

COURTS OF APPEALS, DISTRICT COURTS, AND OTHER JUDICIAL SERVICES

Defender Services

SUMMARY STATEMENT OF ACCOUNT REQUIREMENTS

Fiscal Year 2026 Appropriation	\$1,766,010,000
Fiscal Year 2027 Appropriation Request	\$1,792,754,000
Requested Increase from Fiscal Year 2026 Appropriation	\$26,744,000

APPROPRIATION LANGUAGE

COURTS OF APPEALS, DISTRICT COURTS, AND OTHER JUDICIAL SERVICES

DEFENDER SERVICES

For the operation of Federal Defender organizations; the compensation and reimbursement of expenses of attorneys appointed to represent persons under 18 U.S.C. 3006A and 3599, and for the compensation and reimbursement of expenses of persons furnishing investigative, expert, and other services for such representations as authorized by law; the compensation (in accordance with the maximums under 18 U.S.C. 3006A) and reimbursement of expenses of attorneys appointed to assist the court in criminal cases where the defendant has waived representation by counsel; the compensation and reimbursement of expenses of attorneys appointed to represent jurors in civil actions for the protection of their employment, as authorized by 28 U.S.C. 1875(d)(1); the compensation and reimbursement of expenses of attorneys appointed under 18 U.S.C. 983(b)(1) in connection with certain judicial civil forfeiture proceedings; the compensation and reimbursement of travel expenses of guardians ad litem appointed under 18 U.S.C. 4100(b); and for necessary training and general administrative expenses, [\$1,766,010,000]\$1,792,754,000 , to remain available until expended.

(Division E, Consolidated Appropriations Act, 2026 – P.L. 119-75)

**SUMMARY OF REQUEST
DEFENDER SERVICES
FISCAL YEAR 2027
(Dollar amounts in thousands)**

Fiscal Year 2027 Resource Requirements:

	<u>FTE</u>	<u>Amount</u>
Fiscal Year 2026 Obligations	3,585.0	1,789,971
Less Encumbered Carryforward from FY 2025 into FY 2026	-	(1,870)
Fiscal Year 2026 Obligations Excluding Encumbered Carryforward	3,585.0	1,788,101
Less Unencumbered Available Carryforward from FY 2025 into FY 2026	-	(22,091)
Fiscal Year 2026 Appropriation	3,585.0	1,766,010

Adjustments to Base to Maintain Current Services:

A. PERSONNEL

Page *Pay and Benefit Adjustments*

	1. Annualization of 2026 Pay Adjustments			
5.22	a. Federal Pay Adjustment (1.0% for three months)		-	1,674
5.22	b. Panel Attorney Capital Rate Adjustment (from \$223 per hour to \$226 per hour)		-	327
5.22	c. Panel Attorney Non-capital Rate Adjustment (from \$175 per hour to \$177 per hour)		-	3,955
5.22	2. Promotions and Within-grade Increases		-	5,042
	3. Benefits Adjustments			
5.23	a. Health Benefits		-	4,587
5.23	b. FICA Adjustment		-	528
5.23	c. FERS Adjustment		-	(2,786)

B. OTHER ADJUSTMENTS

General Inflationary Adjustments

5.23	4. Inflationary Increases for Contracts, Services, Supplies, and Equipment			9,900
5.23	5. Inflationary Increase in GSA Space Rental Costs		-	1,552

Workload and Financing Adjustments

5.24	6. Annualization of FY 2026 Positions		140	43,898
	7. Change in Projected Panel Attorney Requirements			
5.24	a. Non-Recur FY 2025 Deferred Panel Attorney Payments		-	(70,392)
5.24	b. Change in Projected Panel Attorney Workload		-	16,448
5.24	8. Increase in Appropriation Needed to Maintain FY 2026 Requirements Due to a Decrease in Carryover Funding		-	2,091

	140	16,824
Total Current Services Appropriation Required	3,725	1,782,834

C. PROGRAM CHANGES:

5.24	9. Change in Positions for Projected Workload		
	a. Federal Defender Organization (FDO) Staffing Formula Changes	30	9,920
	Subtotal, Program Changes	30	9,920
	Total Fiscal Year 2027 Appropriation Required	3,755	1,792,754
	Total Appropriation Increase, Fiscal Year 2026 to Fiscal Year 2027	170	26,744

D. FINANCING THE FISCAL YEAR 2027 REQUEST:

	Total Appropriation Required	3,755	1,792,754
5.25	10. Anticipated Carryforward from FY 2026 into FY 2027	0	20,000
	Estimated Obligations, Fiscal Year 2027	3,755	1,812,754

COURTS OF APPEALS, DISTRICT COURTS, AND OTHER JUDICIAL SERVICES
DEFENDER SERVICES
Obligations by Activity (\$000)

Activity	FY 2025 Actual	FY 2026 Enacted	FY 2027 Request
CJA Representation & Related Expenses Obligations	1,486,646	1,763,088	1,785,249
Program Administration Obligations	20,029	26,883	27,505
Direct Obligations	1,506,675	1,789,971	1,812,754
Unencumbered Unobligated Balance, Start of Year	(51,897)	(22,091)	(20,000)
Encumbered Unobligated Balance, Start of Year	-	(1,870)	-
Total Unobligated Balance, Start of Year:	(51,897)	(23,961)	(20,000)
Deposits and Other Adjustments:			
Prior Year Recoveries	(24,826)	(10,000)	(10,000)
Anticipated Financial Plan Savings	-	(10,000)	-
Transfer from Fees of Jurors and Commissioners	(2,900)	-	-
Unobligated Balance, End of Year:	23,961	20,000	10,000
Less Offsetting Collections	(333)	-	-
Appropriation	1,450,680	1,766,010	1,792,754

