

4 September 2012

PO Box 900  
Grand Rapids, MI 49509-0900

The Honorable John Walsh, Chair  
House Judiciary Committee  
PO Box 30014  
Lansing, MI 48909-7514

Dear Chair Walsh:

I am writing to support House Bill 5804, Representative McMillin's legislation to create the Michigan Indigent Defense Commission Act. As you know, this important legislation was introduced after a report from Governor Snyder's Indigent Defense Advisory Commission recommended the creation of a new, permanent and independent commission to create and enforce statewide standards for trial-level indigent defense services.

Crossroad Bible Institute, the largest prisoner mentoring program in the United States headquartered in Grand Rapids, equips churches and people of faith to disciple prisoners while incarcerated and upon reentry. Among our cardinal values is the belief that we must speak out for those who cannot speak for themselves and administer justice for those in need.

The Sixth Amendment of the United States Constitution grants every American citizen the right to an adequate legal defense. Our founding fathers thought this right every bit as important as the freedom of speech, freedom to practice our religion and freedom of the press. True justice, held in esteem by all people of faith, requires impartiality and equality, regardless of how much money a defendant does or does not have.

House Bill 5804 takes into account these crucial aspects of justice and collects needed data to ensure transparent and effective use of tax dollars while enforcing new standards to meet Michigan's constitutional duty to provide effective assistance of counsel to individuals that cannot afford an attorney.

I urge you to support this important measure and look forward to working with you in the coming months to see it enacted.

Sincerely,

Dr. H. David Schuringa  
President/CEO of Crossroad Bible Institute



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# Celebrating a Century

8220 Second Avenue – Detroit, Michigan 48202 – (313) 871-2087 phone – (313) 871-7745 fax

Rev. Dr. Wendell Anthony,  
President

Donnell R. White,  
Executive Director

September 11, 2012

The Hon. John Walsh  
Chair, Judiciary Committee  
Michigan House of Representatives  
Anderson House Office Building  
Lansing, Michigan 48933

Re: The Michigan Indigent Defense Act (HB 5804)

Dear Chairman Walsh:

The United States Supreme Court's 1963 decision in *Gideon v Wainwright* imposed on the states the responsibility for providing counsel to indigent persons in any case that may result in a loss of liberty. In response, Michigan adopted a patch-work, county-based scheme that has resulted in one of the most dysfunctional systems in the country.

Unlike most states that have adopted a state-wide, state-funded system, Michigan puts the burden on counties to design and fund their own indigent defense systems. Consequently, according to a June 2008 study by the National Legal Aid and Defender Association, it was found that Michigan failed to provide competent representation to those who cannot afford counsel within the criminal courts, and ranked 44/50 in the amount of money allocated to public defense.

Low-income people of color are disproportionately among those who need access to adequate and qualified public defense. As a result, people of color are disparately impacted by Michigan's failing public defense system. For example, while African Americans make up only 14.2 percent of Michigan's population<sup>1</sup>, they account for 54.8 percent of Michigan's prison population.<sup>2</sup> Nationally, a U.S. Department of Justice survey showed that 77 percent of African Americans and 73 percent of Latinos in state prisons were presented by public defense attorneys.<sup>3</sup>

According to Bill Quigley, a human rights lawyer and professor of law at Loyola University New Orleans, "...once arrested, 80% of the people in the criminal justice system get a public defender for their

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<sup>1</sup> U.S. Census Bureau, 2010

<sup>2</sup> Michigan Department of Corrections, 2006 Annual Report, p. 35.

<sup>3</sup> Gohara, M.S., Hardy, J.S., Hewitt, D.T., "The disparate impact of an under-funded patchwork indigent defense system on Mississippi's African Americans: The civil rights case for establishing a statewide, fully funded public defender system." *Howard Law Journal*, 49 (1) (Fall 2005).

lawyer.”<sup>4</sup> Given the overwhelming number of African Americans incarcerated in Michigan prisons, a quality public defender system is critical to avoid the continuing mass violations of constitutional rights.

The pursuit of justice is a fundamental principle of American democracy. Michigan’s public defense system has been singled out numerous times over the past few decades for its failures in upholding the constitutional right to counsel.

In October of 2011, Governor Rick Snyder created the Indigent Defense Advisory Commission through Executive Order 2011-12. This Commission was charged with making recommendations to the Governor and to the Legislature for improvements to the system of providing legal representation for indigent defendants;

In its final report, the Indigent Defense Advisory Commission found that Michigan’s system of providing legal representation for indigent criminal defendants lacks procedural safeguards to ensure effective public criminal defense services and recommended that a new, permanent commission be created in statute to create and enforce statewide standards; collect data in regards to current practices regarding indigent defense; maintain current funding levels, provide an inflationary increase and supplement county funding with state funding, if necessary, to comply with state-wide minimum standards.

The Michigan Indigent Defense Commission Act (HB 5804) was introduced in August 2012. This bill reflects the recommendations made in the Commission’s final report and has received broad bipartisan support from the 75 members of the House of Representatives who cosponsored this legislation.

