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UNITED STATES GENERAL ACCOUNTING OFFICE  
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FOR RELEASE DURING HEARINGS  
SCHEDULED FOR JUNE 30, 1983

STATEMENT OF  
WILLIAM J. ANDERSON, DIRECTOR  
GENERAL GOVERNMENT DIVISION  
BEFORE THE  
SUBCOMMITTEE ON COURTS, CIVIL LIBERTIES  
AND THE ADMINISTRATION OF JUSTICE  
HOUSE COMMITTEE ON THE JUDICIARY  
ON H.R. 3233

Mr. Chairman and members of the subcommittee, we appreciate the opportunity to testify before you today on a report issued by the General Accounting Office on February 8, 1983, entitled "Inconsistencies In Administration of the Criminal Justice Act", and on H.R. 3233. This legislation would amend section 3006A of Title 18, United States Code, to improve the delivery of legal services in the criminal justice system to those persons financially unable to obtain adequate legal representation.

Our recent report addressed a number of activities carried out under the Criminal Justice Act (CJA) and specifically

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addressed sections 2(d)(1) and 2(d)(2) dealing with (1) the establishment of hourly rates of compensation by the Judicial Conference for private attorneys that represent persons unable to pay for counsel and (2) the ceilings on the amounts that private attorneys may receive for rendering services under the act.

GAO REPORT ON THE IMPLEMENTATION  
OF THE CRIMINAL JUSTICE ACT

I would like now to briefly summarize our report and several actions taken to implement our recommendations. We stated in our report that there were differences in the administration of the act among and within the 10 Federal district courts <sup>1/</sup> included in our review. These differences related to the courts' procedures for (1) selecting private court-appointed attorneys, (2) controlling and accounting for funds (including the monitoring and collecting of CJA reimbursements, the adequacy of documentation supporting private attorneys' vouchers, and dispensing grants awarded to Community Defender Organizations), and (3) determining when defendants should be ordered to reimburse the Government for legal costs incurred.

Because of these differences, we recommended that the Judicial Conference develop better guidance for the district

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<sup>1/</sup>Southern districts of Indiana, New York, and Ohio; the eastern districts of Michigan, Pennsylvania, and Virginia; the northern districts of Illinois and Ohio; and the districts of Maryland and New Jersey.

courts to help alleviate the variations that exist in the administration of the act. To their credit, the Judicial Conference and/or the Administrative Office of the U.S. Courts has already or plans to initiate actions to implement all of our recommendations.

The Judicial Conference has approved a model plan which provides assistance and guidance to the district courts regarding the selection, establishment, and administration of a panel of private court-appointed attorneys. The model plan encourages the courts to develop formal eligibility standards and institute screening procedures for selecting private attorneys. This will help the courts in selecting qualified attorneys to represent CJA defendants.

The Administrative Office of the U.S. Courts plans to institute a new procedure whereby Community Defender Organizations receive grant payments monthly, rather than quarterly. This will reduce the interest expense incurred by the Government.

In addition to the model plan and the revised grant disbursement procedures, the Administrative Office is currently (1) continuing its effort in developing more definite criteria to assist judicial officers in deciding when to order defendants to reimburse the Federal Government for the legal expenses incurred on their behalf, (2) developing more formal guidance and direction to court officials to effectively monitor and collect CJA reimbursements, and (3) evaluating the adequacy of the documentation supporting attorneys' claims for compensation to determine the incidence of inappropriate or unjustified claims.

We believe these actions will go a long way toward solving the problems we noted.

#### COMMENTS ON H.R. 3233

At this time, I would like to offer comments on H.R. 3233. Overall, we support the bill. However, we have comments on sections 2(d)(1) and 2(d)(2) dealing with the establishment of maximum hourly rates by the Judicial Conference and increasing the maximum fees.

#### Establishing hourly rates

Section 2(d)(1) would authorize the Judicial Conference to modify the maximum hourly rates as necessary to provide reasonable compensation to private attorneys providing representation under the act. We do not object to an hourly rate increase or the Conference being given the authority to establish hourly rates. However, we believe the Conference should study this matter further to determine the extent to which an increase is needed.

#### Increasing maximum fees

Section 2(d)(2) would raise the ceilings on the maximum fees private attorneys can receive without written approval of the chief judges of the circuit courts. We are not opposed to raising the ceilings--but we are concerned that those proposed do not seem to have a sound basis. Thus, in our opinion, the principal criteria in deciding whether a billing requires

circuit chief judge review should be the reasonableness of the number of attorney hours that are charged. On this basis, any ceilings established should either be expressed as a threshold number of hours--or simply be the dollar amount arrived at by multiplying the threshold hours for each type of case (felony, misdemeanor, appeal, and other) by the established attorney rate.

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This concludes our prepared statement. We would be pleased to respond to any questions at this time.