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Administration Of The
Criminal Justice Act
By U.S. Courts
And The D.C. Superior Court B-179849

Judicial Branch

B-179849

*BY THE COMPTROLLER GENERAL
OF THE UNITED STATES*

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NOV. 21, 1974



COMPTROLLER GENERAL OF THE UNITED STATES
WASHINGTON, D.C. 20548

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The Honorable Sam J. Ervin, Jr.
Chairman, Subcommittee on
Constitutional Rights
Committee on the Judiciary
United States Senate

Dear Mr. Chairman:

On October 10, 1973, you requested that we review the administration of the Internal Security Division of the Department of Justice and the administration of the Criminal Justice Act's system of payments to private attorneys.

On October 4, 1974, we sent you our report on administrative matters of the former Internal Security Division of the Department of Justice.

This is our report on the administration and operation of the Criminal Justice Act. We discussed the matters in this report with judges and agency officials and have incorporated their comments into the report.

We do not plan to distribute this report further unless you agree or publicly announce its contents.

Sincerely yours,

Comptroller General
of the United States

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ABBREVIATIONS

CJA	Criminal Justice Act
GAO	General Accounting Office
PDS	Public Defender Service

COMPTROLLER GENERAL'S REPORT
TO THE SUBCOMMITTEE ON
CONSTITUTIONAL RIGHTS
COMMITTEE ON THE JUDICIARY
UNITED STATES SENATE

ADMINISTRATION OF THE
CRIMINAL JUSTICE ACT *C1273*
BY U.S. COURTS
AND THE D.C. SUPERIOR COURT
B-179849

D I G E S T

WHY THE REVIEW WAS MADE

The Criminal Justice Act states that each U.S. district court shall place in operation a plan for furnishing representation to defendants who cannot afford an adequate defense. Under the plan counsel can be provided by

--private attorneys,

--bar association attorneys or legal aid agencies, and

--defender organizations.

The Chairman of the Senate Subcommittee on Constitutional Rights, Committee on the Judiciary, asked GAO to furnish information concerning implementation of the Criminal Justice Act and, in particular, how the Superior Court of the District of Columbia administered its program. The Chairman asked GAO to review several court districts and specifically *2* the Districts of California *3* Southern, Arizona, and the *4* District of Columbia. *744*
D.4788
D.4789

The Chairman wanted to know if it was feasible to transfer the budget and accounting functions of the District of Columbia's Criminal Justice Act program from the Adminis-

trative Office of the U.S. Courts to the D.C. government.

On September 3, 1974, the District of Columbia Criminal Justice Act (Public Law 93-412) was passed. The act transferred to the District of Columbia responsibility for its own Criminal Justice Act program. Before the enactment of this legislation, GAO briefed the Subcommittee on the feasibility of such a transfer.

We have discussed the matters in this report with judges and agency officials and have incorporated their comments into the report.

FINDINGS AND CONCLUSIONS

Appointment of counsel in the D.C. Superior Court

5 In accordance with the District of Columbia's court plan of 1971 *4514*
1 the District's Public Defender Service was responsible for compiling a list of practicing attorneys who would be available for criminal cases. Its list for the superior court contained approximately 2,900 private attorneys. The list was divided into three panels on the basis of attorneys' experience.

Instead of using the Public Defender Service panels, the superior court requested a much

smaller panel of 500 attorneys experienced in criminal trial work. At the time of GAO's review this panel contained about 650 attorneys. (See p. 5.)

The Public Defender Service's Criminal Justice Act office screens vouchers of private attorneys handling superior court cases to insure that they do not exceed the court adopted \$18,000 per year limit. (See p. 5.)

The superior court's actual use of its panel has been sparse. For example, in fiscal year 1973 the Public Defender Service handled approximately 25 percent of the 13,300 indigent defendants and a pool of volunteer attorneys defended the remainder.

Questionnaire results

Thirty-seven judges of the D.C. Superior Court responded to a GAO questionnaire concerning the

--adequacy of indigent representation,

--procedures for reviewing vouchers submitted by Criminal Justice Act attorneys, and

--the adequacy of Criminal Justice Act payment limits.

Those responding generally found the representation provided by panel and Public Defender Service attorneys adequate and often as good as or

better than retained representation. (See p. 6.)

Applicability of the Criminal Justice Act to the District of Columbia

The Criminal Justice Act has applied in the local court system of the District of Columbia since 1966. For 6 years thereafter funds for its operation were included in appropriation requests of the Federal Judiciary.

In 1972, however, the Judicial Conference of the United States decided, despite a Comptroller General's decision to the contrary, that it would no longer include funds for the D.C. courts in the Federal Judiciary appropriation requests.

The D.C. courts began efforts to find financing for the operation of the Criminal Justice Act program in the District of Columbia. The District of Columbia assumed responsibility for payments to private attorneys on July 1, 1974. In September the District of Columbia Criminal Justice Act (Public Law 93-412) was enacted. (See p. 10.)

Feasibility of transferring program responsibility to the District of Columbia

Responsibility for the budgeting and accounting functions of the Criminal Justice Act program for the D.C. courts could be transferred from the Administrative Office to the D.C. government without difficulty. The responsibilities involved are clerical

CHAPTER 1

INTRODUCTION

The Criminal Justice Act (CJA) of 1964, as amended, provides in part that each U.S. district court, with the approval of the judicial council of the circuit, shall place in operation a plan for furnishing representation for defendants who are financially unable to obtain an adequate defense. Representation under each plan must include counsel and investigative, expert, and other necessary services. Each plan must also include a provision for private attorneys. In addition, the plan may include one or both of the following (1) representation by attorneys furnished by a bar association or a legal aid agency or (2) representation by attorneys furnished by a defender organization. Before approving a plan for a district, the judicial council of the circuit is to supplement the plan with provisions for representing defendants, in appeal cases, financially unable to obtain representation.

SCOPE OF REVIEW

In response to a request from the Chairman of the Senate Subcommittee on Constitutional Rights, Committee on the Judiciary, we reviewed the implementation of CJA with particular interest in the manner in which the D.C. Superior Court administered its program. In addition, the Chairman wanted to know the feasibility of transferring the budgeting and accounting functions of the District's CJA program from the Administrative Office of the U.S. Courts to the D.C. government. The CJA program provides for reimbursing private attorneys appointed in the U.S. District Court and Court of Appeals for the District of Columbia Circuit as well as those appointed by the judges of the D.C. Superior Court and Court of Appeals.

The Chairman requested that we review several court districts and that the Districts of California Southern, Arizona, and the District of Columbia be included as part of this review. The Chairman later requested that we review three additional district courts having Federal defender programs.

PROGRAM ACTIVITIES

During fiscal year 1973 the D.C. Superior Court and the 10 Federal districts reviewed accounted for more than 53 percent of the approximately 56,000 persons represented under CJA. The following table shows the court districts selected and the total number of criminal cases begun and terminated for fiscal year 1973.