Founded on February 12, 1909, the National Association for the Advancement of Colored People (“NAACP”) is the nation’s oldest, largest and most widely recognized grassroots civil rights organization. The mission of the NAACP is to ensure the political, educational, social, and economic equality of rights of all persons and to eliminate racial hatred and racial discrimination.

The Detroit Branch NAACP, founded in 1912 and recognized as the largest Branch of the NAACP, launched its “And Justice For All” campaign to address various problems with Michigan’s justice system, including but not limited to, indigent and juvenile public defense.

We believe that it is time for the lawmakers of this state to act and ensure that all of Michigan’s residents, irrespective of race, have competent, qualified attorneys, and equal access to the justice system.

Consequently, the Detroit Branch supports HB 5804, and urges its passage by the Michigan Legislature.

Yours for Justice,



Rev. Dr. Wendell Anthony

President, Detroit NAACP

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<sup>4</sup> AlterNet.org, “14 Shocking Facts That Prove the Criminal Justice System is Racist” – July 26, 2010



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**Donald L. Johnson**  
*Chief Defender  
State Defender Office  
Criminal Law Group*

August 29, 2012

John Walsh, Chair  
House Judiciary Committee

RE: Michigan Indigent Defense Commission Act

Dear Chairperson Walsh:

Please accept this letter of support for the recently-introduced House Bill (HB) 5804 (Michigan Indigent Defense Commission Act). The Legal Aid and Defender Association, Inc. (LAD) is one of the oldest providers of legal services to low-income individuals in the country, and the largest and oldest in Michigan. LAD has been providing high quality legal representation as appointed counsel to those charged with felonies in state court since 1968, and federal court since 1973.

The passage of HB 5804 will create a system in which all circuit courts are providing the same high quality representation and constitutional protections to all indigent clients throughout the state.

Today each county circuit court has its own system of indigent defense. Only two have a full-time "public defender" office with full-time paid criminal defense lawyers. The remaining counties use some form of an assigned counsel system in which private attorneys are assigned cases for a set fee.

These fees vary from county to county and are so low that there are no incentives to use investigators, depositions, or go to trial. Thus most cases are settled with no client appearance before a judge. In fact, Michigan's assigned counsel fees have historically been so low that Michigan ranks among the bottom three states in fees paid to assigned counsel.

*Providing High Quality Legal Services to Disadvantaged Residents of Metro Detroit Since 1909.*



*Legal Aid and Defender Association, Inc. is funded by the Legal Services Corporation, United Way for Southeastern Michigan, Michigan State Bar Foundation, City of Detroit, Wayne County, Administrative Office of U.S. Courts, U.S. Department of Housing and Urban Development and private donations*



Chairperson Walsh  
August 29, 2012  
Page 2 of 2

HB 5804 is the first critical step in ensuring those rights for indigent defendants throughout the State of Michigan, and to ensure that legal representation of indigent defendants will be available in an equal and equitable manner.

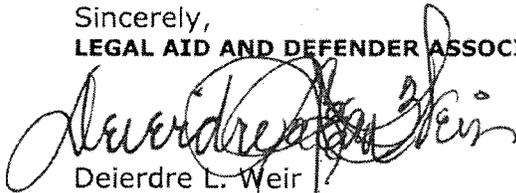
The law will ensure the public's safety because an evenly applied public defense system will reduce recidivism. Over the long haul it will reduce taxpayer costs because fewer cases will go to appellate court. The law will establish minimum standards and mirror the statewide standards and principles for an effective public defense of the American Bar Association. And it will uphold Michigan's constitutional duty to provide effective assistance of counsel to residents unable to afford an attorney.

This act indicates the keen recognition that public defense reform is badly needed and overdue. House Bill 5804 provides a window of opportunity to all of us to do the right thing and create a public defense system that can be among the best in the nation.

We realize that much deliberation lies ahead for this HB 5804, but we are confident and hopeful that your committee will turn the bill into law.

Thank you for your consideration.

Sincerely,  
**LEGAL AID AND DEFENDER ASSOCIATION, INC.**



Deirdre L. Weir  
President & CEO



# Council of Baptist Pastors of Detroit & Vicinity, Inc.

5715 Holcomb at Chapin, Detroit, Michigan 48213 313-923-3060

September 11, 2012

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The Hon. John Walsh  
Chair, Judiciary Committee  
Michigan House of Representatives  
Anderson House Office Building  
Lansing, Michigan 48933

Re: The Michigan Indigent Defense Act (HB 5804)

Dear Chairman Walsh:

On behalf of The Council of Baptist Pastors of Detroit & Vicinity, Inc., I write in support of the Michigan Indigent Defense Act (HB 5804).

According to a June 2008 study by the National Legal Aid and Defender Association, it was found that Michigan failed to provide competent representation to those who cannot afford counsel within the criminal courts, and ranked 44 out of 50 states in the amount of money allocated to public defense.

We also know that low-income people of color are disproportionately affected by this inadequate system. Studies have shown that, when charged with a crime, more than 77% of African-Americans rely on public defenders.

