Congress of the United States Washington, DC 20515

November 06, 2013

The Honorable John Boehner Speaker The U.S. House of Representatives Washington, DC 20515 The Honorable Nancy Pelosi Minority Leader The U.S. House of Representatives Washington, DC 20515

Dear Speaker Boehner and Leader Pelosi,

Devastating impacts of sequestration are being felt in many ways across the nation, but today we write to call attention to one of sequestration's most egregious impacts: the inability of federal defender organizations to provide the effective counsel required by the Constitution.

As we debate a fiscal path for our nation, it is essential Congress provide adequate funding for federal defender services. After enduring successive years of reduced funding, this year's sequestration cuts have already forced federal defender organizations around the country to significantly reduce their operations. Any further cuts to defender services will result in an abdication of our constitutional duties, higher costs to the American taxpayer, and a severe degradation of our criminal justice system.

Fifty years ago, the Supreme Court's decision in *Gideon v. Wainwright* affirmed a fundamental principle of our democratic society, that everyone, regardless of economic status, is guaranteed the right to an attorney in a criminal proceeding. Public defenders serve as the backbone of this constitutional promise. At the federal level, 81 public defender organizations nationwide represent 60 percent of all criminal defendants in the federal court system.

The right to be represented by an attorney is established by the Constitution, but it is the duty of Congress to provide adequate funding to ensure that this constitutional right is maintained. By allowing sequestration to continue, this Congress is abandoning our constitutional principles and jeopardizing the ability of federal defenders to provide competent and timely legal representation.

During Fiscal Year 2013, sequestration forced federal defenders to cut their budgets by 10 percent to deal with a \$52 million shortfall in the Defender Services account. The cuts have resulted in significant furloughs, layoffs in many federal defender offices, the elimination of training programs for attorneys, and increased assignment of cases to more costly private attorneys.

In what highlights the nonsensical nature of sequestration, the cuts to the federal defender system are in fact increasing costs for the American taxpayer. As pointed out by Justice Anthony Kennedy before the Appropriations Subcommittee on Financial Services and General Government on March 14, 2013, because the Constitution requires the court to appoint counsel for indigent criminal defendants, if there are fewer public defenders available the court must employ private attorneys, consistently at a higher cost. A recent study found that federal defenders handle cases for 71 percent of the cost of appointed private attorneys.

If the Fiscal Year 2014 sequester is not averted, federal defenders will face even more significant cuts. The upcoming Fiscal Year 2014 sequester cuts, combined with an expected shortfall of over \$100 million in the Defender Services account, will result in an additional budget cut of 23 percent to the account over the next year. To implement this enormous cut, federal defenders will be forced to take actions that will cripple their ability to provide effective counsel. There will be additional furloughs, layoffs, and even office closures in some states; many cases, especially those that are resource intensive, will be declined; and essential client services such as interpreters, experts, and mental health examinations will be forgone.

Most compelling are the sequester's consequences to the integrity of our criminal justice system. Some legal experts and judges argue that allowing another round of sequestration cuts will not only violate a criminal defendant's constitutional right to effective counsel but also their rights to due process and a speedy trial. The consequences are real and will only get worse. Court hearings and trials are already increasingly delayed and rescheduled. Even some of the nation's most high profile cases are being affected. The trial of Osama bin Laden's son-in-law, Sulaiman Abu Ghaith, has been delayed for months because of furloughs and reduced resources at the federal defender office representing him. Furloughs and a lack of resources in the federal defender office in Boston may significantly delay the prosecution of Dzhokhar Tsarnaev, the suspect in the Boston Marathon bombings.

In addition, because the Department of Justice and its federal prosecutors were shielded from sequestration cuts, the resource gap that already exists between federal defenders and federal prosecutors is widening every day. While the number of cases is on the rise, the quality of defendants' representation is decreasing. In the long run, federal defenders warn, the program may never recover from the loss of talent and experience.

Across the political spectrum there are many disagreements on the scope and breadth of recent budget cuts, but the preservation of a highly functioning criminal justice system is one on which we can all come to a reasonable agreement. The budget cuts that the federal public defender system will sustain in the upcoming fiscal year threaten to unravel the very fabric of our judicial system: the right to a fair trial.

Congress has a responsibility to the American people and to the Constitution to fund this critically important program. As negotiations over the budget move forward, we urge you to address this vital issue and adequately fund federal defenders services.

Sincerely,

Mike Quigley

Member of Congress

Suzanne Bonamici

Member of Congress

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Karen Bass	Earl Blumenauer
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