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From: Michael Ewing <michaielewinglaw@gmail.com>
To: info@michiganidc.gov
Subject: Michigan Indigent Defense Commission

Greetings:

I have read the proposed standards, and I can't help but think that there is something missing. Defendants receive better plea offers and have a better chance of having their case tried if the attorney who is representing them is not afraid to try a case. I know, this sounds silly, but in Genesee County, and across the state, we have large numbers of public defenders who do not try cases--and some never have.

I am not criticizing the Genesee County Public Defender's Office by any means. I become concerned when an attorney (often a newer one) has practiced for years and has never tried a single case. The reason? They are afraid to. You cannot convince me that after several years of practice not a single client of our so-called trial attorneys hasn't wanted or needed their case tried--instead of entering into a plea agreement.

The prisoners know which attorneys will try cases--and which ones do not--but if they're indigent they don't get to choose. Personally, I believe that also weakens any plea offer that is made to a client because the prosecutor knows that the attorney will not try the case--and will pressure their client to take a plea deal. What's the solution? I don't know for sure. Perhaps all public defenders should have sat second-chair for one trial before taking defense cases. Maybe all persons who defend FC cases should be required to try one case in a given period of time. I don't know the answer, but the lawyers who are scared to try cases cannot serve all of their clients well.

Finally, providing Westlaw, or something similar, to public defenders could help indigent defense greatly. Many attorneys cannot afford Westlaw and end up using inferior alternates (like Google Scholar). The Genesee County Public Defender's Office has provided our public defenders with Westlaw, and it has leveled the playing field with the prosecutors--who all have access.

There are my two cents. Feel free to contact me with any follow-up.

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