

Submitter: Scott McKee  
On Behalf Of:  
Committee: Joint Committee On Ways and Means Subcommittee  
On Public Safety  
Measure, Appointment or Topic: HB5031

Dear Co-Chair Broadman, Co-Chair Evans, and Members of the Joint Committee on Public Safety,

My name is Scott McKee and I am an investigator at Public Defender Services of Lane County. Public defenders often do not receive timely and comprehensive discovery and do not have the same information and resources as the prosecution. To ensure justice, defenders must examine state evidence for exculpatory information and undertake additional investigation. Yet OPDC only compensates our offices for about 75% or less of the cost of investigation.

As a 33 year Oregon law enforcement professional, I traditionally viewed public defense as a necessary evil from my narrow perspective. Now however, having retired from law enforcement, I accepted a position with the Lane County Public Defenders office in Eugene as an investigator. After working in this capacity for approximately three years, I have a completely different perspective, not only regarding public defense generally, but also an opinion from my unique perspective as a dyed-in-the blue career cop concerning the Oregon public defense crisis.

What I never really understood, nor cared to understand was when it comes to fairness, the fight for justice is not really a fair fight. Not that there is a legal requirement that the fight be fair, there truly is a tangible imbalance when you compare the forces of prosecution vs those of public defense, especially when you examine the balance of police investigators vs their public defender counterparts. In Lane County the staffing numbers are roughly 100 to 1. With major crimes investigations, the state has the advantage of assembling a team, where public defense investigators work alone.

On the other side of the fence, the public defender learns of the nature of the charges against their client at the same time the two are introduced, in the courtroom at the time of arraignment.

What I have come to understand in my role over the past three years as a staff investigator to the public defender, is how state-centric the process truly is and how time-consuming the process of assessing a client's case, conducting investigative work and developing a defense strategy truly is, when the defense has to rely so heavily upon a state-centric system to obtain information. The state, who has the advantage of a literal head-start, shares discovery at their own pace, without

timelines and limited consequences for tardiness.

In a general sense, when the state receives a defendant, they are ready for trial. The clock starts ticking towards a trial date, and the defense goes into defense-mode. However, an adequate defense is not built solely upon states' evidence. Public Defenders examine state evidence with exculpatory vision, which virtually always requires additional investigation and review of records, many of which are not directly related to the case at hand, but nonetheless may bear evidence. The majority of such records are maintained by state-administered systems which mostly prohibit access or discovery to the defense.

My bottom line observation is that the public defense situation is being publicly examined as a level playing field issue when prosecution vs public defense are actually apples and oranges. At a minimum, we must fully fund investigation for public defense.

Scott McKee  
Lane County