CRIMINAL CASES BEGUN AND TERMINATED BY COURT DISTRICT

FOR FISCAL YEAR 1973

	<u>District of Columbia</u>	<u>Arizona</u>	<u>California Central</u>	<u>California Southern</u>	<u>Mary- land</u>
Cases begun	1,337	1,527	2,183	2,044	635
Cases terminated	2,610	1,416	2,058	1,882	647

	<u>Michigan Eastern</u>	<u>Missouri Western</u>	<u>Pennsylvania Eastern</u>	<u>Puerto Rico</u>	<u>Virgin Islands</u>
Cases begun	1,661	557	692	261	240
Cases terminated	1,458	542	943	277	257

CJA was enacted on August 20, 1964, and gave rise to four important principles:

- To be eligible for appointed counsel or other defense services, a person accused of a Federal crime (other than a petty offense) need not be destitute or indigent; he need only be financially unable to obtain adequate representation.
- The interests of justice and adequate representation require that an appointed counsel be compensated and reimbursed for his out-of-pocket expenses.
- To insure an adequate defense, eligible defendants should also be provided with necessary defense services other than counsel.
- Each U.S. district court or court of appeals would devise its own plan for furnishing representation by a private attorney or a defender organization.

Funds for representation by court-appointed counsel and the operation of defender organizations are provided for by the Congress in the annual appropriations to the Federal Judiciary. For example, for fiscal year 1973 the Congress appropriated about \$17.5 million for the CJA program. Of this amount about \$1.5 million was earmarked for the compensation and reimbursement of expenses of attorneys appointed by the judges of the D.C. Superior Court and Court of Appeals. For fiscal year 1974 the Congress appropriated about \$16.6 million with the provision that \$1 million of the funds be made available for compensation and reimbursement of attorneys appointed by judges of these two courts.

Approximately 56,000 persons were represented under CJA during fiscal year 1973. Of this total, 10,537 were assigned to defender organizations. There were approximately 13,300 persons represented by attorneys appointed by the judges of the D.C. Court of Appeals and Superior Court.

In all U.S. court districts, 158 of approximately 17,000 private attorneys received compensation in excess of \$6,000 under CJA programs during fiscal year 1973. Of these private attorneys, 109 received their payments from D.C.'s 2 CJA-funded court systems.

There were 12 attorneys who received compensation payments in excess of \$25,000 in the District of Columbia during fiscal year 1973. The following table lists the amounts paid to these attorneys by court. The table also shows that most attorneys tended to limit their CJA practice to one of the two court systems.

Total compensation for FY 1973 (note a)	Amount of compensation D.C. Superior Court	Amount of compensation U.S. district court and court of appeals
\$ 70,312	\$ 14,854	\$ 54,998
59,636	1,627	58,009
39,953	1,180	38,773
36,162	31,664	4,498
34,331	973	33,218
33,325	19,157	12,998
31,562	12,912	18,200
27,915	16,260	11,655
27,267	22,852	2,305
26,058	23,323	2,415
25,237	1,245	22,732
<u>25,159</u>	<u>24,684</u>	<u>0</u>
<u>\$436,917</u>	<u>\$170,731</u>	<u>\$259,801</u>

a/Total includes compensation received in the D.C. Court of Appeals.

In all other U.S. court districts only three CJA attorneys received compensation in excess of \$25,000. All three attorneys practiced in the second circuit.

CHAPTER 2

THE CJA PROGRAM IN

THE D.C. SUPERIOR COURT

The 1970 amendments to CJA required revision of existing CJA plans throughout the country. The revised act commanded each Federal district court to reestablish a plan for furnishing representation in cases covered by the act. Each plan was required to include a provision for participation by private attorneys in "a substantial proportion of cases."

APPOINTMENT OF COUNSEL

In 1971 a new CJA plan was adopted for the District of Columbia. The plan specified that the administration of the appointment system would be vested in the Public Defender Service (PDS) but the responsibility for appointing counsel would remain with the D.C. courts. (See ch. 3.)

D.C.'s CJA plan called for appointments to be made by the superior court from its list of attorneys on a rotational basis. Full use was also to be made of those volunteer attorneys who desired to concentrate their practice in the area of court-appointed representation, and it was anticipated that nonvolunteer attorneys would be called on to serve only about once a year.

In the superior court, because of the variety of cases coming within its jurisdiction, separate panels were established for felonies, misdemeanors, and family division cases. Attorneys could, if they desired, volunteer to serve on the panels for additional courts and could volunteer to take additional cases on the panel to which they had been assigned.

PDS was to notify attorneys approximately 30 days in advance that they were to report to the court on a specific date for appointment. If, after an attorney's name had been submitted to the court, unusual circumstances made it impossible for him to serve as appointed counsel at that time, he could file a motion to withdraw. It was anticipated that these motions would be granted only in extraordinary cases.

In 1971 PDS compiled a list of attorneys practicing in the District of Columbia. The list also contained a certain minimum amount of information on their courtroom experience. The PDS superior court list contained approximately 2,900 private attorneys potentially available for appointment in criminal cases.

These attorneys were divided according to experience into a felony panel of 600, a misdemeanor panel of 1,200, and a family division panel of 1,100. To prevent an unequal burden of representation, an attorney's name was not placed on more than one panel.

A superior court judge explained that the panels developed by PDS contained too many inexperienced criminal trial attorneys and therefore the court requested that PDS develop a panel consisting of the 500 attorneys most experienced in criminal law. The panel of 500 attorneys developed by PDS has been expanded by the superior court to 650.

A committee of the D.C. Bar Association found that the superior court's actual use of its panel has been sparse. During January 1, 1973, through June 30, 1973, superior court panel attorneys were appointed to 141 felony, misdemeanor, and family division cases. According to the PDS director, the superior court annually handles approximately 13,300 cases involving indigent defendants. Of these cases, PDS handles approximately 25 percent. The remainder are handled by a pool of 300 volunteer private attorneys of which approximately 150 attorneys do so with some frequency. All attorneys appointed under CJA are compensated at the rate of \$30 an hour for in-court time and \$20 an hour for out-of-court time. A limit has been set by superior court judges that no attorney can be paid more than \$18,000 per year. The CJA program office of PDS enforces the limit by not appointing attorneys to new cases after they have earned \$18,000 under the program. The CJA program office is further charged with issuing quarterly reports to the courts describing the operation of the appointed counsel program.

The Administrative Office performs the disbursing and accounting functions for funds appropriated for the operation of the CJA program. Funds for administering the CJA program are appropriated to the Federal Judiciary with the provision that a stated amount be made available for payments to private attorneys appointed to defend indigents by judges of the D.C. Superior Court and Court of Appeals.

At the conclusion of a court case, the CJA private attorney prepares and submits his voucher to the court for payment. The court reviews the voucher to determine acceptability and reasonableness. If the judge who was involved with the case accepts the attorney's charges, he signs the voucher and sends it to the CJA program office of PDS. The program office reviews vouchers before they are sent to the Administrative Office for payment.

The program office conducts this preliminary screening of vouchers to insure that private attorneys handling superior court cases do not exceed the court adopted \$18,000 a year limit. In addition, the program office prepares the contribution orders requiring persons of limited financial resources to contribute to their defense. Interviewing defendants to ascertain financial status and ability to retain counsel, however, is the program office's primary function.

When the Administrative Office receives a voucher, it is matched with the appointment order that the court filed earlier. The voucher is then audited for accuracy and completeness, and then it is processed for payment.

