

The Right Answer

The Newsletter of the Federal Career Service Division of the Federal Bar Association

Lean Forward, And Reach Out

by Robert J. DeSousa

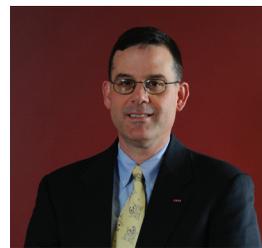
Friends, the Federal Bar Association is a vibrant and dynamic organization, and the Federal Career Service Division is one of its backbones (and I should know—I've been a member for years). So I am writing to thank you for your membership, service, and support and to encourage you to contribute your thoughts and energies toward preserving the vim and vigor of your division and our association.

As you may know, the FBA is truly a federal bar association in the political framework sense of the word. While we have local chapters that are largely autonomous, we are national in scope, with a board of directors, a national council, and sections and divisions that bind us together and make us stronger.

The Federal Career Service Division (FCSD) helps put meat on that framework, and it's mostly because of you. FCSD members exist in every chapter across the country, and you are the substantive experts in

your fields. When one of you helps present a CLE program, or pens an article for *The Right Answer* or *The Federal Lawyer*, you propagate your ideas and knowledge to the benefit of all FBA members.

So lean forward, and reach out. You'll get more bang for your buck, make new friends, open paths of professional development, and add value to this truly federal and wonderful bar association. I look forward to seeing you and your division, of which I am a longtime member, explore new and dramatic ways to lean forward and grow.



Robert J. DeSousa is the 2012-13 national president of the Federal Bar Association.

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Sequestration and Our Federal Courts

by FCSD Board

As Congress continues a post-election session that will run to the holidays, national attention has shifted to the threat of America falling off the “fiscal cliff” due to automatic budget cuts and tax increases set to take effect in January.

Along the way, the Federal Bar Association has amplified its efforts to raise awareness about the crippling impact of these budget cuts on our federal courts. An update from the FBA’s Government Relations Committee further details these concerns. See www.fedbar.org/Advocacy/Legislative-Update.aspx.

In tandem with these broader efforts, the Federal Career Service Division is calling on its members to speak and be heard as part of the foremost constituency of the federal courts.

Your communication is important. The deep, automatic budget cuts called “sequestration” will dramatically cut funding to court operations and negatively impact litigants, our communities, and the American economy in concrete ways. They will cut hours of operation for courts and their clerks’ offices, shutter courthouse entrances (if not courtrooms), and cause filing and other systemic delays. They will cause the suspension of civil jury trials for the last six weeks of each fiscal year. They will cause either the layoff of 5,400 to 6,300 court employees (roughly one-third of all staff), or a five-week furlough of all court employees except judges, or a combination of the two. They will force job cuts to five percent of the court officers responsible for courthouse security, representing 370 positions, and will impair the ability of the Marshals Service to do its job. They will tax the ability of our pretrial services and probation offices to supervise defendants appropriately. They will disrupt operations at federal defender offices as well as payments to Criminal Justice Act attorneys, and in some cases, criminal cases may be dismissed if attorneys in solo or small firms cannot accept appointments without compensation. Finally, they will reach all areas of non-defense, “discretionary” spending, not just the federal courts, so the overall results to the nation will be daunting.

Not only will sequestration directly affect many members of the bar and this division, including by eliminating attorney positions in the Department of

Justice and elsewhere, but it will also harm the many soldiers, staffers, officers, agents, aides, and other employees whom we befriend or interact with every day. According to Norm Dicks, ranking member of the House Appropriations Committee, sequestration is not so much a back-up plan as a bludgeon to induce all sides to compromise. To truly appreciate its implications for the country, and indeed the world, please see the congressman’s recent letter to colleagues on the Appropriations Committee: www.democrats.appropriations.house.gov. A statement by Brian Karth, executive and clerk of the U.S. District Court for the District of Arizona, which further explains the toll that sequestration will take on our federal courts, can be found on page three.

