UNITED STATES DISTRICT COURT
DISTRICT OF WYOMING

Nancy D. Freudenthal
Chief U.S. District Judge

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August 26, 2013

Senator Mike Enzi
c/o Cheyenne Office
2120 Capitol Ave., Suite 2007
Cheyenne, WY 82001

Senator John Barrasso
c/o Cheyenne Office
2120 Capitol Ave., Suite 2013
Cheyenne, WY 82001

Representative Cynthia Lummis
c/o Cheyenne Office
2120 Capitol Ave., Suite 8005
Cheyenne, WY 82001

Re: Impact of Sequestration

Dear Senators Enzi and Barrasso, and Representative Lummis:

As you may know, I joined with the chief judges of 86 other federal district courts in the attached letter expressing our grave concern over the impact flat funding, combined with sequestration, has had on the Judiciary's ability to carry out its responsibilities. The purpose for this letter is to provide some Wyoming-specific information.

First, let me say that we all appreciate taxpayer concern with bloated government. But we must ask, is the justice system itself bloated? Importantly, the judiciary has no control over its workload, which has not declined. Rather, both our civil and criminal cases are roughly at the same level as in 2012. Also, the judiciary's budget should be put in perspective. U.S. District Judge Fred Biery wrote a recent open letter to members of the Texas delegation which said, "For every one thousand dollars ($1000) of federal spending, the Judicial Branch uses one dollar and eighty-nine cents" and "the Western District of Texas uses three pennies." I hate to estimate what tiny part of a penny is spent by the entire District of Wyoming.

Wyoming has not escaped the impact of years of flat-funding combined with the sequester. We no longer have any official library in any Wyoming Federal courthouse, and we lost our full-time librarian position. Countless book subscriptions have been cancelled. The Jackson Courthouse is in negotiations for transfer to the county and, if that is not possible, the property will be sold by GSA and likely converted to other use (which previously occurred with the Lander Federal Courthouse, and it now houses a non-profit entity). We have lost our part-time Magistrate Judge in Sheridan, and significantly reduced

(by half in most cases), the remaining hours our part-time judges can be paid for their important work of seeing defendants around the State for preliminary criminal proceedings (initial appearances, arraignments and detention hearings).

On the criminal side, the Cheyenne Magistrate Judge recently took over the Criminal Justice Act (CJA) panel defense attorney appointment process when the Wyoming Federal Defender's Office (FDO) lost the position for the person who had previously managed appointments. This CJA appointment process has also been compromised as attorney appointments now more greatly reflect geographic location (to save costs), rather than an administration which is either random or matches case type with expertise. Along this same line, I am reassigning select cases after the initial draw following Grand Jury returns, to better align the location of the judge with the location of the attorneys and witnesses. Our CJA panel attorneys have also been directed that they may not be reimbursed for travel to meet with clients at jails, but rather they must coordinate with inmate transport so that their clients must come to the courthouses in the vans with other defendants who have court appearances (resulting in many defendants being on the road for long hours). We do not schedule any criminal matters handled by the FDO on an every-other-Friday basis (the FDO furlough day), which not only affects the criminal docket schedule, but it also impacts timely notice to these FDO attorneys if matters then must be set on short notice for the following Monday. And as you may have read in the national news, our CJA panel defense attorneys have had their hourly rate cut by $15 per hour (now $110/hour, effective September 1), and payment deferrals will be in effect for up to four weeks of payments that would otherwise be due in FY 2014. It goes without saying that $110/hour is not a market rate for any attorney.

The judges in this District are deeply concerned that these combined actions could impact the delivery of justice as well as the integrity of our CJA panel, even though we realize the steps are necessary to address the budget situation and avoid permanent damage from the sequester.

Further, I do not want to neglect the Office of Probation and Pretrial Service, which has absorbed unprecedented cuts not only to its salary budget but to the law enforcement budget which was previously untouchable. Our probation officers are increasingly busy, and they face the reality of supervising more and more challenging people either awaiting trial or coming out of our prison system. The majority of these people have troubling histories of addiction, mental illness, abuse, homelessness, poverty, lack of education, and entrenched criminal thinking patterns. New systems shown to reduce recidivism can't be adequately implemented because of budget reductions. At some point I fear public safety could be compromised.