Obligations by Budget Object Class (\$000)

Description	FY 2025 Actual	FY 2026 Enacted	FY 2027 Request
11.1 Full-time Permanent	488,708	516,481	545,415
11.3 Other Than Full-time Permanent	6,493	7,199	8,304
11.5 Other Personnel Compensation	771	922	1,027
11.9 Personnel Compensation Subtotal	495,972	524,602	554,746
12.1 Personnel Benefits	186,287	199,734	210,667
13.0 Benefits for Former Personnel	843	871	991
21.0 Travel	14,957	18,017	18,714
22.0 Transportation of Things	305	316	357
23.1 Rental Payments to GSA	55,098	59,585	63,627
23.2 Rental Payments to Others	769	827	925
23.3 Communications, Utilities, and Miscellaneous Charges	12,898	16,580	17,255
24.0 Printing and Reproduction	86	92	104
25.0 Other Services	478,679	672,919	631,630
25.3 Other Goods and Services from Federal Sources	12,512	13,456	13,830
26.0 Supplies and Materials	1,642	1,757	1,980
31.0 Equipment	29,199	37,493	38,233
41.0 Grant Payments	217,428	243,722	259,695
Direct Obligations	1,506,675	1,789,971	1,812,754

Full-time Equivalents (FTE) by Activity

Activity	FY 2025 Actual	FY 2026 Enacted	FY 2027 Request
CJA Representation & Related Expenses ¹	3,409	3,574	3,744
Program Administration	11	11	11
Total FTE	3,420	3,585	3,755

¹ The FTE listed are attributable to Federal Public Defender Organization staff.

**COURTS OF APPEALS, DISTRICT COURTS, AND OTHER JUDICIAL SERVICES
DEFENDER SERVICES
Relation of Obligations to Outlays (\$000)**

	FY 2025	FY 2026	FY 2027
	Actual	Enacted	Request
Total Direct Obligations	1,506,675	1,789,971	1,812,754
Obligated Balance, Start of Year	128,789	118,332	116,831
Recoveries of Prior Year Unpaid Obligations	(21,077)	(10,000)	(10,000)
Change in Uncollected Payments	(302)	-	-
Obligated Balance, End of Year	(118,332)	(116,831)	(107,514)
Total Outlays	1,495,753	1,781,472	1,812,071
Less Offsets	(3,839)	(5,000)	(5,000)
Net Outlays	1,491,914	1,776,472	1,807,071

GENERAL STATEMENT AND INFORMATION

The right to effective assistance of counsel for persons financially unable to obtain adequate representation is constitutionally-mandated. It is a critical component of the criminal justice system and a foundation of liberty in America. The Defender Services appropriation supports the appointment of counsel and other related services required to be provided under the United States Constitution; the Criminal Justice Act (CJA), 18 U.S.C. § 3006A; and other statutes. It also provides for continuing education and training of persons who furnish representational services under the CJA.

The constitutional right to the assistance of counsel is a cornerstone of the criminal justice system. In *Gideon v. Wainwright*, 372 U.S. 335, 344 (1963), the United States Supreme Court wrote: “The right of one charged with [a] crime to counsel may not be deemed fundamental and essential to fair trials in some countries, but it is in ours.” The mission of the Defender Services program is to ensure the Sixth Amendment right to counsel is available to those who cannot afford to retain counsel and other necessary defense services.

The goals of the Defender Services program are to:

- provide timely appointed counsel services to eligible persons;
- provide appointed counsel services consistent with the best practices of the legal profession;
- provide cost-effective services; and
- protect the independence of the defense function performed by appointed counsel so the rights of individual defendants are safeguarded and enforced.

By fulfilling its mission, the Defender Services program helps to:

- ensure the successful operation of the constitutionally-based adversarial system of justice by which both federal criminal laws and federally guaranteed rights are enforced; and
- maintain public confidence in the nation’s commitment to equal justice under law.

The Defender Services appropriation funds the operations of federal defender organizations (FDOs), payments to private attorneys appointed under the CJA, and program administration costs. The fiscal year (FY) 2027 appropriation request of \$1,792.8 million will support 80 additional FDO staffing formula positions (the equivalent of 98.0 percent of formula requirements and 30 FTE), fully fund

payments to private attorneys and service providers under the CJA, and provide stability to the Defender Services program by providing necessary funds to maintain current services.

The FY 2027 request supports:

- annualization of 354 positions expected to be hired in FY 2026;
- 80 additional FDO staffing formula positions^{1 2} (the equivalent of maintaining 98.0 percent of formula requirements and 30 FTE); and
- all projected FY 2027 panel attorney payments.

TYPES OF COUNSEL

The CJA authorizes the appointment of two types of counsel to represent clients: attorneys employed by an FDO, and private attorneys known as “panel attorneys.” Each is described below.

FDOs

The CJA authorizes two types of FDOs: federal public defender organizations (FPDOs), which are part of the judiciary; and community defender organizations (CDOs), which are private, state-chartered, non-profit corporations funded by annual federal judiciary grants.

