

May 23, 2011

<http://detnews.com/article/20110523/OPINION01/105230316>

## Editorial: Defend the poor, strengthen legal aid system

### Recent studies point to the need for a better way to represent indigent defendants in criminal cases

*Poor people often get poor legal representation when they're accused of crimes in Michigan. A stronger effort to solve this problem is overdue. It must include steps by local leaders to make sure court-appointed defenders' legal skills match the seriousness of the cases they're assigned, stronger state oversight and a determination to set aside more money for representing indigent defendants.*

Michigan's checkerboard public defense system relies on county-level financing. Its effectiveness varies with each county's financial assets. Compelling evidence of what's wrong with this setup comes from a new report detailing 13 miscarriages of justice, each mostly the result of an indigent defendant's lousy lawyers.

George Carter spent 35 years behind bars for rape and robbery because his defender, a recent law school graduate, didn't have the time or money to thoroughly investigate evidence that included crime-scene fingerprints, which, with subsequent analysis, cleared him. Eddie Joe Lloyd served 17 years for murder before DNA analysis obtained by the national Innocence Project led to his release. His attorney had never contested that he'd confessed while hospitalized for a thought and mood disorder.

Retrying such cases is costly and cumbersome. Financial awards for wrongful incarceration cut into already-stressed government budgets. Detroit and Wayne County taxpayers, for example, got hit with a \$4-million settlement paid to the estate of Lloyd, who died in 2004.

The bigger issue is injustice. The U.S. Constitution guarantees every American the right to defense against criminal charges.

A good first step toward a solution would be for each jurisdiction to adopt something similar to Macomb County's three-tiered system for appointed defense attorneys. It restricts complex murder cases to veteran lawyers; cases in which a defendant can receive between five and 20 years in prison get lawyers with mid-level experience and lesser cases are given to newer attorneys.

Macomb Circuit Judge David Viviano noted that the judges do confer on the performance of assigned attorneys and change the list if they are not satisfied with a lawyer's performance.

In addition, the judge said, attorneys are generally assigned on a rotating basis by an office that is separate from the judges themselves, so the appointment process is somewhat insulated from possible cronyism.

The attorneys have to apply to be on the list. There is a vetting process in which the county bar association is involved, and a training program as well.

Obviously, bar associations must continue to impress upon members their ethical duty to take on a certain number of pro bono cases, too.

But ultimately, it's up to the state to set high standards to assure that all indigent defendants are adequately defended and that their attorneys have the necessary resources. Lawmakers and Gov. Rick Snyder should set that as a goal to attain as state revenues improve.

---

© Copyright 2011 The Detroit News. All rights reserved.