On the civil side, we are always worried that speedy trial requirements, which don't provide exceptions for furlough days or limited budgets, will force delays in civil cases, leaving our businesses and citizens with uncertainty and higher costs. But at this time our main concern is with the Wyoming Bankruptcy Clerk's Office. Their numbers have been so significantly reduced (36% since FY12) that they have entered into job sharing arrangements

with other court units, they have cut staff, and they have "unstaffed" the Casper office. In the event a Continuing Resolution is implemented for FY14, that office may be forced to reduce staffing by another 13.3%. This would leave eight people to handle the Bankruptcy needs of the entire District.

The Office of the Clerk of the District Court has also faced reductions, which have been met to date through early retirements, redirection of IT funding, and cooperative use of resources among the various court units. However, even that office is facing the looming fear of layoffs for the first time in memory. In terms of law clerk staff available to chambers, even that has suffered. In December, we will be forced to lay off a long-time staff law clerk who has worked diligently on our pro se docket. As you may know, this is a very difficult docket, as judges and law clerks often are faced with hand-written filings, usually from prisoners either complaining about the conditions of their confinement or seeking to vacate or correct allegedly illegal criminal sentences. While some may disparage these filings, we can never forget that *Gideon v. Wainwright*, 372 U.S. 335 (1963), the landmark case upholding the constitutional right to counsel in criminal cases, came to the courts as a pro se prisoner filing, and it wasn't until the case arrived at the Supreme Court that an attorney was appointed to represent Clarence Gideon.

As George Washington reflected, "the administration of justice is the firmest pillar of government." Please join your colleagues to help assure that this pillar remains strong. I ask that you support any effort to include an anomaly for the Judiciary if it appears we will once again be operating under a full-year Continuing Resolution in 2014.

Please feel free to contact me if you wish to discuss this letter, or if you have any questions or concerns. Thank you.

Yours very truly,

NANCY D. FREUDENTHAL
Chief United States District Judge

Enc. a/s
NDF/ndf

cc: Judge Alan Johnson
Judge Scott Skavdahl
Judge Pete McNiff
Magistrate Judge Kelly Rankin
Tambra Loyd, Chief Probation Officer
Stephan Harris, Clerk of Court
Tim Ellis, Clerk of Bankruptcy Court
Jim Barrett, Wyoming FDO

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK
500 PEARL STREET
NEW YORK, NEW YORK 10007-1312

LORETTA A. PRESKA
CHIEF JUDGE

212-805-0240
FAX 805-7941

August 13, 2013

Honorable Joseph R. Biden, Jr.
President
United States Senate
Washington, DC 20510

Dear Mr. President:

We write to you as Chief Judges of 87 federal district courts to express our grave concern over the impact the flat funding of the last few years, followed by sequestration, is having on the Judiciary's ability to carry out its constitutional and statutory responsibilities. As the boots on the ground in our nation's federal trial courts, we have experienced firsthand the effect of those constraints and funding reductions. They have forced us to slash our operations to the bone, and we believe that our constitutional duties, public safety, and the quality of the justice system will be profoundly compromised by any further cuts.

Under Article III of the Constitution, the Federal Judiciary is responsible for fairly and effectively adjudicating many of the most significant criminal and civil controversies of our times. Over the years, with the support of Congress, the Judiciary has been able to forge and maintain one of the most respected justice systems in the world.

Flat funding followed by the sequestration cuts that took effect March 1, 2013, have had a devastating impact on court operations nationwide. Final enacted appropriations for fiscal year 2013 were reduced nearly $350 million for the Judiciary. Emergency measures were implemented throughout the federal court system to address the drastically reduced funding levels, but the federal courts do not have the flexibility to absorb such a large cut on top of previous flat funding. These emergency actions represented a conscientious effort by the Judiciary to mitigate the adverse impact of sequestration on court operations in an attempt to ensure continued access to justice for the citizens of this country. However, the cuts have created an unprecedented financial crisis that is adversely affecting all facets of court operations.

