

Washington Cities Sued For Violating Defendants' Right To Counsel

A class-action lawsuit has been filed against two Washington cities for violating defendants' constitutional right to effective assistance of counsel. The lawsuit was filed in Skagit County Superior Court. The three plaintiffs are prisoners at the Skagit County Jail in Mount Vernon.

Mount Vernon and Burlington are about 65 miles north of Seattle. The cities jointly contract all their public defender services to two private attorneys. In 2010 those two lawyers handled the defense of more than 2,100 people charged with criminal misdemeanors in the two cities. The cities pay the two lawyers a total of \$180,000 yearly, and according to the cities the two lawyers spend no more than 1/3 of their time handling criminal cases for the cities. That would mean that in handling more than 2,100 cases yearly, the lawyers spend an average of less than 20 minutes on each case. However, the time spent on the average case is much less than 20 minutes because of the time the

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in late 2007, but the terms of the settlement weren't publicly disclosed. The lawsuit's claim against the city of Durham is still pending as of early 2012.

Although Magnum had several serious run-ins with the law after it was exposed her rape accusation against the Duke students was a hoax, none were as serious as her arrest on April 3, 2011 for stabbing her 46-year-old boyfriend, Reginald Daye, multiple times in his stomach. She was charged with assault with a deadly weapon with intent to kill inflicting serious injury. After Daye died from his injuries on April 13, Mangum was indicted for first-degree murder on April 18, 2011.

In November 2011 she was found competent to stand trial. As of early 2012 her murder charge is pending.

Sources:

[Duke lacrosse accuser](#) Crystal Mangum charged in stabbing, *CBS News*, April 4, 2011.
[Former Duke lacrosse accuser now faces murder charge](#), *Reuters*, April 19, 2011.
[All Charges Dismissed](#) Against The Duke Lacrosse Three, *Justice Denied*, Issue 35.
[Darryl Hunt](#), The NAACP, And The Nature Of Evidence, *Justice Denied*, Issue 35.
[Duke U. Hoax](#) Rape Prosecutor Mike Nifong Convicted Of Contempt, *Justice Denied*, Issue 38.
[Duke Hoax Rape](#) Prosecutor Mike Nifong Bankrupt, *Justice Denied*, Issue 39.

lawyers spend on trials — sometimes five a week — for defendants who refuse to plead guilty.

It was reported in the [Seattle Times](#) that the two contract lawyers — Richard M. Sybrandy and Morgan Witt — visited the Skagit County Jail a total of six times in 2010, during which they saw seven clients.

During an interview with *The Seattle Times* Sybrandy admitted that he rarely visits his clients in jail. He also said it has been at least two years since he hired an investigator to investigate a case.

There have been many complaints that clients are unable to communicate with Sybrandy and Witt, and even the Mount Vernon Police Department [has reported](#) that it "is not an isolated case" when they can't reach the public defenders to discuss a case.

The Washington State Bar Association recommends that public defenders handle no more than 400 cases a year, and the Washington Supreme Court is considering setting binding standards for public defense. Seattle is one of the few cities that cap case loads, limiting public defenders to 380 cases yearly. Based on the WSBA's recommendation Mount Vernon and Burlington need six public defenders instead of two.

In the lawsuit against Mount Vernon and Burlington "the plaintiffs allege that excessive caseloads and inadequate monitoring by the cities have resulted in a public defense system that deprives indigent persons of their constitutional rights. Among other things, plaintiffs claim the attorneys do not investigate the charges filed against indigent persons, do not respond to communications from indigent persons, do not meet with indigent persons in advance of court, and do not stand with or represent indigent persons during court hearings." Consequently defendants are being provided with a lawyer in name only.

In a press release Toby Marshall, one of the lead attorneys for the plaintiffs, says: "When you are arrested and charged with a crime, the right to counsel is the most fundamental and important right that you have. This is true regardless of your economic status." Matt Zuchetto, another attorney in the case, says: "We intend to present extensive evidence that will show the public defense system in Mount Vernon and Burlington is broken. At the end of the day, our



Morgan Witt
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Richard Sybrandy
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clients are simply asking for one thing: to fix the system."

The Mount Vernon and Burlington city councils recently voted to extend their contract with Sybrandy and Witt for an additional two years.

In Washington cities and counties pay for public defender services, so there is a wide variance in the quality of representation. While someone accused of a crime in a wealthy city like Seattle can get first-class representation, a person charged with the same crime in a poor rural county may get representation no better or even worse than if a customer at a local coffee shop had been randomly picked to represent the person.

Deficient public defender representation in Grant County, Washington was national news several years ago. Among other things, PD Guillermo Romero was disbarred by the Washington Supreme Court in 2004 for soliciting money from indigent clients whose case he was assigned. Another Grant County PD, Thomas J. Earl, was also disbarred by the Washington Supreme Court in 2004. See the article, "[The High Cost of Free Defense](#)" in *Justice Denied* Issue 26.

In November 2005 Grant County settled a class-action lawsuit for its failure to provide adequate legal defense for people who couldn't afford their own attorney. The settlement required Grant County to pay the plaintiffs \$500,000 for attorneys' fees and costs. The county also agreed to hire a full-time supervisor for its public defenders, to limit individual defenders' caseloads to 150 felony cases per year, to hire one full-time investigator for each four public defenders, and to provide an interpreter, when needed, for attorney-client meetings. See the article, "[Rural Washington County Settles Shoddy Indigent Defense Lawsuit](#)," in *Justice Denied* Issue 30.

Sources:

[Skagit County suit](#) claims public defenders too busy to defend, *Seattle Times*, June 21, 2011.
[Mount Vernon and Burlington Sued](#) for Allegedly Violating the Constitutional Rights of Indigent Defendants, Press Release, Terrell Marshall Daudt & Willie PLLC (Seattle, WA), June 10, 2011.

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