Should the Administrative Office identify a problem, it sends the voucher back to the court for resolution. According to Administrative Office officials, this is done because the Administrative Office does not have the authority to reject vouchers after they have been approved by district court magistrates and judges.

QUESTIONNAIRE RESULTS

The 44 judges comprising the D.C. Superior Court were surveyed by questionnaire. Thirty-seven responded to questions concerning the (1) adequacy of indigent representation, (2) procedures for reviewing vouchers submitted by CJA attorneys, and (3) adequacy of CJA payment limits. For a comparison of the superior court responses with the other district courts reviewed, see appendix I.

Adequacy of representation

Thirty-five judges responded that the representation provided by panel attorneys and PDS attorneys was adequate. When asked to contrast the representation provided by panel and PDS attorneys with that of retained counsel, 30 judges responded that panel attorneys provided as good as, if not better, representation as retained attorneys; 35 judges responded that PDS attorneys provided as good or better representation than retained attorneys; and 22 concluded that PDS attorney representation was better than that provided by panel attorneys.

Procedures for reviewing vouchers

The judges were asked to indicate the procedure they used in reviewing vouchers submitted by panel attorneys. Twenty judges stated that they assumed the burden of review; nine judges had others review the vouchers for arithmetic accuracy, although they considered the quality of representation; four

reviewed only those vouchers determined by other personnel to need the judge's attention; and four used some other method. Thirty judges believed that the information submitted by attorneys in support of the vouchers was adequate. A total of 30 judges believed that it was necessary and/or desirable for judges to continue reviewing and approving vouchers.

Adequacy of CJA payments

Most judges (28) responding to questions concerning payments to panel attorneys believed the hourly rates to be adequate. Twenty-six responded that the maximum limits of \$400 per case for misdemeanors and \$250 per case for post-trial motions were reasonable; 23 answered that the \$1,000 per case maximum limit for felonies was reasonable; and 21 replied that the \$1,000 per case maximum limit for direct appeals was reasonable.

APPLICABILITY OF CJA IN D.C. LOCAL COURTS

On March 21, 1974, the Chief Judge of the D.C. Superior Court testified before a subcommittee of the Senate Committee on Appropriations on the applicability of CJA in the D.C. courts. The main points of his testimony follow.

CJA has applied in the local D.C. court system since 1966, following an order in the case of United States v. Walker and a later ruling of the Comptroller General of the United States. For the 6 years after 1966, funds for the operation of the CJA program in the local court system were included in the appropriation requests of the Federal Judiciary.

While the District of Columbia Court Reform and Criminal Procedure Act of 1970 (Public Law 91-358) was pending before the Congress, the question of the applicability of CJA to the reorganized D.C. court system was explicitly considered in amendments to CJA. CJA, as amended (18 U.S.C. 3006A (1)), directs that

"the provisions of this act [except those relating to the public defender] * * * shall be applicable in the District of Columbia. The plan of the District of Columbia shall be approved jointly by the Judicial Council of the District of Columbia Circuit and the District of Columbia Court of Appeals."

Both this statutory language and the legislative history of this amendment fully support the conclusion that the intent of the Congress was to continue as before the operation of CJA in the reorganized local court system.

Due to the enactment of the court reorganization statute and the amendments to CJA, the Administrative Office of the U.S. Courts sought an opinion from the Comptroller General concerning the continued applicability of CJA in the local courts.

The Comptroller General stated, in an opinion dated May 26, 1972, (B-175429) that

"the Administrative Office of the United States Courts should handle the administration of, and budgeting for, the CJA program in the District of Columbia's local courts generally in the same manner as it has in the past and to the extent possible as it administers and budgets for programs of the Federal district courts, * * *."

Despite this opinion the Judicial Conference of the United States decided in October 1972 that it would no longer include funds for CJA disbursements for the D.C. courts in the Federal Judiciary appropriation requests.

At about this same time, apparently in response to news stories indicating that some attorneys practicing in the local court system had received excessive amounts of CJA funds during previous fiscal years, the Subcommittee on the Federal Judiciary, House Appropriations Committee, was instrumental in having a rider inserted in the 1973 appropriation ending participation of the local court system in the CJA appropriations. A \$1 million ceiling on local CJA expenditures was later substituted for this rider, although it was clear that this amount would not be adequate to finance CJA operations in the local court system throughout fiscal year 1973.

In January 1973 the Administrative Office submitted a supplemental appropriation request to cover the payment of counsel fees and other expenses for CJA cases in the D.C. Court of Appeals and Superior Court. In developing this request for the Administrative Office, D.C. court officials used "current"

average cost per case figures rather than the higher projected cost per case figures which applied to the outstanding attorney vouchers. Outstanding vouchers are usually for long, drawn-out and more costly cases and are submitted by attorneys toward the end of the fiscal year or later. As a result the supplemental request submitted by the Administrative Office was approximately \$800,000 below what was later projected to be needed.

The D.C. courts began a search for a means of financing the operation of the CJA program in the District of Columbia for fiscal year 1974 and thereafter. The efforts of the courts included discussions and meetings with the Chief Justice of the United States, the Mayor of the District of Columbia, representatives of the Administrative Office, congressional staff members, local budget officials, representatives of the Department of Justice, leaders of the local bar association, and others. The city government indicated that it could not assume responsibility for funding the program before fiscal year 1975.

In a letter to Chief Justice Warren Burger, the Mayor reiterated the reasons for the District's inability to include a request for funding for the CJA program in its fiscal year 1974 budget. First, the District lacks any statutory authority for carrying out the CJA program. In the absence of enabling legislation, there is no legal basis for a D.C. request for an appropriation. Second, the D.C. budget is required to be balanced. In November 1972, when the District first learned of the decision of the Judicial Conference, the District's fiscal year 1974 budget had already been completed and was in balance. It could have been altered at that point only by a considerable dislocation in the District's ability to provide services and by the elimination of funds for programs already approved.

The fiscal year 1974 appropriation for the Federal Judiciary originally passed the House of Representatives with no provisions for any funding for the local CJA program. The Senate amended the House bill to provide \$2 million for operating the CJA program in the District of Columbia for fiscal year 1974. The House conferees refused to agree to this action by the Senate, and the final conference report contained \$1 million for the local program and a provision expressing the Conference Committee's understanding that additional funds for fiscal year 1974 and future fiscal years would come from the D.C. budget.

During the Senate debate on the conference report it was noted that the \$1 million figure would carry the program only

through the first half of fiscal year 1974 and that there might be problems in obtaining the additional appropriations necessary.

By February 15, 1974, all appropriated money had been spent. A congressional conference committee, in May, passed an emergency \$2 million supplemental appropriation providing sufficient funds to cover unpaid prior expenses and costs through June 30. On July 1, 1974, the District of Columbia assumed responsibility for payments to private attorneys appointed by the superior court and court of appeals. By August both Houses of Congress had passed a bill authorizing the District of Columbia to assume responsibility for its own CJA program. The act was signed into law on September 3, 1974. The new District of Columbia Criminal Justice Act (Public Law 93-412) amended the District's Code and authorized a plan for the representation of defendants who are financially unable to obtain an adequate defense in the D.C. Superior Court and Court of Appeals.

