Meeting Talking Points

Prior to your meeting, it’s important that all meeting participants are on the same page regarding the message you want to get across. We suggest you limit the number of key points you will focus on to four, since people can typically only remember four things at once. Limiting your key points ensures that the member of Congress or staffer with whom you’re meeting will remember the four things on which you want him or her to focus the most. Below are four key messaging points we suggest you emphasize, with supporting points under each that will help reinforce your main messages.

Our nation’s federal defender program has been hailed as a model program for defending the poor.

- For nearly forty years, the federal “hybrid” system has served as a model indigent defense system, demonstrating that with sufficient funding and standards it is possible to achieve high-quality representation for the criminally accused who are unable to afford their own attorneys.

- Receiving roughly half the money that U.S. Attorneys receive to prosecute federal crimes, federal public defenders and court-appointed attorneys provide high-quality representation for 90 percent of all individuals charged with a federal crime.

Unfortunately, sequestration has forced layoffs and furloughs in federal defender offices, drastically undermining a fair and just court system.

- A $51 million shortfall in 2013 has led to up to 20 furlough days for each defender in some offices, and has forced some offices to decline cases because they could not afford experts or other expenses associated with representation.

- The funding shortfall could double in 2014, forcing some offices to lay off up to 30 percent to 50 percent of their staff.

- This has already resulted in delays of criminal cases – even high-profile prosecutions:
  - Across the country – in states like California, Colorado, Delaware, Kansas, Missouri, New York, Pennsylvania and Utah – courts have been forced to delay criminal proceedings to accommodate federal defender furloughs.
  - In New York, federal public defenders asked for a delay of the trial of Osama bin Laden’s son-in-law because their lawyers are required to take furloughs. In the words of the district court judge assigned to the case, “[i]t’s extremely troublesome to contemplate the possibility of a case of this nature being delayed because of sequestration. Let me say only that – stunning.”
  - The federal defenders handling the Boston Marathon bombing case are facing three weeks of unpaid furloughs.
These cuts will actually end up costing taxpayers *more*.

- Cases that a federal defender would typically handle are being assigned to court-appointed private lawyers. Because the government remains obligated to pay these private attorneys, the cost of representation simply transfers and no money is actually saved.

- With an established federal defender office, it is more cost-effective to have an institutional office with sufficient staff and resources handle a majority of the non-conflict cases.

- Unlike federal defenders, court-appointed attorneys are paid hourly rates for their work, as well as travel costs and other expenses.

- Some federal defenders will no longer be able to participate in re-entry and diversionary courts, which lower recidivism rates, improve public safety and reduce costs associated with incarceration. Additionally, federal defenders will no longer be able to act as discovery coordinators in multi-defendant cases or help to facilitate the appointment of private counsel, further exploding costs.

- Without adequate resources, federal defenders and court-appointed attorneys alike will have less time and resources to prepare their cases. Inevitable mistakes will create even more expenses in the system down the line, by way of unnecessary prison sentences, appeals, *habeas corpus* proceedings and retrial.

Please work to ensure that the 2014 budget prevents the worst of this devastation.

- To avert the crisis, Congress must restore funding to the Defenders Services account. Congress should pass an appropriations bill that, at a minimum, provides funding at the levels in the Senate version of the Financial Services and General Government Appropriations bill.

- If no appropriations agreement is reached for FY 2014, Congress must approve an anomaly to any continuing resolution that appropriates at least $1,068,623,000 for the Defender Services account.

- Congress should let the judiciary know that deferral of payments to court-appointed attorneys is the only sensible way to address any shortfalls in the defender services appropriation. Deeper cuts to federal public defender budgets or reduction in the CJA reimbursement rates will have devastating, long-term effects on the quality and efficacy of the federal “hybrid” system. Deferral of payments will allow federal defender offices to avoid the most drastic staffing cuts now and will ensure that CJA panels continue to attract qualified and experienced attorneys who aid in the efficient operation of the federal criminal justice system.