



Why Michigan's indigent defense system must be reformed (editorial)

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By **The Grand Rapids Press Editorial Board**

Poor people in Michigan accused of a crime don't always get adequate and competent legal representation. Gov. Rick Snyder recognizes that undermines our criminal justice system and has taken a critical first step to fixing the indigent defense system by appointing a study commission.

The 14-member Indigent Defense Advisory Commission will recommend changes to Mr. Snyder by July 15. Ten members representing the judiciary, prosecuting and criminal attorneys, the state bar, local government and the general public are joined by a bipartisan group of four lawmakers.

The Legislature ought to have the political courage to move forward sensible reforms — long overdue — from this panel.

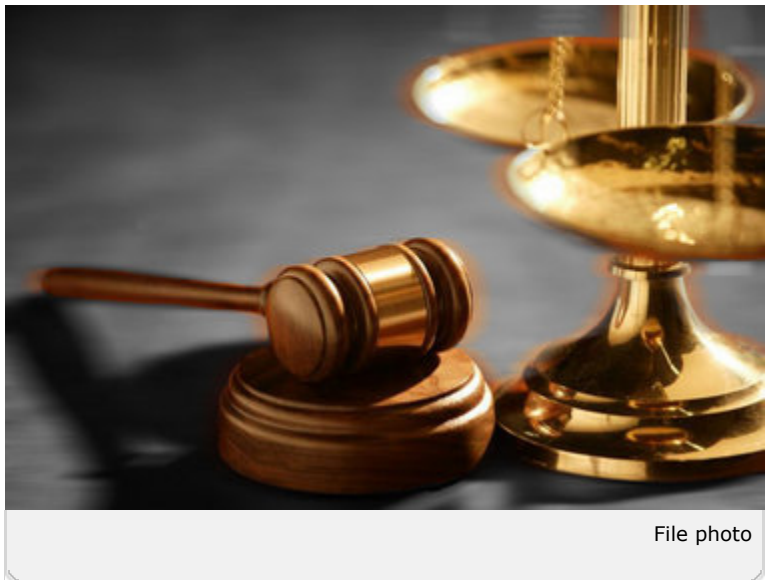
Issuing the executive order, Mr. Snyder pointed out the quality of legal representation provided to the poor varies across the state. A big reason for the disparity is economic. Under the current structure, the county-based system is a patchwork of underfunded programs.

Michigan is one of just seven states that has placed funding for trial-level indigent defense completely on the backs of its counties. The counties set their own pay rates for attorneys, and representation standards vary.

Report after report chronicling this broken system reveal court-appointed attorneys who are not effectively defending their clients because they lack time — due to excessive caseloads — resources or ability.

A task force convened by the state bar association looking at ways to improve the judicial system says "Michigan has tolerated an indigent defense system so lacking in resources that assigned counsel can only occasionally provide the effective assistance of counsel guaranteed by the U.S. and Michigan constitutions, causing large downstream costs and the risk of costly litigation."

Low indigent defense cost per capita is a strong indicator a system is in trouble. Michigan ranks 44th of the 50



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states, spending \$7.35 per capita. That's 38 percent less than the national average, according to The National Legal Aid and Defender Association's 2008 report on the state, "A Race to the Bottom: Speed and Saving over Due Process — A Constitutional Crisis."

Taxpayers foot the bill for wrongful convictions and the lawsuits that usually follow. And the actual criminal is left on the street to harm others.

The state is spending an estimated \$50 million annually to house wrongly convicted people, according to estimates from the Michigan Innocence Clinic at the University of Michigan Law School.

The Campaign for Justice, a state coalition seeking to change the indigent system, issued a report detailing the cases of 13 men wrongly convicted or convicted on questionable grounds. Nine of 13 cases were overturned. As of May, the others were challenging their convictions and awaiting court decisions.

The commission has a good framework for the recommendations, including:

The improvements must be fiscally responsible and cost-effective, and take into account the current economic conditions of the state and local units of government.

The improvements must seek to ensure the right to counsel is delivered by effective counsel at each critical stage of the proceedings in a manner that is consistent throughout the state.

Besides adequate funding, Michigan should establish uniform standards and better oversight of the indigent defense system. The right to an attorney has to mean something, if there's going to be justice for all.

*E-mail a letter to the editor for publication in print: **pulse@grpress.com** Please keep letters to less than 200 words and include your full name, home address and phone number.*

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