FEASIBILITY OF TRANSFER

We examined the feasibility of transferring to the District of Columbia the responsibility for administration of CJA funds. We foresee no problems with such a transfer. Basically, all that is involved in the administration of CJA funds is a matching of vouchers with the orders of appointment. The vouchers are audited for accuracy and completeness and then processed for payment. Officials of the Administrative Office believe that it does not have the authority to reject vouchers after they have been approved for payment by a judge or magistrate. Therefore, if a problem is identified with a voucher during an audit, the voucher is sent back to the originating court for resolution. The feasibility of making a transfer of responsibility is further enhanced by the fact that the CJA program office of PDS reviews all D.C. vouchers before sending them to the Administrative Office.

Administrative Office officials said that the Administrative Office was in favor of transferring responsibility for the administration of CJA funds to the District of Columbia. A primary problem, according to one Administrative Office official, was that the Judiciary did not have the authority or responsibility for control over the obligation of funds by the D.C. Superior Court and Court of Appeals. The official went on to point out that when funds became over obligated, it was the Judiciary not the D.C. government that had to go before the Congress for supplemental funds.

The District of Columbia assumed responsibility for payments to private attorneys, on a permanent basis, starting July 1, 1974. Vouchers submitted by attorneys who have been appointed to cases since July 1 are being held at the office of the CJA program coordinator of PDS. The reason, according to the coordinator, is that the District government has not yet set up an office to which he can submit the vouchers for payment. Vouchers for appointments made before July 1 are still being submitted to the Administrative Office for payment.

CHAPTER 3

ADMINISTRATION AND OPERATION OF DEFENDER ORGANIZATIONS AND PRIVATE ATTORNEY PANELS IN 10 U.S. COURT DISTRICTS

DEFENDER ORGANIZATIONS

CJA, as amended, provides that a district court may establish a defender organization if 200 or more persons annually require the appointment of counsel. Except for PDS of the District of Columbia, a defender organization can be either a Federal public defender or a community defender. A Federal public defender organization is a Government entity established to provide defense counsel services in Federal courts. A community defender organization, on the other hand, is a nonprofit defense counsel service established and administered by a group authorized by a district court. As of May 29, 1974, there were 15 Federal public defender organizations and 8 community defender organizations. The table on this page shows the defender organizations we reviewed.

PDS in the District of Columbia was established by the District of Columbia Court Reform and Criminal Procedure Act of 1970 (Public Law 91-358). PDS' major responsibility is to represent persons financially unable to obtain adequate legal representation in felony and misdemeanor cases in the U.S. district court and in the D.C. Superior Court, proceedings before the superior court's family division, proceedings before the Commission on Mental Health involving civil commitments, appeals in the foregoing matters before the U.S. Court of Appeals, and any proceedings ancillary or collateral to the above representation.

Defender Organizations Reviewed

<u>Name of district</u>	<u>Type of defender organization</u>	<u>Year established</u>	<u>Name of defender organization</u>
District of Columbia	Public	a/1971	PDS
Arizona	Federal	1971	-
California Central	Federal	1971	-
California Southern	Community	a/1971	Federal Defenders San Diego, Inc.
Michigan Eastern	Community	a/1971	Legal Aid and De- fender Associa- tion of Detroit
Missouri Western	Federal	1971	-
Pennsylvania Eastern	Community	a/1971	Defender Associa- tion of Philadelphia

a/ Organization existed before date it was designated as a defender organization under CJA.

Cost and funding of defender organizations

Funds for the administration of CJA are appropriated to the Federal Judiciary and the Administrative Office performs the disbursing and accounting functions for these funds. Federal public defender organizations are required by CJA to submit their proposed budget to the Administrative Office.

All eight community defender organizations received initial grants from the Judicial Conference for expenses necessary to establish their organizations; seven of these received periodic sustaining grants. One organization in the California Southern District is compensated on a case-by-case basis as are private attorneys under CJA.

Unlike Federal public defender organizations, PDS of the District of Columbia receives its funds from the D.C. appropriation. The Administrative Office performs the disbursing and accounting functions for the PDS funds.

The following table shows the actual costs, number of cases terminated, and the average cost per case for each defender organization in fiscal year 1973.

Fiscal Year Cost and Case Data for
Defender Organizations Reviewed

	Public	Federal			Community		
	District of Columbia	Arizona	California Central	Missouri Western	California Southern	Michigan Eastern	Pennsylvania Eastern
Actual costs FY 1973 (note a)	\$1,738,500	\$277,700	\$535,100	\$170,600	d/\$297,800	\$160,700	\$167,200
Cases termi- nated FY 1973	b/6,846	1,242	1,748	645	1,839	506	803
Average cost per case terminated (note c)	\$ 254	\$ 224	\$ 306	\$ 264	\$ 162	\$ 318	\$ 208

a/ Rounded to nearest hundred.

b/ Cases terminated include cases in the D.C. Superior Court, Mental Health Commission, and the district court.

c/ Costs per case are not directly comparable because the districts do not have the same types of caseloads.

d/ Represents Administrative Office reimbursements to the defender organization. (See text p. 13.)

Staffing and experience of defender organizations

Although many of the attorneys hired by the defender organizations have had experience with Federal or local prosecuting agencies or other public defender organizations, each organization has hired attorneys with little law experience.

The defender organizations have not established specific criteria for hiring attorneys. All the chief defenders, with the exception of the chief defender of California Southern--who preferred to hire his staff attorneys directly from law school--indicated they considered the law experience of an applicant a major factor. Dedication, enthusiasm, and commitment to defender organizations are other factors considered in selecting attorneys.

The following table shows the experience of the attorneys, including the chief defender, before joining the defender organization. The table also shows the average salary and salary range of each defender organization.

Defender Organizations' Salary and Experience Range for Attorneys

	Public District of Columbia	Arizona	Federal California Central	Missouri Western	California Southern	Community Michigan Eastern	Pennsylvania Eastern
Chief defender: Salary	\$36,000	\$30,500	\$32,200	\$30,600	\$32,500	\$30,000	\$26,500
Years of experience	8	10	11	3	11	10	5
Assistant de- fenders: Average salary	\$20,471	\$19,025	\$20,757	\$19,733	\$16,291	\$17,714	\$17,800
Salary range:							
Low	\$14,700	\$12,600	\$14,700	\$17,200	\$13,200	\$14,500	\$15,500
High	\$35,600	\$23,900	\$27,600	\$21,400	\$25,000	\$23,000	\$23,000
Average years of experience	2.6	6.0	3.0	3.5	1.4	3.6	2.0
Experience range in years:							
Low	0	0	0	1	0	0	0
High	19	18	8	5	4	9	6

Though the seven organizations varied considerably in size, all the organizations had a basic complement of a chief defender, assistant defenders, and clerical personnel.

The following table shows the staffing of each organization.

