

DIVISION OF PUBLIC DEFENDER SERVICES

Prison Overcrowding and Agency Impact Statement Joint Hearing -Judicial and Appropriations Committees *Public Act No. 08-1 An Act Concerning Criminal Justice Reform* April 10, 2008

Substantial changes in courthouses across the state due to P.A. 08-01

- Increased Mandatory Minimum Sentences hamper case resolution
- Higher bonds – “skyrocketing” bonds even for first offenders
- “Cheshire” and “New Britain” are terms now applied to cases as comparative adjectives
- More use of Persistent Offender Statutes expected statewide in all types of cases
- More crimes categorized as “violent offenses” for purposes of length of sentence and parole eligibility
- More transfers of juveniles to adult court for burglary and other felony cases
- Increased numbers of Hearings in Probable Cause-due to potential life sentence
- 97% of B and C felonies are staying in the GA courts- public defender caseloads (500 new GA cases per attorney per year), enhanced penalties, and specialty dockets hinder equal justice and trial preparation for indigent clients
- Cases are taking longer to resolve therefore public defenders have increasing “pending” caseloads
- Increased numbers of capital felony cases-both trials and appeals for those convicted and sentenced to death-capital cases count as 10 cases for purposes of caseloads. State approaching indigent defense appellate crisis in that there are not enough in-state appellate lawyers qualified or willing to work on death sentence appeals or habeas cases
- More pre-sentence investigations (PSI) due to Parole Board requirements – defendants have right to counsel or counsel’s designee to be present at interview with probation

Expected long-term impact of P.A.08-01

- More trials expected due to increased mandatory sentences and longer terms of incarceration, 85% rule and lack of eligibility for parole
- More litigation concerning challenges to predicate offenses for persistent offender status
- Mental Health A.R. docket – More attorneys and public defender social workers needed to evaluate mentally ill clients for appropriate treatment and probation conditions and referrals to other agencies.

- More public defenders and public defender social workers are necessary to divert clients from criminal justice system to appropriate treatment services earlier in the court process and also to assist clients leaving DOC custody with more appropriate discharge planning.
- Appeals and habeas corpus petitions will increase due to trial increases, lengthier sentences, and challenges to illegal sentencing per decision in State v. Casiano.

Critical Public Defender Staffing Issues

- Adding more permanent public defender staff is more efficient and economical than utilizing special public defenders for caseload control. Legal fees paid to an SPD for one or two serious felony trials can equal the annual salary for a permanent staff attorney who handles 500 new cases per year.
- Public Defender offices in New London, Norwalk, and New Britain have not received any staffing for existing Domestic Violence Dockets – Criminal Justice is requesting state pick-up of their Domestic Violence federal grant positions in this budget- Public Defenders must have comparable staff to meet constitutional obligations.
- Chief Public Defender and field office supervisors have ethical responsibility per American Bar Association opinion to make sure that staff are able to provide constitutionally adequately representation of indigent clients.
- Public Defender caseloads in at least six G.A. offices exceed the caseload goals as established by the Public Defender Services Commission in 1999 per the settlement agreement in the class action lawsuit Rivera v. Rowland.
- Staff comparisons between JD prosecutor and public defender offices indicate that prosecutor offices have two times to six times (Stamford JD) the number of attorneys and staff that public defenders have.