As a result of sequestration, funding allocations sent out to court units were cut 10 percent below the fiscal year 2012 level. Clerks of court and probation and pretrial services offices will downsize by as many as 1,000 staff during fiscal year 2013 due to this reduction in funding. Staffing in these same offices has been reduced by nearly 2,100 staff between July 2011 and July 2013, representing a 10 percent staffing loss to the Judiciary over this two-year period. Our current staffing level is the lowest it has been since 1999 despite significant workload growth during this same period of time. In addition to downsizing, the courts have already incurred 4,500 furlough days as of June 2013, and an additional 4,100 furlough days are projected by the end of the fiscal year. These staffing losses are resulting in slower processing of civil and bankruptcy cases which impacts individuals and businesses seeking to resolve disputes

in the federal courts. For example, in the bankruptcy court in New York, venue for many mega-cases involving thousands of jobs and companies with a vast impact on commerce and finance, staffing losses require that court proceedings end at 5:00 p.m. instead of continuing to conclusion as they have in the past – often late into the night.

Funding cuts to the Judiciary have also put public safety at risk. The Judiciary employs nearly 6,000 law enforcement officers—probation and pretrial services officers—to supervise individuals in the community after they have been convicted of a crime and subsequently released from prison, as well as defendants awaiting trial. The number of convicted offenders under the supervision of federal probation officers hit a record 187,311 in 2012 and is on pace to reach 191,000 by 2014. At a time when the workload in our probation and pretrial offices continues to grow, budget cuts have reduced funding allocations to these offices by 10 percent. Staffing in probation and pretrial services offices is down nearly 600 (7 percent) since 2011. These offices are tasked with ensuring public safety by monitoring criminal defendants through, among other things, in-person meetings, drug testing, drug, mental health and sex offender treatment, and GPS-tracking. Additionally, probation offices facilitate the safe re-integration of these defendants into the community by performing premises searches for items such as illegal weapons, illegal drugs, and child pornography. Cuts to officer staffing levels have forced cutbacks in these activities to crisis levels, meaning less deterrence, detection, and response to possible criminal activity by federal defendants in the community and more illegal weapons, drugs, and other contraband left in the community. Particularly troublesome is the 20 percent cut that had to be made to the law enforcement allotments that fund drug, mental health, and sex offender treatment and testing services for offenders, searches, and electronic and GPS monitoring.

Security at courthouses has suffered as well. Sequestration resulted in a 30 percent cut in funding for court security systems and equipment, and court security officers are being required to work reduced hours, creating security vulnerabilities throughout the federal court system. Further cuts threaten the ability of the Judiciary to maintain needed security at courthouses, including those where terrorism and other sensitive cases are resolved. Also as a result of budget cuts, we fear we will run short of funding for grand and petit jurors and have to make additional cuts elsewhere or risk delaying indictments and civil jury trials.

But the most significant impact of budget cuts and sequestration thus far has been the reduction in funding for Defender Services. These organizations, which have always run on modest budgets while providing high quality legal services, fulfill the mandate of the Sixth Amendment and the Criminal Justice Act for the appointment of counsel for criminal defendants who lack the financial resources to hire an attorney. Because we must provide counsel for indigent defendants, the only options for absorbing the more than $50 million cut to the Defender Services account are reducing federal defender organization (FDO) staffing levels (through layoffs or furloughs) and/or deferring or reducing payments to private panel attorneys. Reducing FDO staff (who work on salary) results in appointments being shifted to CJA panel attorneys (who charge hourly), thus increasing costs rather than reducing them and deferring more panel attorney payments into the next fiscal year. This is an untenable approach, both because it increases costs overall and because adding to appropriations requirements in the coming fiscal year compounds the shortfall of funding in the overall account.