The CJA allows for, and the Judicial Conference recommends,³ an FDO (either FPDO or CDO) be established in any district (or combination of districts) in which at least 200 CJA appointments are made annually. Currently, there are 83 FDOs authorized to serve 92 of the 94 judicial districts. The Southern District of Georgia and Eastern District of Kentucky meet the required number of

¹ In FY 2024, revised Judicial Conference-approved FDO staffing formulas which calculate staffing requirements were implemented. The revised formulas incorporate several improvements to more accurately reflect FDO workload, such as utilization of new case weights, use of a three-statistical-year average for caseload, and an updated calculation of necessary organizational and IT support requirements. These formulas apply to all FDOs except for the Northern and Eastern Districts of Oklahoma, which are excluded due to unique workload resulting from the Supreme Court’s 2020 decision in *McGirt v. Oklahoma*.

² Total positions requested are for both federal public defender organizations (FPDOs) and community defender organizations (CDOs). CDOs are private, state-chartered, non-profit corporations funded by annual federal judiciary grants. CDO employees are not federal employees and therefore not classified as FTE. The total number of new FY 2027 positions requested is 80; the total FTE requested is 30.

³ [JCUS-SEP 2018](#), p. 39

appointments, but those district courts have opted not to establish an FDO and instead operate solely through appointed private panel attorneys.

FDOs are the flagship of federal criminal defense, delivering high-quality representation at a reasonable cost while safeguarding the rights of individuals under the Constitution. FDOs recruit, train, and retain lawyers with skills comparable to those who prosecute criminal matters in U.S. Attorney's Offices (USAOs). Because of their expertise and efficiencies, FDOs provide cost-effective defense services consistent with best practices of the legal profession.

FDO attorneys are available for appointment on short notice, ensuring the rights of the accused are protected and court operations are not disrupted. FDOs also optimize national resources by sharing expertise and best practices with other FDOs and panel attorneys.

FDO staff improve the overall quality of CJA representation within the districts they serve by providing expert advice, training, and other assistance to panel attorneys in complex legal and technical areas, such as sentencing, mitigation, litigation support, and cases involving the death penalty.

Panel Attorneys

A panel attorney is a private lawyer who serves on a panel of qualified counsel maintained by the district or appellate court and is appointed by the court to represent eligible individuals under the CJA. The CJA specifies that in all judicial districts (including those served by an FDO), private attorneys shall be appointed "in a substantial proportion of the cases." 18 U.S.C. § 3006A(a)(3).

There are three primary reasons for utilizing panel attorneys:

- (1) Ethical standards prohibit appointing FDOs in conflict-of-interest situations (e.g., an FDO is precluded from representing more than one defendant in a multi-defendant case and is disqualified from accepting a new appointment that may present a conflict with the interests of represented clients).
- (2) The workload demands in an FDO may periodically limit the ability of that FDO to accept new representations and maintain professional ethical standards.
- (3) The district is not served by an FDO.

The CJA provides that panel attorneys shall be compensated for their services at authorized hourly rates and reimbursed for their expenses. There are many factors which influence panel attorney representation costs, such as the complexity of federal cases, electronic discovery (eDiscovery), and high rates of pretrial detention.

CJA CASELOAD AND WORKLOAD TRENDS

Attorneys appointed under the CJA provide constitutionally-required defense services in a variety of complex criminal cases, such as international and domestic terrorism; cybercrime; child exploitation and obscenity; complicated fraud cases (health care, identity theft, public corruption, and bank and investment fraud); environmental crimes; drug cases; immigration matters; human trafficking; and all other federal crimes.

To determine FY 2027 FDO staffing requirements, a three-year average of weighted representations was used including actual caseload data⁴ from statistical years⁵ (SYs) 2024 and 2025 and projected caseload data for SY 2026.⁶ While case openings briefly departed from historical trends because of the COVID-19 pandemic, illustrated by the lower SY 2021 weighted representation count in the table below, caseload increased in three of the last four years. Recent shifts in prosecutorial priorities, such as a focus on federal capital prosecutions and executions, immigration cases, and weapons charges may increase caseload beyond what has been forecast using historical data.

⁴ Actual data reported in the FDO Weighted Representations table is based on case weights that were implemented October 1, 2023, and historical values shown are using the current case weights that have been retroactively applied.

⁵ The FDO statistical year is from April 1 through March 31 of the following calendar year. For example, SY 2025 started April 1, 2024, and ended March 31, 2025.

⁶ FDO workload forecasts, as with all other judiciary workload projections, are prepared by the Administrative Office of the U.S. Courts Judiciary Data and Analysis Office (JDAO).

FDO Weighted Representations¹ by Statistical Year							
Workload	2021 Actual	2022 Actual	2023 Actual	2024 Actual	2025 Actual	2026 Projected	2027 Projected
FDO Weighted Representations – Non-capital	120,426	126,650	122,958	125,967	126,449	136,700	135,600
FDO Weighted Representations – Capital Prosecution	917	1,172	1,070	1,996	3,293	4,600	4,600
Total FDO Weighted Representations	121,343	127,822	124,028	127,963	129,742	141,300	140,200
Year-to-Year Change		5.3%	-3.0%	3.2%	1.4%	8.9%	(-0.8%)

¹ Table updated to reflect the most current reportable data concerning FDO workload.

