

Lawsuit Challenging Grant County's Inadequate Public Defense System Granted Class-Action Status

December 21, 2004

Kittitas Superior Court Judge Michael Cooper today granted class-action status to a lawsuit seeking to reform Grant County's woefully inadequate public defense system. The lawsuit seeks a court order mandating that the County operate a constitutionally adequate system of public defense. The American Civil Liberties Union and Columbia Legal Services filed the suit in April on behalf of three individuals who were provided public defenders and allege they received ineffective assistance of counsel. The lawsuit also includes a Grant County taxpayer plaintiff.

"We are very pleased that the court has granted class certification for the lawsuit. Today's ruling means that any future remedies ordered by the court will affect all indigent persons with felony cases in Grant County Superior Court who are represented by an appointed lawyer," said Julya Hampton, ACLU Legal Program Director.

The lawsuit charges that Grant County has violated the federal and state Constitution by operating a public defense system that regularly and systematically deprives indigent persons of the effective assistance of counsel. In the last two years, the Washington State Bar Association has recommended that two Grant County public defenders be disbarred because of misconduct in representing indigent defendants. At least four courts in recent years have overturned felony convictions because Grant County public defenders failed to provide effective assistance of counsel.

Systemic inadequacies in the County's public defense system include the following:

- Attorneys have failed to communicate with clients. Some defendants have met with their attorneys only briefly prior to trial.
- Attorneys have had excessive caseloads, significantly in excess of the standards of the Washington State Bar Association.
- Attorneys have overlooked important evidence that may have proven clients were innocent.
- Attorneys have failed to interview witnesses.
- Attorneys have waived important rights for their clients and have not properly advised clients of their rights.
- Attorneys have failed to file critical legal motions.

In March the ACLU issued a report detailing flaws in indigent defense systems around the state. The report, "[The Unfulfilled Promise of Gideon](#)," shows that a majority of Washington counties lack comprehensive standards and adequate oversight systems to ensure that these publicly funded legal services meet basic constitutional standards. The ACLU calls upon the State of Washington to exercise its responsibility for overseeing the delivery of indigent defense services and to bar renewal of contracts with attorneys who have repeatedly failed to meet the standards adopted by the Washington State Bar Association.

"The inadequacies in Grant County highlight a statewide problem. Unless state and county officials are willing to take action, the sad state of affairs in Grant County could happen elsewhere," said the ACLU's Julya Hampton.

The lawsuit is being handled by Patricia Arthur of Columbia

The lawsuit is being handled by Patricia Arthur of Columbia Legal Services, ACLU staff attorney Nancy Talner, ACLU cooperating attorney David Taylor of the firm Perkins Coie, and Lori Salzarulo and Don Scaramastra of the firm Garvey Schubert Barer.