Permanent Staffing of Defender Organizations
by Filled Positions

<u>Position</u>	<u>Public</u>	<u>Federal</u>			<u>Community</u>		
	<u>District of Columbia</u>	<u>Arizona</u>	<u>California Central</u>	<u>Missouri Western</u>	<u>California Southern</u>	<u>Michigan Eastern</u>	<u>Pennsylvania Eastern</u>
Chief defender	1	1	1	1	1	1	1
Assistant de- fenders	41	8	15	6	11	7	5
Investigators	5	2	3	1	4	0	2
Researchers	0	0	0	0	2	0	0
Social workers	8	0	1	0	0	a/1	b/0
Secretarial and clerical	22	6	12	4	7	3	3
Total	<u>77</u>	<u>17</u>	<u>32</u>	<u>12</u>	<u>25</u>	<u>12</u>	<u>11</u>

a/ A volunteer Catholic priest.

b/ Had access to social workers through the Defender Association of Philadelphia.

Assignment of cases to staff attorneys

The seven defender organizations generally assign cases to attorneys on a rotation basis. All staff attorneys handle a full caseload with the exception of the chief defender and sometimes his assistant.

Rotation procedures are sometimes ignored when difficult or complex cases are brought before the court. Such cases are usually assigned to the more experienced attorneys.

Adequacy of representation provided

District judges and magistrates were pleased with the representation provided by the defender organizations. Sixty-seven judges and magistrates responded to a question concerning the adequacy of the representation provided by attorneys of defender organizations. All responded that the defender organizations' attorneys provided adequate representation. In addition, about half of the respondents believed the defenders did a better job than retained attorneys or attorneys from the districts' indigent defense panels. (See following table.)

Responses to GAO Questionnaires by Judges and
Magistrates Concerning the Representation
Provided by Defender Organizations

Questions	Public	Federal			Community			Total
	District of Columbia	Arizona	California Central	Missouri Western	California Southern	Michigan Eastern	Pennsylvania Eastern	
1. Generally, the representation provided by Federal or community defender organization attorneys is								
a. Adequate	6	7	12	6	7	9	20	67
b. Inadequate	-	-	-	-	-	-	-	-
c. No response	-	-	1	-	-	-	-	1
2. Compare the representation provided by defender organizations with that of retained attorneys								
a. Better	3	6	5	5	2	5	6	32
b. About the same	3	1	6	1	5	4	12	32
c. Not as good	-	-	1	-	-	-	2	3
d. No response	-	-	1	-	-	-	-	1
3. Compare the representation provided by defender organizations with that of indigent panel attorneys								
a. Better	3	6	5	5	2	7	7	35
b. About the same	3	1	6	1	4	2	12	29
c. Not as good	-	-	1	-	1	-	1	3
d. No response	-	-	1	-	-	-	-	1

PANEL ATTORNEYS

CJA required each district court to designate or approve a panel of private attorneys and to appoint these attorneys in a substantial portion of cases assigned under the act.

Each district court reviewed had approved a list of panel attorneys. Seven of the district courts initially asked local bar associations and legal aid agencies to prepare lists of attorneys who, in their opinion, were competent to adequately represent defendants. The courts, on the basis of such lists and their own inquiries, approved panels of private attorneys.

Missouri Western, because of lack of interest by the local bar association, used a different method. A magistrate and a U.S. attorney aided by the local bar directory, the telephone directory's yellow pages, and district court judges listed all attorneys considered adequate to represent defendants in Federal court. The magistrate and the judges then evaluated the list and deleted the names of attorneys they believed could not provide adequate representation.

In Puerto Rico and the Virgin Islands the panels are composed of all attorneys who practice before the district court.

Panel management

The district courts' management of their private attorney panels differs among the 10 districts. California Central's panel is managed by a committee of five attorneys appointed by the local bar association and approved by the judges. The committee chairman stated that the panel has been kept small (about 30 attorneys) and essentially closed to rotation to insure competent representation and sufficient cases to make serving on the panel financially worthwhile. The chairman believes that controlling the quality of representation provided by a few attorneys is easier than controlling an open panel with numerous attorneys.

California Southern's panel is managed by a committee that consists of two judges and two magistrates. The committee meets each June and December to rotate attorneys off the panel and to admit new ones. Attorneys are rotated off the panel after serving 2 years, but can be reinstated after 1 year. Although the panel is open to all attorneys, the committee chairman indicated that the requirements for appointment are (1) written application, (2) apprenticeship involving active participation in two felony trials under the direct supervision of a qualified attorney, (3) completion of an educational program in Federal criminal law, (4) 6 to 12 months of legal experience, and (5) there is no strong objection by a judge. The committee strives to keep the number on the panel below 60.

In Pennsylvania Eastern a committee of judges manages the panel. The court requires some experience before adding an attorney to the panel. However, the amount of experience necessary has not been set. The Federal public defender essentially manages Arizona's panel; whereas, in Maryland a magistrate manages the panel. Attorneys in Maryland who want to be included on the panel submit a letter with a resume of qualifications. Applicants must have at least 1 year's criminal court experience either as a practicing attorney or as a law clerk.

In the District of Columbia a magistrate manages the panel. To be selected for the panel, an attorney completes a questionnaire about his background and experience. A magistrate interviews each applicant, and the three magistrates of the district court review all applications. The magistrates submit their recommendations to a committee of district court judges who make the final selections.

Magistrates also manage the panels of Michigan Eastern and Missouri Western. A desire to serve and admittance to the bar are the only requirements for appointment to these panels.

The following table summarizes how the 10 districts manage their panels.

How The 10 District Courts
Manage Their Panels

	District courts					District courts				
	District of Columbia	Arizona	California Central	California Southern	Maryland	Michigan Eastern	Missouri Western	Pennsylvania Eastern	Puerto Rico	Virgin Islands
Additions to or deletions from the panel may be made upon the recommenda- tion of:										
Federal public defenders	-	x	-	-	-	-	-	-	-	-
Committee of judges	-	-	-	-	-	-	x	-	-	-
Committee of judges and magistrates	-	-	-	x	-	-	-	-	-	-
Local bars	-	-	x	-	-	-	-	-	-	-
Magistrates	b/x	-	-	-	-	-	x	-	-	-
Other	-	-	-	-	c/x	a/x	-	-	d/x	d/x
with final ap- proval of:										
All judges	-	-	x	x	-	x	-	x	-	-
All senior judges	-	x	-	-	-	-	-	-	-	-
Chief judge	-	-	-	-	-	-	x	-	-	-
Committee of judges	x	-	-	-	-	-	-	-	-	-
Magistrates	-	-	-	-	x	-	-	-	-	-
Is experience re- quired to be placed on panel?										
Yes	x	-	x	x	x	-	-	x	-	-
No	-	x	-	-	-	x	x	-	x	x
Panel periodi- cally changed	-	-	-	x	-	-	-	-	-	-
List of panel at- torneys main- tained by:										
Federal public defenders	-	x	-	-	-	-	-	-	-	-
Magistrates	x	-	-	x	x	x	x	-	-	-
Office of the clerk of the court	-	-	x	-	-	-	-	-	x	x
Estimated number of panel attorneys	275	253	28	53	300	300	700	182	1,453	37

a Anyone who has passed the bar and applies is appointed.

b Magistrates add to the list but do not delete names from the list.

c The attorneys request to be placed on or deleted from the panels.

d All attorneys who practice before the district court.

