

Written Testimony regarding HB 4002
James Comstock
February 26, 2024

Chair Lieber, Chair Kropf, and members of the committee:

My name is James Comstock. I am an Oregon licensed private investigator, and I focus much of my work on public defense cases. I am co chair of the Oregon Criminal Defense Lawyers Association Investigator committee, and a member of Defense Investigators of Oregon.

Thank you for allowing me to speak today.

I want to share with you information on the likely fiscal and practical aspects of passage of HB 4002 with regard to public defense, and specifically to defense investigation. First, I'd like to share a story of what defense investigators do. We work with houseless clients, clients with substance use disorder, and clients with mental illness.

Sometimes, investigators have to locate clients. We go into homeless camps to find clients, to build relationships with clients, and we work with defense case managers to connect clients to services. We visit and support mentally ill clients in jail who are waiting to be sent to the Oregon State Hospital for an aid and assist evaluation. Defense investigators are often the bridge between the complicated lives of clients and their interactions with the legal system.

Without skilled, willing and available defense investigators, attorneys have to use their limited time to locate and contact clients – something that is costly and often impractical due to attorney case loads. Attorneys must spend more time working with incarcerated clients to build the trust and relationships necessary to resolve cases and change the paths of defendants' lives if no investigator is available to fill that role.

More often, if an investigator is not available cases simply languish, taking up expensive attorney and judicial time until the client is picked up by police, and the entire cycle begins once again.

Generally, conventional wisdom and experience has indicated in criminal cases in Oregon, the lower the charge, the less defense investigation time is needed.

We expect that the changes to the law in HB4002 will be the exception to that general rule.

Because many people who are likely to be charged under this bill are transient and in unstable life situations, cases charged under HB4002 will likely use an unusual amount of defense investigator time.

We base this conclusion on our experience as defense investigators, and the fact that transient clients and witnesses are very difficult to keep track of and to locate. Cases involving the unhoused and transient population tend to use many, many investigator hours locating and working with clients in complex and challenging situations.

We urge lawmakers to consider these increased costs in considering this measure and how it will be funded.

Currently in addition to a dire lack of public defenders available in Oregon, there is a similar lack of defense investigators. Defense investigators are spread very thin, and are generally needed in murder cases and other complex cases involving the potential for very long prison sentences.

We have struggled to recruit new defense investigators to fill the growing need, but the historically low pay for investigators (who are currently paid a rate 27% lower than what we were paid in 1985 when adjusted for inflation) and the lack of a formal state sponsored training and mentorship program have caused the supply of new investigators to fail to keep up with the demand.

We urge you to consider these issues with regard to HB 4002, and to fund public defense accordingly based on the anticipated increased need.

Thank you for allowing me to address you today.

I have included some information with my written comments which may be helpful in understanding the role of defense investigators, and the related costs associated with HB 4002.



Investigators are



Fact-finders

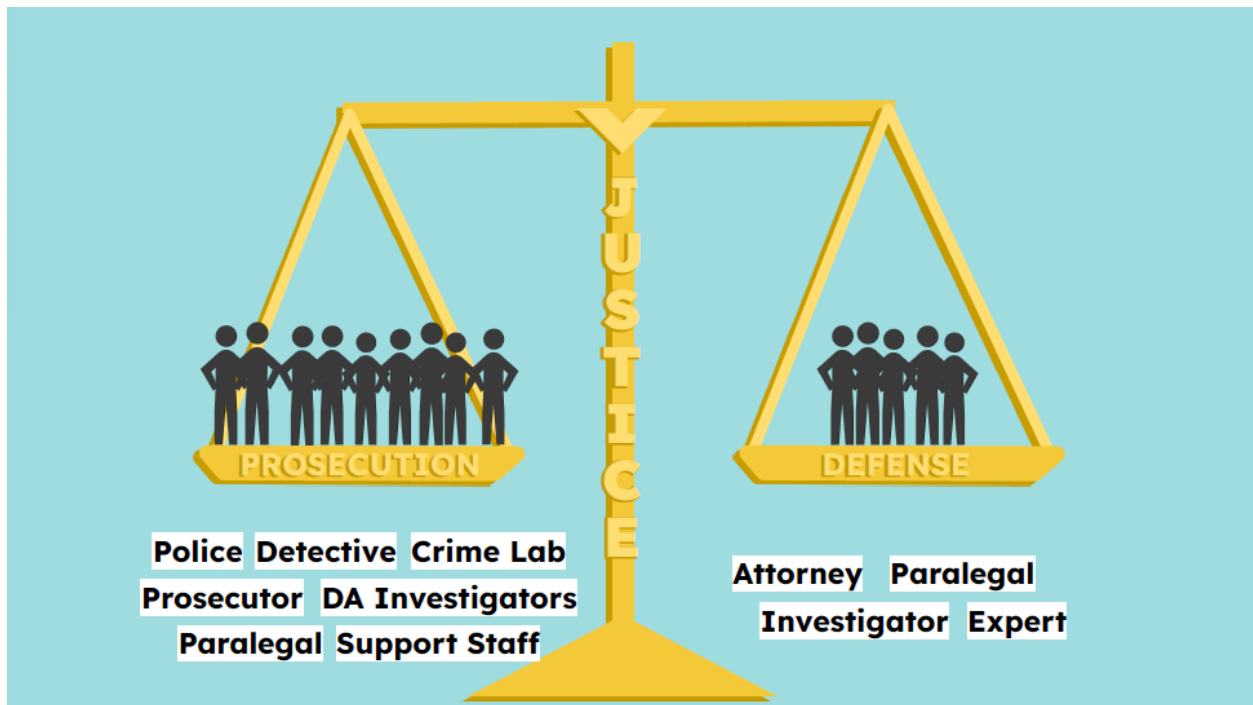


**Client
managers**



**Case
strategists**

Qualified defense investigators are vital to alleviating Oregon's public defense crisis. There aren't enough.



Investigator to Attorney Ratio

- National Standards suggest a ratio of 1 investigator for every 3 attorneys
- Oregon currently has the equivalent of 104 full time independent investigators
- To meet even a 1 to 4 ratio, Oregon needs at least the equivalent of 70 additional full time investigators

Funding, Recruitment, Training

- Oregon struggles to attract new investigators because of low rates (27% less than what investigators were paid in 1985 adjusted for inflation.)
- Oregon has no state sponsored training or mentorship program for investigators

HB 4002 – Fiscal and practical considerations:

- There are already insufficient investigators available for current caseloads
- Low pay rates push investigators to other work away from public defense, and fail to attract new investigators
- Lack of state sponsored mentorship and training fail to meet public defense needs
- For HB 4002 to succeed, defense investigation must be funded and supported