

FEDERAL PUBLIC DEFENDER
MIDDLE and WESTERN DISTRICTS OF LOUISIANA
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The Honorable Kathleen Cardone
Chair, Ad Hoc Committee to Review Criminal Justice Act Program
Thurgood Marshall Federal Judiciary Building
One Columbus Circle, NE
Washington, D.C. 20544

Re: Testimony of Rebecca L. Hudsmith, Federal Public Defender, Middle and Western
Districts of Louisiana

Dear Judge Cardone:

Thank you for inviting me to address the Ad Hoc Committee to Review Criminal Justice Act Program. I was sworn in as the first Federal Public Defender for the Middle and Western Districts of Louisiana in December of 1993. Prior to my appointment, I was in private practice as a criminal defense lawyer and accepted appointed cases under the Criminal Justice Act.

The Middle and Western Districts of Louisiana together encompass most of the state of Louisiana except the New Orleans area, which comprises the Eastern District of Louisiana. The two judicial districts for which I am responsible include a total of six divisions in six cities with at least one sitting active judge in each division. The travel time between any two cities with sitting active judges ranges from one hour to three and one-half hours.

We have staffed offices in Baton Rouge (the Middle District of Louisiana), Lafayette and Shreveport (the Western District of Louisiana) and we take appointments in all five divisions of the Western District (Shreveport, Monroe, Alexandria, Lake Charles, and Lafayette) as well as in the Middle District. The Shreveport office is staffed with one AFPD, who travels to Monroe, Louisiana to handle cases there as well as in Shreveport. The Lafayette office is staffed with three AFPDs who travel to Alexandria, Lake Charles and Baton Rouge to handle cases in those courts as well as in Lafayette. The Baton Rouge office is staffed with one AFPD who handles cases only in Baton Rouge. Needless to say, the AFPDs in the Lafayette and Shreveport offices engage in a great deal of case-related travel. I primarily handle appeals from the Lafayette office and travel to the Shreveport and Baton Rouge offices for administrative oversight.

The last time I requested an additional AFPD for our office was in 2004, when I was granted one of the two AFPD positions I requested of the Circuit. Our weighted cases open per attorney (“WCO”) averaged 183.4 WCO (for 5.5 attorneys) for statistical years 2010 through 2015, one of the higher averages in the country. Under the Work Measurement Study, our office is entitled to three new FTEs, reflecting that we have been operating at staffing levels too low given the number and weight of the cases we are handling. The only way we have been able to maintain this high level of WCOs and maintain, at the same time, quality representation, has been through the hard work of a seasoned and committed staff, both legal and administrative. It is my hope that we will be able to obtain circuit approval for additional AFPDs as a result of these additional FTEs.

Under the Criminal Justice Act Plan for each district, our office administers the panels of attorneys available for appointments in each of the five divisions of the Western District and in the Middle District. The office also reviews all vouchers submitted by the panel attorneys for payment of compensation and expenses prior to forwarding same to the presiding judicial officer for final approval. An employee in each of the three offices is primarily responsible for the initial voucher review. I conduct the final voucher review for all CJA vouchers over \$3,500 and prepare memos to the Courts for all vouchers over the statutory maximum. I also assist CJA attorneys in preparing budgets in death penalty (both direct death and capital habeas) and other mega-cases. Our office also provides training to the members of the panels in each division of the Western District and in the Middle District which includes an annual two-day seminar open to all panel attorneys. A large part of my time and the time of our administrative staff is spent in managing the CJA panels, reviewing vouchers and assisting with case budgeting. I consider my work in advocating for CJA panel attorneys to be a significant and critical part of my job as Federal Public Defender. As a result of our extensive review of the CJA vouchers, voucher cutting in the Middle and Western Districts is rare. Additionally, I believe that I have played an important role in assisting CJA counsel in getting appropriate budgets approved and in getting paid in direct death and habeas capital cases.

Our office does accept appointments in capital cases. We tried a capital direct death case (I served as lead counsel) in the fall of 2014 with the assistance of national resource counsel, whose help was invaluable, both in trial preparation and during trial. I have also relied upon the assistance of national resource counsel in connection with my out-of-district representation of a federal death row inmate in Section 2255 proceedings in the Eastern District of Louisiana. Again, the national death penalty resource counsel assistance has been invaluable. Given the small size of our office, we regularly request that the federal courts appoint outside CJA counsel to assist us as co-counsel in our capital representations, and the courts have always accommodated us in this regard. Additionally, we have always been able to obtain the necessary case-related resources to undertake these representations with the assistance of the Defender Services Office and the Defender Services Committee. There is no question but that we could not accept appointment in our capital cases and perform as effectively as we have without the assistance of the Defender Services Office and the national resource counsel death penalty programs.

In light of my extensive experience in capital cases, I think it is imperative that the national resource counsel programs, including trial, appellate, Section 2254 and Section 2255, continue to function as resources for the federal defender offices and CJA counsel in these difficult cases.

Sincerely,

Rebecca L. Hudsmith