

## **Impact of Sequestration and Shutdown on Federal Public Defender Program (State by State)**

**Compiled by the Constitution Project**

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### **Alabama**

After suspending payments to employee retirement accounts, the Alabama office was still left with 19 furlough days per employee. If the office has another 10% cut, it plans to cut its budget through more furlough days and suspensions of payments to retirement accounts. The office was also forced to suspend all staff training and to reduce its subscriptions to legal publications. Finally, the office was forced to suspend its yearly CJA seminar, though preparation for a replacement one-day seminar is currently in the works due to last-minute assistance from the administrative office and the District Court.

### **Florida**

One Florida office lost 13.5% of its staff, or 13 of 96 employees, even after 11 days of furlough per employee. The office also had to reassign approximately one hundred cases to CJA attorneys, cases that would have gone to the Florida office if it were not for the budget cuts. The office had a small number of continuances and was forced to withdraw from a high profile, international case. The case was ultimately too costly because it involved, in part, a wiretap with three different languages spoken on the tap. Finally, the office has been forced to cut back on employee training, the number of lawyers doing Re-Entry Court, and its training of interns.

Another already understaffed Florida office was able to avoid layoffs by having three people take buy-outs and by instituting 15 furlough days per employee. The office also had a small number of continuances and shortened its training from its usual two-and-a-half day off-site training to a shorter in-courthouse training session.

### **Illinois**

An Illinois office had to layoff two lawyers and a system administrator, which is 15% of its staff. The office still expects five furlough days per employee. The office has also had to withdraw from two cases. Specifically, the office had to withdraw from a significant federal grant fraud case that required the review of voluminous discovery materials, as well as a forensic accounting expert, because the office could not fund the staff to complete the lengthy discovery review or the expert witnesses. Finally, the office has suspended every discretionary account and cancelled all training that required travel of any kind, all automation purchases and update, all law book expenditures, and all furniture or equipment expenditures.

### **Maryland**

A Maryland office has reduced staff 14% since March and has twelve planned furlough days. The office has also declined a few cases because the office did not have the funds to retain the required experts or translators. Finally, the office was forced to delay approximately twelve cases because of its reduced staff and furlough days.

### **Massachusetts, New Hampshire, Rhode Island**

The federal defenders responsible for Massachusetts, New Hampshire and Rhode Island have face fourteen furlough days for each employee. Beginning in April, the federal defender stopped representing all non-conflict arrests that were processed on Fridays, meaning that the office was declining about 20% of cases it would otherwise have taken. The office withdrew from reentry courts and drug court program, with CJA attorneys staffing the drug court. They may also seeking to decline child pornography cases in 2014 because of high expert costs. Experts for Tsarnaev case are being paid for through CJA funding. Another major resource draining is a scandal in MA where one of the chemists at a state drug lab admitted to tampering with evidence. The office has been reviewing cases to determine if there are any defendants eligible for reduced sentences or vacated convictions as a result of the tampering.

### **Michigan**

The Eastern District Federal Defender office has avoided furloughs and layoffs through cuts to pension contribution. Pensions have been sacrificed for the sake of the clients, their cases, and operating with a full staff.

### **New York**

A New York office laid off two employees, namely one investigator who had been with the office for 14 years and a secretary who had been with the office for 13 years. The office's Syracuse investigator also transfers to part-time status effective October 1. From March 2013 through September 2013 every employee will have taken 17 furlough days. The office has experienced delays in the handling of several cases, particularly cases requiring the use of an expert.

In two cases clients were required to sit in the county jail longer than usual because the office could not afford the expert services that were necessary to move forward with their case. These cases were of great expense to the U.S. Marshalls because they had to continue to fund their stay locally. One case originated on December 12, 2012, while the second case originated on April 19, 2013. In both cases the clients are still waiting in the county jail. Without the benefit of the expert services, the clients in both cases could face substantially harsher punishments so the delay is necessary. Finally, the office was forced to suspend all training and cancel its annual spring CIE in Syracuse. If the budget crisis continues the office will have no choice but to decline complex cases and those cases originating out of Plattsburgh (because of the travel involved). Another office in New York was forced to layoff 3 employees, which was approximately four percent of its staff. The office lost a total of 11 staff (3 lawyers and 8 non-lawyers)

since January through natural attrition and layoffs without any replacements, reducing staffing by 14 percent since the beginning of 2013. Each employee end up with a total of 12 furlough days by the end of September. The office also reduced employee pension contributions by half. The office was relieved entirely in five cases. On approximately 10 others, the court assigned CJA co-counsel because the office could not afford the necessary outside services relating to experts and investigation. The office has also sought and received many continuances due to furloughs and short-staffing that would not otherwise have been needed. Most notably their former client, Sulaiman Abu Ghaith (the alleged son-in-law of Bin Laden) had a trial date continued for about six months because of the office's inability to prepare more quickly. In addition, the office was on the verge of starting a drug court program which was shelved because of the budget cuts.

## **Virginia**

A Virginia office, which is already five employees below its authorized 57 employees, will soon be losing two additional employees. The original reduction from 57 employees was accomplished through a combination of early retirements, layoffs, and military activation. Further reductions through retirements, layoffs and job consolidation will bring the office down to roughly 47 employees in FY 2014-which is around 18% below needed staffing levels.

Moreover, every employee in this Virginia office has taken 10 furlough days since April 1, 2013. The office has also been forced to decline five cases. All five of the declined cases have been complex cases that would have required substantial expert and travel budgets. One was a death-penalty eligible kidnaping case that resulted in death, three were fraud cases, and one was an arms export controls/false statements case. The four non-capital cases were all declined because the office did not have the resources to deal with the cases' international dimensions. The office also plans to revisit staffing on its drug court program in FY 2014 as a result of the funding crisis.

## **Wisconsin**

On March 28, Federal Defender Services of Wisconsin found itself forced by budget cuts to reduce its staff by 24% (from 25 employees to 19). The uncertainties created by the budget cuts then occasioned the resignation of two more of its best attorneys. Even with these drastic cuts, remaining employees have had to take six furlough days. The office has also been sufficiently short-handed that it is giving the panel a substantial number of cases that it would have otherwise kept. In July, for instance, it gave away approximately nine more cases than it otherwise would have. The office has generally been forced to keep itself out of more routine matters (violations of supervised release, illegal reentry cases, etc.) in order to preserve resources for more complex matters. The office is also opting out of most habeas matters. Finally, budget cuts have forced the office to cancel its budget for travel expenses relating to lawyer training.