

# Viewpoint: State's public defender system doesn't provide justice

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By Matthew Wesaw

Last month, the Michigan Civil Rights Commission unanimously approved a resolution saying that “in order to protect the civil and constitutional rights of all, Michigan must maintain a public defense delivery system that meets national standards and provides the effective assistance of counsel ... to those who cannot afford to hire an attorney.” As a retired Michigan State trooper, I am acutely aware that the safety of our state depends in large part on the integrity of the criminal justice system. Justice must be distributed based on a consideration of investigated evidence; not the ability to pay for an attorney.

First, some background. Almost two years ago, a report commissioned by the state Legislature and issued by a panel of national experts cited Michigan’s public defense system as one of America’s worst. Unlike other states, the report found, Michigan provides no funding for defense services in criminal or juvenile delinquency proceedings; these services are funded and managed by the counties. The state sets no standards for attorneys working in the system. We require no training for defense attorneys. We offer no oversight or performance monitoring. We fail to provide consistent access to investigators and experts.

And, we set no workload limits to ensure that clients receive an effective defense.

A U.S. Department of Justice survey shows that, nationally, public defense attorneys represented 77 percent of African Americans and 73 percent of Latinos in state prisons. The Constitutional right to adequate legal counsel is at the heart of the American justice system. These results are a stark reminder that we must ensure that every one of our residents, regardless of race or income, receive the same rights and protections under the law.

The effects on residents and our communities are many. A broken public defense system fails taxpayers, it fails people accused of a crime and it fails to protect the safety of our communities. With our state budget again facing deficits, we cannot afford to throw away tax dollars on a defective and constitutionally deficient system that increases corrections costs beyond what they need to be. In addition, inadequate assistance of defense counsel can lead to false convictions or excessive sentences. Innocent men and women sometimes go to prison when they shouldn’t be there, or they are incarcerated for longer than appropriate — again, impacting lives, devastating families and wasting money.

And, when an innocent person goes to jail for a crime he or she did not commit, the real criminal remains in society.

None of these realities are good for our state or its residents and all point to the immediate need to reform public defense in Michigan. As the nation’s only constitutionally created Civil Rights Commission, we are called upon to work to protect the civil rights of all people equally. For this simple reason, we add our voice to the growing

chorus calling for a public defense system that upholds our Constitution and serves all the people of our state.

Wesaw is chair of the Michigan Civil Rights Commission. He lives in Holt.