What you can do. Contact Congress and communicate your concern. To help you, the FBA has provided model text that you may use in your letter: www.fedbar.org/Resources. Simply copy and paste the text under your letterhead and send it out. If possible, please send letters to all House members associated with your federal district or chapter territory as well as your state’s two senators. You can look up your House and Senate lawmakers and their addresses at www.congress.org/congressorg/directory/congdir.tt. Please copy the national office on your communication with Congress by email to sking@fedbar.org or by mail to the address below:

Stacy King, CAE
Deputy Executive Director
Federal Bar Association
1220 North Fillmore Street, Suite 444
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A Clarion Call from a Clerk of Court

by **Brian D. Karth**

If Washington's fiscal stalemate continues into calendar year 2013, our federal courts will be forced to implement action plans that attempt to mitigate the harm resulting from across-the-board budget cuts. Each district will be impacted uniquely to its circumstances and will have to react accordingly to cut discretionary portions of its local budget. What complicates the planning for this disaster is the uncertainty of its duration.

If the stalemate lasts the entire fiscal year, courts will have to devise a solution that absorbs an entire year's budget shortfall in just nine months, compensating for their normal levels of spending this quarter with even greater budget cuts the rest of the year. Any solution likely will involve some combination of court closures, staff furloughs, and reductions in work force. The damaging economic and public-service impact will vary from jurisdiction to jurisdiction.

For a court's executive management, planning for sequestration is analogous to planning for a major hurricane without knowing whether it will last one day, nine months, or longer. The Federal Emergency Management Agency (FEMA) would be in a lot of trouble if it were called on to abate such a disaster, and so are we. For this reason, the FBA's effort in helping avert the deep, indiscriminate cuts of sequestration is widely appreciated by the federal courts.



Brian D. Karth
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U.S. District Court
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What a Government Lawyer Needs to Know and Do When Communicating with Congress

by **William N. LaForge**

You are charged with making your agency's case to Congress on a vital issue. You are scheduled to brief a group of House members or senators on an important departmental issue. You are trying to figure out the best way to respond to a congressional inquiry on a sensitive matter. You have been asked to assist in preparing your boss to testify before a congressional committee. You are receiving endless calls from several congressional staff members asking for information or assistance with developing a legislative measure or reviewing a current regulation. You are called on by a congressional office to explain or defend the programs, expenditures, actions, or policies of your organization, perhaps discreetly, perhaps in an oversight hearing.

Sound familiar? Many lawyers throughout government are faced with these situations every

day. What these engagements have in common, of course, is that they are all about communicating with Congress as well as the need to communicate effectively. As lawyers, we all develop our own methodologies for research and action, and we have the benefit of departmental and agency protocols and support. But for those times when you find yourself facing interaction with Capitol Hill, it might be helpful for you, as a government lawyer, to consider some tried and true principles that underpin effective congressional relations and communications and that also reflect the unique culture of the nation's legislative branch of government.

Consider Context and the Agency's Role

Remember that you are engaging in cross-branch

communications. Your first loyalty and duty are to your department or agency, both in protecting its rights and positions in the executive branch and in advancing and advocating its interests in the halls of Congress. Basic constitutional principles, case law on the separation of powers doctrine, and the policies and practices of the Office of Management and Budget and your agency will generally guide you in this area. Respect the separation of powers going the other way as well. Be deferential and cooperative as much as possible with Congress, and remember that part of your role is to help the legislative branch understand your agency's issues and positions.

Engage Your Congressional Relations Office

Congressional relations offices and legislative affairs personnel in departments and agencies serve important roles. They are excellent resources for information, background, access, and strategies. As professionals who deal directly with Congress every day, they can help advise and guide you and also help you avoid pitfalls. It is quite likely that your agency may require you (and anyone in the agency for that matter) to inform the congressional relations office about any contacts or plans involving Congress. Acting as a "lone wolf" in dealing with Congress can be a slippery slope. Remember that it is important for an agency to speak with one voice, and any communications with Congress are also deemed to be emanating from the executive branch generally. So clearances and check-offs with agency higher-ups, the Office of Management and Budget, and perhaps even the White House are also advisable. Work with and through your colleagues who are responsible for congressional relations.

Work with Congressional Staff

Regardless of the type of inquiry, activity, or issue, it is usually helpful and important to work directly with the congressional staff member from the office or committee involved. That staffer can provide context and helpful background information as well as guidance on complying with any request. A good staff contact or committee liaison can be a very valuable asset. The goal is to develop a line of two-way communication as well as a relationship of trust. You will have someone to consult when you need information, and you

have the opportunity, in return, to make yourself a reliable and credible resource for that staffer on behalf your client, the agency.