The Sixth Amendment of the United States Constitution requires the appointment of an attorney for one faced with criminal prosecution. We believe that the appointed attorney should be competent and qualified. We also believe that the attorney should have all of the resources enjoyed by the prosecution, including adequate funding.

We believe that HB 5804 will address some of the current inequities in the Michigan criminal justice system by creating a permanent Indigent Defense Commission to create and enforce standards, and maintaining current funding levels for local systems. We urge its passage.

Sincerely,

**DR. MICHAEL ANDREW OWENS**  
*(electronically sent)*

Rev. Dr. Michael Andrew Owens,  
President, Council of Baptist Pastors of Detroit & Vicinity, Inc.

GENERAL LEGAL COUNSEL Bertram  
L Marks, Esq., D. Mi.



# ARAB-AMERICAN CIVIL RIGHTS LEAGUE

September 11, 2012

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The Hon. John Walsh  
Chair, Judiciary Committee  
Michigan House of Representatives  
Anderson House Office Building  
Lansing, Michigan 48933

*Re: The Michigan Indigent Defense Act (HB 5804)*

Dear Chairman Walsh:

As you may know, in October of 2011, Governor Rick Snyder created the Indigent Defense Advisory Commission to investigate long-standing problems in Michigan's public defense system and recommend reforms. As a result, the Michigan Indigent Defense Commission Act (House Bill 5804) was introduced on Aug. 15, 2012 with bipartisan support from the 75 members of the House of Representatives who co-sponsored this legislation.

HB 5804 will reform indigent defense by setting forth a number of provisions: namely, the creation of a Commission, the collection data, the implementation and application of statewide measures to ensure county compliance and a method for the Commission to measure performance, setting forth a mechanism to enforce statewide measures via the Commission, and maintain at minimum, the current funding while also providing for additional funding, just to name a few.

This brief overview highlights the dire need for reform and accountability in this great state. We cannot let our most vulnerable citizens of our

society fall into the loopholes and deficiencies of the current criminal justice system. For any society is only as strong as its weakest citizenry.

The time is now for our lawmakers to protect all of Michigan's residents and ensure that they are provided with constitutional protections and equal access to the justice system.

Thus, we at ACRL support HB 5804, and urge its passage by the Michigan Legislature.

Respectfully,  
  
Rashid Baydoun  
Executive Director

  
Nabih H. Ayad  
Chairman of the Board

DETROIT  
300

September 11, 2012

The Hon. John Walsh  
Chair, Judiciary Committee  
Michigan House of Representatives  
Anderson House Office Building  
Lansing, Michigan 48933

Re: The Michigan Indigent Defense Act (HB 5804)

Dear Chairman Walsh:

The United States Supreme Court's 1963 decision in *Gideon v Wainwright* imposed on the states the responsibility for providing counsel to indigent persons in any case that may result in a loss of liberty. In response, Michigan has adopted one of the most dysfunctional and discriminatory public defense systems in the country.

According to a June 2008 study by the National Legal Aid and Defender Association, it was found that Michigan failed to provide competent representation to those who cannot afford counsel within the criminal courts, and ranked 44<sup>th</sup> in the country as it relates to the amount of money allocated to public defense.

Low-income people of color are disproportionately among those who need access to adequate and qualified public defense. As a result, people of color are disparately impacted by Michigan's failing public defense system. For instance, African Americans make up only 14.2 percent of Michigan's population, but they account for 54.8 percent of Michigan's prison population. Nationally, a U.S. Department of Justice survey showed that 77 percent of African Americans and 73 percent of Latinos in state prisons were presented by public defense attorneys.

According to Bill Quigley, a human rights lawyer and professor of law at Loyola University New Orleans, "...once arrested, 80% of the people in the criminal justice system get a public defender for their lawyer." Given the overwhelming number of African Americans incarcerated in Michigan prisons, a quality public defender system is critically necessary to avoid the continuing systematic violations of constitutional rights.

I believe that the pursuit of justice is a fundamental principle of American democracy and the substratum upon which our great country was established. It is for this reason that I am compelled to support the passage of The Michigan Indigent Defense Act (HB 5804).

The scope of the Detroit 300's work has been to galvanize and organize community volunteers to prevent crimes against the most vulnerable of Michigan citizens, specifically women, elders and

children. While we recognize that many of the individuals we have assisted with bringing to justice have been rightfully convicted and sent to prison, we strongly advocate for everyone to have FAIR access to the instruments of due process. It is my contention that no individual should be denied access to adequate legal defense solely because of their socio-economic location. Some of our 3500 volunteers are returning citizens (formerly incarcerated persons), some of which have been wrongfully convicted because of their inability to access adequate public defense.

Although we are not a political organization, I believe in the just and fair treatment for all citizens of the state of Michigan. I encourage lawmakers of this state to act and ensure that all of Michigan's residents, irrespective of race, have competent, qualified attorneys, and equal access to the justice system.

I strongly support HB 5804, and encourage its passage by the Michigan Legislature.

Respectfully yours,



Teferi Brent, MBA  
Founding Member  
Detroit 300  
313-437-2711