New legislation, sentencing policy, and case law as well as advances in technology add to the challenge of providing representation to eligible individuals in federal courts. The Defender Services program must respond to changes in the law, such as those resulting from Supreme Court decisions, amendments to the U.S. Sentencing Guidelines, statutory changes, and shifting federal law enforcement priorities by quickly redirecting limited resources. Additional information about how the administration’s shifting law enforcement priorities affect resource needs is in the “Significant Issues” section of this chapter. Given the workload trends observed since January 2025, and the need for the Defender Services program to react to known and developing changes to the legal landscape, it is imperative that this constitutionally-mandated program be funded at the requested level.

The chart below summarizes the annual number of representations in which panel attorneys were or are projected to be paid, counted by statistical year. From SY 2021 to SY 2024, total panel attorney representations remained relatively steady before increasing in FY

2025. They are projected to continue to increase in both SY 2026 and SY 2027. To determine FY 2027 panel attorney requirements, SY 2027 projected workload was used (70,400 representations).

Panel Attorney Unweighted Representations by Statistical Year							
Workload	2021 Actual	2022 Actual	2023 Actual	2024 Actual	2025 Actual	2026 Projected	2027 Projected
Panel Attorney Unweighted Representations	64,326	62,866	62,970	63,986	67,253	68,600	70,400
Year-to-Year Change		-2.3%	0.2%	1.6%	5.1%	2.0%	2.6%

The table below reflects panel attorney representations and payments for FY 2024 and FY 2025, by offense type.⁷ Year-over-year, both the number of cases and case expenditures have increased across most case types.

⁷ CJA panel representations are based on vouchers paid during the 12-month FY period as reported from eVoucher, the electronic voucher management system used by court-appointed counsel to submit vouchers and judicial officers to review and approve payments. Typically, if no voucher is paid, no representation is counted; however, due to the payment suspension in FY 2025, representations have been included in the FY 2025 totals if there are closed vouchers otherwise ready to be paid that remained unpaid due to the funding shortfall. All vouchers have now been paid.

Panel Representations and Costs by Fiscal Year (\$ in millions)						
Case Group	FY 2024 Total Rep Count	FY 2024 Amount Paid	FY 2025 Total Rep Count	FY 2025 Amount Paid⁸	Percent Change in Reps	Percent Change in Paid/Deferred
Capital Prosecutions	528	\$32.8	560	\$30.0	6.1%	-8.5%
Drugs	16,615	\$157.6	15,855	\$158.9	-4.6%	0.8%
Immigration	12,267	\$25.5	17,334	\$31.8	41.3%	24.7%
Fraud	2,762	\$35.6	3,092	\$38.1	11.9%	7.0%
Weapons	4,285	\$38.9	4,404	\$43.3	2.8%	11.3%
Capital Habeas	242	\$8.2	266	\$8.9	9.9%	8.5%
Appeals	4,201	\$30.1	4,291	\$35.5	2.1%	17.9%
Criminal-Other	22,388	\$109.3	23,551	\$125.2	5.2%	14.5%
Total	63,288	\$438.0	69,353	\$471.7	9.6%	7.7%

⁸ The paid amounts include vouchers that were properly submitted for payment during FY 2025 but not paid until FY 2026 due to the FY 2025 payment deferral.

FISCAL YEAR 2026 APPROPRIATIONS

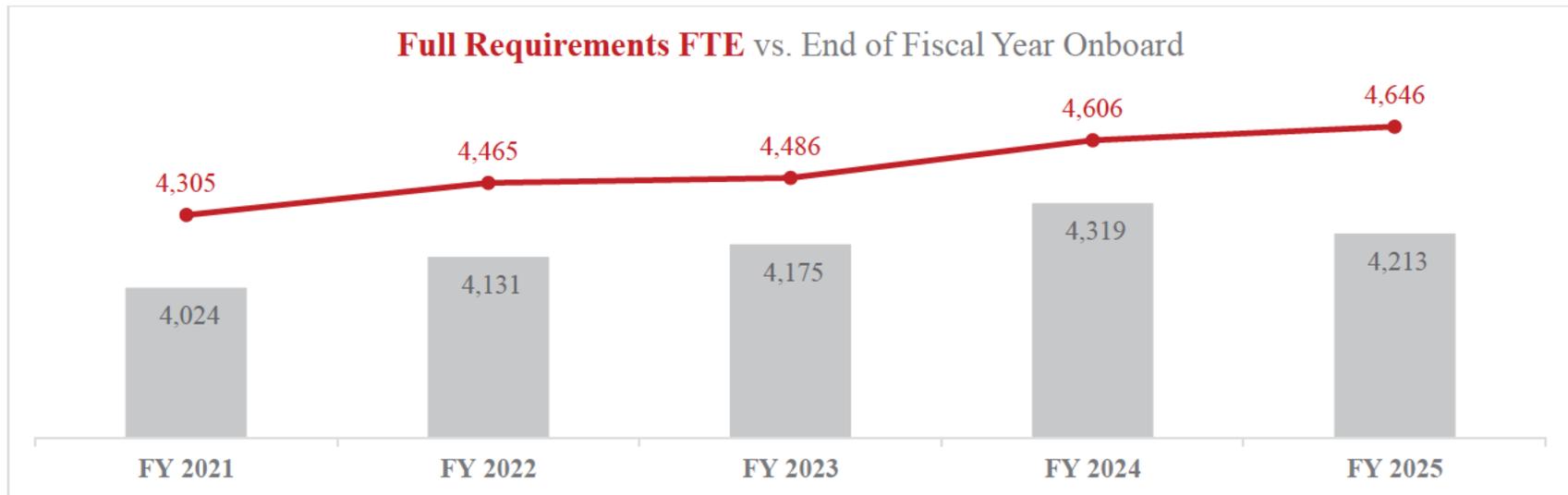
The judiciary's starting point for developing its FY 2027 budget request reflects bill language and appropriations levels enacted in the FY 2026 Consolidated Appropriations Act (P.L. 119-75). The FY 2026 enacted level of \$1,766.0 million is equal to the FY 2026 request level and fully funds the Defender Services account. In addition, the judiciary has made \$22.1 million in FY 2025 prior-year unencumbered carryforward available to support FY 2026 requirements. The FY 2026 funding level includes an additional 352 FDO positions to fund 98.0 percent of the staffing formula and will ensure all projected FY 2026 panel attorney payments are made without any payment deferrals to FY 2027.

