

United States Senate

WASHINGTON, DC 20510

August 5, 2013

Honorable William B. Traxler, Jr.
Chair, Executive Committee of the
Judicial Conference of the United States
300 East Washington Street, Ste. 222
Greenville, SC 29601

Re: Funding of the Office of Defender Services

Dear Chief Judge Traxler,

We write jointly as the Chair and Ranking Member of the Senate Judiciary Committee Subcommittee on Bankruptcy and the Courts, respectively, in regards to a July 23 Subcommittee hearing in which our Subcommittee examined the impact that funding cuts are having on our federal judiciary, and particularly the Federal Defender Services account.

Unlike other areas of the federal government, the judiciary does not have discretion to “do less” in a sequester environment. Federal Courts cannot turn away cases over which there is proper federal jurisdiction. The government must provide indigent criminal defendants with counsel in order to try them. However, the budget of the judiciary consists overwhelmingly of personnel costs. With no ability to reduce caseloads or achieve significant non-personnel savings, sequester for the judiciary requires furloughs or layoffs, increased strain on the human resources that remain, and delay.

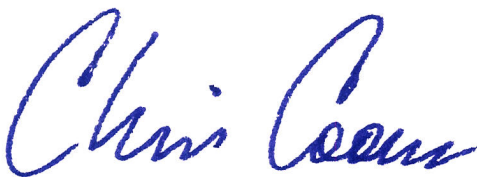
At the July 23 hearing, Michael S. Nachmanoff, Federal Public Defender for the Eastern District of Virginia, reported that defender offices across the country are working to find ways to institute cuts in funding. For example, in Delaware, employees are required to accept a 15-day furlough for the remainder of FY13. In the Southern District of Alabama, the Federal Defender’s Office has suspended payments to employee retirement accounts from April until the end of the fiscal year in order to reduce the amount of furlough days.

While we commend the judiciary for making smart, prudent reductions in spending in many areas, it appears that these cuts have disproportionately impacted those who are doing the work in the field. The Federal Public Defender is central to the government’s obligations under the Sixth Amendment, handling approximately 75% of all indigent defenses. Judges, prosecutors, and defenders are in agreement that the high overall quality of representation provided by the federal defenders offices helps ensure speedy, just resolution of criminal cases. Quality representation not only promotes the rule of law and safeguards constitutional rights, it also saves money by reducing pre-trial and post-trial incarceration costs.

It has been suggested that the judiciary may be able to save money by reducing the percentage of cases going to the public defender by assigning those cases to Criminal Justice Act panel attorneys. While we are grateful for the work of CJA panel attorneys to complement the work of the federal public defenders, we are deeply concerned about the capacity of the CJA panels to handle increased caseloads. In addition, shifting the workload to CJA panel attorneys is not cost effective, as CJA panel attorneys are consistently more costly than federal defenders.

We appreciate your taking the time to consider our views in this matter. Please continue to keep us apprised of your concerns and progress in managing the judiciary's budget. Please do not hesitate to contact us if we may be of assistance.

Sincerely,

A handwritten signature in blue ink, reading "Chris Coons".

Christopher A. Coons
Chairman

A handwritten signature in blue ink, reading "Jeff Sessions".

Jeff Sessions
Ranking Member