

Testimony submitted by Dennis Joiner, FPD, Southern District of Mississippi (1/29/16)

### **Scope of CJA Review**

Judicial Conference policy supports a periodic, comprehensive, and impartial review of the CJA program. (JCUS-MAR 93, p. 28) Consistent with the first such review completed in 1993, this review should include the following issues:

(1) The impact of judicial involvement in the selection and compensation of federal public defenders and the independence of federal defender organizations (federal public defenders and community defenders);

(2) Equal employment and diversity efforts in the federal defender organizations;

*The Federal Public Defender currently employs 22 people. Of that total, 13 (which represents 59%) are female or of minority ethnicity. The Defender's Office advertises job announcements nationally throughout the Judiciary and at regional law schools to obtain a wide array of diverse applicants. Additionally, representatives from the Defender's Office as well as the Court recently participated at a job fair held at Jackson State University, a historically black university.*

*The Federal Defender's Office has also employed female and minority employees who have continued their careers elsewhere, such as the Federal Public Defender for the District of the Virgin Islands, the Federal Public Defender for the District of Utah, the courtroom deputy for Magistrate Court Judge Keith Ball, and the courtroom deputy for Chief Judge Sharion Aycok in the Northern District of Mississippi. The CJA Administrator position was abolished during sequestration and the duties were reassigned to several employees in the office.*

(3) Judicial involvement in the appointment, compensation, and management of panel attorneys and investigators, experts, and other service providers;

*The CJA Panel Selection Committee is comprised of all Magistrate Court Judges, the Clerk of Court, the Federal Public Defender, and other court representatives. The committee meets annually to discuss issues affecting the CJA Panel and examine the quality of representation provided by members of the CJA Panel. Some panel attorneys may be removed while other attorneys may be added to the panel. All action taken by the committee is to ensure the panel maintains the highest level of qualified counsel.*

(4) The adequacy of compensation for legal services provided under the CJA, including maximum amounts of compensation and parity of resources in relation to the prosecution;

*In regard to the adequacy of compensation for legal services provided under the CJA, it is the FPD's opinion that for our rural-based state, the present hourly rate is sufficient. However, for other venues on the east and west coast it may be inadequate. The quality of representation under the CJA is high and sufficient to serve the needs of the court.*

(5) The adequacy and fairness of the billing, voucher review, and approval processes relating to compensation for legal and expert services provided under the CJA;

*The Southern District of Mississippi instituted eVoucher program as a pilot court in April 2015. Representatives from District Court and the Federal Public Defender's office established various workflows in which eVoucher handles the voucher review and approval process. The Defender's Office audits each voucher for accuracy and then forwards the voucher to the appropriate District Court Judge who reviews the voucher for reasonableness. The voucher is then returned to the Defender's Office which triggers the payment mechanism in eVoucher to send the proper payment to the CJA panel attorney or expert.*

(6) The quality of representation under the CJA;

*See the response to question 3.*

(7) The adequacy of support provided by the Defender Services Office to federal defender organizations and panel attorneys;

*The Defender Services Office maintains an open line of communication for any needs or issues that may arise at the Federal Defender's Office. From personnel and budget matters to human resources and case related issues, helpful representatives are always available to assist however they are needed. Defender Services also keeps the Federal Defender's Office informed of any changes to the budget forecast that may be on the horizon and how they will impact the office.*

(8) The adequacy of representation of panel attorneys on matters stemming from CJA representations, such as contempt, sanctions, ineffective assistance of counsel, and malpractice claims;

*These instances do not arise very often in this small district. When necessary, the magistrates will appoint counsel that has a special degree of skill for each of these areas.*

(9) The availability of qualified counsel, including for large, multidefendant cases;

*The size and location of our CJA Panels in three separate divisions is adequate to serve the needs of the Court including large, multidefendant cases.*

(10) The timeliness of appointment of counsel;

*Timeliness is a vital part of having a successful CJA appointment process. In the Southern District of Mississippi, the Federal Defender's Office appears at the initial appearance phase and then contacts a member of the CJA Panel (using a strict call rotation) in cases of conflict or when ordered by the Court.*

(11) The provision of services or funds to financially eligible arrested but unconvicted persons

for noncustodial transportation and subsistence expenses, (including food and lodging) prior to, during, and after a judicial proceeding;

*In cases where an indigent defendant needs financial assistance, such as for food and lodging expenses, defense counsel motions the Court for those expenses to be paid by the U.S. Marshals in the same manner that the U.S. Marshals reimburse fact witnesses for their expenses.*

(12) The availability of reliable data to evaluate the overall cost and effectiveness of the federal defender program;

*The Defender Services Office maintains a vast network of databases and programs aimed at identifying the financial resources and staff required to maintain the Federal Defender Program. The recent Harvey Jones Work Measurement Study and the Case Weights program are two examples of how the Defender Services Office researched the workload challenges faced by each Federal Defender office and how those challenges were impacted by different types of cases. This established a staffing formula that is currently being used which implements “weights” for each type of case. That, in turn, triggers different funding levels for budget and staffing.*

(13) An examination of the national structure and administration of the defender services program under the CJA; and

(14) The availability and effectiveness of training services provided to federal defenders and panel attorneys.

*The Administrative Office of U.S. Courts provides numerous training opportunities throughout the year on various topics covering a vast array of federal criminal law practice. These opportunities are available around the country and work in conjunction with District Courts, Circuit Courts, the U.S. Sentencing Commission, and others to bring distinguished and knowledgeable experts whose presentations are always informative and timely. Locally, the Federal Public Defender’s Office offers multiple training seminars for the CJA Panel each year. Traditionally, one is held in the Northern District of Mississippi and one is held in the Southern District of Mississippi. These seminars are always well-attended by panel members and always receives great reviews by attendees. Presenters include local FPD staff and also staff from other defender offices, U.S. District Court, Bureau of Prisons, the U.S. Sentencing Commission, and others.*