SIGNIFICANT ISSUES FOR FISCAL YEAR 2027

Stability for FDO Staffing

In October 2024, due to anticipated flat funding, an FDO-wide hiring freeze was put in place and lasted for almost 16 months until the final FY 2026 appropriation was approved in early February 2026. The freeze caused an overall staffing decline of over 200 positions from the high point reached in FY 2025 and, coupled with an increase in caseload across districts starting in January 2025, resulted in a significant strain on FDOs nationwide. Onboard staff fell far behind Judicial Conference-approved levels, creating a notably large gap between on-board and authorized staffing levels (see historical staffing data in the graph below).

The judiciary is grateful that the final FY 2026 Defender Services appropriation provided much-needed FDO funding to support 98.0 percent of the staffing formula. FDOs are now in process of hiring the required staff to address increasing caseload associated with the prosecutorial policies of the Executive Branch. The FY 2027 budget request includes funds to annualize the approved FY 2026 positions as well as additional FDO positions to maintain 98.0 percent of formula in FY 2027. These new FY 2026 positions and requested FY 2027 positions are needed to stabilize FDO staffing and to ensure the resources necessary are available going forward to address current caseload.



Consistent Payment to CJA Panel Attorneys and Service Providers

Panel attorneys play a critical role in accepting CJA appointments where the institutional FDO is unable to do so either due to conflicts of interest (including multi-defendant cases) or overwhelming caseloads. Two federal judicial districts rely solely on private panel attorneys to provide representation under the CJA.

On July 3, 2025, funds to pay panel attorneys—and the service providers who assist them—for defense representational services already rendered ran out, leading to 13 weeks of payment deferrals (from July 3 to September 30, 2025). Due to the 43-day lapse in appropriations at the start of FY 2026, the judiciary remained unable to pay CJA panel attorneys or service providers for work already completed, and the deferral period for panel payments increased to 19 weeks. This was the longest suspension of payments in the history of the Defender Services program by a substantial margin. The total amount of panel payments deferred during FY 2025 was \$70.4 million, and an additional \$27.6 million in payments owed since the start of FY 2026 was deferred during the lapse in appropriations. By the time the Continuing Appropriations, Agriculture, Legislative Branch and Extensions Act, 2026, was enacted and restored budget authority to the Defender Services program, a total of \$98.0 million in submitted panel attorney vouchers were awaiting payment. These vouchers have since been fully paid.

The payment deferral was devastating for the Defender Services program and has negatively affected the entire federal criminal legal system. Most panel attorneys (approximately 85.0 percent) are solo practitioners or work in small firms of five or fewer attorneys and therefore cannot sustain months-long delays in payment with uncertainty over when those delays will end. In addition to accepting hourly rates that are typically significantly lower than the market rate, CJA panel attorneys also usually provide representation at their own expense until the conclusion of the case when payment is sought. Understandably, during the deferral period, many panel attorneys were seeking state defense work or retained work rather than taking additional CJA cases. Some resigned from panels altogether; some had to take loans to continue operating their businesses and paying their employees; and some were forced to lay off staff. Notably, the Defender Services program already faced considerable difficulty recruiting and retaining CJA panel attorneys before the deferrals, a difficulty that was magnified considerably during the deferred payment period.

In addition, service providers—investigators, interpreters, paralegals, and others—were equally hard hit during the lengthy deferral period. Many were understandably refusing to take on new federal cases. In one district in California during the deferral period, interpreters refused en masse to provide services, leaving that district unable to process immigration cases and other cases in which non-English-speaking individuals were accused or cases involving non-English-speaking witnesses.

These disruptions led attorneys to file motions to stay cases or to dismiss indictments entirely, causing delays to hearings and trials. On November 5, 2025, the CJA panel attorneys and service providers for the entire District of New Mexico sent a letter informing the district's chief judge that, effective immediately, they would no longer be accepting new CJA appointments due to the ongoing funding crisis. During these delays, resulting from the deferred payment period, the cost to the taxpayer of detaining those individuals increased as CJA clients languished in pretrial detention because their cases were not moving. Fortunately, these types of issues have since been resolved due to the restoration of spending authority for the program.