The emergency measures taken by the Judiciary as a result of sequestration will require a suspension of payments to private panel attorneys for the last three weeks of the fiscal year, while the FDOs are making staff reductions and furloughing employees for an average of 15 days over the last half of the fiscal year. Between October 2012 and June 2013, FDOs downsized by about 160 staff, representing a 6 percent decline. Since March 2013, their remaining employees were furloughed for over 12,500 furlough days. We can already see the impact of FDO staffing reductions in our courts. The federal defender office in New York recently asked to postpone the trial of alleged terrorist Sulaiman Abu Ghaith, Osama bin Laden's son-in-law, because of staff cutbacks. Our courts in the District of New Mexico, the Western District of Texas, and the Western District of New York have stopped scheduling criminal matters on alternating Fridays because of FDO staffing shortages.

Exacerbating the problem in the defenders account is the fact that the Judiciary has no control over the number and nature of cases in which court-appointed counsel must provide a defense. The caseload is driven entirely by the prosecutorial policies of the Department of Justice and its 93 United States Attorneys. The Department of Justice is not furloughing staff. The pace at which criminal cases require court-appointed counsel has continued unabated, while resources in the Defender Services program are diminishing. As chief district judges, we are deeply concerned that the cuts in federal defender offices will severely undermine and weaken a program that has taken years to build. Meanwhile, deferrals of panel attorney payments could jeopardize the Judiciary's ability to convince well-qualified counsel to accept panel appointments.

Reductions in court budgets reduce the overall volume of work that the Judiciary is able to perform and communicate timely to the public in a variety of ways, again undermining our core constitutional responsibilities. Reductions in the hours and number of administrative and judicial staff reduce our output. Our inability to maintain our information technology infrastructure both reduces our output and delays the communication of that output to the public. This undermines the public confidence in our system as litigants wait longer for relief. When cases lag, the Judiciary is seen as inefficient, or worse, unsympathetic to litigants ranging from pro se litigants (who represent themselves) to individuals and companies seeking bankruptcy relief or the resolution of civil disputes to the government and defendants in criminal cases.

We commend the House and Senate Appropriations Committees for their attention to our concerns, both in the past and at present. The Senate Appropriations Committee recently approved S. 1371, which would provide the Judiciary with a $496 million increase in funding for FY 2014. This is roughly 7 percent more than the FY 2013 post-sequestration funding that the Judiciary received, and it is sufficient to fund fully the Judiciary's FY 2014 re-estimated budget request. The House Appropriations Committee recently approved H.R. 2786, which would provide the Judiciary with a $363 million increase in funding for FY 2014, representing a roughly 5 percent increase over the FY 2013 post-sequestration funding received by the Judiciary. Increases in funding of this nature are absolutely essential to our ability to fulfill our constitutional mandate and to ameliorate the concerns we have expressed above. We commend those in Congress who understand our needs as well as our dedication to being good stewards of taxpayer funds. Still, we remain deeply concerned about the effects on our mission in the event a

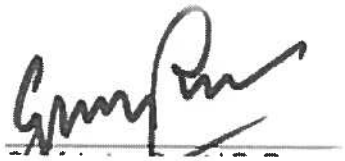
Continuing Resolution (CR) is enacted for the full year. A second year under sequestration will have a devastating, and long lasting, impact on the administration of justice in this country. We urge you to include an anomaly for the Judiciary, at the Senate bill level, if it appears we will be operating under a full-year CR.

The work of the Federal Judiciary derives from functions assigned to us by the United States Constitution and the statutes enacted by Congress. We do not have projects or programs to cut; we only have people. We must adjudicate all civil and criminal cases that are filed with the courts, we must protect the community by supervising defendants awaiting trial and criminals on post-conviction release, we must provide qualified defense counsel for defendants who cannot afford representation, we must pay jurors for costs associated with performing their civic duty, and we must ensure the safety and security of judges, court staff, litigants, and the public in federal court facilities. Our workload does not diminish because of budget shortfalls. Deep funding cuts simply mean that the Judiciary cannot adequately perform its responsibilities.

