

United States Senate

COMMITTEE ON THE JUDICIARY

WASHINGTON, DC 20510-6275

August 14, 2025

Senator Susan Collins
Chair
U.S. Senate Committee on Appropriations
United States Senate
Washington, DC 20510

Senator Patty Murray
Vice Chair
U.S. Senate Committee on Appropriations
United States Senate
Washington, DC 20510

Senator Bill Hagerty
Chair
U.S. Senate Committee on Appropriations
Subcommittee on Financial Services and
General Government
United States Senate
Washington, DC 20510

Senator Jack Reed
Ranking Member
U.S. Senate Committee on Appropriations
Subcommittee on Financial Services and
General Government
United States Senate
Washington, DC 20510

Dear Chair Collins, Vice Chair Murray, Chair Hagerty, and Ranking Member Reed:

As you develop the Fiscal Year 2026 (FY26) appropriations bill for Financial Services and General Government (FSGG), we ask that you provide robust funding to Defender Services. We also ask that in the event of any FY25 supplemental appropriations bills or a continuing resolution permitting anomalies, you fund the current shortfall that is preventing payments to panel attorneys.

Defender Services is critical to ensuring the Sixth Amendment's bedrock guarantee of counsel in criminal proceedings. The Supreme Court "ha[s] recognized repeatedly the central role of the defendant's right to counsel in our criminal justice system,"¹ deeming the right "fundamental and essential to fair trials."² To meet the Sixth Amendment's mandate for those unable to afford private representation, federal defender organizations serve 92 of the 94 federal judicial districts and employ approximately 4,200 personnel to represent indigent defendants in all aspects of a federal criminal case. Federal law also provides for the compensation of more than 12,000 private defense attorneys, also called panel attorneys, who agree to represent defendants financially unable to retain counsel but, for various reasons, are not eligible for representation by a federal defender. Together, federal defenders and panel attorneys represent about 90 percent of criminal defendants in federal court.

Adequate funding is critical to ensuring federal defenders and panel attorneys have the resources necessary to carry out their constitutional mandate. The Sixth Amendment's guarantee is not fulfilled by the mere presence of a lawyer; rather, "the right to counsel is the right to the

¹ *Morris v. Slappy*, 461 U.S. 1, 20 (1983) (Brennan, J., joined by Marshall, J., concurring) (citing cases).

² *Gideon v. Wainwright*, 372 U.S. 335, 344 (1963).

effective assistance of counsel,”³ meaning that “whether retained or appointed,” the attorney “ensure[s] that the trial is fair.”⁴ To provide a fair trial, much more than a lawyer is required. Often, a rigorous defense will require various professionals, such as investigators, paralegals, interpreters, experts, and other support staff; training, technology, and research services; case-related travel; and office space and supplies, among other costs. Margins for spending on case essentials are already thin. Federal defender funding largely is allocated to personnel and space, leaving less available for other case necessities.

In FY25, the Defender Services budget remained level with FY24, which effectively was a funding cut due to inflation, resulting in a shortfall.⁵ Federal defenders suspended and deferred certain programmatic needs, such as most in-person training and cybersecurity upgrades, and implemented a hiring freeze.⁶ Most alarmingly, as of July 7, 2025, funds for panel attorney payments were completely depleted; as a result, payments are and will continue to be deferred until the start of the new fiscal year, absent approximately \$116 million in supplemental funding.⁷

This lack of funding already is impacting the fair and efficient functioning of the criminal justice system. Federal defender organizations across the country are understaffed and face burnout among overworked employees.⁸ Panel attorneys, effectively asked in the interim to work for free and fund case expenses, have begun to withdraw or refuse case appointments.⁹

This budgetary shortfall is further compounded by shifting law enforcement priorities. As United States Court of Appeals for the Seventh Circuit Judge and Judicial Conference Committee Budget Chair Amy St. Eve recently explained, several of the Trump Administration’s

³ Strickland v. Washington, 466 U.S. 668, 686 (1984) (quoting McMann v. Richardson, 397 U.S. 759, 771, n. 14 (1970)) (emphasis added).

⁴ *Id.* at 686.

⁵ Suzanna Monyak, *Defense Lawyers Face Months Without Pay as Federal Funds Dry Up*, Bloomberg Law (June 2, 2025, 4:45 A.M.), <https://news.bloomberglaw.com/us-law-week/defense-lawyers-face-months-without-pay-as-federal-funds-dry-up>.

⁶ *Id.*

⁷ *CJA Panel Attorney Funds Information FY 2025*, U.S. COURTS (last accessed July 29, 2025), <https://www.uscourts.gov/about-federal-courts/defender-services/cja-panel-attorney-funds-information-fy-2025>.

⁸ *Funding Crisis Leaves Defense Lawyers Working Without Pay*, U.S. COURTS (July 15, 2025), <https://www.uscourts.gov/data-news/judiciary-news/2025/07/15/funding-crisis-leaves-defense-lawyers-working-without-pay>.

