



UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS
OFFICE OF THE CLERK
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BOSTON, MASSACHUSETTS 02210

Robert M. Farrell
CLERK OF COURT

PRESS RELEASE
SEPTEMBER 19, 2013

On September 12, Chief Judge Patti B. Saris, on behalf of the Court, sent a letter to the Massachusetts Congressional delegation expressing concern regarding the impact of sequestration. The District of Massachusetts remains committed to providing effective counsel to indigent defendants, supervising the integration of convicted offenders back into the community, efficiently managing cases pending in the Court, and assuring proper stewardship of public funds. The letter is attached.

United States District Court
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September 12, 2013

The Honorable Elizabeth Warren
United States Senate
317 Hart Senate Office Bldg
Washington, D.C. 20510-2102

Dear Senator Warren:

On August 13, 2013, I joined with 86 Chief Judges in writing a letter to Congress about the difficulties experienced nationwide by the Judicial Branch caused by several years of stagnant funding and the sequestration cuts in fiscal year 2013. Because these cuts have had a direct impact on the administration of justice in Massachusetts, I thought I would use this opportunity to describe the biggest issues we have faced.

Defender Services

The sequester cuts have hit attorneys representing indigent defendants hardest. Attorneys and staff at the Federal Public Defender's office experienced 14 furlough days in fiscal year 2013. The reduction in staff resources required a suspension of Federal Defender representation during Fridays throughout the summer and a withdrawal of participation in some of our re-entry and drug court programs. Initially, our Federal Defender feared a layoff of one-third of her staff in fiscal year 2014. In order to prevent layoffs nationwide, the Executive Committee of the Judicial Conference shifted much of the financial burden of the sequester to the appointed lawyers. It reduced the hourly rate paid to Criminal Justice Act appointed counsel from \$125 per hour to \$110 per hour and deferred payment of panel attorneys by 30 days. This "temporary" emergency measure went into effect on September 1 and will cover all appointments through fiscal year 2014. This cutback and payment deferral will impose a hardship on the attorneys who typically practice in small law offices throughout the state. The Federal Public Defender Office here in Massachusetts still faces a funding cut of about 10% of its fully funded level. As

a result, one vacancy for an appeals lawyer in Massachusetts and one vacancy for a paralegal will remain unfilled.

Probation

Ongoing resource cuts to the Probation Office have required a reduction in the provision of drug and mental health treatment for defendants on supervision after release from incarceration. While the precise percentage of the budget cuts keeps changing, it is anticipated that the cuts in these services will be at least 10 percent in fiscal year 2014. Drug and mental health services are an essential method of protecting public safety by reducing recidivism and re-engaging offenders as productive members of society. The reduction in services is particularly troubling in Massachusetts where the risk level, or dangerousness, of defendants on supervised release is at an all time high. Due to the ongoing fiscal environment and the anticipation of additional cuts in FY2014, the Probation Office remains understaffed by 25 full time employees under the current staffing formula.

A further reduction to staffing levels would reduce the number of face-to-face contacts with high risk offenders, such as sex offenders, violent drug dealers, and the mentally ill. This presents a risk to public safety, as well as officer safety concerns for the probation officers charged with monitoring these individuals in the community.

Funding cuts to the treatment budget have had the collateral consequence of impacting the local economy. Several contract treatment programs that deliver critical services to offenders have reported cutting back staff hours and, in some instances, laying off staff due to the diminished referrals from the probation office. For years, many of these well established programs have relied on the referrals they receive from the Probation Office. Most recently, the largest contract drug treatment program, Adcare, has informed the Probation Office that they plan to no longer provide treatment services if the current level of referrals continues in the coming fiscal year.

District Court

The financial difficulties have hit this district at a time when we have experienced some of our most difficult, high-profile criminal cases, including Tarek Mehanna, James "Whitey" Bulger, and Dzhokhar Tsarnaev, the defendant in the Boston Marathon bombing. The District must also deal with the consequences of the Hinton drug lab scandal, where a lab worker allegedly falsified laboratory drug tests and documents in criminal cases, which has generated about 92 habeas petitions to date. On the civil docket, the New England Compounding Pharmacy liability case (which involved contaminated drugs causing meningitis) consists of 193 related cases that will continue for years to come. These high-profile cases have taxed court staff and security resources. We have had over 500 media organizations contact the court, and we need to handle large crowds in overflow courtrooms, posing a challenge for our court security officers and technology staff.

The District Court has reduced staffing in the clerk's office by 8% since 2009, and we remain understaffed by 9 full time employees. To date, we have not had any layoffs or furloughs because of buyouts and a decision not to replace many of the 17 long tenured court employees who have retired. In addition, in the past fiscal year, maintenance and upgrade of buildings and equipment were postponed to fund salary expenses. We reprogrammed technology money to save court employees from furloughs and layoffs. This approach is clearly not a long term solution.

Bankruptcy

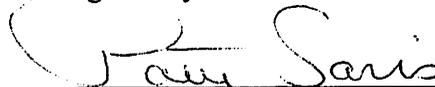
The Bankruptcy Court has lost over 15 positions since 2003, some due to the increased efficiencies realized by the electronic case filing system, but most due to budget reductions. The continual downsizing forced by budget cuts has reduced both operations and management staff to the bare minimum and has caused a significant loss of institutional memory. With reduced staffing, people are often working in vital areas with little backup, absences are felt more acutely and they dramatically affect the distribution of work.

These budget cuts come at a time when the Bankruptcy Court is overseeing high profile cases such as the reorganization case of the Historic Charles Street African Methodist Episcopal Church, the case of the W Hotel real estate development in Boston, and the New England Compounding Pharmacy case involving injuries and deaths across the United States (see the District Court report above). One individual debtor case involves the case of David Drumm, the former chief executive of Anglo Irish Bank, which is now the subject of the largest bank receivership proceeding in Ireland and garners frequent press attention in that country. Finally, one of our judges was appointed by the Circuit to preside over the Chapter 9 municipal debt adjustment case for Central Falls, R.I., which has also required the commitment of considerable resources and will continue to do so as post confirmation issues arise in the near term.

Conclusion

I hope you will support full funding for the Judiciary. We have tightened our belt and have successfully shared administrative services within the court to be more cost effective. However, any further budget cuts (in drug treatment or mental health counseling, indigent representation or court/probation staffing) will hurt public safety, the administration of justice and the independence of the Judiciary.

I look forward to any questions you have about the impact of sequestration, and am willing to meet with you in Boston or Washington at your convenience.



Patti B. Saris
Chief Judge

cc: Congressional Delegation