



# THE DEFENSE NEVER RESTS

Volume 6.4

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October, 2004

## CJA Payments To Continue

The federal courts have received \$26 million in supplemental funding that will avert a shortfall in payments to attorneys representing indigent clients in criminal cases. The funds are provided in the 2005 Department of Defense Appropriations Act, just signed by the President.

Director Leonidas Ralph Mecham met with Senator Ted Stevens (R-AK) and Representative C. W. Bill Young (R-FL), chairmen of the Senate and House congressional appropriations committees, to urge their support for the funding. Mecham also wrote to House and Senate appropriations committee members last month, urging their assistance in what Mecham called an emergency facing the judicial branch in the current fiscal year.

"If that funding is not provided," Mecham warned, "the justice system will be

disrupted . . ." At the time, it was estimated that the 2004 shortfall would be \$26 million and funds to pay private Criminal Justice Act (CJA) panel attorneys would run out by mid-August.

The needed funds were added to the bill when House and Senate appropriations committee members sat down late last month to come to agreement on the Defense Appropriations bill.

"Not only is it important to panel attorneys," said Mecham following congressional approval of the supplemental, "but it is \$26 million less that the Judiciary will have to expend in FY 2005 as a first charge against our appropriations."

Counsel is appointed from the local CJA panel if a financially eligible defendant is not represented by a federal defender office, which might occur for a variety of reasons, including workload or conflicts of interest. In fact, the CJA requires that panel attorneys be appointed in a substantial proportion of cases. A cessation of CJA payments means financial hardship for these practitioners. Approximately 60 percent of panel attorneys are sole practitioners, and 30 percent are with small

firms with two to five practitioners. These attorneys are often dependent on CJA payments. Non-payment for services also increases the Judiciary's difficulty in finding adequate counsel. Courts already rely on a small, select group of attorneys with the necessary expertise in the U.S. Sentencing Guidelines, and the group might shrink further if attorneys believed they would not be properly compensated for their service.

The Third Branch, August 2004

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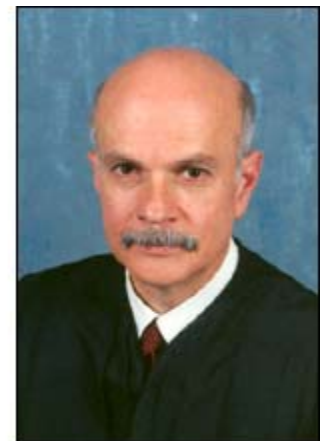
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## USSC CHAIR A RECESS APPOINTMENT

On July 30, 2004, President George W. Bush announced his intention to recess appoint Judge Ricardo H. Hinojosa (S. D. Tex.) to chair the U.S. Sentencing Commission. Hinojosa, a member of the Commission since May 2003, was nominated to be chairman on February 23, 2004. The Constitution provides that recess appointments "shall expire at the end of their next session," unless Congress consents to the nomination.

The U.S. Sentencing Commission is composed of two non-voting commissioners and seven voting commissioners. One voting commissioner position is vacant. On October 31, 2003, the terms of Commissioner Michael E. O'Neill, and two Vice Chairs, Judge Ruben Castillo (N.D. Ill.) and Chief Judge William K. Sessions III, (D. Vt.) expired. President Bush nominated all three for reappointment, but only Sessions has been confirmed. Castillo and O'Neill continue to serve until Congress adjourns sine die or new Commissioners are appointed.



Judge Ricardo H. Hinojosa

The Third Branch, August 2004

# ***ANNUAL CLE***

*presented by*

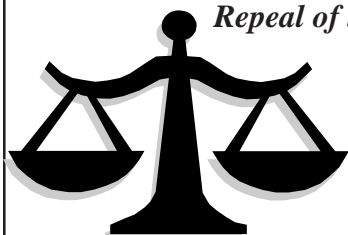
## ***The Office of the Federal Public Defender of the Eastern District of Louisiana***

### ***Thursday, November 4th***

- 8:00-8:30 *Sign In*
- 8:30-9:30 **Ronald Singer**  
President of the American Academy  
of Forensic Sciences  
*Crime Scene Reconstruction*
- 9:30-10:30 **Nicholas Molligan**  
Forensic Document Examiner  
*Fingerprints, Handwriting and  
Ballistics*
- 10:30-10:40 *Break*
- 10:40-12:10 **Tim Crooks**  
Assistant Federal Public Defender  
*Fifth Circuit Update  
Supreme Court Update*
- 12:10-1:15 *Lunch*
- 1:15-2:15 **Dr. Robert Shomer**  
*Eyewitness Identification*
- 2:15-3:15 **John Harvey Craft**  
Assistant Federal Public Defender  
*Legal "Ethics," Robber Barons and the  
Real Right Thing*
- 3:15-3:30 *Break*
- 3:30-4:30 **Gary V. Schwabe, Jr.**  
Assistant Federal Public Defender  
*Repeal of the Assault Weapons Ban*