Nail the Question, Request, or Issue

Identify and understand the core question or issue up front before making any response or taking any action. Conduct adequate research as well as issue, political, and stakeholder analyses so that you can get your arms around the issue. Drilling down on an issue, its political support and opposition, and the roster of those who care about it are all important activities that should be undertaken before communicating with the Hill. Master the issue to ensure an adequate knowledge base, credibility, and expert status. Have all the facts in hand before going to the Hill with a response.

Be Responsive

Whatever the issue or activity, Congress expects an agency to be responsive in the form of an answer or action. Candid and thorough responses from agencies are prized possessions on Capitol Hill. Short of giving away the store or violating executive privilege, attempt to provide as much helpful information to Congress as possible. Provide thorough, yet succinct, candid, and helpful information that is timely, accurate, useful, and reliable. And, make sure there are no surprises. Congress hates surprises!

Be an Expert

Remember that you are, and are considered by Congress to be, the expert on any issue involving your agency. Congress expects you to educate and inform, to report, and to help members understand issues so they can carry out their duties. As an agency lawyer, you have the opportunity to educate Congress and advocate your agency's positions. Prepare to respond and act accordingly.

Target Your Written Communications

When responding in writing to a congressional request or inquiry, write for the Hill, not for yourself or your agency. In other words, know and target your audience. Make your writing style user-friendly, understandable (not in "government-speak"), succinct, informative, and compelling. Perfect the famous "congressional one-pager," known also as an executive summary. If you cannot

deliver your basic message in one page, start over. Offer to provide White Papers and other materials for background and files.

Make Written Communications Compelling

To make issue summaries, written testimony, and presentations for Congress more compelling, enumerate highlights; provide brief supporting data for each major point; use examples, vignettes, and best/worst case scenarios; and project outcomes, results, and consequences. Draw conclusions but provide factual support for them; offer remedies and solutions; suggest changes; use action verbs; and be positive in tone. Frame the issue and your message to advance the agency's best interests as well as to inform the Congress with clarity.

Sharpen Oral Presentations

When testifying before a committee or making an oral presentation of any type to Congress, use and stick to a prepared script from which you speak, but do not read to your audience. Adequate rehearsals and practice can help you perfect this skill. Nail the major points early in your remarks; exude confidence in your presentation and command of your subject; and use graphics, gestures, voice inflection, and good eye contact to communicate effectively with your audience.

Prepare Adequately for Congressional Hearings

The single greatest pitfall for many congressional hearing witnesses is the failure to prepare properly. Ensure that your agency witness is well-prepared and rehearsed enough to execute his or her three major responsibilities for any hearing: submission of a well-crafted written statement in advance of the hearing, presentation of high-quality oral testimony on the day of the hearing, and response to committee questions.

Remember Your Lawyerly Oath

Zealously represent your agency, but also jealously guard your reputation for honesty, integrity, and legal and ethical behavior. Comply with the letter and spirit of the law and avoid the substance and appearance of any wrongdoing or impropriety. Carefully follow committee, House, and Senate rules of procedure. Rise above political and partisan issues and steer clear of engaging with members of Congress in those areas.

Consider Practical Suggestions for Interacting with Congress and Building Good Working Relationships

- Be respectful, but be a peer.
- Be resourceful and cooperative.
- Be helpful and use the two-way street of communication.
- Be friendly and approachable—avoid pretenses or exaggeration.
- Provide accurate, timely, reliable, and usable information.
- Respond in double time to requests and calls.
- Play to constituent interests whenever possible.
- Be a forceful, consistent advocate.
- Be “extended” staff by offering a work product.
- Make appointments well in advance and prepare for meetings adequately.
- Follow up in a timely manner and be sure to say “thank you.”
- Be flexible and as responsive as possible.



*William N. “Bill” LaForge is a past national president of the Federal Bar Association. He is a lawyer and lobbyist in private practice in Washington, D.C., and principal of LaForge Government Relations. His career has included service in professional staff positions in both houses of Congress, service as congressional liaison for a federal agency, and representation as a lobbyist for clients with public policy issues before Congress and executive branch agencies. He is an adjunct professor at George Washington University, where he teaches a graduate course in business representation and lobbying. LaForge is the author of *Testifying Before Congress*, a comprehensive treatise on preparing and delivering congressional testimony (*TheCapitol.Net*, 2010; www.TestifyingBeforeCongress.com). He can be reached at wlaforgegr@gmail.com.*

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Find the Perfect Employee for Your Firm, Agency, or Office: Register for the Greater Washington, DC Public-Service Career Fair

If you're looking for dedicated and diverse law students who aspire to public service, we invite you to register for the 11th Annual Washington, D.C./Baltimore Public Service Career Fair.

