

January 20, 2016

The Honorable Kathleen Cardone, Chair
Members of the Committee to Review the Criminal Justice Act

Re: Written Testimony Submitted Prior to February 4, 2016, Hearing
in Portland, Oregon

I understand that the focus of the Portland, Oregon, hearings will be on the quality of CJA representation and the management of the CJA panel. I submit these preliminary observations based on my experiences as a chief district judge, a former CJA panel representative to the National Conference of CJA Attorneys, and as a former CJA panel attorney.

In our district, the CJA panel is comprised of attorneys who apply to be members of the panel. The district court judges have appointed CJA Review Committees comprised of a magistrate judge, a member of the Community Defenders' Organization, and CJA panel members. The CJA Review Committee screens applicants and forwards approved applicants to the district judges for appointment to the panel. To maintain high quality representation, each CJA panel attorney must reapply for retention on the panel every three years. Because of the large geographic area that Eastern Washington covers, there are two CJA Review Committees, each chaired by a magistrate judge who also serves as the administrator of the relative CJA panel in that geographic area.

There are many exceptional criminal defense attorneys who serve on the panel. In addition, there is a concerted effort by the CJA Review Committees and the court to encourage younger attorneys to join the panel as mentees in order to maintain a pipeline of high quality attorneys for the future. Two programs have been used to provide mentorship: one by experienced CJA attorneys serving as mentors; and one by the Community Defender Organization attorneys serving as mentors. Mentees are paid at a reduced rate while assisting in defending an actual case.

There are several special challenges that the CJA panel attorneys face in our district. The first challenge is the geographic location of detention facilities. Defendants indicted in cases to be heard in Spokane are often detained in facilities

in Yakima, which is a 3 ½ hour drive from Spokane, or in Richland, which is a 2 ½ hour drive from Spokane. The CJA panel attorneys often spend large amounts of time travelling to the detention facilities in order to meet with their clients and review discovery. An additional challenge is the U.S. Attorneys' policy in this district restricting the release of discovery to the defendants. In order for the defendants to review their discovery, the CJA panel attorney must personally meet with the defendant and maintain physical custody of the discovery.

Another challenge that affects the ability of CJA panel attorneys to represent their clients as effectively as possible is the limited number of experts available in the district. CJA panel attorneys representing clients in multi-defendant cases may not be able to hire an investigator, because all of the local investigators have conflicts of interest due to representing co-defendants. CJA panel attorneys often are unable to obtain needed IT experts to assist them in organizing and reviewing electronic discovery because of the limited number of IT experts. In addition, the costs for IT experts to assist CJA panel attorneys in large discovery cases can exceed \$400,000 for the IT expert service alone. Recently, the Community Defenders Organization began sharing their IT experts by organizing discovery for all CJA panel members in large discovery multi-defendant cases, which has provided for expeditious, and economical, discovery management.

Despite the challenges, the vast majority of the CJA panel attorneys in our district provide excellent representation for their clients. We attempt to keep the panel small enough that each panel attorney can receive at least two appointments per year, which provides them with regular opportunities to keep current with federal criminal practice. In addition, the Community Defenders Organization provides excellent monthly training to all CJA panel attorneys at no charge, and yearly in-depth training program at little cost.