

For Immediate Release

Contact:

Media Coordinator Susan Ryan (314-304-6800)

President Dean Dankelson (417-625-4314)



Public Defender Threat to Hijack the Criminal Justice System Concerns Prosecutors, Insults Citizens

July 29, 2010, Jefferson City, MO—The annual Public Defender push for more taxpayer money, along with the announcement to refuse new cases until August 1, 2010 in Greene, Christian and Taney counties, has caused serious concern with Missouri Prosecutors. “The actions of the Public Defenders are reckless, self interested and irresponsible,” said Dean Dankelson, President of the Missouri Association of Prosecuting Attorneys (MAPA) and Jasper County Prosecuting Attorney. “They are attempting to hold the entire criminal justice system hostage by demanding more money when they know Missouri’s budget is strapped to the max, and that’s just wrong.”

For months, prosecutors from across the state have been collaborating with state legislators, the Missouri Bar, the Public Defenders’ Office and victim advocacy groups to provide solutions that positively impact the entire criminal justice system, focus on ‘Smart on Crime’ initiatives and craft legislation that addresses the state’s budget crisis. “It’s an insult to the people of Missouri that the Public Defenders have thrown in the towel and believe the only solution to their challenges is more taxpayer money,” Dankelson said.

Objective Facts Don’t Support “Crisis”

Prosecutors contend that objective facts simply don’t add up to a crisis situation for Public Defenders or the criminal justice system. Public Defenders consistently cite outlandish claims in the discredited Spangenberg Report as a basis for their attempts to get more and more tax dollars. “The oft-cited claim that Missouri ranks 49th out of 50th in Public Defender funding is false and misleading,” said Dankelson. “The Spangenberg report has been widely criticized by members of the Missouri Bar Board of Governors, judges and prosecutors as an ineffective tool for making major funding decisions. None of the other published statistics on this issue support the public defender’s position. It’s time the public understood the real facts.”

Missouri Public Defender’s caseloads are dwarfed by those of Missouri’s Prosecutors. According to Missouri state statistics, the Public Defender System in Missouri handles less than 40% of all cases throughout the state, while private attorneys handle the rest. It is not uncommon for Prosecutors to handle caseloads that are twice as high—or even higher—than Public Defenders. Additionally, prosecutors point out that they spend considerable time assisting police and reviewing cases that are never filed.

National statistics also paint a picture that is a far cry from the Missouri Public Defender’s claims of “crisis.” Across America, twenty-two (22) states have a state-funded public defender system comparable to Missouri’s. Seventy percent of those states have higher caseloads than those of Missouri Public Defenders. For example, each Iowa public defender handles an average of 730 cases each year, and Public Defenders in Connecticut average 654 cases each year. Missouri Public Defenders on average handle 242 cases per year.

According to statistics released by the Department of Justice, Missouri's Public Defenders have resources that are as good as or better than the majority of their counterparts in other states. Compared to the other 21 states with state-funded public defender systems:

- Missouri has the most offices;
- Missouri ranks 8th in total number of full-time litigating attorneys;
- Missouri ranks 5th in the total number of Assistant Public Defenders;
- Missouri ranks 10th in total expenditures as a system; and
- Missouri ranks 10th in total number of cases.

Missouri's Circuit Court decisions also fail to provide a basis for the Public Defenders' annual demand for more tax dollars. "Every person sentenced to prison has the right for the court to review his case to determine if his lawyer provided ineffective assistance," Dankelson added. "If there was truly a constitutional crisis because Public Defenders had to handle too many cases, we would expect to see courts finding many Public Defenders were ineffective. But that has not happened. Post-conviction relief due to ineffective assistance of counsel by public defenders continues to be very rare.

Doing More with Less

"Prosecutors all over the state want a well-run, highly functional Public Defenders System," said Dankelson. "We don't want cases overturned on appeal, since this will only create additional strain on prosecutors and victims of crime. We see the work of public defenders every day. They are competent lawyers who are far from over-worked. Candidly, we see a lot of opportunity for them to streamline processes to create efficiency while still maintaining high-levels of representation for their clients."

Over the past two years, with the struggling economy, virtually all aspects of the criminal justice system have sustained budget cuts - except the Public Defender's System "Like every household and government agency in America, the Public Defenders need to take a deep and critical look at the way they operate their organization," explained Dankelson. "Instead of continuing to bleed more and more money from taxpayers, it's time the Public Defenders management team makes the hard decision to run a more effective and efficient office and do the right thing for the people of this state."

Prosecutors, the Missouri Bar and local Bar Associations have advanced several ideas on how public defenders can better allocate their time among cases, and many of those solutions have been recommended in the Missouri Bar Criminal Justice Task Force plan, which was released in May. Participants in the Criminal Justice Taskforce were surprised by the Public Defenders' recent refusal of cases. "Unfortunately, it now appears that the Public Defenders are not genuinely interested in solutions that don't involve more and more tax dollars for their agency" said Buchanan County Prosecutor Dwight Scroggins who participated in the Task Force.

Criminal Justice Task Force

Prosecutors participated on the Missouri Bar Criminal Justice Task Force to review funding requirements for the entire criminal justice system. The Task Force made several recommendations including

- modification to the rules permitting the change of venue in certain criminal cases;
- modifying the Supreme Court time standards in misdemeanor cases to allow defendants additional time to secure funding for representation by private counsel;
- developing different indigency standards for felonies and misdemeanors that reflect the fact that the cost to retain private counsel is generally lower in misdemeanors than felonies;

- establishing a Missouri Bar committee on the criminal justice system that would address issues such as increased state compensation to counties for costs to incarcerate convicted persons;
- promoting the passing of legislation encouraging prosecutors to establish diversion-type programs for low-level, non-violent offenders, among others.

Call for State Audit of Public Defender System

On Wednesday, July 28th, St. Louis County Prosecuting Attorney Robert McCulloch met with Public Defenders to discuss the issue. McCulloch called for a state audit in an attempt to seek independent data on matter, and MAPA supports McCulloch's call for action and will make further recommendations in the coming weeks. "Frankly, the only people who think the Public Defenders are overworked are the Public Defenders," said McCulloch. "I see far too many opportunities for them to work harder and do a better job with what they have. We have many more cases to manage than they do, and we do a good job with what we have. This is an outrageous action by public servants, and the people of this state shouldn't buy into this propaganda."

Prosecutors will continue to work on addressing the budget shortfalls that plague the entire criminal justice system. They will actively and aggressively oppose this action by Public Defenders to refuse cases as many think is an attempt to hold the criminal justice system hostage.

The Missouri Association of Prosecuting Attorneys was established in 1969 for the purpose of providing uniformity and efficiency in the discharge of duties and functions of Missouri prosecutors and their assistants. The Association today continues to further its purpose through extensive training programs and by working with the development of legislation that is important to Missouri prosecutors. For more information about MAPA, contact the Missouri Office of Prosecution Services at 573-751-0619 or visit our website at www.mops.mo.gov

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