



March 15, 2009

Public defense skimps on justice

After reading your March 8 editorial on the state of indigent defense funding in Michigan ("No justice on the cheap"), we hope all current and incoming legislators will review the findings of the recent National Legal Aid and Defender Association study ranking Michigan 44th of the 50 states in per capita public defense spending. The report proves that Michigan's current public defense system is failing to uphold the constitutional right to effective defense representation of every adult and child.

In Wayne County, the Legal Aid and Defender Association Inc. provides defense representation to approximately 25% of adults facing felony charges, and approximately 45% of juveniles charged with delinquency.

In 1986, our State Defender Office had a full-time staff of 25 lawyers, five investigators, six clerical staff and one psychologist, and we represented approximately 5,000 clients annually. Today, we have 16 lawyers, one paralegal and four clerks, and we still represent 5,000 clients annually. As a result, very little time can be spent searching for alternative sentencing placements for nonviolent individuals with chronic underlying mental health and substance abuse problems. The predictable result is increased recidivism, which drives up the cost of corrections while reducing public safety.

Michigan is just one of seven states that do not provide state funds for trial-level public defense services. Instead, each county has been left to devise and fund its own system. The 83 counties and their many courts all administer public defense services differently. This is, at the very least, duplicative and inefficient, not to mention terribly unfair to the clients we serve.

Even more troubling is the complete lack of compliance with the minimum national standards promulgated by the American Bar Association for an effective, efficient and ethical public defense delivery system. Many counties use court-appointed private attorneys to provide public defense services; a few, like Wayne, have nonprofit public defender offices. About half of Michigan's counties now employ low-bid, flat-fee contracts with private attorneys or firms that too often result in assembly-line justice.

Many excellent attorneys do not have the necessary resources for forensic investigation or to hire expert witnesses. They are unable to challenge unreliable evidence or serve as an effective check against prosecutorial or police zealotry.

In addition, rushed and underresourced attorneys make costly errors, requiring more time from the courts and attorneys, wasting public resources and driving up corrections costs. Yet it would cost only a fraction of the \$2 billion the state spends on corrections to ensure that defense attorneys have reasonable caseloads and access to resources to ensure that justice is served.

In the long run, the cost of improving our indigent defense system is far less expensive, in both human and fiscal terms, than the cost of the status quo.

We must live up to the Sixth Amendment promise of effective defense representation for every individual, regardless of his or her ability to pay. Equal justice under the law is the birthright of every American citizen.

Legal Aid and Defender Association Inc.

Deirdre L. Weir

President and CEO

Miriam L. Siefer

Executive Vice President and Chief

Defender, Federal Defender Office

Donald Johnson

Chief Defender, State Defender Office

Joan Glanton Howard

Chief Counsel, Civil Law Group

Regina Daniels Thomas

Chief Counsel, Juvenile Law Group
