



Defending the poor

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Michigan is guilty of not providing competent counsel for poor defendants in its criminal courts, according to a recently completed report. A year-long study of the state's public defense systems outlined myriad shortcomings. What's missing from the report are comprehensive recommendations and solutions to fix those failings.

The National Legal Aid & Defender Association and the Michigan Bar Association conducted the study at the request of the state Senate. The groups should have made specific recommendations about such things as attorney selection, qualifications, workloads and case management.

Only calling for state money and oversight is not enough. Who should be responsible for that oversight? Where would the money come from?

The U.S. Constitution guarantees all citizens the right to counsel in criminal cases. States are required to provide that representation for those who can't afford a lawyer. Michigan is one of only seven states that makes counties foot the entire bill for the defense of the poor. Most states cover all or at least half of those costs. Economic conditions make it unlikely that the state will start funding public defense as the report suggests.

Last year, Michigan's 83 counties spent \$74 million for public defense services. Only six states spent less.

And because public defender services are left to the counties, Michigan has a hodgepodge system. Some counties have public defender offices, others have court-appointed attorneys, some have low-bid contracts. Some pay by the hour, by the case, or a combination of both. Pay varies from county to county and so does the level of service.

Speed in dispatching cases often takes precedence over due process, according to the study. Defendants often only meet their attorney briefly on the eve of trial and hold "confidential" discussions in courtroom corridors or restrooms. Some appear in district courts without ever having seen an attorney. In Ottawa County, one of the 10 counties studied in the survey, district court arraignment days are referred to as "McJustice Days."

Defendants have complained of being pushed through the court system and pressured to plead guilty by overworked, underpaid lawyers, or assigned lawyers unqualified to represent them. Michigan has no workload standards or oversight measures that make sure public defense attorneys have the proper experience and training to match the cases they get. That's left to each county. Some do better than others. Kent County limits attorneys to no more than 40 indigent cases. In Detroit, five part-time public defenders handle 2,400 to 2,800 cases each.

Michigan's public defense system has sparked a lawsuit by the American Civil Liberties Union, which claims it violates the constitutional guarantee of legal counsel in criminal cases.

Michigan can't guarantee anyone equal justice -- people with unlimited funds can afford the best attorneys, investigators and experts. But the state can and should provide competent counsel for the poor. The panel of experts that put this report together should provide more specific recommendations on how to make that happen.

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