### ***Friday, November 5th***

- 8:00 -8:30 *Sign In*
- 8:30-9:30 **Jeremy Kamens**  
Assistant Federal Public Defender  
*Supreme Court Attorney in Hamdi v.  
Rumsfeld: The Limits of Executive  
Detention*
- 9:30-10:30 **Kenneth Troccoli**  
Assistant Federal Public Defender  
*Supreme Court Attorney in U.S. v.  
Moussaoui: The 6th Amendment:  
Representing the Challenging Client*
- 10:30-10:40 *Break*
- 10:40-11:40 **Robert Hirschhorn, Esquire**  
*Effective Jury Selection When You Have  
Only 30 Minutes for Voir Dire*
- 11:40-12:30 *Lunch*
- 12:30-2:00 **Heather Williams**  
Assistant Federal Public Defender  
*Who's Who in Court - The Inside Story  
(Miranda to Anders, Allen to Terry)*
- 2:10-2:10 *Break*
- 2:10-3:10 **Pam Metzger**  
CJA Panel Member  
*Professionalism*
- 3:10-4:10 **Richard Westling**  
CJA Panel Member  
*"The Emperor's New Clothes": Seeing  
Through the Government's Increasing  
Use of Case Agents as Pseudo-Experts  
and Summary Witnesses*



**REGISTRATION FORM  
ANNUAL CLE  
November 4-5, 2004**

**Plimsoll Club  
World Trade Center of New Orleans  
2 Canal Street  
New Orleans, Louisiana**

**13 Hours of CLE Credit  
Includes Professionalism and Ethics**

**Name:** \_\_\_\_\_

**Address:** \_\_\_\_\_

**Bar Roll No.:** \_\_\_\_\_

**Telephone:** \_\_\_\_\_ **Fax:** \_\_\_\_\_

**E-Mail:** \_\_\_\_\_

*Registration Fee of \$90.00 includes 2 days of CLE, materials, validated parking, and lunch at the Plimsoll Club.*

*Cash or Checks Payable to  
The Plimsoll Club and  
Return Remittance With This Form To:*

**Barbara Daigle  
Federal Public Defender's Office  
500 Poydras Street, Suite 318  
Hale Boggs Federal Building  
New Orleans, Louisiana 70130  
Telephone: (504) 589-7930  
Facsimile: (504) 589-2556**

Effective January 1, 2003, a total of 12.5 hours, including 1 hour of ethics and 1 hour of professionalism are required for CLE by the Louisiana Bar Association.

# Representations on Rise

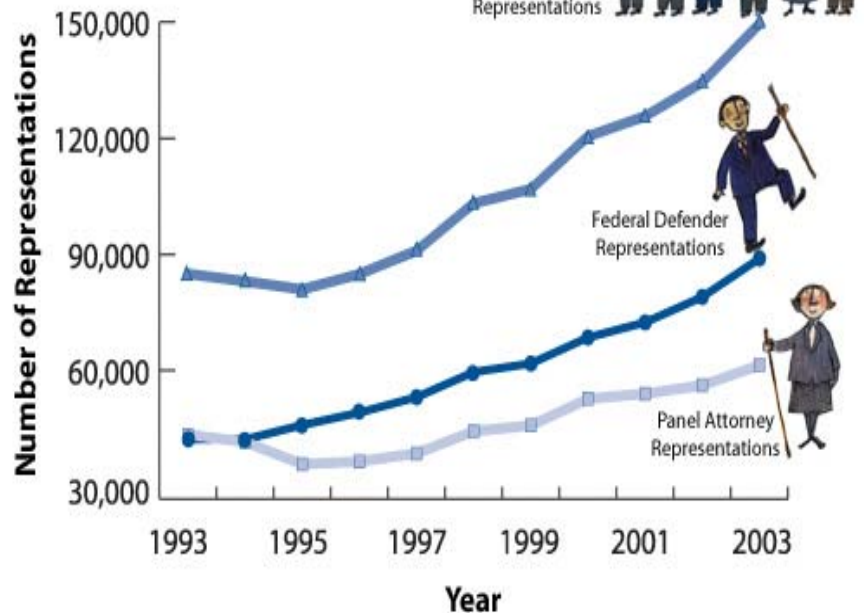
Representations of indigent clients increased 76 percent between 1993 and 2003, with the number of representations by federal defender organizations increasing 110 percent. During the same time, federal defenders offices increased in number from 49 to 73.

The Criminal Justice Act provides funding for the representation of individuals with limited financial resources in federal criminal proceedings, from initial appearance through appeal and post-conviction matters. Each district court, with the approval of its circuit judicial council, is required to have a plan for furnishing such representation. Appointed counsel are private panel attorneys and, in most districts, either a federal public or community defender.

For district-by-district statistics on federal defender representations, see Table K-1 in the report, *Judicial Business of the U.S. Courts* on line at <http://www.uscourts.gov/judbususc/judbus.html>.

The Third Branch, August 2004

## CJA Representations 1993-2003



**Office of the Federal Public Defender  
Eastern District of Louisiana  
500 Poydras Street, Suite 318  
New Orleans, LA 70130**

**IMPORTANT:  
CLE  
information enclosed**