The event brings together scores of employers and hundreds of talented students to meet and discuss government and public interest opportunities in the Washington, D.C. area. We hope that you too will join us for this special one-day event on **Friday, Feb. 1, 2013, from 9:00 a.m. – 5:00 p.m.** at George Mason University School of Law. Lunch will be provided.

The Career Fair is hosted by seven area law schools and the Federal Bar Association. Employers can choose to hold formal rounds of 20-minute interviews, conduct informal table-talk sessions, or simply collect resumes to review on their own time. **Even if your group is unable to attend**, the

Career Fair can collect resumes on your behalf and forward them to you after the event.

There is no fee to participate in this fair. Just go to <https://law-dcpscf-csm.symplicity.com> to register online and set up your employer profile. It's quick and easy. You can also find more information about the Career Fair at the FBA's website, www.fedbar.org, or if you have additional questions, you can contact our coordinators, Christina Jackson of American University Washington College of Law, or Kamyle Griffin of The Catholic University of America, Columbus School of Law, who may be reached at cjackson@wcl.american.edu and griffinkw@law.edu.

We hope to see you there!

Jobs for Jags a Perennial Success

On Sept. 25, 2012, the FBA's Pentagon Chapter, in collaboration with the Judge Advocates Association, with support from the Military Officers Association of America, and assisted by your Federal Career Service Division, hosted its annual Jobs for Jags seminar at the Marriott Crystal Gateway in Crystal City, Va.

The full-day event supplied judge advocates and other military attorneys with an abundance of advice and resources to assist in their transition to civilian life. Panels discussed possible career paths in private practice, corporations, academia, judicial office, nonprofits, consulting, and more. Panelists included top attorneys from large and medium-sized law firms as well as the Department of Justice, the Securities and Exchange Commission, and other cabinet-level departments and agencies. Many of the panelists were retired or former judge advocates who were keenly poised to counsel attendees on highlighting the skills and virtues they

offered to prospective employers. Several were sitting or retired judges.

Beyond discussing specific career paths, the program advised attendees more generally on how to market themselves for a second career, as well as on the resources and benefits available to them through professional associations like the FBA. It also included a workshop in which attendees received feedback on their resumes, cover letters, and curricula vitae as well as tips and techniques on interviewing.

Throughout the day, there were opportunities to make and rekindle connections, beginning with breakfast in the morning. At lunch, the keynote address was delivered by Major General William K. Suter, a retired army judge advocate who currently serves as the 19th clerk of the U.S. Supreme Court. Finally, the event concluded with a happy hour, at which attendees were able to network directly with recruiters.

Save the Date for the Second Annual Government Contract Law Symposium

May 2013						
Su	Mo	Tu	We	Th	Fr	Sa
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5	6	7	8	9	10	11
12	13	14	15	16	17	18
19	20	21	22	23	24	25
26	27	28	29	30	31	

Does your practice involve or even touch upon federal government contracts? Then by all means please, mark your calendar.

On May 9-10, 2013, the FBA's San Antonio Chapter will be hosting its Second Annual Government Contract Law Symposium on the banks of the beautiful and charming river walk at the historic El Tropicano Hotel in Military City, USA.

This year's program features informative sessions by Hon. Francis Allegra of the U.S. Court of Federal Claims; Hon. Carol Park Conroy of the Armed Services Board of Contract Appeals; law professor

Daniel I. Gordon, the associate dean for government procurement law at the George Washington University Law School; top attorneys from the Government Accountability Office, the Small Business Administration, and the Department of Defense; and prominent private sector practitioners. This year's program also will offer two hours of ethics credit.

For more information, email govcontracts@fedbarsatx.org or call Joan Gluys, co-chair of the Government Contracts Committee for the San Antonio Chapter, at (210) 524-3821.

FCSD Board Members



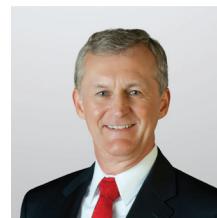
Ila Deiss
Chair



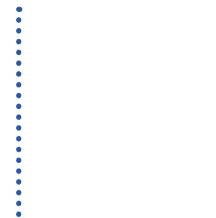
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