



METROPOLITAN PUBLIC DEFENDER SERVICES, INC.

March 26, 2019

Chair Jennifer Williamson
Members of the Committee

Re: Testimony in support of HB 3145

Dear Chair Williamson, and Members of the Committee:

Thank you for the opportunity to submit the following testimony in support of HB 3145. I am the Executive Director of Metropolitan Public Defender (MPD), which is the single largest provider of public defense services in the State of Oregon. MPD maintains offices in both Multnomah and Washington counties. MPD has a total of 141 team members, half of which are attorneys. We represent individuals charged with adult criminal offenses in both counties, juvenile delinquency and dependency matters, specialty treatment courts, and civil commitment hearings. Our office also has a Capital Crimes Team (which represents individuals charged with death penalty eligible offenses) and a grant-funded Community Law Division (which represents individuals in civil matters related to the criminal justice system). MPD has represented some of the most vulnerable and disenfranchised members of our State since 1971.

I am honored to represent Metropolitan Public Defender (MPD) as its Executive Director. I know that some of the best attorneys in the State, past and present, have worked for MPD. We aim to hire true believer public defenders, who understand the challenges our clients face and strive to provide the highest-quality representation. Despite having dedicated and diligent people, our rate of turnover is not sustainable. We cannot continue to expect more and more from dedicated defenders across the State while simultaneously giving them less and less to do their job. Our clients deserve better. Our staff that works diligently every day for our clients deserve better. I believe that HB 3145 is a step in the right direction to ensure constitutionally adequate representation, in part by ensuring comparable resources for the defense.

In January of 2019, the Sixth Amendment Center published *The Right to Counsel in Oregon: Evaluation of Trial Level Public Defense Representation Provided Through the Office of Public Defense Services* (hereinafter “6AC Report”). The 6AC Report documents some of the issues that our system has faced for many years. Our funding model is inherently deficient and unconstitutional. The pay is too low: prosecutors are paid two to three times more than indigent defense providers in some counties. Indigent defense providers lack adequate resources and are overburdened with high caseloads/workloads. Our system lacks foundational training for new attorneys, investigators, and legal assistants, which results in mistakes and turnover. Foundational training on how to represent indigent clients should be a requirement.

By way of background, I have been a criminal defense trial attorney for over 20 years, in both private practice and as a public defender. I started as a public defender at the District of Columbia Public Defender Service (PDS), which is widely regarded as one of the top public defender offices in the country. One of the reasons PDS is so highly regarded is because of the foundational training program the office provides for new staff members. As an attorney, PDS provides two months of foundational training before an attorney is assigned a client. PDS also maintains manageable caseloads that allow staff to provide high quality representation for all clients.

HB 3145 includes provisions for foundational training that is so critically important, and not available now. This mandate alone will help public defense providers ensure higher quality representation. HB 3145 requires caseload/workload standards that will allow public defense providers the time necessary to defend their clients without being consistently overwhelmed. HB 3145 also provides comparable resources for the defense, which in combination with foundational training and reasonable caseloads/workloads, should reduce the staff recruitment and turnover problems providers face across the State.

Lastly, I want to share my experience in the State of Michigan, as I believe we can learn from both their mistakes and their progress. In June of 2008, the National Legal Aid and Defender Association authored a report on trial-level services for indigent clients in Michigan, entitled *A Race to the Bottom: Speed and Savings Over Due Process, A Constitutional Crisis*. The Report outlined how chronic underfunding of public defense led to an unconstitutional system. I was a public defender in Michigan before and after the Report. Based on the Report, and an ACLU lawsuit, the State created the Michigan Indigent Defense Commission (MIDC) to create standards and to fund constitutionally adequate systems across the State. After the creation of MIDC, I was fortunate to study one county and create a public defender office for them. Our office opened in December of 2016 with foundational training, pay parity with the prosecution, and reasonable caseloads/workloads. In 2019, the Michigan State Legislature invested an additional \$85 million, for 2019 alone, directly to the trial level providers across the State. Michigan is now an example for other states on how to reform systems.

Similar to Michigan, we have a constitutional crisis in Oregon. The 6AC Report explains the starting point of our problem, and it touches on the three main issues hindering adequate defense now: lack of foundational training; lack of comparable resources with the prosecution; and unreasonable caseloads/workloads. HB 3145 addresses all of these issues. HB 3145 provides a mechanism to reverse the current underfunded and overwhelmed system for our clients and our public defense providers. I support HB 3145 as a necessary step to ensure high-quality representation for public defense clients across the State.

Thank you for allowing me this opportunity to testify in support of HB 3145.