



CARL D. MACPHERSON
Executive Director

METROPOLITAN PUBLIC DEFENDER SERVICES, INC.

April 20, 2023

House Committee on Judiciary

Re: Testimony in Support of SB 5532

Dear Co-Chairs Evans and Sollman and Members of the Joint Committee on Ways and Means Subcommittee on Public Safety:

Thank you for the opportunity to submit the following testimony in support of SB 5532 and OPDS' request for further investments through necessary Policy Option Packages. 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 over 200 team members, more than half of which are attorneys. MPD has represented some of the most vulnerable and disenfranchised members of our State since 1971.

In 1963, the United States Supreme Court recognized that the Sixth Amendment provides a right to representation for individuals charged with crimes, who cannot afford to hire a lawyer:

"The right of one charged with crime to counsel may not be deemed fundamental and essential to fair trials in some countries, but it is in ours. From the very beginning, our state and national constitutions and laws have laid great emphasis on procedural and substantive safeguards designed to assure fair trials before impartial tribunals in which every defendant stands equal before the law. This noble ideal cannot be realized if the poor man charged with crime has to face his accusers without a lawyer to assist him."

Gideon v. Wainwright, 373 U.S. 335, 344 (1963). Sixty years later, the promise of *Gideon* is unfulfilled in our State. Hundreds of people charged with a crime do not have a lawyer, including people who are incarcerated. People who are mothers and fathers, daughters and sons, aunts and uncles, and who are members of our communities.

In January of 2019, the 6th 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, and still exist today four years after the report. First and foremost, our system is in a state of constitutional crisis, which prevents all Oregonians from receiving fair and equal justice.

In January of 2022, the American Bar Association (ABA) published another legislatively-funded report entitled *The Oregon Project: An Analysis of the Oregon Public Defense System and Attorney Workload Standards*. The ABA found that “[a]t current caseloads, OPDS simply is unable to adequately represent individuals in adult criminal and juvenile cases.” The ABA determined that Oregon has just 31% of the lawyers it needs to handle the caseloads we have. Further, the ABA determined that public defenders would have to work 26.6 hours per working day to handle the caseloads.

As a member of the Tri-Branch Work Group, I appreciate the efforts that are being made to address the structural issues in our system. SB 337 is a positive first step in doing so. I, and public defenders generally, are committed to making the progress that is so desperately needed.

Still, public defense needs further investments in both the system and the people who work every day to defend the rights of people who simply cannot afford to hire an advocate. Lawyers, investigators, legal assistants, administrative assistants and more, work diligently and professionally to provide the representation guaranteed by *Gideon*, despite being under-resourced and often overwhelmed. The realities of pay disparities, high stress, and high caseloads have greatly contributed to the public defense struggles with recruitment and retention.

OPDS’ budget and Policy Option Packages are critically important to try to retain the dedicated people currently doing the work and to try to attract more people to the profession. The addition of emergency funding for training and supervision has been successful on both of these fronts. We need to continue it. We need to show current providers, and those considering joining our vocation, that Oregon supports a fair and just system for our clients and supports everyone working on their behalf. This requires both foundational improvements and additional investments.

Thank you for allowing me this opportunity to submit testimony in strong support of SB 5532 and the request for further investments through Policy Option Packages. And, thank you for your hard work on behalf of all Oregonians.

Sincerely,

Carl Macpherson

Carl Macpherson
Executive Director
Metropolitan Public Defender