

Vera Institute of Justice

Criminal Justice Issues and Prisoners' Rights

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Public Facing Advocacy Writing

Under the Budget Control Act of 2011, sequestration cuts are already in place with additional cuts scheduled to be taken every year through Fiscal Year 2021.

Unless Congress is able to work out a balanced, bipartisan solution, these cuts, which were intended to lower discretionary federal spending, present a significant challenge to effective justice administration, according to experts.

At a recent hearing of the Senate Committee on the Judiciary's Subcommittee on Bankruptcy and the Courts, witnesses testified about their first-hand experiences resulting from the \$350 million in across-the-board cuts to the judicial system. Titled, [Sequestering Justice: How the Budget Crisis is Undermining Our Courts](#), the hearing featured witnesses Michael Nachmanoff, the Federal Public Defender for the Eastern District of Virginia; The Honorable Julia S. Gibbons of the 6th Circuit Court of Appeals and Chair of the Committee on the Budget of the Judicial Conference of the United States; and W. West Allen, Chair of the Government Relations Committee of The Federal Bar Association.

According to the witnesses, these cuts have begun to impact public safety, do not uphold the definition of justice as defined by this country, and threaten Constitutionally protected rights to representation and a speedy trial in criminal proceedings. There's a concern that probation and pre-trial service monitors have a diminished ability to do their job, said Mr. Allen. According to Judge Gibbons, a delay in the criminal court system is causing civil trials to be cast by the wayside, leading to slower processing of civil and bankruptcy cases, which impacts businesses and harms commerce.

While the hearing focused on the judiciary system as a whole, the challenges faced by federal defenders was a recurring theme: The budget sequestration [cut the Federal Public Defender Services account](#) by \$51.8 million roughly 14 percent of the budget for 2014.

One reason the federal public defenders are hit so hard, Mr. Nachmanoff noted during the hearing, is that 90 percent of their costs, including salary, benefits, and rent, are fixed while 90 percent of criminal defendants in the federal court are eligible for public defender representation. Due to the sequester, his office has had to cut ourselves to the bone, yet they still need to compete with the full docket brought by a better funded and, in some locations, four- to five-times larger, prosecutors office.

As Mr. Nachmanoff noted, balance is critical in the courts and imbalances such as those caused by the Department of Justice's reallocation of funds to prevent furloughs have a negative impact on the enforcement of justice. For the first time, Mr. Nachmanoff's office has had to turn down cases. They have declined five resource-intensive, serious cases and those are the exact ones that we should be taking on with our expertise.

The hearing echoed the reality that federal public defenders are facing increasing desperation with the budget sequestration. Indeed, hundreds of letters from public defenders from each judicial district within the Third Circuit on the impact of the budget cuts on their work and their lives were submitted into the record. Attorney General Eric Holder had a June 12 letter submitted into the record by Senator Whitehouse on behalf of the defenders that read, We recognize that the court system operates effectively only when all of its functions are adequately funded and fully operational. As Senator Whitehouse (D-R.I.), who was present during the hearing, stated, This isn't a prosecutor versus public defender thing. [] We want a justice system that works and we want a viable, robust public defender on the other side.

Indeed, many news organizations including the [New York Times](#) and the [Huffington Post](#) have reported on the increased cost of providing private panel attorneys for indigent defenders, the elimination of court jobs, and the reduction of electronic monitoring and drug testing. A statement by Mr. Nachmanoff in a Huffington Post article includes an observation that one of the really pernicious things about sequestration is it is a slow stranglehold as opposed to an immediate stopping of essential government services." Furthermore, Vera Trustee and U.S. 3rd Circuit Court of Appeals Chief Judge Theodore McKee was [quoted](#) stating that it is not hyperbole to describe the situation as a looming constitutional crisis. We are not there today, but every day we get closer to that point.

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