

**OFFICE OF THE FEDERAL PUBLIC DEFENDER
SOUTHERN DISTRICT OF OHIO**

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Honorable Kathleen Cardone
Chair, Ad Hoc Committee to Review Criminal Justice Program
Thurgood Marshall Federal Judiciary Building
One Columbus Circle, N.E.
Washington, DC 20544

Dear Judge Cardone:

Thank you for inviting me to participate in the upcoming Committee hearing in Philadelphia. I appreciate the opportunity to play a role in this very important undertaking.

My Background. Although I am a relatively new Defender, I have worked within the Federal Public Defender system for almost 30 years. I worked as an Assistant Federal Public Defender in the District of Arizona from 1988-2015. During those years I served as a trial lawyer, a supervisor, and finally as First Assistant. Then in April 2015, I was selected to be the Federal Public Defender for the Southern District of Ohio. Beginning April 4, 2016, I will also serve as the Interim Federal Public Defender for the Northern District of Ohio.

Office of the Federal Public Defender for the Southern District of Ohio. The office of the Federal Public Defender for the Southern District of Ohio has a total of 40 staff members situated in three locations (Columbus, Cincinnati, Dayton). We also have a capital habeas unit in the Columbus Office. Pursuant to our CJA Plan, this office takes 75% of all cases and we generally decline only those cases in which we have a conflict. Over the past several years this office has reviewed hundreds of crack cocaine cases to seek relief under the amended sentencing guidelines, and in 2015 we began reviewing a very large number of cases to ascertain whether those clients may be eligible for relief under *Johnson v. United States*, 135 S.Ct. 2251 (2015). We are also actively involved in a variety of special court programs including drug court and the fledgling Veterans' Court in Dayton. The office provides an annual full-day training event for the panel lawyers, and we also participate in a mandatory training provided by the District Court for all new lawyers admitted to federal practice in this District.

Southern District of Ohio. This district covers 48 of the 88 counties in Ohio. The 600-650 criminal cases filed annually include a mix of the typical "drugs and guns" cases, in addition to environmental cases, fraud cases, immigration cases, criminal investigations from

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Wright-Patterson Air Force Base, and a growing number of sex trafficking and child pornography cases. The sex trafficking and child pornography cases pose an increasing challenge in terms of case management and resources, because of the necessity for forensically-trained and often extremely expensive computer experts.

CJA Panel. The Southern District of Ohio uses several different approaches to panel management. The court itself administers the CJA panel in Columbus and Dayton, whereas the Cincinnati panel is administered by the Federal Public Defender Office. However, this office does not deal with CJA vouchers. The CJA panels for the three seats of court consist of approximately 100 lawyers. Several years ago the district court reduced the size of the panel for the purpose of providing a more regular stream of cases (and thus more federal experience) for the panel lawyers, because most panel lawyers do not maintain an exclusively, or even largely, federal practice. Although the training opportunities offered by the Federal Public Defender Office and the Defender Services Training Division provide invaluable information, those programs cannot substitute for hands-on experience.

CJA Panel Issues. In this district, we enjoy an excellent and supportive relationship with both the Circuit and the District Court bench. Our CJA Panel Representative reports that the CJA lawyers have reported no issues with voucher cutting or denial of experts. However, our CJA panel also ranks well below the national average in its utilization of experts and investigators.

Despite our good relationship with the judges in this district, and based on my historical experience, I share the concerns voiced by others who have testified before this Committee. In some jurisdictions the CJA lawyers struggle to provide high-quality representation as they face mounting problems with voucher cutting, denial of experts, lack of payment for visiting clients, and lack of payment for fully reviewing discovery. These problems have caused long-term panel lawyers to terminate their CJA participation thus depriving the clients of high quality and experienced counsel. Some CJA lawyers are forced to resort to using lines of credit and credit cards just to pay mortgages and other costs of living and practicing because of increasingly delayed and severely reduced voucher payments. And while there have been stories of abuses in voucher practices, I believe those stories represent the exception and not the rule. Where abuses occur, they should be dealt with immediately and directly. The vast majority of CJA lawyers, however, are dedicated professionals who represent indigent clients out of their commitment to this work as a higher calling.

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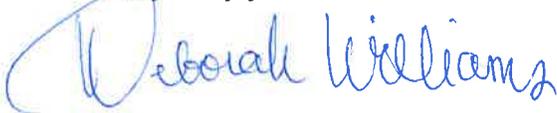
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These financial conflicts also create serious ethical issues. When the trial judge holds the purse strings for defense counsel, it directly impacts the independence and effectiveness of the representation. Lawyers find themselves making important case decisions tempered by the knowledge that their overly assertive representation may directly impact their future position on the CJA panel. They find themselves facing the question of much representation is "enough" but not "too much," because their judge will pay for adequate representation but not Cadillac representation. No lawyer should ever have to make such decisions, and the very prospect of making such decisions creates an obvious and direct chilling effect on the representation. For these reasons I strongly believe that the CJA voucher system should be handled not by the trial judge but by an independent office.

FPD Structure. We have been asked to discuss the structure of the Federal Public Defender system, and my comments thusfar have dealt with the independence of defense counsel. In my mind, those issues cannot be separated. Despite the fact that my district is not plagued by many of the problems that exist elsewhere, and despite the fact that Federal Public Defender lawyers do not have to go to their trial judges for money, independence of defense counsel is a critical issue for indigent defense. I join with the Defenders who have written and testified about restoring the status of DSO and restoring budgeting authority to the Defender Services Committee. I also join with those who have suggested that the FPD and CJA should be represented on the Defender Services Committee. We should have a direct voice in the implementation of our budget and our program, and we should be involved at a policy level in the decisions that shape our organization and its functions. For that reason I join with my colleagues in calling for greater independence.

Thank you for inviting me to participate in this important process, and I look forward to answering any questions you may have in Philadelphia.

Very truly yours,



Deborah L. Williams
Federal Public Defender