

STATEMENT OF CATHY BISSOON
U.S. DISTRICT JUDGE, UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA
HEARING BEFORE THE CRIMINAL JUSTICE ACT AD HOC COMMITTEE
APRIL 11, 2016

Thank you for the opportunity to testify before this Committee on the structure and function of the CJA Program, and for the significant time and work that I know is being devoted to these important issues. I also would like to thank our district's Federal Public Defender, Lisa Freeland, who supplied much of the statistical information required for my testimony today.

The United States District Court for the Western District of Pennsylvania sits in Pittsburgh, Pennsylvania, with divisions in Erie, Pennsylvania and Johnstown, Pennsylvania. Our district's Federal Public Defender's Office currently is comprised of 12 public defenders, including the Federal Public Defender.¹ Over 70 lawyers serve on the CJA Panel in our district. Four of those panel lawyers serve in Erie only and four serve in Johnstown only. One lawyer handles capital cases only.² Pursuant to our district's CJA Plan, there is no set number of CJA Panel members; rather, the CJA Plan provides that the panel "shall be large enough to provide a sufficient number of experienced attorneys to handle the number of cases, yet small enough so that Panel member will receive an adequate number of appointments to maintain their proficiency in federal criminal defense work." The Court's Panel Selection and Review Committee is charged with the task of

¹ The office has Circuit authorization for 13 public defenders, but a vacancy in Erie currently is unfilled.

² Other panel counsel provide services in both Erie and Johnstown, but these eight lawyers handle cases only in those divisions. Additionally, other panel counsel handle capital cases, but this lawyer handles capital cases only.

annually reviewing the size of the CJA Panel to determine how many CJA Panel attorneys are needed to handle the caseload of the Court.

The Federal Public Defender's Office makes efforts to handle all cases in which it does not have a conflict. The actual number of cases handled by the Federal Public Defender's Office and, correlatively, the number of CJA panel appointments, often is a function of the number of multi-defendant cases on the Court's docket. In fiscal year 2014, the Federal Public Defender's Office represented 66% of our district's indigent criminal defendants and 34% were represented by CJA panel counsel. In fiscal year 2015, the Federal Public Defender's Office represented 75% of our district's indigent criminal defendants and CJA panel counsel represented the remaining 25%. As of March 4, 2016, in this fiscal year, the Federal Public Defender represented 87% of our district's indigent criminal defendants with the remaining 13% represented by CJA panel counsel. However, notwithstanding this dip in CJA panel usage this fiscal year to date (which certainly could change as the fiscal year progresses), CJA panel counsel represent numerous indigent defendants in our district every year and provide an indispensable service to the Court and to our community.

I recently had the honor of overseeing a long overdue review of our district's CJA Plan. The committee charged with this review included the Federal Public Defender, district judges, a magistrate judge, a bankruptcy judge and representatives of our Clerk's office. Among the structural and functional aspects under review were: (1) mechanisms for the review and potential removal of CJA panel counsel; (2) potential term limits for CJA panel counsel; (3) the diversity of the CJA panel; (4) continuing training and minimum qualifications of CJA panel lawyers; and (5) an aging CJA panel.

In connection with the review, our Court approved changes to the CJA Plan that included: revamping qualifications for CJA panel counsel, including specific background and training requirements; establishing terms of service and reappointment criteria; creating a mentoring program for new probationary panel members; and creating a mechanism for the investigation and review of complaints against CJA panel members, including specific ramifications in cases of demonstrated deficiencies and/or misconduct. The newest CJA Plan for our district can be found at <http://paw.fd.org/pdf/cja/2015-cjaplan-wdpa.pdf>.

Over the years, one vexing issue for the Court has been the occasional abuse of the voucher system by CJA Panel members serving in extended and complex criminal matters. To date, identified abuses of the voucher system have been handled on a case by case basis by the individual judges overseeing the particular criminal matters. I am aware that there is much discussion about the potential for the creation of a separate position to review such alleged abuses and we look forward to a recommendation from this Committee on this issue. I will observe, however, that this problem in our district is by no means widespread, and the vast majority of panel members seek reasonable reimbursement for their services, even in the most extended and complex of matters.

Having served as both a district judge and a magistrate judge on my Court, I look forward to contributing to the Committee's ongoing discussion of these issues.