



September 6, 2009

Friedman: Mich. can fix public defense system

I recently traveled to Michigan to participate in a discussion about efforts under way in your state to reform your public defense system, the way in which the constitutionally mandated right to counsel is provided for adults and children who aren't able to afford one on their own. My mother was raised here and my grandparents ran a working-class resort in South Haven for a number of years. You have a lovely state. You also have a lousy public defense system.

You probably don't want to hear this from a Minnesotan, but I can say this for a couple of reasons. First, I travel all around the country to provide training to defense attorneys, and I've seen all kinds of systems in all kinds of places. A report from the National Legal Aid and Defender Association last year said Michigan's public defense system was one of America's worst. From what I've observed, they were right.

Second, I come from a state, Minnesota, which used to handle public defense in many of the same ways you do in Michigan now. Our counties, not the state, paid for defense attorneys, just like in Michigan. We lacked sufficient standards and training to ensure consistency and quality of representation across county lines, just like in Michigan. Our system didn't treat the poorer or rural counties right. The pay rate for attorneys varied too much. The workloads varied too much. Justice varied too much.

With all this said, however, we also fixed our public defense system two decades ago, just like Michigan is working to do now.

Here are a few details. In Minnesota, our system is now funded by the state, not our counties. Our state is divided into judicial districts, every one with a chief judge and a chief public defender. We are governed by a bipartisan state board appointed by the Supreme Court and the governor.

As chief public defender of the 6th Judicial District, my job is to hire, fire and train the defense lawyers who work in my district. I assign cases to each attorney; judges do not (an important difference from how Michigan now operates). We are independent from the judiciary, as many state supreme courts have directed.

This system works for us in Minnesota, and I want to be clear that I am not saying it should also work for Michigan. That's for you, your legislators and governor to decide. I do know, however, that the Campaign for Justice, the State Bar of Michigan and others working in your state to reform public defense are on the right path. Supporting public defense services with state funding and guiding them using statewide, nationally recognized standards are critical for any system in any state.

It is my hope that your lawmakers make it a priority to fix Michigan's failing system, because the amount of justice you get shouldn't depend on where you live or whether your grandma can triple mortgage her house.