

MEMORANDUM OF UNDERSTANDING

This Memorandum of Understanding sets forth the agreement between the United States District Court for the District of Idaho ("the Court") and the Federal Defenders Services of Idaho ("FDSI), regarding the CJA Resource Counsel's duties and interaction with the Court.

I. Purpose of the Agreement

In 2015, Chief Justice Roberts commissioned a comprehensive, impartial review of the Criminal Justice Act, 18 U.S.C. § 3006A ("CJA"). The ad hoc committee, chaired by the Honorable Kathleen Cardone, published a final report in November 2017. The Report concluded that the judiciary can and should give counsel appointed under the Act greater authority and autonomy in representing their clients.

The Court and FDSI endorse the Cardone Report's conclusion that the Criminal Justice Act panel, 18 U.S.C. § 3006A(a)(3), should be managed principally by a defender organization rather than judicial officers. The Court and FDSI seek to achieve the objectives of high-quality representation by panel attorneys and fiscal accountability. The Court and FDSI intend to enhance the quality of representation provided to indigent clients by providing panel attorneys with a greater degree of autonomy and confidentiality while also ensuring professional and fiscal accountability.

To that end, the Court and FDSI agree to the continued position of CJA Resource Counsel within FDSI. Consistent with the Criminal Justice Act, the Court will retain ultimate authority to evaluate the performance of the panel system and to pay attorneys and service providers.

II. Roles of FDSI and the Court

FDSI will fund and manage the CJA Resource Counsel. Because FDSI is a Community Defender Organization the CJA Resource Counsel will not be a federal employee.

Each District Judge will retain the ultimate review and approval authority over requests for and payment of CJA funds. Court staff will provide the CJA Resource Counsel appropriate access to eVoucher and CM/ECF. The clerk will process payments. The Court reserves the right to perform an annual audit of approved vouchers and such additional audits as circumstances warrant.

III. Duties of the CJA Resource Counsel

A. Panel Management

- Act as a member of the CJA Selection Committee in accordance with the District's CJA Plan, Section VIII.
- Recruit attorneys for the panel and the mentorship program
- Continue to develop the CJA mentorship program
- Enter new panel attorneys into eVoucher

- Assist the Court with the distribution of cases to panel attorneys in accordance with Section X.B.2 of the District's CJA Plan
- Train panel attorneys in use of eVoucher and policies and procedures under the District's CJA Plan
- Collaborate with FDSI in providing Continuing Legal Education for panel attorneys and their staff

B. Administration of eVoucher

- Serve as an administrator of eVoucher
- Set up accounts and reset passwords for panel attorneys
- Create and monitor workflows
- Answer technical questions from panel attorneys
- Monitor processing of attorneys' requests for CJA funds

C. Funding Requests and Voucher Review

- Review and approve panel attorneys' requests for funding for service providers, transcripts, and travel
- Review vouchers submitted by panel attorneys and service providers for reasonableness, mathematical and technical accuracy, and compliance with the CJA Guidelines
- Consult with panel attorneys and the presiding Judge as necessary to discuss concerns about specific vouchers

- Ensure expeditious review, approval and payment of vouchers
- Consult with the Ninth Circuit Budgeting Attorney when fees for one attorney in a case and his or her service providers exceed \$50,000
- As appropriate, manage case budgeting procedures, including working with panel attorneys to prepare, implement and modify case budgets

D. CJA Policies and Procedures

- Consult with the CJA Committee to review and revise policies and procedures for effectiveness and ease of administration
- Remain current on Administrative Office and Ninth Circuit policies and procedures, case law and pending or enacted legislation pertinent to the CJA or criminal defense funding, and practical innovations in other districts or circuits

E. Reporting to the Court

- Provide legal analysis, advice, and assistance on all panel matters as requested by the Court
- Annually, collect and analyze data and prepare a report regarding panel utilization
- Every six months, collect and analyze data and submit, to the Chief Judge and District Executive, in a form acceptable to the

Court, a report regarding voucher payments to CJA counsel and to service providers

- Work with the Court to make publicly available a statement of expenditures of CJA funds in a consolidated manner consistent with 18 U.S.C. § 3006A

F. Confidentiality

- Protect credentials conferring access to eVoucher and CM/ECF
- Preserve the confidentiality of sealed documents and sensitive material unless the CJA Judge authorizes disclosure

IV. Panel Attorneys' Requests for Funds and Payment

The Judges of the District of Idaho retain the ultimate approval authority over panel attorneys' requests for CJA funds. The District Judges reserve the right to deny, approve, or question payment of any voucher consistent with the CJA Guidelines.

Subject to the District Judges' retention of ultimate authority, the CJA Resource Counsel is responsible for reviewing and approving requests for transcripts, travel, and services other than counsel as well as vouchers seeking payment for panel attorneys and other service providers. The CJA Resource Counsel must consult with the District Judges on requests for atypical or high-cost services and may consult with the District Judges on

any request. The CJA Resource Counsel will then forward vouchers to the clerk of court or designee for certification and payment.

The CJA Resource Counsel Attorney may receive and view information that is accessible to a panel attorney, including sealed documents in CM/ECF and material designated sensitive under D. Idaho L.R. Civ. 5.3(b)(1) and L.R. CR 6.0. The CJA Resource Counsel shall not disclose confidential or sensitive information except, as necessary, to the District Judges. Panel attorneys' disclosure of information about a case or client in consultation with the CJA Resource Counsel shall not be deemed to waive or weaken attorney-client privilege or client confidentiality.

The CJA Resource Counsel has discretion to implement measures such as interim vouchers or case budgeting on a case-by-case basis.

V. Phasing of The Transfer of Responsibility to CJA Resource Counsel

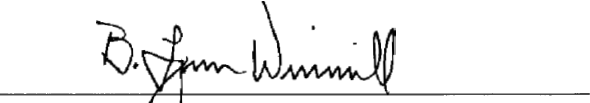
It is anticipated that the transfer of all the duties set forth above will be completed by January 1, 2025. Within thirty days of the signing of this MOU, the Resource Counsel may begin to assist in the assignment of cases to panel members as set forth above in Section III(A). Within thirty days of the signing of this MOU, the Resource Counsel will assume responsibility for the requests for service providers and the reasonableness review of vouchers for panel attorneys and service providers as set forth above in Section III(c).

The initial technical and mathematical review of attorney vouchers as set forth above in Section III(C) will be phased in with the cooperation of the Clerk's Office, no later than January 1, 2025.

Dated: 8/13/2024


Chief District Judge David C. Nye

Dated: 8/13/2024


Judge B. Lynn Winmill

Dated: 8/13/2024


Judge Amanda K. Brailsford

Dated: 8/13/24


Nicole Owens, Federal Defender

