

Statement of Amy Sirignano
On Behalf of the Federal and Community Defenders
Public Hearing Before the Criminal Justice Act Ad Hoc Committee
Santa Fe, New Mexico
November 17, 2015

Good morning. My name is Amy Sirignano and I am a CJA Panel Attorney in the District of New Mexico. I'd like to thank the Ad Hoc Committee for the invitation to be here and to speak about CJA Panel training in the District of NM.

I am a former FBI Forensic Laboratory Technician, FBI Agent, and a former Federal Prosecutor. I worked for the FBI in their Washington DC laboratory, and as an FBI Agent in New York City and Long Beach, CA. I was hired as an Assistant United States Attorney ("AUSA") in the District of New Mexico (D. NM") and was assigned to White Collar Crime, Firearms, and early National Security cases for approximately 6 years. For approximately 2 years, I worked as a Trial Attorney for the Department of Justice ("DOJ") in the Gang Unit, on a multi-jurisdictional racketeering case. I have been on the CJA panel in the D. NM since 2009. I have been appointed to the Auxiliary (Misdemeanor) panel, the General Felony Panel, and the Complex Case panel. My office was also recently CJA appointed on two Tenth Circuit direct appeals.

I am a former board member of the New Mexico Criminal Defense Lawyers Association ("NMCDLA") and the New Mexico Women's Bar Association. I am also a member of the National Criminal Defense Lawyer's Association ("NACDL"). Our 2015 CJA panel has approximately 101 members in Albuquerque and 35 members in Las Cruces, NM. Members are appointed for three (3) year terms and can serve on the General Felony Panel, the Complex Case Panel, the Appeals & Habeas Corpus Panel and the Auxiliary Panel. Many of our panel members are Spanish speakers. Since 2009, on average, I was appointed approximately 8-10 cases a year, which include complex white-collar crimes (money laundering, Ponzi scheme), a National Security case from Los Alamos National Laboratory, First and Second degree murder and violent crime cases from the tribal communities, as well as firearms and narcotics trafficking cases involving multiple defendants and wiretaps.

My testimony was requested to advise the Committee about the differences between training provided to AUSAs/DOJ Trial Attorneys, Assistant Federal Public Defenders ("AFPDs"), and CJA Panel Attorneys. In preparation for this hearing, I spoke to our First Assistant Federal Defender, CJA Panel Committee members, representatives from NMCDLA, and current AUSAs in the district.

Comprehensive, ongoing, and readily available federal training is needed for all D. NM CJA Panel members. Our 2015 CJA Plan requires 4 hours of mandatory CLE per calendar year in federal criminal practice at each CJA panel member's own expense. See D. NM 2015 CJA Plan, 15-MC-0004 (Doc. 27; 05-28-15). The plan also outlines what kind of training meets those requirements including "local seminars offered by the FPD, the NMCDLA, the NACDL or national programs available to CJA lawyers." The 4-hour requirement can also be satisfied by providing or receiving mentoring. However, the Plan only allows mentoring after a request for mentoring of a CJA Panel attorney by a member of the CJA Panel Committee. Failure to comply with this requirement is grounds for removal from the CJA Panel.

Assuming the playing field is level for all federal practitioners, training for CJA Panel attorneys, AFPDs, and AUSAs is not equally available. The National Advocacy Center ("NAC") provides a 2-week training for all new AUSAs, and advanced training for all prosecutors. The NAC is staffed full-time with training professionals and recruits experienced AUSAs and DOJ Trial Attorneys to teach. The D. NM U.S. Attorney's Office also provides local training at least every 6 months so the Albuquerque and Las Cruces offices can meet and collaborate. The DOJ also provides "blue-book" publications on both substantive and procedural law, which is readily available to all trial attorneys. During my 6 years as a federal prosecutor, I attended approximately 8 classes at the NAC.

Most D. NM CJA Panel attorneys obtain their federal training regionally through the Administrative Office of the Courts ("AO") Defender Services Office ("DSO") or through the NACDL. The DSO does a great job providing regional in-person training: (Nuts & Bolts of Federal Practice; Winning Strategies; Sentencing Advocacy; Discovery; Technology), webinars, and provides a hotline for CJA attorneys.

