all agencies funded by Greenville County and in deference to this necessity, and after consultation with the Greenville County Administrator, it appears that the Office of Indigent Defense shall be placed under the Administrative Services department of the county government.

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This order will further serve to reaffirm the Selection Committee as the agent of the judiciary for the purposes of screening and approving applicants seeking contract attorney appointments. The Selection Committee will also supervise the performance of the contract attorneys and establish any necessary procedures required to ensure the efficient functioning of the Contract Attorney system. The composition of the Committee shall remain as established previous to the June 24, 2003 Order, which this order rescinds.

The previous order of this Court issued on June 24, 2003 regarding the Office of Indigent Defense is rescinded. The Office of Indigent Defense shall be subject to the supervisory control of the Administrative Services Department of Greenville County. The Office of the Clerk of Court shall cease to have any control over the non-attorney personnel of the Office of Indigent Defense. The rescinding of the order dated June 24, 2003 would also include any and all provisions regarding the participation of the Office of the Clerk of Court in the selection of the Contract Attorneys. This Order, and the transfer of the supervision of the Office of Indigent Defense to the Administrative Services Department of Greenville County shall be effective April 1, 2005.

**AND IT IS SO ORDERED.**

  
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Judge John C. Few

  
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Judge D. Garrison Hill

  
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Judge Edward W. Miller

  
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Judge Larry R. Patterson

  
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Judge G. Edward Welmaker

Greenville, South Carolina

Dated: 3-30-05