

Forum to discuss indigent defense, examine programs in other states

By Alex Lundberg

As they push for statewide funding of public defense, the Campaign for Justice will hold an informational forum, "Improving Public Defense: The Future for Michigan's Defense Attorneys."

The forum will be held 12:30 p.m., Aug. 14, at the Thomas M. Cooley Law School in Auburn Hills, and will be simulcast to the Grand Rapids and Lansing campuses. Participants at the two remote locations will be able to submit questions in real time via teleconference.

"We want to give all attorneys involved a chance to ask questions and express their concerns," said Campaign for Justice Director Laura Sager. "The campaign's goal at the forum is to address misinformation and myths."

There needs to be a major reform of the funding method for the public defender system and the campaign is there to answer questions Sager added.

To that end, the Campaign for Justice has invited Montana Chief Public Defender Randi M. Hood, Minnesota 6th District Chief Public Defender and Professor Fred T. Friedman, and Meghan Sutton, a private attorney working for the Montana Office of Public Defense.

Montana and Minnesota have state-funded, rather than locally funded, public defender systems.

Minnesota has had a state public defender structure with a commission since 1986.

The State Board of Public Defense is part of the judicial branch, but it is not under the judicial branch's administrative control. The board has seven members, four appointed by the Supreme Court and three by the governor. State public defender is appointed for four-year terms.

The board also appoints a chief public defender in each of the state's 10 judicial districts and a chief appellate defender.

There are also four legal defense corporations that are funded through grants from the board which serve primarily communities of color throughout the state.

Michigan's system, she said, is in the mi-



Improving Public Defense: The Future for Michigan's Defense Attorneys

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nority in that it's county-funded — one of only seven like it.

And, Sager said, it's not working.

"The system is chronically underfunded, poorly administered, and there are no statewide standards," she said. "It can't insure that constitutional guarantees to the right to counsel are being upheld."

A recent court case, *Duncan, et al., v. State of Michigan*, has charged that three counties' provision of public defense is unconstitutional because the systems that support the defenders are woefully underfunded.

Three defendants sued the state and the

governor, asserting they were denied their right to a fair trial because they had inferior representation from their public defenders.

The state first claimed the plaintiffs didn't have standing, and later argued in court that the counties were responsible for indigent defense instead.

The court found for the plaintiffs and other indigent criminal defendants from Berrien, Genesee and Muskegon counties, a decision that was enforced by a Michigan Court of Appeals ruling.

The case will move forward in a trial.

Sager said the legislature needs to come up with a new way of funding the system before the court imposes a remedy.

It wouldn't necessarily have to cost that much, she said.

"Right now, we're spending \$83 million a year on public defense," Sager said. "The question is, are those funds being spent as well as they could? The cost of ineffectiveness, of wrongful imprisonment is high. We're passing the expense down to the most costly part of the system, corrections."

Exactly what shape reform might take has yet to be decided, and the Campaign for Justice isn't even saying there is a coherent argument against the kinds of reform they're pushing for.

Sager said a Michigan House Judicial Committee has created a subcommittee to study indigent defense and what solutions could be applied to the problem.

What reform would mean is an indigent defense system that was statewide in scope, held to a unified standard, and funded well enough to fulfill its responsibilities, she said.

"There are defenders working in underfunded systems with some fees that haven't changed since the 1980s," Sager said. "With reform, the quality of justice will not depend on what side of a county line you're on."

Space at the event at all three locations is still available. RSVP by Aug. 10 by e-mailing info@mijustice.org or calling (517) 372-3050 or (313) 310-5666.

The forum also is sponsored by the Criminal Defense Attorneys of Michigan and the State Bar of Michigan.