

Public defenders' plight is finally getting some attention

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Josh Cuevas, left, a public defender, and Joseph Farhault, a prosecutor, attend to cases at Franklin County District Court in Pasco. New caseload limits for public defenders are being proposed. They would slash existing limits by about two-thirds, though the change won't take effect immediately and the Washington State Supreme Court hasn't yet decided whether to enforce it. (Kevin Clark / The Seattle Times)

Washington's public defense system has been overextended for some time.

It's underfunded and understaffed, making it difficult — sometimes impossible — for publicly paid court-appointed attorneys to keep up with caseloads.

That means people who might be innocent of the charges they face are spending unacceptably long stretches in county jails awaiting court proceedings. Or it can mean that the guilty are being released without consequences because the legal system can't incarcerate someone indefinitely without formal charges.

In some cases, it can even mean that prosecutors — whose offices are also overbooked — might decide that it's not worth filing charges at all.

In any case, it means the system is failing to meet a basic guarantee of the Sixth Amendment: the right to an attorney.

What's causing all this?

For one thing, fewer people are enrolling in law schools. Many young people are choosing to pursue less-demanding, higher-paying careers. For another, the job's gotten a lot more complicated in recent years — technological advances like police body cameras mean attorneys need more time to review evidence.

It's a particularly vexing problem in relatively rural areas like Yakima County, where public defender pay is less than it is in larger cities.

But several recent developments are bringing the issue to a head.

Perhaps the most notable is that the Washington State Bar Association's Board of Governors has just updated its public-defense standards. Among other things, the new guidelines dramatically tighten limits on caseloads and strengthen support staff requirements.

That might be great news for overworked attorneys and their underrepresented clients, but it doesn't mean any new money for the counties who pay the lion's share of the lawyers' salaries. They'll have well-deserved saner work schedules, but we'll still have the same number of public defenders — and the same number of people who'll need legal representation.

Statewide, counties pay about \$160 million per year to fund public-defense program, according to the Washington State Association of Counties. The state, meantime, picks up only \$6 million or so of the tab.

After this session of the Washington Legislature, though, the state will at least offer another form of assistance.

Newly approved bipartisan legislation from Sen. Nikki Torres, R-Pasco, and Sen. Manka Dhingra, D-Redmond, sets up internship programs for people interested in becoming public defenders or prosecutors in rural areas. If it works as lawmakers hope, it'll help recruit more public defenders.

That's a practical, long-term strategy, but none of those new lawyers will be here this week.

Meantime, unless Yakima and many other counties can suddenly come up with a lot more money for public defenders' offices, they'll likely see fewer prosecutions because of the stricter workload limits.

As unsettling as that sounds, the truth is that some cases might not be getting adequate consideration anyway. Well-intentioned as they no doubt are, how thorough a job are overburdened public defenders and prosecutors doing?

Any way you look at it, this case is far from closed.

The state's and the Bar Association's steps are reasonable and encouraging, but the core problem still comes down to money.

Few counties — certainly not ours — can afford to devote more resources to local public defenders' offices.

At some point, soon, state officials must accept a greater share of the financial responsibility for following that Sixth Amendment requirement.