

**WRITTEN TESTIMONY OF EDWARD H. PAPPAS
PRESIDENT, STATE BAR OF MICHIGAN***p* 517-346-6300*p* 800-968-1442*f* 517-482-6248

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**U.S. HOUSE OF REPRESENTATIVES COMMITTEE ON THE JUDICIARY
SUBCOMMITTEE ON CRIME, TERRORISM, AND HOMELAND SECURITY****MARCH 26, 2009**

306 Townsend Street
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Lansing, MI
48933-2012

On behalf of the State Bar of Michigan, I express my gratitude to the Chairman of the House Judiciary Committee, Representative John Conyers, Jr.; the Subcommittee Chair, Representative Robert C. Scott; the Ranking Member, Representative Louie Gohmert and the Members of the Subcommittee for calling the congressional hearing on the representation of indigent defendants in criminal cases. While the testimony today presents a bleak picture about the constitutional crisis that Michigan, like many other states, is facing, we are encouraged that through the attention of this distinguished Committee and the policymakers in our state the crisis will at last be meaningfully addressed.

Michigan's public defense system is really not a system at all. It is a patchwork of county funding arrangements, none of which meet all the requirements of adequate criminal representation and some of which fail in all regards.

Michigan is blessed with countless dedicated and tireless lawyers devoted to upholding the Constitution and defending the rights of all who come before the courts. The dedication and commitment of our bar to improvements in Michigan's public defense system, simply, have not been enough to convince our lawmakers to make the difficult substantial systemic and funding change needed. In fact in some ways, the very heroic efforts and sacrifices of defense counsel over the years and throughout the state have disguised the ways in which Michigan's system is fundamentally broken.

We are turning to you because we see concrete and limited ways in which the federal government can provide crucial help so that we can finally achieve a system that meets constitutional standards. The actions we urge you to consider are outlined in the testimony of our distinguished Past President, Dennis Archer.

The State Bar of Michigan is required under Michigan Supreme Court Rules to "aid in promoting improvements in the administration of justice and advancements in jurisprudence, in improving relations between the legal profession and the public, and in promoting the interest of the legal profession in this State." From these words we take a clear directive to work to assure the Constitutional right to effective assistance of counsel in all criminal proceedings throughout our state.

Our commitment to this mission has been long and steadfast. In 1975, a blue ribbon Defense Services Committee appointed by the Michigan Supreme Court and consisting of state bar leaders, judges, prosecutors, defense attorneys and court officials, made ten recommendations for improvement in our criminal defense system. Those recommendations have yet to be fully acted upon.

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In 2002 the American Bar Association (ABA) adopted ten principles of a public defense delivery system. The State Bar of Michigan quickly embraced the ten principles and adopted an eleventh principle recommended by the Michigan Public Defense Task Force. It reads, "When there is a defender office, one function of the office will be to explore and advocate for programs that improve the system and reduce recidivism."

In response to a bipartisan request from the Michigan Legislature in 2006, the State Bar of Michigan has been proud to partner with the National Legal Aid and Defender Association in a thorough investigation of the state of public defense in Michigan today. The details of that report are being offered to you today by David Carroll of the National Legal Aid and Defender Association. The report is a detailed and expert appraisal of the many ways in which Michigan is failing in its 6th amendment obligations. Since the release of the Report, the State Bar of Michigan has worked in partnership with all stakeholders to ensure Michigan has a justice system that works for all.

Over the last thirty plus years, the voices of State Bar Presidents have joined with members of the Michigan Judiciary and other Michigan leaders in the call for reform of indigent defense services in our state. I am proud to add my voice to that distinguished chorus. With the knowledge and tools now available to us, now is the time for immediate and significant action. We can finally accomplish an effective and efficient solution to remedy the problems that have been so fully documented in the state of Michigan. With the leadership of this distinguished Committee, and leadership in our great state of Michigan, I am confident our efforts will finally deliver the victory for the people of Michigan, and for all others in failing states, that the Constitution demands.