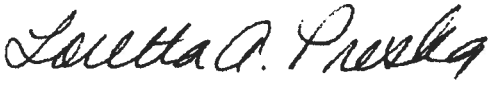
In closing, we understand that the economic climate across the nation is difficult, and we appreciate Congress's consideration. In response to reductions resulting from sequestration, we have cut as much as possible while striving to uphold our core mission. Another round of cuts would be devastating. As the folks on the front lines, interacting with and serving the public on a daily basis, we conclude by emphasizing that any further cuts to the Judiciary would directly affect our ability to carry out our constitutional and statutory duties. We look to the Congress to recognize the uncontrollable nature of our workload and to provide the resources necessary for the Judiciary to perform its essential functions.

Thank you for your consideration.

Sincerely,



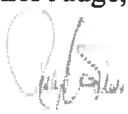
Gerald E. Rosen
Chief Judge, Eastern District of Michigan



Loretta A. Preska
Chief Judge, Southern District of New York

/s/
Sharon L. Blackburn
Chief Judge, Northern District of Alabama

/s/
Ralph R. Beistline
Chief Judge, District of Alaska



Roslyn O. Silver
Chief Judge, District of Arizona

/s/
Brian S. Miller
Chief Judge, Eastern District of Arkansas

/s/
P.K. Holmes III
Chief Judge, Western District of Arkansas

Claudia Wilken
Chief Judge, Northern District of California

/s/
Morrison England, Jr.
Chief Judge, Eastern District of California

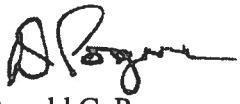
/s/
Barry Ted Moskowitz
Chief Judge, Southern District of California

/s/
George H. King
Chief Judge, Central District of California

/s/
Alvin W. Thompson
Chief Judge, District of Connecticut

/s/
Marcia S. Kriger
Chief Judge, District of Colorado

/s/
Richard W. Roberts
Chief Judge, District of Columbia



Donald C. Pogue
Chief Judge, Court of International Trade

/s/
Gregory M. Sleet
Chief Judge, District of Delaware

Anne C. Conway
Chief Judge, Middle District of Florida

/s/
M. Casey Rodgers
Chief Judge, Northern District of Florida

/s/
C. Ashley Royal
Chief Judge, Middle District of Georgia

/s/
Julie E. Carnes
Chief Judge, Northern District of Georgia

/s/
Lisa Godbey Wood
Chief Judge, Southern District of Georgia

/s/
Frances Tydingco-Gatewood
Chief Judge, District of Guam

Susan Oki Molloway
Chief Judge, District of Hawaii

/s/
B. Lynn Winmill
Chief Judge, District of Idaho

/s/
James E. Shadid
Chief Judge, Central District of Illinois

Ruben Castillo
Chief Judge, Northern District of Illinois

/s/
David R. Herndon
Chief Judge, Southern District of Illinois

/s/
Philip P. Simon
Chief Judge, Northern District of Indiana

/s/
Richard L. Young
Chief Judge, Southern District of Indiana

/s/
James E. Gritzner
Chief Judge, Southern District of Iowa

/s/
Linda R. Reade
Chief Judge, Northern District of Iowa

/s/
Kathryn H. Vratil
Chief Judge, District of Kansas

/s/
Karen K. Caldwell
Chief Judge, Eastern District of Kentucky

/s/
Joseph H. McKinley Jr.
Chief Judge, Western District of Kentucky

/s/
Dee D. Drell
Chief Judge, Western District of Louisiana

/s/
Brian A. Jackson
Chief Judge, Middle District of Louisiana

/s/
John A. Woodcock Jr.
Chief Judge, District of Maine

Ramona V. Manglona
Chief Judge, District of the Northern Mariana Islands

/s/
Deborah K. Chasanow
Chief Judge, District of Maryland

/s/
Patti B. Saris
Chief Judge, District of Massachusetts

/s/
Paul L. Maloney
Chief Judge, Western District of Michigan

/s/
Michael J. Davis
Chief Judge, District of Minnesota

/s/
Louis Guirola Jr.
Chief Judge, Southern District of Mississippi

/s/
Michael P. Mills
Chief Judge, Northern District of Mississippi

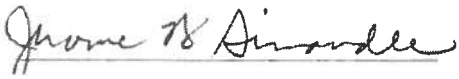
/s/
Catherine D. Perry
Chief Judge, Eastern District of Missouri

