

Chapter 6 – Conclusions & Recommendations

Final Conclusions:

- King County’s case credit system for public defense is a complicated, confusing, and in many ways antiquated approach to establishing attorney workload and compensating public defenders. A simpler model, based on work units, would address many of the weaknesses of the current system.
- A simpler system would be based on attorney effort. To estimate those figures, TSP has reviewed the current public defender workload through a 12-week time-keeping study of King County public defense attorneys.
- That research shows public defenders are working an average of 20 percent beyond a typical 40 hour work week. Among other things, a workload distribution system based on attorney work units would help to ensure that expectations for attorneys match their available hours.
- Notwithstanding the pressures of long hours, TSP concludes that King County public defenders continue to provide effective representation even in the face of several factors that challenge the provision of indigent defense.
- Those challenges, including prosecutors’ filing practices, increasing case complexity, inadequate staff support, inefficiencies in local practices, and communication problems (among others) will require attention from the County Council and Executive, working in concert with OPD and the public defender agencies, to ensure that the quality of public defense in King County is maintained.
- These challenges also underscore the uniqueness of King County’s public defense system and caution against blind comparisons of attorney workloads with those from other jurisdictions in which the nature of practice is different. Although King County has rightfully earned a fine reputation for the quality of public defense, the challenges identified in this report raise questions about the sustainability of those standards given present workloads.
- Implementing a new funding model will require cooperation and proper planning across all spheres of the criminal justice system and County government. But the advantages are many, including a more simplified system, a common ground for understanding attorney

effort and compensation, and a more accurate approximation of the time required to provide representation in each of the case types.

Recommendations:

- 1. A new model based on this case-weighting study is recommended.** Based on the results of this study, each case type is allocated a number of “Work Units” (number of hours needed for that case type). It must be emphasized that this formula is based on how attorneys are currently performing, rather than an ideal workload. TSP recommends that the workload standards presented in this report be used as the basis for establishing and funding attorney positions⁷⁴ and that it replace the complicated case credit system currently in place. The study results provide a “Workload Standard”, which, based on 1792 available attorney work hours per year, represents the number of cases that an attorney, on average, should be able to represent to completion in a given year, if he or she is handling only that type of case. Effective implementation of such a standard also may help to alleviate the present problem in which public defense attorneys are working 20 percent beyond a typical work week in order to provide the current level of representation. Of course, a new standard will only be effective if it is fully funded and has the support of both OPD and the agencies.
- 2. Simplify the defender agency contracts.** Agency contracts are cumbersome, confusing, and frequently elicit misconceptions. In addition, simplified contracts would also help alleviate the strained relationship between the four private defender agencies and OPD. By implementing Recommendation 1, agency contracts should naturally become more simplified. However, it is important that the contracts are clearly understood by agency management, staff, and attorneys. The contracts should also consider the need for sufficient trainings and adequate numbers of support staff.

⁷⁴ The exact number of attorney (and by extension staff) positions depend, of course, on the number of indigent cases that King County sees in a year. The workload standard explains how many attorneys are needed to effectively cover these cases given current levels of practice.

3. In order to properly implement recommendations 1 and 2, and ensure efficient and effective representation, **TSP recommends that the challenges to the provision of services in the King County public defense system be addressed.** Based on TSP conclusions detailed in chapter 5, the following efforts should be made:

➤ **Increase the number of support staff within each agency and OPD.**

Adequate support staff (investigators, social workers, paralegals, clerical staff, etc.) helps ease the burden on public defenders and improves the overall quality of representation. The number of support staff necessary to run each office should be reassessed. Support staff assistance on tasks that could alleviate the workload of attorneys should be realized (i.e. monitoring the new work unit system, handling increased scanning needs, expert requests, etc.). OPD should also be funded to allow for any necessary IT development and monitoring of the new work unit formula based on this case-weighting study. The County Council and Executive and should revisit the support staff funding formula currently in place to provide greater levels of support – including funding for support staff supervisors – and the agencies should make use of that funding to provide support staff levels more in line with the OPD funding levels as well as national norms.

- **Establish greater transparency and communication between the four private defender agencies and OPD, the County Executive, and County Council.** Recurring meetings and scheduled communication between OPD and management within the agencies would be beneficial. Frequent updates and communications regarding intentions of advocacy from OPD and the four agencies (including staff attorneys) should be conveyed between one another more frequently. In addition, a specific representative from OPD should be added and funded to handle day-to-day communication and informational requests made by agency management and support staff. Given the number of interactions between OPD and the agencies and the importance of maintaining proper communication and transparency, this responsibility needs to be addressed.

- **Develop a centralized repository for case management system information from the agencies and OPD, while also taking advantage of information provided by the courts' systems.** This would reduce the need for repetitive data entry at each of the defender agencies, ensure consistency, and reduce costs throughout the agencies and OPD. A centralized repository, with most of the information provided by the courts, and only minimal information required by the agencies, would ensure a verifiable and reliable source of information with which OPD can make informed decisions, and would provide the agencies with tools to monitor workload allocation. As such, reduced input from the agencies would alleviate much of the concern the agencies have with disclosing potential identifying information regarding their cases pursuant to the ABA Model Rules of Professional Conduct 1.6. OPD would require access to or the transmittal of information from the Superior Court and District Court case management systems on a regular basis to implement such a system. This repository could also be expanded to further automate the process of case assignment and conflict identification by OPD.

- **Promote collaboration between the public defense bar, the PAO, the courts, and the corrections facilities.** By creating a better understanding of the workload and needs of each of these groups, issues surrounding scheduling, case processing, and methods of practice could potentially be alleviated. Although the level of collegiality in King County is better than in many other jurisdictions, communication and collaboration could improve the relationships between the parties and contribute to the quality of the criminal justice system. .

4. **Any future changes in the law or further changes in prosecutorial policies may require a reevaluation of these workload standards.** As changes occur in the criminal justice system over time, the amount of time required to provide public defense services may also change. If and when these changes occur, workload measures and allocation of resources should be reevaluated in light of those changes.