

Prime Time for Due Process?



Ronald D. Keefe

The enduring popularity of television shows like *Law and Order* proves the public's fascination with the legal system, the pursuit of justice, and nailing the bad guy. As lawyers—not just prosecutors and defense attorneys—we must take the lead not only in holding our system accountable to constitutional requirements, but also in shaping the public understanding and cultural expectations of the system.

What is the real Michigan experience today in the courtroom for criminal proceedings? Conversations within the legal community for decades have provided anecdotal information that suggests we are failing to meet the constitutional obligation to provide effective assistance of legal counsel to all defendants. But advocates who have been working for reform have been met with significant hurdles, one of which was overcome last month through the release of a very detailed and startling picture of what defendants face in our courtrooms.

On June 17, *Evaluation of Trial-Level Indigent Defense Systems in Michigan* was released in a well-attended press conference at the State Bar building in Lansing. The report is an in-depth and hard-hitting look at how public defense services are delivered in Michigan, and was written by the foremost national expert on such services, the National Legal Aid and Defender Association (NLADA). David Carroll, the NLADA's director of research and evaluation, presented the findings of the report to the legislature and the public.

The NLADA report was requested by the legislature under Senate Concurrent Resolution 39 of 2006, introduced by Senator Alan Cropsy. The report focuses on 10 Michigan counties selected by an advisory group as representative in terms of size, geography, economy, and type of public defense delivery system. The 10 counties are Alpena,

Bay, Chippewa, Grand Traverse, Jackson, Marquette, Oakland, Ottawa, Shiawassee, and Wayne. I encourage you to read the report online at the State Bar's website at www.michbar.org.

The NLADA "finds the state of Michigan fails to provide competent representation to those who cannot afford counsel in its criminal courts...NLADA finds that none of the public defender services in the sample counties are constitutionally accurate."

The report evaluates criminal defense services in the 10 counties against the American Bar Association's 10 principles of a public defense system. Not one county met all 10 principles. The report devotes a full chapter to the evaluators' experiences in Jackson County, where the report found a notable and sincere effort to provide effective public defense services, but concluded that, despite the county's best efforts, its defense services still fell short of the required mark.

Why did Jackson County fail? Mr. Carroll tells us that Michigan has "wholesale systemic constitutional violations." Because the state has passed to the counties the constitutional obligation to provide counsel, the public defense system has devolved into 83 counties and numerous municipal funding units, each providing services in its own way, without any state funding, uniform standards, or clear accountability. Michigan was one of the first states to require the appointment of counsel in 1857. Over 150 years later, Michigan has fallen to the bottom of the nation and needs to climb back up.

Michigan can again become a national leader by bringing together a broad coalition of stakeholders and partners in the justice system. We need a justice system in Michigan that works for all our citizens, regardless of what county they reside in or how much money they have.

Stakeholders from the legal community, the social services community, the faith-based community, and more are coming together now to take the necessary next steps. The State Bar will continue to be actively engaged in leading reform. Elizabeth K. Lyon, the State Bar's director of governmental relations, welcomes you to contact her at elyon@mail.michbar.org. Or you can be a part of this significant reform by signing up with the Campaign for Justice at www.MichiganCampaignForJustice.org. The Campaign is a group of organizations and individuals from across the political spectrum fighting for a fair and effective public defense system in Michigan.

Together, we can work for a criminal justice system in Michigan that ensures public safety, operates efficiently and effectively with taxpayers' dollars, and guarantees every person in Michigan a fair trial. It won't have the pace and may not always have the drama of *Law and Order*, but it will be justice. ■

I would like to acknowledge and thank SBM Director of Governmental Relations Elizabeth K. Lyon and SBM Executive Director Janet K. Welch for their invaluable contributions to this article.

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