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By: A. Husted, Deputy

SUPERIOR COURT OF CALIFORNIA, COUNTY OF SAN DIEGO CENTRAL DIVISION

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IN RE: APPOINTMENT OF COUNSEL IN OUT-OF-CUSTODY, PRE-ARRAIGNMENT CRIMINAL CASES GENERAL ORDER OF THE PRESIDING DEPARTMENT

ORDER NO. 010121-38

As a result of the COVID-19 pandemic, the Governor of California declared a state of emergency in this state. The President of the United States has also declared a national emergency. The COVID-19 pandemic continues to cause significant health and safety concerns nationally, throughout the State of California, and in San Diego County.

Due to the health and safety concerns caused by the COVID-19 pandemic, the court was closed to the public and suspended services, except for certain time-sensitive and essential functions, from March 17 to May 22, 2020. (See General Orders of the Presiding Department, Ord. Nos. 031820-34, 040320-39, and 043020-47.) The court resumed most services on May 26, 2020; however, with community spread of COVID-19 still a concern, many services have been and will continue to be provided remotely, and the court continues to experience substantial operational impediments. The resumption of services has been a slow and incremental process, taking into

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consideration, among other things, the rights of defendants in criminal cases, as well as the safety of all persons entering the courthouse, including litigants, court staff, judicial officers, and Sheriff's deputies. In criminal cases, priority has been given to the cases of those defendants who remain in custody.

The court is cognizant of the pressure the incremental resumption of services has placed on the timely disposition of criminal cases in which the defendants are out of custody and the strain this puts on criminal defendants. Several such cases have not yet been brought before the court for an initial arraignment.

Appointing counsel for these out-of-custody, pre-arraignment cases will help reduce further delays and will facilitate a more efficient and expeditious handling of cases by allowing the parties to proceed with providing and reviewing discovery and engaging in negotiations for possible early disposition of the cases. In addition, appointing counsel in these cases substantially benefits the defendants by giving many of them access to a lawyer without having to wait until the arraignment to speak to one.

For good cause and pursuant to Penal Code § 987.2, the court's inherent supervisory and administrative authority, and the Presiding Judge's duty to promote access to justice for all members of the public, taking into account the needs of the public and court as they relate to the efficient and effective management of the court (Cal. Rules of Court, rule 10.603), this court HEREBY FINDS AND ORDERS AS FOLLOWS:

- 1. In any criminal case that has been filed but the defendant has not yet appeared for initial arraignment, and the defendant is out of custody, the San Diego Office of the Primary Public Defender ("PD") is appointed to represent the defendant. The PD is to screen the cases for any conflicts and refer cases in which there is a conflict to either the Alternate Public Defender's Office ("APD"), Multiple Conflicts Office ("MCO"), or the Office of Assigned Counsel ("OAC"), as appropriate. If a case is referred to the APD, MCO, or OAC, that office is appointed to represent the defendant.
- 2. The appointed agency is to notify the defendant as expeditiously as possible of the appointment and of the defendant's option to decline the appointment and proceed with retained

counsel or in propria persona ("in pro per"). If the defendant notifies the appointed agency that he or she has retained counsel, or if the defendant declines appointment, the appointed agency is relieved of its appointment. 3. Any appointment of counsel pursuant to this order is temporary pending the defendant's initial arraignment or first court appearance. At that initial arraignment or first court appearance, the appointment will either be confirmed or discontinued. Accepting or declining appointment prior to this first court appearance does not affect any rights regarding representation the defendant would otherwise have. THIS ORDER IS EFFECTIVE IMMEDIATELY AND WILL REMAIN IN EFFECT UNTIL OTHERWISE ORDERED BY THE PRESIDING JUDGE. IT IS SO ORDERED. DATED: December 31, 2020 BLE LORNA A. ALKSNE PRESIDING JUDGE