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July 11, 2023

Honorable Patty Murray  
Chair  
Senate Committee on Appropriations

Honorable Susan Collins  
Vice Chair  
Senate Committee on Appropriations

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

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

Re: Defender Services budget

Dear Chair Murray, Vice Chair Collins, Senator Van Hollen and Senator Hagerty:

The undersigned organizations are deeply concerned about the devastating impact of cuts proposed by the House Subcommittee on Financial Services and General Government on the federal indigent defense system. The House subcommittee's mark is \$122 million less than requested and could cause the loss of 9% of current federal defender staff. Such layoffs would almost certainly decimate the federal defender system, degrade the overall quality of federal indigent defense, and undermine the administration of justice. To avert the crisis, the Senate must ensure that Defenders Services account is fully funded at the requested amount.

Our federal criminal justice system cannot be sustained unless all components – prosecution, judiciary, and defense – receive adequate and stable funding. Federal defender offices were already operating quite leanly, as evidenced by a recent work measurement study that indicates the need for an additional 256 employees. Instead, the House subcommittee mark would potentially result in the loss of 368 employees.

The drastic reduction in federal defenders will not staunch the flow of indigent defendants requiring appointed counsel. On the contrary, that need is predicted to increase, as the Department of Justice has indicated its intent to prosecute thousands of additional January 6 cases and assume a greater role in the prosecution of crimes committed on certain Native American lands. Federal indigent defense was already under-resourced as compared to the Department of Justice, and the House's proposed cuts would push the system to the brink.

Given that an estimated 90 percent of federal defendants qualify for a federal defender or court-appointed counsel, the impact of these cuts will be felt throughout the federal criminal justice system. Every federal defendant without resources to hire an attorney is entitled to government-paid counsel, therefore, the notion that savings can be achieved by reducing the federal public defender budget is specious. As federal defenders are required to turn down cases, indigent defense costs will simply be transferred to pay for court-appointed counsel. No savings will be achieved, and in fact some costs will inevitably increase. Delays and postponements will increase the time that defendants spend in expensive pretrial detention facilities. In addition, many federal defender offices that manage the local panel of court-appointed attorneys will be forced to abdicate that responsibility to the judiciary, resulting in increased administrative costs and diminished efficiency.

As we mark the 60th anniversary of *Gideon v. Wainwright*, the system that has served as a model for 50 years must be protected from these devastating cuts. Testifying in support of the Criminal Justice Act, 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 court, the scales of justice “measure truth, not legal fees.”

Sincerely,

National Association of Criminal Defense Lawyers

American Civil Liberties Union

Gideon’s Promise

National Association for Public Defense

National Legal Aid and Defender Association