The Defender Services program greatly appreciates that the final FY 2026 appropriation provided funds to pay for all projected FY 2026 panel attorney payments, including the \$70.4 million deferred from FY 2025. This will provide assurances to all panel attorneys and service providers that all submitted vouchers will be paid in FY 2026 without any delay. Similar to FDO staffing, knowing that adequate funds are available to pay vouchers will help stabilize the program and address the negative impacts that were experienced during the deferral period. Continuing FY 2027 panel attorney payments without delay is critical for maintaining the stability of the Defender Services program.

Growing Caseloads Exceeding Available Resources

The Executive Branch's law enforcement priorities are significantly increasing FDO and CJA panel attorney workload. The Attorney General has directed the Department of Justice (DOJ) to prioritize resources to investigate and prosecute transnational organized crime, cartels, gangs, border and immigration offenses, human trafficking and smuggling, fentanyl and opioid crimes, and terrorism. The administration's focus on more serious and complex prosecutions will require greater resources for the Defender Services program.

Federal capital case costs are also increasing as a result of the Attorney General's February 5, 2025, memorandum which lifted the temporary moratorium on federal executions and directed prosecutors to seek the death penalty for the most serious, readily provable capital-eligible offenses. The DOJ is also reevaluating the previous administration's decisions not to seek the death penalty in pending capital-eligible cases (i.e., death-eligible cases that have not yet resulted in a conviction) and assessing whether additional capital charges are appropriate.

The increase in federal capital prosecution cases is evident in FDO and CJA panel attorney caseloads. With respect to FDOs, capital prosecution cases in the first seven months of statistical year 2026 exceeded the entirety of the previous statistical year. Similarly, with respect to CJA panel attorneys, the total number of federal capital prosecution appointments from January 2025 to September 2025 exceeded the total number of federal capital prosecution appointments for all of FY 2024. The FY 2027 request for additional FDO positions to remain at 98.0 percent of formula and to fully fund FY 2027 panel attorney payments will provide the needed resources to address this surge in capital prosecution caseload.

Judiciary-wide Strategic Data and Cybersecurity Investments

Consistent with the rest of the judiciary, in FY 2022, the Defender Services program began the implementation of a multiyear initiative for comprehensive IT security and system modernization improvements. This plan totaled \$28.1 million for the Defender Services program. The \$2.8 million approved for this purpose in FY 2026 completes the Defender Services portion of this plan. Additional details on the multiyear plan are below.

In addition, to address critical cybersecurity and IT requirements, two FY 2026 Defender Services Office reimbursable positions were approved. The positions include an Information Security Officer and a Director of Information Technology. These positions will address concerns and recommendations made in the Judiciary IT Security Task Force Report, the Judiciary IT Modernization and

Cybersecurity Strategy, the Judiciary Information Security Framework, and the National Institute of Standards and Technology requirements adopted by the judiciary as IT best practices.

Multiyear Cybersecurity and IT Modernization Plan Status Update

As noted above, in FY 2022, Defender Services requested the first funds associated with a \$28.1 million multi-year Cybersecurity and IT Modernization Plan to address urgent information technology needs within the program. A portion of this \$28.1 million was approved in each of the last five fiscal years (FY 2022 to FY 2026). The list below provides a multi-year plan status.

- Data Center Move (complete)
- Earlier Detection of IT Anomalies (complete)
- Endpoint Protection Services (anticipated to be complete in FY 2026)
- United Communication and Collaboration (anticipated to be complete in FY 2026)
- Data Security (complete)
- Modernizing Core Judiciary Systems (complete)
- Network Modernization (partially complete)
- Protect Against Insider Threats (partially complete)
- Stronger Identity, Credential, and Access Management (partially complete)

The final \$2.8 million approved in FY 2026 will ensure that DSO finalizes the envisioned IT security posture necessary to align with the broader goals of the judiciary's multi-year plan:

- Network Modernization
- Protect Against Insider Threats
- Stronger Identity, Credential, and Access Management

ONGOING COST-CONTAINMENT INITIATIVES

The judiciary has implemented various cost-containment initiatives where appropriate, including in the Defender Services program. Funding decisions are balanced between a keen awareness of federal budget challenges, the need for continuous assessment of existing and potential cost-containment measures across the Defender Services program, and dedication to effective representation by FDOs and CJA panel attorneys. Key cost-containment initiatives include, but are not limited to:

- promoting case budgeting to manage expenditures in capital and other high-cost CJA panel attorney representations;
- employing cost-effective means of handling large and complex discovery in CJA representations;
- adjusting metrics used to calculate space requirements; and
- providing distance learning.

Case Budgeting of CJA Panel Attorney Representations

Defender Services funding continues to support eleven circuit case-budgeting attorney positions serving ten of the twelve federal judicial circuits. Courts are encouraged to use case-budgeting techniques in CJA panel representations that appear likely to or have become extraordinary in terms of potential costs. Case budgeting attorneys may help courts and CJA panel attorneys anticipate and substantiate necessary expenses, monitor spending, and—when appropriate—limit costs, while ensuring timely, predictable access to sufficient resources consistent with the best practices of the legal profession.

Discovery Costs

Each year, electronically stored information (ESI or eDiscovery) associated with individual CJA representations expands in size and complexity. Defense counsel must manage and review eDiscovery, including the large volume of information, the variety of sources from a multitude of digital devices and locations, proprietary formats, hidden information such as metadata and embedded data, while dealing with software and hardware limitations.

