

## History of the Federal Public Defender's Office in the Southern District of Illinois

The Sixth Amendment of the Constitution provides that individuals facing serious criminal prosecution have the right to be represented by counsel. This guarantee, famously applied to state court proceedings by the 1963 case of *Gideon v. Wainwright*, had been honored for federal criminal defendants since 1938. *Johnson v. Zerbst*, 304 U.S. 458 (1938) Before 1964, however, federal judges relied on lawyers to provide those services *pro bono publico*, as the federal courts had no authority to compensate counsel for such work.

This changed with the 1964 enactment of the Criminal Justice Act (CJA). The CJA established a comprehensive, nationwide system for the appointment of lawyers to represent federal criminal defendants who lacked the means to hire counsel. It also authorized reimbursement of reasonable out-of-pocket expenses and the payment of such expert and investigative services as were necessary for an adequate defense. Later revisions of the CJA authorized the creation of defender organizations. To be established in those districts or combinations of adjacent districts in which at least 200 persons annually required appointment of counsel. The 1970s, then, saw the creation of scores of federal defender organizations - in federal judicial districts, and combinations of districts, all around the country.

One of these was the federal defender office in East St. Louis. It came into being in 1978. To meet the CJA's 200-case threshold, it was originally created as the Federal Public Defender for the Southern District of Illinois and Central District of Illinois. The first Federal Public Defender for the Southern and Central Districts of Illinois was David E. Booth. His office was in East St. Louis. He was assisted by one other attorney and a secretary.



Even with the office serving two districts, the total number of indigent appointments fell short of the 200-case requirement. A solution to this was found when judges of the U.S. District Court for the Eastern District of Missouri elected to have indigent criminal defendants in their court be served by a newly expanded, three-district (and two-circuit) federal defender organization.

In January of 1981, the Circuit Council for the Eighth Circuit approved a temporary amendment to its CJA Plan whereby the federal defender organization then serving the Southern and Central Districts of Illinois would provide representation for the indigent criminal accused in the Eastern District of Missouri as well. For the next thirteen years, three federal judicial districts – the Central District of Illinois, the Eastern District of Missouri, and the Southern District of Illinois – would be served by a single federal public defender organization.



Mr. Booth resigned in early 1982 and his assistant, Robert C. Babione, assumed the role of Acting Federal Public Defender. Mr. Babione served in that capacity until August 1982 when David R. Freeman was appointed as the new Federal Public Defender for the Southern and Central Districts of Illinois and the Eastern District of Missouri.

In 1984 the Eastern District of Missouri court, which previously had – like its counterpart in the Central District of Illinois – assigned only a smattering of cases to the Federal Public Defender’s Office, began turning to the Federal Public Defender’s Office more routinely for the

representation of its indigent criminal defendants. A dramatic increase the office’s workload resulted, necessitating an expansion of its staff. Two attorneys, an investigator, and an additional staff person were added in 1984.

The shift also led to the relocation of the main office. With construction underway for the expansion of the East St. Louis federal courthouse and with the majority of the office’s cases now being handled in the Eastern District of Missouri, the Federal Public Defender obtained space in the federal courthouse in St. Louis to use as its main office.

From 1984 to 1990, as its workload burgeoned, the staff of the Federal Public Defender more than doubled. In late Summer of 1990, it reopened its East St. Louis branch office in the new addition to the Melvin E. Price Courthouse and Federal Building. A staff of six – two assistant federal public defenders, an investigator, an attorney paralegal specialist, and two secretaries – served in the new branch office. While it has undergone significant changes, the Federal Public Defender’s Office has had a continuous presence in East St. Louis since 1990.

A satellite office was created in Benton, Illinois in 1992. Initially, the Benton office had a staff of three: an attorney, an investigator, and a secretary. The next year, a satellite office opened in Cape Girardeau, Missouri. The main office of the federal defender also moved in 1993 – from the federal courthouse in St. Louis to a private space across the street.

In 1994 the office was split into three single-district, independent organizations. Revised CJA plans adopted in all three districts on October 1, 1994 created a separate federal defender office in each district. Autonomous operation of the offices was to begin with Mr. Freeman’s retirement and the appointment of a new Federal Public Defender in each

district.

The first Federal Public Defender for the newly independent Southern Illinois federal defender office was R. Thomas Day. Mr. Day took the reigns of the Office of the Federal Public Defender for the Southern District of Illinois in 1994. Its primary office has also remained in East St. Louis and continues to operate an office in Benton to this day.

Mr. Day's term began with a staff of four assistant federal public defenders, two attorney paralegal specialists, two investigators, and three additional support staff. The office grew quickly in the first years of his term - adding an administrative officer, an IT specialist, and a CJA panel administrator. By 1996, the office had outgrown its modest courthouse space and moved to the Federal Building one block to the west. Meanwhile, the Benton staff had grown too, and included an AFPD, a research and writing attorney, an investigator, and secretary. Mr. Day continued as Federal Public Defender until the Summer of 2003.



In August 2003, the Court of Appeals appointed Richard Parsons, the incumbent Federal Public Defender for the Central District of Illinois, to serve as Acting Federal Public Defender for the Southern District of Illinois, and he did so for the next several months.

Mr. Parsons was replaced in 2004 when the U.S. Court of Appeals selected Phillip J. Kavanaugh as the Federal Public Defender for the Southern District of Illinois. Mr. Kavanaugh inherited an office with six assistant federal public defenders, two staff attorneys, three investigators, and six additional support staff. He would serve as the Federal Public Defender from 2004 until 2017.

With Mr. Kavanaugh's tenure came a move for the Benton office and modest expansion of the federal defender staff. The Benton branch, which had worked out of the same small free-standing building since 1992, acquired newly-renovated quarters across the street from the federal courthouse in January 2006. An investigator was added to the Benton staff in 2008. A new assistant federal public defender position was created in East St. Louis in 2015.

Upon Mr. Kavanaugh's February 2017 retirement, Chief U.S. District Judge Michael J. Reagan installed the current Federal Public Defender for the Southern District of Illinois, Stephen R. Welby. By then the office had grown to ten attorneys, three investigators, and six additional support staff. A mitigation specialist was added later that year.

It is the sole mission of the Federal Public Defender's Office to defend, in federal court, the legal interests of indigent persons who are criminally accused or are otherwise qualified for such representation. The right to such representation is enshrined in the Constitution and is key to the fair operation of our criminal justice system. Since 1978, this office has been honored to champion that principle through the work it is privileged to do daily for each and every one of its clients.