⁹ *Id.*; Austin Fisher, *Some New Mexico Attorneys Stop Taking Public Defense Work Due to ‘Funding Crisis’*, SOURCE NM (July 17, 2025, 11:34 A.M.), <https://sourcenm.com/2025/07/17/some-new-mexico-attorneys-stop-taking-public-defense-work-due-to-funding-crisis/>; Mary Steurder, *North Dakota Attorneys Withdraw from Federal Public Defender Work Due to Funding Gap*, NORTH DAKOTA MONITOR (July 16, 2025, 5:00 A.M.), <https://northdakotamonitor.com/2025/07/16/north-dakota-attorneys-withdraw-from-federal-public-defender-work-due-to-funding-gap/>; Julia Coin, *With No Money to Pay Defense Lawyers, Alarms Sound in NC Federal Courts*, THE CHARLOTTE OBSERVER (July 23, 2025, 12:01 P.M.), <https://www.charlotteobserver.com/news/local/crime/article311142545.html>; Mike Donoghue, *Vermont Runs Out of Federal Funds for Defense Lawyers*, BENNINGTON BANNER (July 20, 2025), https://www.benningtonbanner.com/local-news/vermont-runs-out-of-federal-funds-for-defense-lawyers/article_6834d8c6-3de2-411b-b79f-f5816cfc68b1.html#:~:text=The%20financial%20shortage%20apparently%20does,St..

new policies, such as instructing prosecutors to always charge the most serious offense and lifting the federal death penalty moratorium, “could generate substantial new workload and caseload for the courts and federal defender organizations.”¹⁰ Judge St. Eve continued, “there is anecdotal evidence of this increased workload already.”¹¹

Most immediately, courts worry that defendants may be detained longer than necessary or criminal cases may be compromised if counsel and resource shortages lead to violations of the right to a speedy trial.¹² And there will be additional consequences as cases stall: slowed proceedings and delayed justice, backlogs on court dockets and in U.S. Attorneys’ Offices, increased filings bringing challenges based on delay, and erosion of public trust in a fair and efficient criminal justice system. Underfunding Defender Services will not yield savings to the federal government. As Judge St. Eve repeatedly has emphasized, when federal defenders are under-resourced and cannot accept clients, the federal government will still bear the cost, as representation remains both constitutionally and statutorily required. Cases will shift to panel attorneys, “where *the cost is incurred anyway* because the representation must be provided by one means or the other.”¹³

Despite these concerns, on July 21, 2025, House FSGG approved a version of the appropriations bill that would provide \$1.57 billion to Defender Services, \$196 million below the FY26 request from the Administrative Office of the United States Courts (AO). This remains far below the minimum amount necessary for the Defender Services program to ensure its constitutional mandate is met. Unfunded panel attorney obligations from this fiscal year will immediately roll over to FY26—a cost driven by the Criminal Justice Act over which the Judiciary has no control.¹⁴ And among other operational costs, the workload of Defender Services is expected to increase, necessitating greater federal defender staffing and reliance on panel attorneys.¹⁵ The AO predicts that if funded at the House level, federal defenders may be required to downsize by 600 positions or more, and another deferment of panel attorney payments could be necessary beginning even earlier next year. This will, according to the AO, impede Defender Services’ ability to uphold the Sixth Amendment’s guarantee.

As the Supreme Court has recognized, “[t]he Sixth Amendment stands as a constant admonition that if the constitutional safeguards it provides be lost, justice will not ‘still be

¹⁰ Written Statement of Judge Amy St. Eve, House Appropriations Subcommittee on Financial Services and General Government Hearing, *Oversight Hearing – The Federal Judiciary*, 5 (May 14, 2025) <https://docs.house.gov/meetings/AP/AP23/20250514/118224/HHRG-119-AP23-Wstate-StEveA-20250514.pdf>.

¹¹ *Id.*

¹² *Funding Crisis Leaves Defense Lawyers Working Without Pay*, *supra* note 9.

¹³ Written Statement of Judge Amy St. Eve, *supra* note 11, at 10.

¹⁴ *Id.* at 3.

¹⁵ *Id.* at 10.

done.”¹⁶ To continue to realize the Sixth Amendment’s protections and ensure a just criminal system, we respectfully urge robust funding for Defender Services in FY26 and any possible action to address the current panel attorney shortfall in FY25.

Sincerely,



Richard J. Durbin
Ranking Member



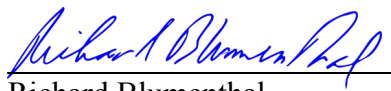
Sheldon Whitehouse
United States Senator



Amy Klobuchar
United States Senator



Christopher A. Coons
United States Senator



Richard Blumenthal
United States Senator



Mazie K. Hirono
United States Senator



Cory A. Booker
United States Senator



Alex Padilla
United States Senator



Peter Welch
United States Senator



Adam B. Schiff
United States Senator

¹⁶ Gideon, 372 U.S. at 343 (quoting Johnson v. Zerbst, 304 U.S. 458, 462 (1938)).