Federal defenders and panel attorneys require litigation resources, including national staff support, to meet the challenges presented by DOJ's eDiscovery and litigation support capabilities. Even in “simple,” single defendant prosecutions, discovery includes data extracted from client mobile devices and computers. Video discovery is common and frequently includes officer body-worn camera recordings

and cellphone footage. It may also include pole-camera recordings, business security videos, and concealed camera footage. Besides frequently being in proprietary video players, which are not easy to open and play on a typical computer, review of video recordings may be complicated because useful context (e.g., who did the recording, participants allegedly captured in the recording, or dates, times, or location of the recording) may not be easily discernable or included. Additional discovery that can be difficult to review includes data from cell phone wiretaps, body wires, GPS tracking devices, or other law enforcement surveillance technologies.

A recent multi-defendant case, in which 17 defendants were charged in a drug conspiracy, illustrates the volume and complexity of information. Much of the discovery provided was common to all the defendants, but some was defendant specific. As of November 2025, the USAO has provided 13 separate rolling discovery productions over the course of approximately two years. All told, it consists of over 430,000 pages of documents, 331.75 hours of video and audio footage, wiretap data from 15 target telephone lines, pen registry trap and trace data from approximately 78 target lines, cell phone extractions and reports for 50 devices, and 8.83 terabytes (373 days) of pole camera footage. The approximately 12.35 terabytes of data cannot simply be "read" like a report; different software, technical expertise, and analytical approaches are required for each evidence type, and all must be cross-referenced so that defense counsel may build a coherent understanding of the case.

Three major cost-containment initiatives are in place to address eDiscovery issues:

- (1) DOJ and the AO have been collaborating for years to address various issues related to eDiscovery and discovery production between the prosecution and defense attorneys for defendants charged in federal criminal cases. An update to *Criminal eDiscovery: A Pocket Guide for Judges* is in progress and expected to be complete by the end of CY 2026. In addition, the Defender Services National Litigation Support Team has worked with DOJ staff to improve discovery management in federal cases.
- (2) Contracts with five national coordinating discovery attorneys (CDAs) are in place to advise panel attorneys and FDOs appointed in the most complex cases on cost-effective ways to manage large volumes of documents, while maintaining the quality of representation. CDAs have been appointed by federal courts in every circuit to assist CJA counsel in over 105 active cases in 43 districts. Because most of these cases are large, multi-defendant prosecutions, CDAs are providing services to 1,210 CJA clients. In the final FY 2026 appropriation, funds to support a sixth CDA contract were approved.

- (3) The Defender Services program purchases national licenses for software applications and tools to allow for efficient capture, organization, analysis, review, and management of case-related electronic data by CJA panel attorneys and FDO staff, thereby avoiding the higher cost alternative of multiple software purchases for individual cases year after year.

Space Requirements

Defender Services adjusted space allocations by position type, and modernized requirements for some general use spaces. These actions included reducing the new square footage calculated for some position types and eliminating or significantly decreasing the need for space in other areas such as for libraries or for paper file storage.

Distance Learning

While in-person, hands-on training remains necessary, in recent years DSO has begun to leverage distance learning. Through webinars and other virtual sessions, DSO has been able to offer cost-effective, timely, interactive training on rapidly evolving areas of the law and work-force management. In FY 2025, DSO presented 28 distance learning events attended by more than 8,100 participants. Virtual courses leverage educational opportunities by greatly increasing audience size and through recordings that may be accessed as necessary, resulting in a much greater national impact than may be achieved solely through in-person events.

Through its website www.fd.org, DSO Training Division maintains a library of materials including 263 on-demand videos. Many FDOs use these recorded webinars for local panel attorney training, further increasing outreach without additional cost. FDO staff also have access to the Judiciary Online University and Blackboard online courses.

JUSTIFICATION OF CHANGES

The FY 2027 request for the Defender Services account is \$1,792.8 million, an increase of \$26.7 million, or 1.5 percent, over the FY 2026 appropriation level of \$1,766.0 million. Of the \$26.7 million increase, \$16.8 million is to maintain FY 2026 base requirements, including a \$43.9 million increase to annualize new FY 2026 positions and a \$70.4 million decrease related to FY 2025 deferred panel attorney payments that were paid in FY 2026. As panel attorneys are fully funded in FY 2026, this \$70.4 million used for FY 2025 payment deferrals is not needed in FY 2027.

The request also funds a \$9.9 million investment to support increasing FDO workload demands. The program increase is for 80 additional FDO staffing formula positions (30 FTE), to allow the judiciary to maintain 98.0 percent of the FDO staffing formula and implement Judicial Conference-approved CJA-related policies.

ADJUSTMENTS TO BASE TO MAINTAIN CURRENT SERVICES

A. PERSONNEL

Pay and Benefit Adjustments

1. Annualization of 2026 pay adjustments

a. Federal pay adjustment

Requested Increase: \$1,674,000

The requested increase provides for the annualized costs of the 2026 pay adjustment of 1.0 percent, effective January 2026. The requested increase provides for the cost associated with three months of the 2026 pay increase (from October to December 2026) in FY 2027.

b. Panel attorney capital rate adjustment

Requested Increase: \$327,000

The requested funding annualizes the FY 2026 panel attorney capital rate increase from \$223 to \$226 per hour. An increase to the capital hourly rate impacts six months of costs in FY 2026. The requested increase annualizes this rate increase for the first six months of FY 2027.

c. Panel attorney non-capital rate adjustment

Requested Increase: \$3,955,000

The requested increase annualizes the FY 2026 panel attorney non-capital rate increase from \$175 to \$177 per hour. An increase to the non-capital hourly rate impacts three months of costs in FY 2026. The requested increase annualizes this rate increase for the first nine months of FY 2027.