/s/
Fernando J. Gaitan
Chief Judge, Western District of Missouri

/s/
Dana L. Christensen
Chief Judge, District of Montana

/s/
Laurie Smith Camp
Chief Judge, District of Nebraska

/s/
Joseph N. Laplante
Chief Judge, District of New Hampshire



Jerome B. Simandle
Chief Judge, District of New Jersey

/s/
M. Christina Armijo
Chief Judge, District of New Mexico

/s/
Gary L. Sharpe
Chief Judge, Northern District of New York

/s/
Carol Bagley Amon
Chief Judge, Eastern District of New York

/s/
William M. Skretny
Chief Judge, Western District of New York

/s/
Frank D. Whitney
Chief Judge, Western District of North Carolina

/s/
William L. Osteen Jr.
Chief Judge, Middle District of North Carolina

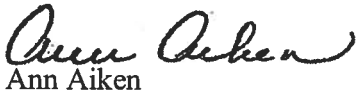
/s/
James C. Dever III
Chief Judge, Eastern District of North Carolina

/s/
Ralph Erikson
Chief Judge, District of North Dakota

Susan J. Dlott
Chief Judge, Southern District of Ohio

/s/
Solomon Oliver Jr.
Chief Judge, Northern District of Ohio

/s/
Gregory K. Frizzell
Chief Judge, Northern District of Oklahoma



Ann Aiken
Chief Judge, District of Oregon

/s/
Sean J. McLaughlin
Current Chief Judge, Western District of Pennsylvania

/s/
Joy Flowers Conti
Incoming Chief Judge, Western District of Pennsylvania

/s/
Petrese B. Tucker
Chief Judge, Eastern District of Pennsylvania

/s/
Aida M. Delgado-Colón
Chief Judge, District of Puerto Rico

/s/
Mary M. Lisi
Chief Judge, District of Rhode Island

/s/
Terry L. Wooten
Chief Judge, District of South Carolina

/s/
Jeffrey L. Viken
Chief Judge, District of South Dakota

/s/
Thomas A. Varlan
Chief Judge, Eastern District of Tennessee

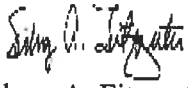
/s/
Jon P. McCalla
Chief Judge, Western District of Tennessee

/s/
William J. Haynes
Chief Judge, Middle District of Tennessee

Ricardo H. Hinojosa
Chief Judge, Southern District of Texas

/s/
Fred Biery
Chief Judge, Western District of Texas

/s/
Leonard E. Davis
Chief Judge, Eastern District of Texas


Sidney A. Fitzwater
Chief Judge, Northern District of Texas

/s/
Ted Stewart
Chief Judge, District of Utah

/s/
Christina Reiss
Chief Judge, District of Vermont

/s/
Curtis V. Gomez
Chief Judge, District of the Virgin Islands

/s/
Rebecca Beach Smith
Chief Judge, Eastern District of Virginia

/s/
Glen E. Conrad
Chief Judge, Western District of Virginia

/s/
Marsha J. Pechman
Chief Judge, Western District of Washington

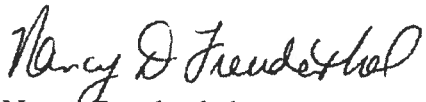
/s/
Rosanna Malouf Peterson
Chief Judge, Eastern District of Washington

/s/
John Preston Bailey
Chief Judge, Northern District of
West Virginia

/s/
Robert C. Chambers
Chief Judge, Southern District of
West Virginia

/s/
William C. Griesbach
Chief Judge, Eastern District of Wisconsin

/s/
William M. Conley
Chief Judge, Western District of Wisconsin



Nancy Freudenthal
Chief Judge, District of Wyoming

cc: John D. Bates
Director, Administrative Office of the United States Courts