

Detroit Free Press

Editorial: Michigan must stem the growing costs of cut-rate justice

May 18, 2011

The U.S. Constitution grants every person accused of a crime the right to effective defense. Nevertheless, that right is violated every day in Michigan courts, where a lack of state standards for indigent defense and ridiculously low pay for court-appointed attorneys make Michigan a McJustice state. Legislators ought to fix this outrageous system, and Gov. Rick Snyder -- who talks a lot about reinventing government -- should order a commission to investigate it.

Michigan must establish uniform standards and oversight of its public defense system, while assuring adequate funding. One of only a handful of states that rely almost entirely on counties to pay for and run public defense, Michigan ranks near the bottom in per capita spending. Its public defense attorneys are poorly compensated, inadequately trained and supervised, forced to carry excessive workloads, and denied access to investigators and experts. When that happens, the adversarial system breaks down, and justice is thwarted. Innocent people are convicted and guilty ones remain free.

Behind that breakdown are real people. Released Wednesday by the ACLU of Michigan and the Campaign for Justice, the "Portraits of Michigan's Constitutional Crisis" report chronicles 13 Michigan residents victimized by the state's appalling public defense system.

Among them: Kenneth Wyniemko, who served nine years in prison for a rape he didn't commit before he was exonerated by DNA evidence; Eddie Joe Lloyd, another DNA exoneree, who served 17 years in prison for a murder and rape he didn't commit; Temujin Kensu, who has served nearly 25 years of a life sentence for gunning down a man eyewitnesses say was more than 400 miles away; and Karl Vinson, a former Detroiter who has spent 24 years in prison for raping a 9-year-old girl in 1986, even though new scientific evidence proves his innocence.

These cases aren't exceptional; they reveal systemic cracks in Michigan's criminal justice system.

"The overriding factor is the lack of resources, the lack of a statewide system Michigan can be proud of," said David Moran, cofounder of the Innocence Clinic at the University of Michigan, with five exonerations since 2009.

F. Martin Tieber of East Lansing, one of the nation's top appellate attorneys, said taxpayers pick up the tab -- an average of \$35,000 a year for each prisoner -- when innocent people are convicted, and others are sentenced for unjustifiably serious offenses. One of Tieber's clients, Frederick Mardlin, spent three years in prison for arson because the courts wouldn't pay for expert testimony about the fire's cause. During his appeal, an electrical engineer determined conclusively that the fire started accidentally.

"The State of Michigan spent \$100,000 to incarcerate an innocent man so that St. Clair County could save \$2,000," Tieber said.

Fixing the system will require adequate resources and shifting public defense spending from local governments to the state, while enforcing statewide standards for indigent defense. Access to justice should not depend on which state -- or county -- a defendant lives in. With appellate courts practically rubber-stamping criminal convictions, it's even more important to assure just verdicts at the trial level.

It's time for the governor and legislators to meet their responsibility to ensure constitutional standards for indigent defendants.

<http://www.freep.com/article/20110519/OPINION01/105190546/Editorial-Michigan-must-stem-growing-costs-cut-rate-justice>