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PROPOSED LETTER TO HOUSE AND SENATE CONFEREES IN SUPPORT OF INCREASED FUNDING FOR CRIMINAL JUSTICE ACT PANEL ATTORNEYS

Ladies and Gentlemen:

You have been appointed to the Conference Committee that will soon convene to resolve the differences between the House and Senate versions of the FY 2000 Commerce, Justice, State appropriations bill (H.R. 2670 and S. 1217). On behalf of the Criminal Law and Individual Rights Section of the District of Columbia Bar[1], we write to urge you and your colleagues to provide adequate funding to implement an hourly increase – to a uniform $75 per hour, in-court and out – for panel attorneys representing indigent defendants under the Criminal Justice Act ("CJA"). The funds necessary to implement the proposed increase in CJA funding comprise a minuscule portion of the federal budget, but those funds are critical to preserving the legitimacy of our justice system, which, in the words of Attorney General Reno, "depends on our efforts to ensure the fairness of our system for everyone, regardless of wealth."

The United States Constitution guarantees all criminal defendants the right to counsel, but a significant portion of federal criminal defendants are indigent, and must rely on court-appointed, and publicly-funded, defense counsel. The Bureau of Justice Statistics has estimated that one-half of all inmates in federal prisons were represented by court-appointed attorneys. Inadequate funding for CJA panel attorneys poses a serious threat to these defendants' right to counsel, and to the proper functioning of our criminal justice system.

Panel attorney hourly rates – currently $45 out-of-court and $65 in-court in most judicial districts – have remained stagnant for more than a decade. As a result, CJA panel attorneys now effectively earn 35% *less* than they did in 1984. At the same time, the number of indigent defendants has grown, and the task of representing them has become more and more complex. For example, the United States Sentencing Guidelines, which took effect in 1987, require significant expertise on the part of defense counsel in order to be effective at sentencing. However, inadequate compensation for CJA panel attorneys hampers the ability of the courts to recruit and retain experienced attorneys to provide representation to indigent defendants, requiring the courts to rely more and more on less experienced, and less effective, counsel. Not only does this jeopardize the rights of indigent defendants, it also leads to unnecessary delays and retrials based upon claims of ineffective assistance of counsel.

Increased funding for CJA panel attorneys enjoys wide support, from, among others, the Attorney General of the United States, the American Bar Association, and the Association of Former United States Attorneys. As Chief Justice William H. Rehnquist stated in the 1998 Year-End Report of the Federal Judiciary, "inadequate compensation for panel attorneys is seriously hampering the ability of judges to recruit attorneys to provide effective representation." Your support for adequate funding for the Criminal Justice Act panel attorneys program would be most appreciated.

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[1] The views expressed herein represent only those of the Criminal Law and Individual Rights Section of the District of Columbia Bar and not those of the D.C. Bar or its Board of Governors.