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NAPD supports the San Francisco Public Defender's office (SFPD) which has the courage to take the steps necessary to provide competent representation to all persons in need of constitutionally required counsel in San Francisco County. SFPD has made the necessary and difficult decision to declare unavailability on some cases that would require them to provide incompetent representation to their clients.

The problem of overburdened public defenders and overcrowded criminal courts is not unique to San Francisco. It is national in scope.

We join with the recommendations of other criminal legal system actors who call for limiting defender workloads and reducing the demand for them by moving some cases out of traditional prosecution and into alternatives that focus on public health. For example, Washington State's Bar Association has recognized that competent representation means setting maximum caseload caps, minimum training requirements, effective supervision, and adequate support staff. Washington's legislature has invested in the Law Enforcement Assisted Diversion Program that diverts people with behavioral health needs away from jail and prosecution and into collaborative, community-based systems of response and care in the pre-booking phase.

As concluded by the 2023 National Public Defense Workload Study conducted by the RAND Corporation:

Excessive caseloads are proscribed by ethics rules because they inevitably cause harm. Overloaded public defense attorneys simply cannot give appropriate time and attention to each client. They cannot investigate in a timely manner or fully. They cannot file the motions they should. Instead, attorneys are forced to triage cases, choosing which cases to focus attention on while allowing others to be resolved without appropriate diligence. A justice system burdened by triage risks unreliability, denying all people who rely on it—victims, witnesses, defendants, and their families and communities—efficient, equal, and accurate justice.

Our communities cannot be safe until public defense is fully supported. Competent representation ensures that cases are only tried once, that resolution happens quickly, and that mechanisms are put in place to address underlying issues. This requires jurisdictions to provide public defenders with the resources to draft and file appropriate motions protecting constitutional rights, investigate thoroughly our increasingly complicated cases, and do the grueling trial work that makes justice happen. The SF Defender Office, is taking necessary steps to ensure that caseloads aren't so overwhelming that competence is compromised.

Our communities deserve lawyers who provide competent representation, the same way that they deserve doctors and dentists who manage their caseloads to most effectively treat their patients. Creating a system that encourages incompetent public defense creates great harm to the community, families, crime

victims, and our clients. When we underfund public defense, the harm caused is not just to our clients, but to everyone involved in the system. The delays caused by underfunding delay release, increase jail populations, risk wrongful convictions, harm victims, and increase recidivism. The public defender is the part of the legal system most equipped to encourage reentry, pre-trial and pre-arrest interventions, and other strategies for making sure the root causes of crimes are addressed.

We must recognize the stress and physical toll of excessive caseloads on defenders. This job, while rewarding, is very challenging. When the caseload is overwhelming, we lose the defenders who would otherwise have the skill, the work ethic, and the compassion to do this work in the way it needs to be done.

Anyone who seeks to hire a lawyer for a loved one charged with crime would turn and walk away from a lawyer in private practice who said, "I am happy to work on your loved one's case, as soon as I can finish the other 60 or 100 cases that I have right now." Yet we expect most people facing loss of liberty to accept that situation.

NAPD stands with the San Francisco Public Defender and the community to make sure the criminal legal system can function and promote community health and the wellness of all the public defenders who serve in this noblest of professions. The immediate and long-range solutions to this situation include hiring more defender lawyers and staff and potentially limiting the number of cases that can be filed in court each day. All the stakeholders have an incentive to work together to develop alternatives.

Thank you for your consideration.

Sincerely,



Lori James
Executive Director, NAPD



Anthony Benedetti
President, NAPD Board of Directors