

PUBLIC DEFENDER SERVICES OF LANE COUNTY, INC.
1143 OAK STREET, EUGENE, OREGON 97401-3518
Phone: (541) 484-2611 Fax: (541) 484-5068

BROOK REINHARD, EXECUTIVE DIRECTOR
ROBERT C. HOMAN, ASSISTANT DIRECTOR
REID KAJIKAWA, DIRECTOR OF TRAINING
ZACHARY BROWER
TUCKER CAMPBELL
MARIE B. DESMOND
TIMOTHY P. FLEMING
PAUL M.D. FRASER
MICHAEL HAJARIZADEH
ROWAN HARDENBROOK
JONATHAN HERITAGE
JORDON HUPPERT

May 25, 2021

ROBERT KAISER
ALLISON KNIGHT
ZARA LUKENS
ANNIE MONTGOMERY
EILEEN M. PEPPLE
CAITLIN PLUMMER
LISA ROMANO
LAURA RUGGERI
NICHOLAS P. SEYMOUR
ANNETTE SMITH
MARLA SOILEAU
WILLIAM THOMSON
BRIAN J. WALKER

Dear members of the Oregon Legislature,

I am writing in opposition to SB 214. I am a public defender in Lane County, and I have seen first-hand the injustice that would result if the defense bore the burden to prove that the District Attorney's requested restitution was unreasonable.

I frequently receive restitution schedules with nothing more than a dollar value representing the requested restitution. The DA usually does not include receipts or evidence of the rationale for the requested amount. For example, I recently received a restitution schedule requesting \$2,188 in restitution. In that case the DA included a breakdown of the costs. The DA was asking for \$1440 for lost wages and money for carpet cleaning (\$250) and for damage to a door inside the apartment (\$498). After speaking to my client, I learned that the victim had been drawing unemployment at the time and therefore did not suffer any lost wages. He also informed me that the carpet had been damaged prior to the criminal incident by a flood in the apartment, and that the doors in the apartment were certainly not worth \$498.

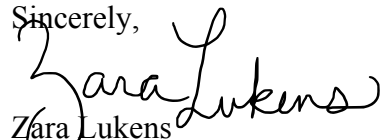
I filed an objection to the restitution schedule and asked for a hearing. I then brought the issues with the requested restitution to the DA's attention. The DA ultimately agreed, prior to the hearing, to reduce the total amount of restitution to \$250 – a far cry from the originally requested \$2,188. It was clear that the DA could not prove that the originally requested restitution figure was reasonable.

Because the burden to prove the requested restitution lies with the District Attorney, we are often able to arrive at a reasonable number without litigation and with minimal resource expenditure. The District Attorney has access to the victim and can much more easily confirm restitution figures than the defense team could if the burden were with us. If the defense bore the burden to prove that a requested restitution amount were NOT reasonable, we would have to hire experts, costing our clients, or, in the case of indigent criminal defense, the State of Oregon, significant expense.

I strongly oppose SB 214. The DA is in the best position to justify restitution figures, and they can do so with minimal effort and expense. Shifting the burden to the defense would chip away at the already paltry protections for people convicted of crimes by essentially allowing crime victims to name their restitution figure without justification. And, at least in the case of indigent criminal defendants, the State of Oregon would end up covering the cost of hiring defense

experts to rebut the restitution figure selected by the DA.

Sincerely,

A handwritten signature in black ink that reads "Zara Lukens". The signature is written in a cursive style with a large, stylized initial "Z".

Zara Lukens

Staff Attorney

Public Defender Services of Lane County

1143 Oak St.

Eugene, OR 97401

541-484-2611 EXT 136