
December 20, 2023

Hon. Patty Murray
Chair
Senate Committee on Appropriations

Hon. Susan Collins
Vice Chair
Senate Committee on Appropriations

Hon. Chris Van Hollen
Chair
Senate Committee on Appropriations
Subcommittee on Financial Services and
General Government

Hon. Bill Hagerty
Ranking Member
Senate Committee on Appropriations
Subcommittee on Financial Services and
General Government

Hon. Kay Granger
Chair
House Committee on Appropriations

Hon. Rosa DeLauro
Ranking Member
House Committee on Appropriations

Hon. Steve Womack
Chair
House Committee on Appropriations
Subcommittee on Financial Services and
General Government

Hon. Steny Hoyer
Ranking Member
House Committee on Appropriations
Subcommittee on Financial Services and
General Government

Re: Defender Services budget

Dear Chair Murray, Vice Chair Collins, Chairman Van Hollen, Ranking Member Hagerty, Chair Granger, Ranking Member DeLauro, Chairman Womack and Ranking Member Hoyer:

The undersigned organizations are deeply concerned about the hugely destructive impact of proposed cuts to the federal indigent defense system. To avert the crisis, we are asking that you ensure that the Defenders Services account is fully funded at the requested amount.

When the House and Senate marks for Defender Services were first made public this summer, they were each over one hundred million dollars less than what the defender program needed simply to maintain current operations and ensure timely payment to CJA panel lawyers. Since that time, the federal defender program has implemented a range of emergency cost-saving measures. These measures, which include a hard hiring freeze, have reduced the gap between the current marks and what the program needs, but they have also inflicted damage on the

program. Even after implementing these emergency measures, the program faces a devastating shortfall: the House mark is \$80.6 million less than the bare minimum of what the program needs, and the Senate mark is \$109 million short.

Unless corrected, these cuts risk loss of federal defender staff, unpaid furloughs, and lengthy deferments of CJA panel attorney payments. These cascading consequences would disrupt the federal criminal legal system, compound the burden on private counsel (mostly small business owners), and cost more in the long run than any expected short-term savings. Simply put, insufficient funding will undermine the administration of justice, harming the public, witnesses and victims, and countless federal defendants.

Our federal criminal legal system cannot be sustained unless all components – prosecution, judiciary, and defense – receive adequate and stable funding. Federal defender offices were already operating quite leanly; indeed, the judiciary recently [found](#) that the defender program needs to add hundreds of positions to continue doing its job effectively.

Underfunding federal defenders will not staunch the flow of indigent defendants requiring appointed counsel in the federal criminal legal system. On the contrary, that need is predicted to increase, as the Department of Justice has indicated its [intent to prosecute up to 1,200 additional January 6 felony cases](#) and assume a greater role in the prosecution of crimes committed on certain Native American lands. And these extraordinarily resource-intensive prosecutions come on top of an ongoing, nationwide [increase in the rate and complexity](#) of federal criminal cases, as reflected by the [push](#) to add [hundreds](#) of federal prosecutors to the Department of Justice's ranks in 2023. Federal indigent defense was already under-resourced as compared to the Department of Justice, and the low appropriation marks set by the House and Senate [would push the system over the brink](#).

Given that [roughly 90 percent](#) of people charged with federal crimes are too poor to hire an attorney and, thus, have a constitutional right to a federal defender or court-appointed counsel, these proposed budget cuts will simply create chaos. Federal defender offices will be forced to turn down cases that they would ordinarily accept, forcing CJA panel attorneys—most of whom maintain busy practices alongside their court-appointed work—to make up the difference. Even if CJA panel attorneys were fully able to satisfy this demand for legal representation consistent with their other professional obligations, they would have little incentive due to the projected delays in payment. Such unreliable compensation will prevent many panel attorneys, who are already paid well below the market rate, from taking on federal indigent clients. The result will be an unacceptable shortage of criminal defense attorneys available to represent federal defendants. The human and administrative impacts of this shortfall would be severe, resulting in delays and postponements that will impede case resolution and significantly increase the time spent in expensive pretrial detention facilities.

As we mark the 60th anniversary of *Gideon v. Wainwright* this year, the federal indigent defense system must be protected from these devastating cuts. Testifying in support of the Criminal

Justice Act in 1963, Attorney General Robert Kennedy [extolled](#) the planned system as “the most comprehensive, yet flexible solution ever devised to meet the representation problem in the federal system.” Sixty years later, the future of that system rests in the hands of this Congress. We urge you to work with your colleagues to provide full funding for our federal indigent defense system and ensure that, in federal courts, the scales of justice “measure truth, not legal fees.”

