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Judge Kathleen Cardone, Chair
Ad Hoc Committee to Review the CJA Program
Thurgood Marshall Federal Judiciary Building
One Columbus Circle
Washington, D.C. 20544

RE: CJA Panel Attorney Testimony

Dear Honorable Judge Cardone and Honorable Committee Members:

Thank you for the opportunity to appear and present testimony at the Committee's public hearing to be held in Birmingham, AL on February 18, 2016. I am pleased to represent CJA Panel members for the Northern District of Alabama to voice their concerns regarding certain issues with the program.

My name is Katherine Luker, and I am licensed to practice law in the State of Alabama. I have been practicing primarily criminal law in Alabama since being admitted to the Alabama State Bar in October 2000. I regularly practice in both State and Federal courts, most specifically in the Northern District of Alabama. I am honored to have been selected as a member of the CJA Panel for the Northern District, and I remain dedicated to representing indigent defendants to the best of my ability every single day. Most recently I was asked by the CJA Administrative Committee to help develop a Mentorship Program for the Northern District of Alabama. I am honored to have been asked to contribute to that program, which I feel is extremely important in training our potential up and coming Panel members.

Life in federal court has changed significantly from the time I was first appointed to represent a federal defendant back in 2001 to now in 2016. Some things are easier, and some things are more difficult. But one thing stays the same, the compensation paid to CJA Panel members is still inadequate.

I am sure this Committee has heard from many attorneys across the country concerning the issues are dealing with, and they are most likely the same as those we here in the Northern District find ourselves facing. And, as with many other areas of life, it most often revolves around money. In talking with others on our CJA Panel, we seem to all have the same frustrations and concerns.

I. Compensation:

As is the complaint from most other CJA Panels around the country, I believe that the rates currently applicable are inadequate to attract and maintain the quality of defense attorneys needed to represent federal defendants over the long run. The Panel members we have work tirelessly to represent their clients, and they do it not for the money, but because it is the right thing to do. We have many dedicated attorneys who take these cases because they love practicing in the Northern District of Alabama, and representing indigent defendants. But, in this day, we cannot expect this kind of dedication to be the standard. We are bringing up new, young lawyers who are not willing to apply to be on the Panel because of the compensation rate, and because they don't know if they are not going to be appointed to enough cases to justify the time and effort they have to spend to do a good job, especially since the number of cases received by Panel members as decreased since the Federal Defender's Office was established here in 2011.

The current rate of \$127.00 per hour is not sufficient to compensate attorneys for their time, their overhead, their expertise, and the necessary work required to stay up to date with training. Something must be done to keep good lawyers representing federal indigent defendants.

II. Vouchers / Payment:

The implementation of the CJA E-Voucher system has been a definite step in the right direction. It was tricky to begin with, but our staff here in the Northern District has worked tirelessly with attorneys to make things as smooth and uncomplicated as possible. They are always available to assist when needed.

I believe the general consensus of the Panel members in the Northern District is that the issue of voucher cutting certainly does not rise to the level of criticism that has been heard of from other districts around the country. But it does happen, and maybe sometimes it is necessary. I believe the majority of the Panel attorneys work hard, and already bill minimally to avoid any sense of impropriety, and in an effort to be fair.

We believe that if a judge feels that a voucher is unreasonable, the attorney should be notified, then given the opportunity to justify the time claimed, or adjust the voucher after a full discussion. However, it is not right for a voucher to be cut without any notice, or explanation.

Here in the Northern District most of us have to travel as much as 2 or more hours, one way, to visit a client in jail; so that's 2 hours there, 2 hours back (assuming there's no horrible traffic), and hopefully only an hour or so with the client. A really good day is if you don't have to wait to see your client. Our Marshal's Service works hard to help the attorneys be able to get in and out of jails with the least amount of time wasted, but there is only so much they can do. Thus, when the voucher is

complete, it is not unusual to see travel time outweigh the time that may have been spent on other parts of case.

Many of us on the CJA Panel are sole practitioners who do everything - no secretary, no paralegal, no research assistant - just the attorney. So, every single minute spent on a federal case needs to be compensated, but the system does make that easy. I think the E-Voucher program does allow us to give better, and more detailed descriptions of the work actually performed to justify the time claimed.

III. Resources:

We cannot say that resources, such as investigators, mitigation specialists, expert witnesses, psychological evaluation, computer experts, etc, are not available, however, they are often difficult to obtain. The caps was seriously low, and it is hard to get an expert to commit to work with you if you cannot assure them that they will get paid a reasonable rate.

IV. Training:

There are many CLE training opportunities on the national level which are excellent. Some require travel, and some only require attending via internet. I have attended many training seminars presented around the country through fd.org. However, many attorneys do not have the resources to attend these on a regular basis. Financial assistance for some Panel members to attend important training sessions would be beneficial.

Locally, we on the Panel have the opportunity to attend excellent training events presented by the Federal Defender's Office. They work with the CJA Panel to try to present materials and training that all of the attorneys feel will be beneficial to them in their practice. There are usually a couple of all day seminars presented during the year, as well as monthly lunch seminars. We on the Panel appreciate the work that the Defenders' Office does to put on these programs, and their willingness to share with us.

In close, I consider myself fortunate to have been chosen to be a member of the CJA Panel for the Northern District of Alabama. I appreciate the Committee's efforts to learn what it is like to serve at the CJA level, and to review the quality of indigent defense provided here. Thank you for your time, and consideration of my testimony.

Sincerely,

Katherine P. Luker

Katherine P. Luker
Representative for the CJA Panel
Northern District of Alabama