United States General Accounting Office
Washington, DC 20548

Office of the General Counsel

B-283599.2

September 29, 1999

Mr. Ulysses B. Hammond
Executive Officer
District of Columbia Courts

Subject: District of Columbia Courts' Funding of Criminal Justice Act Obligations

Dear Mr. Hammond:

This responds to your letter dated September 27, 1999, requesting our views on the availability of four funding sources for obligations incurred under the Criminal Justice Act (CJA) in excess of the $25,036,000 cap established by the District of Columbia Appropriations Act, 1999. Specifically, you ask about two funding sources from the District of Columbia Appropriations Act, 1999, and two from legislation pending for fiscal year 2000. Because your request concerns fiscal year 1999 CJA obligations and you have identified unobligated funds from fiscal year 1999 appropriations, we will limit our response here to the District of Columbia Appropriations Act, 1999.

The availability of the two fiscal year 1999 sources you identify – unobligated appropriations earmarked for the Child Abuse and Neglect Program (CCAN) and unobligated appropriations for District of Columbia Courts operation generally – for CJA purposes present the same issue. Under what authority may the Courts use the Federal Payment to the District of Columbia Courts, which was appropriated by the District of Columbia Appropriations Act, 1999, for CJA purposes in excess of the amount earmarked by the Act?

The Federal Payment to the District of Columbia Courts provides up to $121 million for operation of the District of Columbia Courts. Pub. L. No. 105-277, 112 Stat. 2681-122 (1998). The first proviso to the appropriation provides that of the $121 million, up to $6.9 million shall be for CCAN and up to $25,036,000 shall be for CJA cases,

$31,936,000 in total.[1] The $25,036,000 thus represents a statutory limitation or restriction on the amount of the Federal Payment the Courts may use for CJA cases.

Section 116 of the District of Columbia Appropriations Act, 1999, generally governs reprogramming of funds appropriated by the Act. 112 Stat. 2681-135. Section 116 identifies seven potential results from a reprogramming. If any of the seven results will occur, section 116 provides that none of the funds provided by the Act shall be available for obligation or expenditure through a reprogramming unless the Appropriations Committees of the Senate and House of Representatives are notified in writing 30 days before the reprogramming.

The key potential result identified in section 116 to your situation is the fourth – a reprogramming that "increases funds . . . by any means for any project or activity for which funds have been denied or restricted . . . ." Because the District of Columbia Appropriations Act, 1999, restricts the amount of the Federal Payment to the District of Columbia Courts that may be used for CJA, any reprogramming to CJA from funds for CCAN or other court operations would be a reprogramming that falls within section 116(4). Accordingly, section 116 would require a written notice of the reprogramming to the Senate and House Appropriations Committees 30 days before the reprogramming takes place.

Your request cites the Courts' June 21, 1999 letter to the Senate and House Appropriations Committees. The June 21 letter cites section 116 and notified the committees "of the need to reprogram up to $1,000,000 to meet the projected additional cost of services for CJA claims." The letter further states that it "is anticipated that there will be unexpended CCAN funds plus savings realized from cost containment measures of the Courts which can be reprogrammed and applied to the CJA account."

Whether the June 21 letter constituted the Courts' reprogramming notice and, if so, whether that notice satisfies section 116 is a matter for the Courts in the first instance to determine. Because section 116 addresses communications with the Senate and House Appropriations Committees, you may wish to discuss the matter with the Committees. If CCAN funds, or other fiscal year 1999 funds from the Federal Payment to the District of Columbia Courts, are reprogrammed for CJA

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[1] The second proviso to the appropriation provides that the $31,936,000 in CCAN and CJA funds may be used for other purposes authorized under the Federal Payment to the District of Columbia Courts subject to the normal reprogramming requirements in section 116 of the Act. This proviso makes clear that the amounts available for CCAN and CJA may be reprogrammed within the lump sum Federal Payment to the District of Columbia Courts for use for other purposes. It does not address the use of unobligated funds to increase CJA spending otherwise covered by section 116 of the Act. 112 Stat. at 2681-123.

purposes in accordance with section 116, they would become available to pay CJA obligations to the same extent as the $25,036,000 originally provided as part of the Federal Payment to the District of Columbia Courts.

Should unexpended fiscal year 1999 funds be insufficient to meet your fiscal year 1999 CJA needs, we are available to meet with you to discuss any legal issues that may arise regarding other funding sources. You may contact Jeffrey Jacobson, Assistant General Counsel (512-8261) or Richard Cambosos , Senior Attorney (512-8263) of my staff.

Sincerely yours,

Robert P. Murphy
General Counsel