

March 28, 2023

Tri Branch Workgroup
Sen. Floyd Prozanski
Rep. Paul Evans
Rep. Kim Wallens
Rep. Dennis Linthicum

Re: SB 337

Dear Senator Floyd, Representatives Evans, Wallens and Linthicum,

I am a member of the Marion Juvenile Advocacy Consortium (MJAC) and am the current President of the Board of Directors. MJAC is a non-profit consortium of attorneys who handle the juvenile dependency and juvenile delinquency matters in Marion County. Our consortium consists of 14 attorneys, all of whom have their own law firms. For over 30 years, we have been a trusted provider of excellent public defense services representing juveniles and families in Marion County. We have also been a reliable partner with Marion County Court in making sure that we fulfill all the juvenile public defense service needs in Marion County.

MJAC has a Board of Directors consisting of six Directors, five of whom are current, practicing attorneys and members in the consortium; the sixth Director is a recently retired, former attorney who had been a member of the consortium for over 25 years. The Executive Director of MJAC Todd McCann, is also a member of the board. The Board oversees the implementation of the contracted services for public defense with the State of Oregon, including supervision of the attorneys in MJAC. The Board of Directors meets at a minimum four times per year. In recent years, with contracting being a consistent issue, we have met monthly to address contracting and Office of Public Defense Services (OPDS) concerns. MJAC members meet three times per month as a full group. Those meetings are to assure that pending cases are appropriately staffed, to share education / best practices, to invite community partners to provide input, and to continually educate our members to assure that they are supported in providing excellent legal services to our clients. Most of our members eventually retire or become judges. We have very little turnover but have occasionally dismissed members when the Board believes that a member does not meet our strict professional standards. In those cases, they are not retained as independent contractors of MJAC.

For many years, we only invited attorneys to join MJAC if they had been practicing in the community for several years. But in recent years, due to the shortage of attorneys interested in pursuing public defense work, we have begun recruiting younger attorneys to join MJAC. Regardless of whether they have been practicing for several years in a different practice area or are a brand-new attorney, we have applied a vigilant training and mentorship program for at least the first year that they are a member of MJAC. We have members in our group who previously have worked for private law firms or the DA's office, but every single one of them has stated that the support, mentorship and training that MJAC provides far surpasses anything they experienced in their prior positions.

Consortia provide roughly 60% of public defense services across the state, and oftentimes can be the only public defense delivery model in a given area, particularly in rural areas. Consortia are especially useful in providing juvenile dependency legal services due to the number of parties on a case (a minimum of three, and sometimes as many as six given multiple father / mother situations). A PD's office can only represent, at most, one party to a juvenile dependency case. In Marion County, the local PD's office has not handled any juvenile dependency or delinquency work. They have also struggled to keep their own attorneys, with many leaving after a short time for other positions.

Currently, OPDS contracts directly with consortia administrators / executive directors who serve to organize private law firms, and solo practitioners to ensure that we are providing public defense services as stipulated by our contractual agreements. Each month we provide a comprehensive report to OPDS detailing information about every open case that each member is appointed to. The information required to be included in the report consists of the type of case, the level of seriousness of the case, the status of the case, and other pertinent information. These reports are due to OPDS every month and, per our contract, if they are not submitted in a timely manner, can constitute a breach of the consortium's contract with OPDS.

Oregon's public defense system, while imperfect, has evolved over the years. Most recently it has moved from an assigned counsel model, which was found to be inefficient due to lack of coordination and the administrative burden of contracting directly with individual providers. Consortia serve as an important infrastructure for members of the private Bar and are often the point of contract for presiding judges, DA's, and other members of the Criminal Justice System who wish to address emerging issues, capacity challenges, etc. Without this infrastructure, it would be increasingly difficult to coordinate and create efficiencies with the private Bar. Marion County Court has calendars that are three months in advance and that list attorneys who are available to be appointed to new cases. MJAC actively assists each morning in addressing conflicts and making certain that attorneys are available. We have always been able to ensure that we fulfill the juvenile public defense needs of our county.

Unfortunately, if the consortia model is removed as a method of delivery of public defense, I believe that most, if not all, of our attorneys would choose to not contract directly with the State of Oregon. There would be an incredible administrative burden on each of our offices and I would expect that most would prefer to focus on private legal work that would be more profitable. I also believe that this would greatly exacerbate the current public defense crisis, rather than solve it. The consortia model for delivery of public defense services seems to be the model that is working best in Oregon, at least in Marion County.

Sincerely,

A handwritten signature in blue ink, appearing to read "Tracy L. Gregg".

Tracy L. Gregg, Attorney at Law
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