Adequacy of representation provided

Panel attorneys in the 10 districts represented 10,165 persons during fiscal year 1973. Judges and magistrates were generally satisfied with the representation provided. Of 85 judges and magistrates responding to our questionnaire, 73 considered the representation provided by panel attorneys equal to or better than retained representation. The following table summarizes this information.

Responses to Questions on the Adequacy of
Representation Provided by Panel Attorneys

	District courts										Total
	District of Columbia	Arizona	California Central	California Southern	Maryland	Michigan Eastern	Missouri Western	Pennsyl- vania Eastern	Puerto Rico	Virgin Islands	
Generally, is the representation provided by panel attorneys adequate?											
a. Yes	6	7	13	7	11	9	6	19	4	1	93
b. No	-	-	-	-	-	-	-	1	-	1	2
c. No response	-	-	-	-	-	-	-	-	-	-	-
Compare the representation provided by indigent panel attorneys with retained representation.											
a. Better	-	-	3	1	-	1	-	2	-	-	7
b. About the same	6	6	7	6	11	6	6	14	3	1	66
c. Not as good	-	1	3	-	-	2	-	4	1	1	12
d. No response	-	-	-	-	-	-	-	-	-	-	-
Number of defendants represented by panel attorneys during fiscal year 1973.	1,834	634	931	5,006	640	330	280	198	156	156	10,165

DETERMINING NEED FOR APPOINTED COUNSEL

A defendant was considered financially unable to obtain counsel if his net financial resources and anticipated income before the trial date were insufficient to enable him to obtain qualified counsel. In determining this need, the courts considered the cost of providing the defendant and his dependants with the necessities of life, the cost of a bail bond if financial conditions were imposed, or the amount of the cash deposit the defendant was required to make to secure his release on bond.

The methods used to determine the need for appointed counsel varied only slightly among the 10 district courts. Generally, a magistrate determined need at a defendant's first appearance before the court. Information regarding a defendant's financial status is obtained by means of a financial affidavit and/or open court inquiry. Financial affidavits were not used in Pennsylvania Eastern or California Southern.

ALLOCATION OF CASES BETWEEN PANEL ATTORNEYS AND DEFENDER ORGANIZATIONS

Five district courts attempted to allocate 75 percent of the defendants needing appointed counsel to the defender organization and 25 percent to panel attorneys. One district court sought to assign 60 percent to its defender organization and 40 percent to its panel attorneys. Generally, in these districts, allocations were met by assigning defender organizations all defendants except those in multiple defendant or other conflict cases--these defendants were assigned to the panel attorneys.

In the District of Columbia the district court adopted a CJA plan which called for PDS to represent not more than 60 percent of the defendants needing appointed legal services. The director of PDS stated that his agency handles 25 percent to 33 percent of all the indigent cases before magistrates but very few cases before judges in the district court. Indigent defendants are represented by volunteer or panel attorneys.

Generally all the districts distributed cases among panel attorneys on a rotation basis. In the District of Columbia, however, a magistrate appoints panel attorneys from those attorneys who have volunteered for cases on that day. To insure an equitable distribution of cases, the magistrate will assign the cases to the attorneys with the lightest district court CJA caseload.

The method used to rotate the cases varied among the district courts. For example, every 6 months the magistrates in California Southern prepare an alphabetical schedule interspersing panel attorneys with attorneys of the defender organization. The defender organization's attorneys appear three times to every two panel attorneys. The magistrate assigns cases sequentially to the attorneys listed on the schedule.

California Central's panel is divided into five subpanels with four to seven attorneys on each subpanel. The subpanels rotate their appearances in court, thus rotating cases among the attorneys. A deputy clerk informs the magistrate which subpanel is appearing and the name of the panel attorneys to be appointed to the next cases.

In Arizona the Federal public defender maintains the list of panel attorneys. When a conflict case necessitates the appointment of a panel attorney, the Federal public defender calls a panel attorney to see if he is available for appointment. If the attorney is available the defender informs the magistrate and the magistrate makes the appointment. If the attorney is not available or is not in, the defender calls the next attorney on the list. Under this system each attorney may not receive an equal number of appointments; however, each attorney receives an equal number of chances for appointment.

The magistrates in Michigan Eastern, Missouri Western, and Pennsylvania Eastern made the assignments to the panel attorneys. Rotation was achieved by recording each assignment and then assigning the next case to the next listed attorney.

All districts, in an unusual or complex case, will disregard rotation and appoint the best qualified attorney. That attorney is passed over on his next turn for appointment.

The following table shows how each court distributes cases among the panel attorneys.

Proposed Allocation of Cases Between
Defender Organization and Panel Attorneys and Method Used
to Distribute Cases Among the Panel Attorneys

District of Columbia	District courts									
	Arizona	California Central	California Southern	Maryland	Michigan Eastern	Missouri Western	Pennsylvania Eastern	Puerto Rico	Virgin Islands	
Proposed allocation of cases:										
Defender organization	60%	75%	75%	60%	(a)	75%	75%	75%	(a)	(a)
Panel attorneys	40%	25%	25%	40%	100%	25%	25%	25%	100%	100%
Persons administering the assignment of cases to panel attorneys:										
Magistrates	x	-	-	x	x	x	x	x	x	-
Office of the clerk of court	-	-	x	-	-	-	-	-	-	-
Federal public defender	-	x	-	-	-	-	-	-	-	-
Judge	-	-	-	-	-	-	-	-	-	x
Method of rotation:										
Rotate sub-panels	-	-	x	-	-	-	-	-	-	-
Appointing attorney next on list (if available)	-	x	-	x	x	x	x	x	x	x
Assign attorney with lightest CJA case-load	x	-	-	-	-	-	-	-	-	-

a/ Did not have defender organization at time of review.

COURT PROCEDURE FOR REVIEWING VOUCHERS

The courts' procedure for reviewing vouchers for reimbursement varied among districts and among judges and magistrates within a district. Of 85 judges and magistrates responding to questions on their procedure for reviewing vouchers, 43 stated that they assumed the major burden of review. Forty-one respondents stated that other court personnel, such as law clerks and deputy clerks, performed some portion of the review and, of these, 12 stated that such other court personnel performed the major burden of the review. However, 71 of 85 respondents believed that their review and approval of the vouchers was necessary.

Some judges indicated that verifying the validity of certain charges was impossible. For instance, judges had to rely upon an attorney's honesty that the charges for out-of-

court time were accurate. However, judges and magistrates reduce the amount claimed on a voucher if they believe that the quality of the representation provided did not justify the amount. Of the 79 respondents to the question of whether additional supporting information should be provided, 30 believed it should.

During fiscal year 1974 the Administrative Office directed the district courts to require attorneys claiming in excess of \$300 for out-of-court time to submit with their voucher a memorandum detailing how the time was spent.

Only one of the district courts reviewed had established guidelines for reviewing vouchers. Missouri Western, at the direction of the Chief Judge of the Eighth Circuit, used the following guidelines in determining compensation to be allowed for representing a defendant in a criminal case.

