



## MISSOURI ASSOCIATION OF PROSECUTING ATTORNEYS

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### PROSECUTORS RESPOND TO AUDIT OF THE PUBLIC DEFENDER SYSTEM

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Today, the Missouri State Auditor released a comprehensive audit of the public defender system which shatters the unsupported claim of a “constitutional caseload crisis” that has dominated discussions in the media, the courts, and the legislature in recent years. This audit reveals that the public defender system’s claim is a myth that has been manufactured by misleading caseload statistics and compounded by misspending. Hopefully, today will serve as a turning point for the state to begin examining the funding needs of the entire criminal justice system, not just one part that has inflated its purported needs.

The Auditor has found that the public defender caseload calculations are based on “unsupported assumptions.” The audit raises “significant concerns with the methodology and data used to calculate the key components as well as the final calculation of whether maximum caseload has been exceeded.” Public defender workload is likely a fraction of what they have led the public, lawmakers, and the courts to believe. Simply put, the public defender system has refused its constitutional obligation to represent Missouri’s poorest citizens, without any reliable data to support its actions.

The audit also exposes that the public defender system inefficiently spends the money it is given. The system lacks “sufficient policies and procedures for determining indigence to ensure public defender services are provided to only eligible applicants.” The audit reveals the public defender system has failed to collect on more than \$70 million in unpaid liens and promissory notes, all while claiming it has run out of money.

Public defenders have recently admitted in open court that the recent litigation is about one thing: trying to force the State of Missouri to spend millions of dollars more that the state simply does not have. Police, prosecutors, crime labs, and courts face the very same funding constraints of the public defender system, but have not chosen to go on strike.

Missouri’s prosecutors work with public defenders daily. They are good lawyers who represent their clients well. They are not at risk of committing malpractice because they are overworked, as their superiors would have us all believe. But their marching orders fly in the face of their duty to their clients.

Prosecutors are ministers of justice, and we can no longer sit idly by and allow our criminal justice system to grind to a halt due to the public defender system’s refusal to carry out its constitutional mandate. It’s time to consider a new model of reserving public defenders for the most serious felonies, such as murders and sexual offenses, while contracting representation of misdemeanors and low-level felonies to private counsel who could do the work more efficiently than the public defender system, as this audit so clearly reveals.

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