Sincerely,

National Association of Criminal Defense Lawyers

American Civil Liberties Union

Americans for Prosperity

Brennan Center for Justice at NYU School of Law

Center for Integrity in Forensic Sciences

Church of Scientology National Affairs Office

CURE (Citizens United for Rehabilitation of Errants)

Drug Policy Alliance

Due Process Institute

Fair and Just Prosecution

FAMM

FreedomWorks

Friends Committee on National Legislation

FWD.us

Gideon’s Promise

The Innocence Project

International Community Justice Association

The Leadership Conference on Civil and Human Rights

Just Future Project

Justice Action Network

JustLeadershipUSA

JustUS Coordinating Council

NAACP Legal Defense & Educational Fund, Inc

National Association for Public Defense

National Council for Incarcerated and Formerly Incarcerated Women and Girls

National Council of Churches

National Immigrant Justice Center

National Legal Aid and Defender Association

NETWORK Lobby for Catholic Social Justice

The Sentencing Project

Tzedek Association

State Organizations

Alabama

Alabama Criminal Defense
Lawyers Association

Alaska

Alaska Association of
Criminal Defense Lawyers
Alaska Innocence Project

Arizona

Arizona Attorneys for
Criminal Justice
Arizona Justice Project

California

California Attorneys for
Criminal Justice
Los Angeles Innocence
Project
Northern California
Innocence Project
Ella Baker Center for
Human Rights

After Innocence

Loyola's Project for the
Innocent

Represent Justice

Colorado

Colorado Criminal Defense
Bar

Connecticut

Connecticut Criminal
Defense Lawyers
Association

Delaware

Innocence Project
Delaware

District of Columbia

Mid-Atlantic Innocence
Project
Coalition on Human Needs

Florida

Florida Association of
Criminal Defense Lawyers
Innocence Project of
Florida
Miami Law Innocence
Clinic

Georgia

Georgia Association of
Criminal Defense Lawyers

Hawaii

Hawaii Innocence Project

Idaho

Idaho Association of
Criminal Defense Lawyers

Illinois

Illinois Association of
Criminal Defense Lawyers
Illinois Innocence Project

Center on Wrongful
Convictions

The Exoneration Project

Illinois Prison Project

Restore Justice

Indiana

Notre Dame Exoneration
Justice Clinic

Kansas

Kansas Association of
Criminal Defense Lawyers

Kentucky

Kentucky Association of
Criminal Defense Lawyers

Louisiana

Louisiana Association of
Criminal Defense Lawyers

Innocence Project New
Orleans

Maine

Maine Association of
Criminal Defense Lawyers

Maryland

Maryland Criminal
Defense Attorneys'
Association

University of Baltimore
Innocence Project Clinic

Massachusetts

Massachusetts Association
of Criminal Defense
Lawyers

Boston College Innocence
Program

New England Innocence
Project

Michigan

Criminal Defense
Attorneys of Michigan

Minnesota

Great North Innocence
Project (Minnesota, North
Dakota, and South Dakota)

Missouri

Missouri Association of
Criminal Defense Lawyers

Midwest Innocence
Project (Missouri, Kansas,
Nebraska, Iowa, and
Arkansas)

Montana

Montana Innocence
Project

Nebraska

Nebraska Criminal Defense
Attorneys Association

Nevada

Nevada Attorneys for
Criminal Justice

New Hampshire

New Hampshire
Association of Criminal
Defense Lawyers

New Jersey

Association of Criminal
Defense Lawyers of New
Jersey

New Jersey Innocence
Project at Rutgers
University

New Mexico

New Mexico Criminal
Defense Lawyers
Association

New York

New York State Association
of Criminal Defense
Lawyers

The Exoneration Initiative

Center for Employment
Opportunities

Legal Aid Society of New
York

North Carolina

North Carolina Advocates
for Justice

Center for Criminal Justice
and Professional
Responsibility (Duke
University School of Law)

Wake Forest Innocence &
Justice Clinic

Southern Coalition for
Social Justice

Just Sentencing Project
(Duke University School of
Law)

Ohio

Ohio Association of
Criminal Defense Lawyers

Ohio Innocence Project

Oklahoma

Oklahoma Innocence
Project

Oregon

Oregon Criminal Defense
Lawyers Association

Pennsylvania

Pennsylvania Association
of Criminal Defense
Lawyers

Pennsylvania Innocence
Project

Puerto Rico

Proyecto Inocencia de
Puerto Rico

South Carolina

South Carolina Association
of Criminal Defense
Lawyers

Tennessee

Tennessee Association of
Criminal Defense Lawyers

Texas

Texas Criminal Defense
Lawyers Association

Lubbock Criminal Defense
Lawyers Association

Innocence Project of Texas

Utah

Rocky Mountain
Innocence Center

Vermont

Vermont Association of
Criminal Defense Lawyers

Virginia

Virginia Association of
Criminal Defense Lawyers

Innocence Project at UVA
School of Law

Washington

Washington Association of
Criminal Defense Lawyers

Washington Innocence
Project

Wisconsin

Wisconsin Association of
Criminal Defense Lawyers

Wisconsin Innocence
Project