Disposition without trial	\$ 175
Disposition with trial:	
Trial for 1 day or less	250
Trial for more than 1 day, but not over 2 days	400
Trial of more than 2 days, but not over 3 days	550
Trial of more than 3 days, but not over 4 days	700
Trial of more than 4 days, but not over 5 days	950
Trial of more than 5 days, but not over 6 days	1,000

The following table shows the procedures used in reviewing the vouchers and the number of judges and magistrates using each method.

	District courts										Total
	District of Columbia	Arizona	California Central	California Southern	Maryland	Michigan Eastern	Missouri Western	Pennsylvania Eastern	Puerto Rico	Virgin Islands	
What are the procedures for reviewing the attorneys' vouchers?											
(a) Law clerks, deputy clerks, or other court personnel review the vouchers for proper form and correctness with judge or magistrate considering quality of representation versus amount claimed	1	2	5	2	5	3	2	7	1	1	29
(b) Major burden of examining vouchers assumed by law clerks, deputy clerks, or other court personnel with judge or magistrate approving all vouchers except those specifically flagged by reviewing personnel	-	-	3	1	1	2	-	2	3	-	12
(c) Major burden of examining vouchers assumed by judge or magistrate	5	5	4	4	5	4	4	11	-	1	43
(d) Some other procedure	-	-	1	-	-	-	-	-	-	-	1
(e) No response	-	-	-	-	-	-	-	-	-	-	-
Are court records routinely consulted to verify the in-court time claimed by attorneys?											
(a) Yes	4	5	4	1	6	9	6	11	3	-	49
(b) No	2	2	8	5	5	-	-	8	1	2	33
(c) No response	-	-	1	1	-	-	-	1	-	-	3
What is the average time spent by a judge or magistrate reviewing each voucher?											
(a) Less than 5 minutes	1	1	10	4	4	1	2	3	2	-	28
(b) 5 to 15 minutes	5	3	3	3	7	6	2	15	2	2	48
(c) 15 to 30 minutes	-	3	-	-	-	2	2	2	-	-	9
(d) Over 30 minutes	-	-	-	-	-	-	-	-	-	-	-
(e) No response	-	-	-	-	-	-	-	-	-	-	-
Should more supporting information be required with the vouchers?											
(a) Yes	5	3	4	3	2	6	-	5	1	1	30
(b) No	1	4	7	4	9	2	6	13	3	-	49
(c) No response	-	-	2	-	-	1	-	2	-	1	6
Is it necessary or desirable to require a judge or magistrate to review and approve the vouchers?											
(a) Yes	5	6	9	7	10	8	6	17	2	1	71
(b) No	1	1	4	-	1	1	-	3	2	1	14
(c) No response	-	-	-	-	-	-	-	-	-	-	-
When attorneys' vouchers are lowered are they informed of the reason?											
(a) Yes	1	5	7	4	5	3	6	18	3	2	54
(b) No	4	2	5	3	5	6	-	2	1	-	28
(c) No response	1	-	1	-	1	-	-	-	-	-	3
If yes, how are they informed?											
(a) In writing	-	-	-	1	2	-	6	4	1	-	14
(b) Orally	-	3	3	1	2	1	-	7	2	1	20
(c) Both written and orally	-	1	3	2	1	1	-	4	-	1	13
(d) No response	6	3	7	3	6	7	-	5	1	-	38

ADEQUACY OF PAYMENTS

CJA established the maximum hourly rate for panel attorneys at \$30 an hour for in-court time and \$20 an hour for out-of-court time. The act also established maximum limits:

Misdemeanors	\$ 400
Felonies	1,000
Post-trial motions	250
Direct appeals	1,000

As indicated by the following table, 68 of the judges and magistrates responding to our questionnaire believed that the maximum hourly rates were adequate and 16 believed that the hourly rates should be increased. Of those believing the maximum hourly rates to be too low, most suggested the rates should be at least \$40 an hour for time in court and at least \$30 an hour for time out of court. (On the average they believed the rates should be about \$44 an hour for time in court and \$29 an hour for time out of court.) Most judges and magistrates also believed that the maximum limits per case were adequate.

Responses to Questions on the Adequacy of CJA Hourly Rates and Maximum per Case Limits

	District courts										Total
	District of Columbia	Arizona	California Central	California Southern	Maryland	Michigan Eastern	Missouri Western	Pennsylvania Eastern	Puerto Rico	Virgin Islands	
Are the hourly rates adequate?											
(a) Yes	6	7	10	6	10	7	6	12	2	2	68
(b) No	-	-	3	1	1	2	-	7	2	-	16
(c) No response	-	-	-	-	-	-	-	1	-	-	1
Are the maximum limits per case reasonable?											
Misdemeanors \$400											
(a) Yes	5	6	11	6	8	6	6	13	1	1	63
(b) No	-	1	2	-	3	2	-	6	3	1	18
(c) No response	1	-	-	1	-	1	-	1	-	-	4
Felonies \$1,000											
(a) Yes	4	7	9	4	3	5	6	10	1	1	50
(b) No	1	-	3	3	8	3	-	9	3	1	31
(c) No response	1	-	1	-	-	1	-	1	-	-	4
Post trial motions \$250											
(a) Yes	3	6	9	5	8	7	6	14	1	1	60
(b) No	2	1	4	2	2	1	-	5	3	1	21
(c) No response	1	-	-	-	1	1	-	1	-	-	4
Direct appeals \$1,000											
(a) Yes	4	6	11	6	7	6	6	16	1	1	64
(b) No	1	-	-	1	2	2	-	3	3	-	12
(c) No response	1	1	2	-	2	1	-	1	-	1	9

The following table shows the range of proposed amounts for maximum case limits and the number of respondents who disagreed with the established amounts. The largest disagreement concerned the felony limit--31 respondents believed the felony limit should be raised.

Maximum Limits by Type of Case

Proposed amount	Number of respondents who disagreed with maximum limit for			
	<u>Misdemeanor</u>	<u>Felony</u>	<u>Post-trial motion</u>	<u>Direct appeal</u>
\$ 400	-	-	1	-
500	4	-	9	-
550	1	-	-	-
600	2	-	-	-
750	3	-	2	-
800	1	-	-	-
1,000	2	-	4	-
1,200	-	1	-	1
1,500	-	9	-	3
2,000	-	8	-	1
2,500	-	4	-	1
5,000	-	2	-	1
No limit	4	7	4	5
No suggestion	<u>1</u>	<u>-</u>	<u>1</u>	<u>-</u>
Total	<u>18</u>	<u>31</u>	<u>21</u>	<u>12</u>

COMPARISON OF CJA COURT PLANS

CJA, as noted in chapter 1, required each U.S. district court to place into operation a plan for furnishing indigent defendants with adequate representation. The Judicial Conference of the United States approved recommended guidelines to be used by the district courts when devising CJA plans. Two model plans were transmitted to the districts as an aid in drafting their plans. One model plan was oriented toward districts with public defenders. The other was oriented toward districts with community defenders.

We reviewed CJA plans for 16 Federal district courts to determine if there were any significant differences among these plans. Our review included the 10 district courts previously discussed in this chapter and the 6 court districts listed below. Also shown below are the major metropolitan areas included in each district.

