

UNION

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LA County Public Defenders Union Local 148
MOU Negotiations
March 31, 2022
Union Counter-Proposal – Workload

As the Los Angeles County Public Defender's Office seeks to be "the finest client-centered criminal defense firm in the nation," one that ~~assures~~ ensures that its employees are "zealous Defenders, working relentlessly to meet the needs of our clients," and to "[a]ssure attorneys have access to the trial resources needed to assertively litigate on behalf of clients." Time is a resource that ~~its~~ attorneys need in order to provide the "finest" representation the office seeks to provide its indigent clients. In order for individual Deputy Public Defenders to provide the "finest" representation, attorney workloads must be kept at reasonable levels.

The parties recognize that all cases do not require the same amount of work. The parties also recognize that only using an average case count for all attorneys cannot be used to measure workload effectively. An independent workload study is the accepted method to determine an accurate number for the threshold number of cases that an attorney should handle. A workload study will analyze all of the various types of cases that our office handles, the time it takes to do the work that those cases require – as well as all ancillary duties our job entails – and then determine the appropriate threshold number of cases depending on the types of cases an attorney is assigned. Therefore, the parties agree that a workload study commissioned by an outside organization with experience conducting attorney workload standards, such as the American Bar Association or Rand Corporation, shall commence within six months of the ratification of this MOU.

Given the lengthy process of the workload study, interim standards need to be implemented in the immediate future. In 1973, the National Advisory Commission on Criminal Justice issued national standards for criminal defense practice. Specifically, Standard 13.12 deals with the workload of a public defender and states: "The caseload of a public defender office should not exceed the following: felonies per attorney per year: not more than 150; misdemeanors (excluding traffic) per attorney per year: not more than 400; juvenile court cases per attorney per year: not more than 200; Mental Health Act cases per attorney per year: not more than 200; and appeals per attorney per year: not more than 25."

There are an innumerable number of changes that have occurred in a public defender's practice since 1973. These changes include, but are not limited to increased amounts of new types of evidence that correspond to advances in science and technology, such as: DNA evidence; surveillance video; body worn video; cell phones; computers and social media; changes in law related to immigration; the introduction of the three strikes law and 290 registration requirements; changes in sentencing and resentencing laws; and a holistic approach to the representation of our clients, which include housing, mental health, and substance use treatment considerations.

Given these changes, the threshold numbers cited above will govern attorneys' workloads on a 50% scale due to the significant increase in amount of time required to effectively represent a client in any single case. The scaled annual threshold numbers are as follows: 75 felony cases, 200 misdemeanor cases, and 100 juvenile cases. In addition to these annual threshold

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numbers, attorneys should not have more than 25 felony cases at any point for felony assignments, 65 misdemeanor cases for misdemeanor assignments, and 25 juvenile cases for juvenile assignments. These threshold numbers shall only apply to attorneys who are in assignments where they are responsible for representing clients from case assignment through resolution.

These threshold numbers will only govern during the period until the independent workload study is completed. The parties agree further to bargain over how the recommendations from that study will be implemented into practice, with the results of that bargaining incorporated into this MOU when completed.