The NACDL also provides regional and an annual meeting on variety of federal and state criminal law and practice topics. NACDL also provides on-demand, and self-study training programs, and publications. Members have access to a substantive library and blog. The cost of NACDL regular membership (Criminal defense attorney in private practice) is \$319.00/year. Participation in CLE seminars is separate from the annual membership fee. See NACDL, <https://www.nacdl.org/MemberTypes/>.

Presently, our Federal Public Defenders Office ("FPD") provides weekly emails from the DSO on Ninth and Tenth Circuit case updates, the Ninth Circuit case of the week, information on Certiorari grants, expert resources and training opportunities from the DSO Training Division. One on one mentoring and assistance is always available if a CJA Panel requests it from the FPD. The FPD routinely provides samples of motions, moot

courts, and other general federal practice assistance. The D. NM FPD is very helpful, especially when CJA Panel attorneys work with them on multiple-defendant cases. However, CJA Panel attorneys do not get access to the Federal Defender's national listserv and the benefits of that network. My federal law and practice questions are made to the NACDL listserv, and my State practice questions are made on the NMCDLA listserv.

Our FPD also works in cooperation with NMCDLA to include some federal training in the local NMCDLA quarterly training programs throughout the state. The NMCDLA also provides an annual day-long summer CLE and awards ceremony, a brief bank/library and listserv. The cost for NMCDLA membership is \$ 50.00/year for private attorneys practicing less than 3 years, \$95.00 for private attorneys practicing 3-7 years and \$155.00 for private attorneys practicing more than 7 years. Participation in CLE seminars is separate from the annual membership fee. *See* NMCDLA, <http://www.nmcdla.org/join-now.html>.

Administratively, the CJA Financial Services staff has trained all CJA Panel members and their secretaries and paralegals on the new e-voucher system, and how to complete and submit CJA vouchers.

In an ideal world, the D. NM could adopt a training approach that other jurisdictions follow: a dedicated CJA webpage with substantive legal and practice resources and announcements for monthly brown-bag luncheons, Fed Talks, all day Spring/Fall CLE training put on by the local FPD for CJA Panel Attorneys. The webpage could include formal guidance on practical issues like service of subpoenas, commonly used forms in both English and Spanish, experts and transcripts from Daubert hearings, information on client services, locations and directions of the county jails, and a blog addressing local district court opinions by Judge or topic (i.e. Immigration law, Competency, or Native American Cultural issues) and a federal brief bank. Development of a Second Chair Mentoring program for new federal practitioners or state practitioners who want to transition into federal court is fundamental to bring new talent into federal court. *See* D. Kansas CJA webpage, <http://www.kansascja.org/>.

Our District Court also provides a free annual 1-day training, "The Second Best Federal Bar Seminar," for both civil and criminal practitioners. Topics included, evidence, experts and discovery, trending topics in criminal law (sentencing issues involving U.S.S.G. Section 2D1.1), preservation of issues for appellate review, effective motions practice, and a Supreme Court update. Some CJA Panel members travel out of state (California Death Penalty Seminar), to obtain death penalty training experience in order to second chair a federal death penalty case.

There are real consequences when federal training is lacking in availability and substance. Needless trials, appeals, 2255s, wasted precious CJA resources, and client misunderstandings and ineffective assistance of counsel claims. Many CJA practitioners work in rural communities and it is very difficult to leave NM to attend regional training. It is estimated that each regional CLE credit costs approximately \$75.00 per credit, requires travel time, airfare and hotel expense, and meals. Moreover, the CJA attorney is not able to bill and therefore, is losing income for every hour of required federal training.

Increased local CJA Panel training can resolve the following issues: the lack of availability of federal-specific training; the lack of implementation of national training locally due to limited CJA Funds for experts, mitigation videos and specialists; much of the training resources in the D. NM is state-based and not specific to federal practice; and, CJA Panel attorneys are obligated by the D. NM CJA Plan to self-pay for required CLE, which requires attendance outside the district.

Thank you very much.

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