Federal district court

Metropolitan area

Northern Illinois
Southern Florida
Southern New York
Eastern New York
Northern Georgia
Northern California

Chicago
Miami
New York City
New York City
Atlanta
San Francisco

We found no significant differences between the plans. We believe the general uniformity of the plans can be attributed to the Judicial Conference's guidelines and model plans.

SUMMARY OF RESPONSES TO CJA QUESTIONNAIRE

Questions asked judges and magistrates (note a)	Responses from	
	<u>10 U.S. dis-</u> <u>trict courts</u>	<u>D.C. Superior</u> <u>Court</u>
I. <u>ADEQUACY OF REPRESENTATION</u>		
A. Generally, is the representation provided by the		
1. Indigent panel attorneys		
adequate	83	35
inadequate	2	1
no response	-	1
2. Defender organization attorneys		
adequate	67	36
inadequate	-	-
no response	1	1
B. Compare the representation provided by indigent panel attorneys with retained representation		
better	7	4
about the same	66	26
not as good	12	6
no response	-	1
C. Compare the representation provided by defender organization attorneys with retained representation		
better	32	13
about the same	32	22
not as good	3	2
no response	1	-

APPENDIX I

SUMMARY OF RESPONSES TO CJA QUESTIONNAIRE (continued)

Questions asked judges and magistrates	Responses from	
	<u>10 U.S. district courts</u>	<u>D.C. Superior Court</u>
<u>I. ADEQUACY OF REPRESENTATION</u> (continued)		
D. Compare the representation provided by defender organization attorneys with indigent panel attorneys		
better	35	22
about the same	29	13
not as good	3	2
no response	1	-
<u>II. COURT PROCEDURES FOR REVIEWING "APPOINTMENT AND VOUCHER FOR COUNSELING SERVICES" (CJA 20)</u>		
A. What is your procedure for reviewing the attorneys' vouchers?		
Law clerks, deputy clerks, or other court personnel review the vouchers for proper form and correctness with judge or magistrate considering quality of representation versus amount claimed	29	9
Major burden of examining vouchers assumed by law clerks, deputy clerks, or other court personnel with judge or magistrate approving all vouchers except those specifically flagged by reviewing personnel	12	4

SUMMARY OF RESPONSES TO CJA QUESTIONNAIRE (continued)

Questions asked judges and magistrates	Responses from	
	<u>10 U.S. dis-</u> <u>trict courts</u>	<u>D.C. Superior</u> <u>Court</u>
II. COURT PROCEDURES FOR RE-		
<u>VIEWING "APPOINTMENT AND</u>		
<u>VOUCHER FOR COUNSELING</u>		
<u>SERVICES" (CJA 20)</u>		
(continued)		
Major burden of examin- ing vouchers assumed by judge or magistrate	43	20
Some other procedure	-	4
no response	-	-
B. Are court records rou-		
tinely consulted to		
verify the in-court time		
claimed by attorneys?		
Yes	49	15
No	33	21
no response	3	1
C. What is the average time		
<u>you</u> spend reviewing each		
voucher?		
less than 5 minutes	28	6
5 to 15 minutes	48	27
15 to 30 minutes	9	3
over 30 minutes	-	1
no response	-	-
D. Should more supporting		
information be required		
with the vouchers than		
is currently required?		
Yes	30	4
No	49	30
no response	6	3

APPENDIX I

SUMMARY OF RESPONSES TO CJA QUESTIONNAIRE (continued)

Questions asked judges and <u>magistrates</u>	Responses from	
	<u>10 U.S. dis-</u> <u>trict courts</u>	<u>D.C. Superior</u> <u>Court</u>
II. COURT PROCEDURES FOR RE-		
<u>VIEWING "APPOINTMENT AND</u>		
<u>VOUCHER FOR COUNSELING</u>		
<u>SERVICES" (CJA 20)</u>		
(continued)		
E. Do you believe that it is necessary or desirable to require that a judge or magistrate review and approve the vouchers?		
Yes	71	30
No	14	6
other	-	1
no response	-	-
F. When attorneys' vouchers are lowered are they informed of the reason?		
Yes	54	14
No	28	22
no response	3	1
If yes, how are they informed?		
in writing	14	6
orally	20	5
both writing and orally	13	2
no response	38	24
III. <u>ADEQUACY OF PAYMENTS</u>		
A. Are the hourly rates (\$30 in-court time and \$20 out-of-court time) adequate?		
Yes	68	28
No	16	8
no response	1	1

SUMMARY OF RESPONSES TO CJA QUESTIONNAIRE (continued)

Questions asked judges and magistrates	Responses from	
	<u>10 U.S. dis- trict courts</u>	<u>D.C. Superior Court</u>
III. <u>ADEQUACY OF PAYMENTS</u> (continued)		
B. Are the maximum limits per case reasonable?		
Misdemeanors \$400		
Yes	63	26
No	18	9
no response	4	2
Felonies \$1,000		
Yes	50	23
No	31	13
no response	4	1
Post-trial motions \$250		
Yes	60	26
No	21	6
no response	4	5
Direct appeals \$1,000		
Yes	64	21
No	12	6
no response	9	10
Number of questionnaires distributed	110	44
Number of questionnaires received	85	37

a/ Questions concerning defender organizations were not applicable to Maryland, Puerto Rico, and the Virgin Islands since these court districts had no defender organizations.

APPENDIX II

MARRS.
MORRIS H. HICKS, N. DAK.
ROBERT G. BYRD, W. VA.
JOHN V. TUNNEY, CALIF.

STROM THURMOND, S.C.
MARLOW W. COOK, KY.
CHARLES MCC. MATHIAS, JR., MD.
EDWARD J. GURNET, FLA.

EDWARD M. KENNEDY, MASS.
BIRCH BAYH, IND.
ROBERT G. BYRD, W. VA.
JOHN V. TUNNEY, CALIF.

DOMAN L. HIRSHBAUM, ILL.
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United States Senate

COMMITTEE ON THE JUDICIARY
SUBCOMMITTEE ON CONSTITUTIONAL RIGHTS
(PURSUANT TO SEC. 9, S. RES. 21, 93D CONGRESS)
WASHINGTON, D.C. 20510

October 10, 1973

Honorable Elmer B. Staats
Comptroller General
General Accounting Office
441 G Street, N.W.
Washington, D.C. 20548

Dear General Staats:

Members of the staff of the Constitutional Rights Subcommittee have discussed with GAO representatives, Frank Wild, Dan Stanton and Vincent Griffiths the possibility of conducting two inquiries which would be of great assistance to the Subcommittee.

The first has to do with the Subcommittee's examination of the Internal Security Division of the Department of Justice from January, 1970 through March, 1973. The second has to do with the administration of the Criminal Justice Act system of payments to private attorneys, especially with respect to the Act's operation in the District of Columbia. One aspect of this latter problem was addressed in your letter opinion B-175429, May 26, 1972 to Mr. Rowland Kirks, Director of the Administrative Office of the U.S. Courts.

The purpose of this letter is to request formally that GAO undertake these inquiries. Since each is likely to be the subject of hearings in the first six months of the new year, I would appreciate whatever you can do to expedite the GAO's examination.

With kindest wishes,

Sincerely yours,

Sam J. Ervin, Jr.

Sam J. Ervin, Jr.
Chairman

SJE/lbh