2. Promotions and within-grade increases

Requested Increase: \$5,042,000

The requested increase provides for promotions and within-grade increases for personnel. Consistent with the rest of the

judiciary, the FDO salary plan provides for periodic within-grade increases for staff who receive a performance rating of satisfactory or higher.

3. Benefits adjustments

a. Health benefits

Requested Increase: \$4,587,000

Based on information from the Office of Personnel Management, health benefit premium contributions are projected to increase by an average of 10.1 percent in January 2026 and 5.0 percent in January 2027. The requested increase annualizes the 2026 premium increase and includes a nine-month provision for the anticipated FY 2027 increase.

b. FICA adjustment

Requested Increase: \$528,000

Based on information from the Social Security Administration, employer contributions to the Old-Age, Survivors, and Disability Insurance (OASDI) portion of the FICA tax increased in 2026. The salary cap for OASDI increased from \$176,100 to \$184,500 in January 2026. The requested amount is needed to pay the judiciary's contribution in FY 2027, based on the annualized 2026 increase and the 2027 projected increase in the 2025 Social Security Trustees Report.

c. FERS adjustment

Requested Decrease: (\$2,786,000)

Consistent with guidance from the Office of Management and Budget (OMB), there is a projected decrease in the agency contribution rate to Federal Employees Retirement System (FERS) plans for FY 2027. For most employees, the agency contribution will decrease from 18.4 percent to 17.9 percent. Any FERS decrease is in accordance with revised estimates of the cost of providing benefits by the Board of Actuaries of the Civil Service Retirement and Disability System.

B. OTHER ADJUSTMENTS

General Inflationary Adjustments

4. Inflationary increases for contracts, services, supplies, and equipment

Requested Increase: \$9,900,000

Consistent with guidance from OMB, the requested increase of \$9.9 million is required to fund inflationary adjustments of 2.1 percent for operating expenses such as travel, communications, printing, contractual services, supplies and materials, and furniture and equipment.

5. Inflationary increase in GSA space rental costs

Requested Increase: \$1,552,000

This request represents a 2.0 percent inflationary increase in the

cost of General Services Administration (GSA) space rental charges.

Workload and Financing Adjustments

6. Annualization of FY 2026 positions

Requested Increase: \$43,898,000 FTE: 140

The request funds the annualization for 354 positions expected to be hired in FY 2026, including 278 FPDO positions (139 FTE), 72 CDO positions, two national positions (one FTE) in the National Information Technology Operations and Applications Development Branch, and funding for two reimbursable positions to address critical cybersecurity and IT requirements.

7. Change in projected panel attorney requirements

a. Non-recur FY 2025 deferred panel attorney payments

Requested Decrease: (\$70,392,000)

The requested decrease is for non-recurring costs of FY 2025 deferred panel attorney payments that were paid in FY 2026.

b. Change in projected panel attorney workload

Requested Increase: \$16,448,000

The increase is due to a projected change in panel attorney caseload and payment trends. Panel attorney representations are

projected to increase from 68,600 in SY 2026 to 70,400 in SY 2027. Caseload and panel attorney payments are subject to variation due to prosecutorial priorities and case complexities. As the projected caseload and payment trends change, the judiciary will advise the appropriations subcommittee staff of projected changes through the FY 2027 budget re-estimate process.

8. Increase in appropriation needed to maintain FY 2026 requirements due to a decrease in carryforward funding

Requested Increase: \$2,091,000

The Defender Services program reduces its annual appropriation request by using unobligated no-year funds carried forward from prior fiscal years. In FY 2026, \$22.1 million in available funding was used to finance defender services FY 2026 requirements. For FY 2027 the carryforward estimate is \$20.0 million, a decrease of \$2.1 million. Because the judiciary anticipates having less carryforward funding available, it requests this funding in direct appropriations to make up the shortfall. The judiciary will revise this line item in the FY 2027 budget re-estimate, as needed.

C. PROGRAM CHANGES

9. Change in positions for projected workload

a. FDO staffing formula changes

FTE: 30

Requested Increase: \$9,920,000

The requested increase supports implementation of FDO staffing formulas approved by the Judicial Conference in September 2023. The request is for 80 additional FDO staff⁹ (60 FPDO positions (30 FTE) and 20 CDO positions) and provides for six months of FY 2027 costs. The increase will allow for additional staffing to fund 98.0 percent of the staffing formula to address critical workload requirements.

D. FINANCING THE FISCAL YEAR 2027 REQUEST

10. Anticipated carryforward from FY 2026 into FY 2027

Estimated funds available: \$20,000,000

The judiciary projects \$20.0 million will be available to offset the FY 2027 appropriation request using FY 2026 carryforward. The judiciary will advise the appropriations subcommittee staff of changes to this estimate.

⁹ Includes funding for CDO positions not classified as FTE.