



U.S. Department of Justice

Billy J. Williams

United States Attorney

District of Oregon

1000 SW Third Avenue, Suite 600

Portland, OR 97204-2902

(503) 727-1000

Fax (503) 727-1117

February 4, 2016

The Honorable Kathleen Cardone, Chair
Ad Hoc Committee to Review the Criminal Justice Act
Judicial Conference of the United States
Thurgood Marshall Federal Judiciary Building
One Columbus Circle, NE
Washington, DC 20544

Dear Judge Cardone:

Re: Ad Hoc Committee to Review Criminal Justice Act Program

Thank you for the opportunity to speak with you and the committee members today on a subject that is of great importance to me. I started my legal career in Portland as a Trial Assistant at the Metropolitan Public Defender from 1983 to 1986 prior to attending law school. I worked with assistant public defenders in client management, case analysis, and alternatives to sentencing. This experience provided me with invaluable insights that greatly influenced how I have viewed my responsibilities as a prosecutor, and my views of the criminal justice system, for the last 26 years in both the state and federal systems. I know first-hand that quality representation of all criminal defendants is integral to the fair administration of justice. Inadequate representation is not fair to defendants charged with serious federal crimes, and only serves to degrade the value of what I believe is the finest criminal justice system in the civilized world.

I am pleased to report that in the District of Oregon, the Federal Public Defender's Office (FPD), led by Lisa Hay, does an outstanding job of vigorously representing their clients. We know that in every case we bring the indigent defendant represented by an Assistant Federal Defender will receive the same zealous and skillful representation as those defendants who can afford to retain their own counsel. The same is true for those defendants who are represented by members of the Criminal Justice Act Panel managed by the Federal Defender's Office. In short, the quality of representation offered by the Federal Public Defender and attorneys on the Criminal Justice Act Panel is excellent.

From my perspective as an administrator, however, the long-term professional relationship my office has fostered with Ms. Hay and Mr. Wax before her, has paid great benefits to both organizations.

We work carefully with the FPD on a wide-variety of administrative matters of mutual concern, and I list the following examples:

1. Discovery: With the growth in e-discovery, my office continues to work collaboratively with the FPD to ensure that all electronic discovery is disseminated in a manner that is readable, searchable, and includes an index. Given the wide range of formatting options, this process necessarily required us to work together to avoid technological conflicts and to ensure that discovery is efficiently produced and avoids unnecessary tensions or litigation.
2. Re-Entry Efforts: My office has worked collaboratively with the Court and the FPD to support three re-entry courts in the District of Oregon. These courts, under the leadership of Judge Aiken and Judge Hernandez, have supported innumerable defendants as they make the transition from prison back to society at large. My staff works closely with the FPD, the United States Probation Office and the Court to support this important transitional program, all with the goal of reuniting defendants with their families and avoiding the risk of reoffending. Under the Smart on Crime initiative, the department continues to find ways to further develop the concepts utilized in these endeavors to reduce recidivism.
3. Availability of Defense Counsel: In fast-moving investigations, including *Len Bias* investigations, my office has worked with the FPD to afford pre-indictment counsel to defendants prior to investigative interviews. These requests are often made by phone to the FPD late at night or on weekends, and they have responded by immediately arranging counsel for the defendant. The mutually beneficial result is that the individual has the benefit of experienced counsel and our investigations are not unnecessarily impeded. This process also serves to avoid claims of conflict of interest against my office and whomever the FPD chooses to represent the individual.
4. New Arrest and First Appearance Procedures: We work collaboratively with the FPD to ensure that arrestees have the benefit of counsel in advance of the defendant's initial arraignment and detention hearing. We attempt whenever possible to give the FPD advance notice of multi-defendant arrests so they have the ability to arrange for counsel for all defendants, giving them adequate time to meet with each defendant to review the charges and explore potential conditions of release prior to the first appearance. This collaboration is not only a benefit to the defendant, but also to the United States Pre-Trial Services Office as well as the Magistrates that preside at those hearings.
5. USAO/FPD Consultations: My management team has met on an Ad Hoc basis with the management team of the FPD for years. As we all know, prosecuting and defending serious federal crimes can be stressful on all concerned. We've learned through experience that issues can be avoided if we pick up each other's calls and meet face to face to address concerns before they become problems. I am grateful for Ms. Hay's willingness to continue this tradition of working together for the mutual benefit of both our offices.

During this morning's discussion, questions were raised about discovery within correctional institutions. I provide the following information that I hope the committee will find helpful. Unregulated possession of discovery within correctional institutions remains a point of contention between my office and the defense bar. On a case by case basis, my office seeks protective orders limiting the possession of discovery by pre-trial detainees in those instances where safety and security concerns exist, or where the volume of discovery makes redaction of personal privacy information impractical or would unnecessarily delay the provision of discovery to defense counsel. This necessarily has the result of requiring defense counsel to personally review discovery with their clients. I recognize the time expended to complete this task is significant, especially when large volumes of e-discovery are involved. The problem is being addressed on a national scale by the Indigent Pretrial Detainees Access to eDiscovery Working Group led by Assistant Attorney General Andrew Goldsmith in conjunction with prosecutors, court staff, prison officials, and members of the defense bar around the country. That group is studying ways to make discovery more accessible to inmates while at the same time recognizing the safety and security concerns inherent in the possession of sensitive materials in the custodial setting.

In summary, while our Assistant United States Attorneys and Assistant Federal Public Defenders and CJA Panel members remain vigorous adversaries in court, here in the District of Oregon, we have and continue to seek ways to work together to improve administrative efficiencies, all for the benefit of the fair administration of justice.

Thank you.

Sincerely,



BILLY J. WILLIAMS
United States Attorney