

FILED
23 MAR 21 PM 3:45
JUDICIAL DIST.

IN THE CIRCUIT COURT OF THE STATE OF OREGON
FOR THE COUNTY OF MULTNOMAH

In the Matter of the Scope of
Representation at Arraignments
By Metropolitan Public Defender

23PJO00001

ORDER RE: SCOPE OF
REPRESENTATION AT
ARRAIGNMENTS BY MPD

On March __, 2023, the Metropolitan Public Defender, Inc. (“MPD”) raised concerns regarding potential conflicts of interest inherent in the arraignment procedures for individuals charged with crimes.

After considering MPD’s motion and declaration in support, I find the following facts persuasive and relevant:

1. MPD is a non-profit law firm that has a contract with the Oregon Public Defense Services (“OPDS”) to provide short-term legal services to those charged with crimes at arraignments.
2. Although MPD may be appointed to represent individuals at arraignments, MPD also provides such limited scope representation at arraignments to individuals for whom it will not be appointed, and for whom other lawyers and law firms will be appointed.
3. The short-term legal services for individuals that MPD is not appointed to represent is limited in scope and duration to the arraignment process. MPD typically will confer with an individual to learn information that may be relevant to the arraignment and/or to release arguments, and will appear with the individual at the

arraignment. There is no expectation from MPD or the individual that there is, or will be, a continuing attorney-client relationship after the arraignment.

4. MPD provides a critical, essential, and cost-effective service in covering arraignments that is necessary to the continued functioning of the court. Ensuring that MPD may provide this service, without causing prejudice to their current or future clients, allows the court to process arraignments each day timely and without delay.

In reliance on the Oregon Rules of Professional Conduct (“RPCs”), and after considering the facts, law, and any argument by the parties, I hereby ORDER the following:

5. MPD is ORDERED to continue to perform under its contract with OPDS to conduct arraignments for criminal cases.
 - a. At arraignment proceedings, an MPD lawyer will appear with individuals to be charged with a crime. Among other things, the MPD lawyer will reserve the individual’s rights and will take steps to seek the individual’s release, as appropriate.
 - b. MPD may or may not be appointed as the attorney of record for the individual. Where MPD is not appointed as the attorney of record, MPD will stand-in for the individual’s appointed lawyer and ensure the individual knows the name of the attorney appointed to represent him or her.
 - c. MPD necessarily will learn information about the individual relevant to the arraignment process. This may include general information about the charges and also may include confidential personal information about the individual relevant to a release decision. MPD may learn this information during the arraignment but also may learn this information from meeting with an in-custody individual before the proceeding.

6. MPD is ORDERED to keep any information it learns about an individual confidential pursuant to RPC 1.6, regardless of whether MPD is appointed to

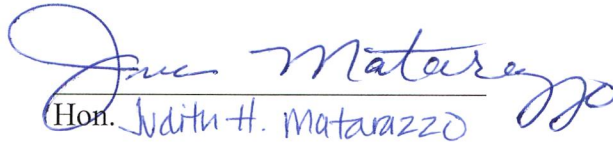
represent that individual. Where MPD covers an arraignment for an individual but is not appointed to represent the individual in the case, MPD shall take reasonable steps to ensure that any information obtained from the defendant is forwarded to his or her appointed lawyer. To the extent reasonably practicable, MPD shall not retain any confidential information learned from the individual.

7. It is further ORDERED that any information learned about an individual not appointed to MPD at an arraignment is not imputed to MPD as a whole. *See, e.g.,* RPC 6.5.
 - a. MPD provides short-term legal services to individuals for whom a different lawyer is appointed. Such services are limited in scope to the arraignment and there is no expectation from either MPD or the individual that MPD will continue as his or her lawyer.
 - b. MPD is not required to keep a central database of all clients for whom it has appeared at arraignments but for whom it was not appointed.
 - c. An MPD lawyer is subject to RPC 1.7 [current client conflict] and 1.9(a) [former client conflict] only if the lawyer knows that the representation of a current client involves a conflict of interest with an individual MPD provided a limitation representation at arraignment.
 - i. A lawyer covering arraignments is not imputed with the knowledge of every lawyer and nonlawyer at MPD. As a result, the MPD lawyer may arraign an individual that may otherwise be a conflict with an MPD lawyer so long as the MPD lawyer covering arraignments does not have actual knowledge of the potential conflict.
 - d. MPD may be appointed to cases in which an MPD lawyer appeared on behalf of an involved individual at arraignment. To the extent that MPD later learns that an MPD lawyer appeared at arraignment on behalf of an

involved individual, that MPD lawyer will be screened and will not share confidential information learned, if any.

- e. Other MPD lawyers are subject to RPC 1.10 [imputation] only if they know that another MPD lawyer is disqualified by RPC 1.7 or 1.9(a) with respect to the matter.

Dated this 20 day of March, 2023.


Hon. Judith H. Matarazzo