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Settlement in Class-Action Lawsuit Against Pittsburgh Public Defender for Failing to Counsel the Poor

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PITTSBURGH -- On the eve of a courtroom trial over the constitutional rights of the poor, the American Civil Liberties Union and its Pittsburgh chapter today announced a settlement in its class-action lawsuit against Allegheny County for failing to provide adequate counsel to its indigent clients.

Under the historic settlement, the public defender's office will double in size over the next three and a half years and an independent consultant will be appointed for the next three years to help develop practice standards and procedures, policies and training programs. At least 31 lawyers will be added to the current staff of 48, and support staff will grow from 22 to 55, with at least 13 investigators.

The ACLU had filed its class-action lawsuit against the county in September 1996 for failing to provide adequate legal representation to its indigent clients. The suit charged that Allegheny County, which covers Pittsburgh and surrounding towns, had let its Public Defender program deteriorate to the point where defendants were being deprived of their basic right to counsel guaranteed by the Constitution's Sixth and Fourteenth Amendments, as well as by the state's constitution and laws.

"We hope that today's settlement will restore some measure of credibility and faith in the criminal justice system for the people of Allegheny County," said Robin Dahlberg, a national ACLU staff attorney who led the trial team.

Vic Walczak, Director of the Pittsburgh chapter of the ACLU, hailed the agreement as a watershed for the legal rights of the poor. "This agreement repairs decades of government neglect and begins to turn around one of the most severely under-funded public defender offices in the country," he said. "After today, the scales of justice in Allegheny County will be a little more balanced."

According to the ACLU's complaint, public defenders saw their caseloads skyrocket to unmanageable levels, the number of trained staff dwindle, support staff and basic resources diminished, and long-standing systemic problems exacerbated.

The ACLU's complaint cited several dozen deficiencies ranging from the inability of public defenders to meet with clients at critical stages of their case, to the total absence of law books, fax machines and copiers at some facilities. It was not unusual for a criminal defendant to go before a judge having only met with their public defender for a few minutes.

With only one investigator for the entire office, witnesses were not interviewed, imprisoned clients were responsible for subpoenaing their own witnesses, and exculpatory evidence was often not discovered.

The lawsuit was brought on behalf of six indigent defendants, including a mentally disabled homeless man and two juvenile girls. The class-action covered everyone affected by the county's failure to provide adequate counsel, including juvenile delinquents, people facing

Doyle v. Allegheny Co. Salary Bd.



involuntary mental health commitments and people on probation and parole.

The five defendants named in the lawsuit were the Allegheny County Salary Board; County Commissioners Lawrence Dunn, Bob Crammer and Michael Dawida; and chief Public Defender Kevin Sasinoski.

At trial, the ACLU was prepared to present the stories of plaintiffs and other Public Defender clients, including these examples:

- A young male facing his first criminal charges sat in the County Jail for fifteen months without seeing a lawyer. His speedy trial rights were waived by the public defender. When he finally appeared before a jury, all the charges were dismissed.
- A fifteen-year-old girl facing her first charges as the result of a pushing fight with another girl was wrongly jailed with adults. The Public Defender's Office refused to act, until the ACLU intervened. The girl was immediately transferred to a juvenile facility, but was eventually convicted because the P.D. didn't have the time or resources to subpoena six student eyewitnesses, who can't get excused from school without a court order.
- A teenage boy facing his first criminal charge has exculpatory witnesses, but the lawyer does not call them. He loses his case and tells the lawyer he wants to appeal but the P.D.'s office misses the appeal deadline and the judge refuses to allow it.
- A man being held on a probation violation charge is told by the judge that if the pending charges are dismissed, he will be released from jail. The pending charges are dismissed, but the P.D.'s office will not respond to his calls and letters. His family scrapes together \$400 for a private attorney and he is released from jail within 24 hours.
- A man is held without legal cause in jail for 84 days, during which time his public defender tells him he is too busy to investigate the problem.

The complaint also cited a large disparity between the amount of money spent on public defenders and the county's prosecutorial services. The District Attorney's office, which sustained budget cuts of only 2.2 percent in 1996, had a budget approximately three times the size of the public defender program.

Last month, in an affidavit filed with the court, one of Plaintiffs' eleven experts, Robert Spangenburg, testified as follows: "By virtually every measure that I am familiar with, the Allegheny County Public Defender Program falls short of assuring defendants quality representation. The deficiencies in the Allegheny County Public Defender Program are enormous. They are greater than any other primary public defender in a large urban area in the country that I have reviewed and visited in the past twenty years."

Spangenburg, President of the Spangenburg Group in West Newton, Massachusetts, has in the past been employed to evaluate and improve indigent defense systems by the US Department of Justice, the American Bar Association, state and local bar associations and judicial, legislative, executive and public defender agencies throughout the country.

"Had today's settlement not been reached, the ACLU was prepared to go to trial," Walczak said. "We applaud Allegheny County for recognizing the problems and being part of the solution and we look forward to working with the County to implement this far-reaching agreement."

The case was filed at a time when public defender systems nationwide were seeing their budgets slashed amid a general hostility toward the rights of poor Americans, according to

the ACLU. The budget for Allegheny County public defenders, for example, was slashed by one-third in 1996.

Around the country, public defender programs are also seeing burgeoning caseloads and shrinking budgets, leading many legal and criminal justice observers, including the American Bar Association, to call the situation a "national crisis of extraordinary proportions."

According to figures released by the Bureau of Justice Statistics, the average cost for each indigent defense case nationwide during 1986 hovered below \$250 -- barely enough to cover the cost of blood tests, let alone expert witnesses, legal research or attorney fees.

In some states, including Connecticut, Illinois, Indiana, Minnesota and Mississippi, the public defender system is so inadequate that the state has been sued. In Connecticut, which is also the subject of an ACLU class-action challenge, the average caseload per attorney is three times higher than the recommended standards. (The only other class-action challenge of this kind is being brought in Fulton County, Georgia.)

"Today's settlement sends a message to other states and localities that they must honor their constitutional obligations, even to poor people," said Robin Dahlberg.

The case is *Doyle v. County Salary Board*. The trial team included ACLU lawyers Dahlberg and Walczak, and volunteer lawyers Claudia Davidson of the Pittsburgh firm of Healey, Davidson & Hornack, and Jere Krakoff, a noted civil rights attorney in Pittsburgh.

More information on the case can be found at:

- [Fact Sheet on Settlement at http://www.aclu.org/news/n051398b.html](http://www.aclu.org/news/n051398b.html)
- [Fact Sheet on the case at http://www.aclu.org/news/n091896c.html](http://www.aclu.org/news/n091896c.html)
- [Text of Complaint at http://www.aclu.org/court/doylevallegheny_3rd.html](http://www.aclu.org/court/doylevallegheny_3rd.html)

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