



The Pennsylvania Interbranch Commission for Gender, Racial, and Ethnic Fairness

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FOR IMMEDIATE RELEASE

Historic Move to Reform Indigent Defense Services in Pennsylvania: Committee Initiatives and Continued Challenges

HARRISBURG, PA, July 5, 2024 - On June 13, 2024, the ACLU of Pennsylvania (ACLU-PA) filed a lawsuit against Governor Shapiro, state Senate President Pro Tempore Kim Ward, and state House Speaker Joanna McClinton, challenging the Commonwealth's indigent defense system.

The ACLU-PA's complaint details several significant allegations against the Commonwealth. Among those complaints are:

1. **Lack of State Funding and Oversight:** The ACLU-PA asserts that until recently, the Commonwealth neither provided funding for nor offered meaningful oversight of its decentralized indigent defense system. According to the ACLU-PA, the Public Defender Act of 1968 delegated this responsibility to individual counties, resulting in systemic failures across Pennsylvania's 67 counties. They allege that this delegation has led to inconsistent and often inadequate legal representation for indigent defendants.
2. **Inadequate Representation:** The ACLU-PA claims that due to insufficient financial support and oversight, most counties fail to consistently provide effective representation at each stage of criminal proceedings. The organization indicates that the resources and quality of indigent defense vary drastically from county to county, leaving many indigent defendants without meaningful legal assistance.
3. **Excessive Caseloads:** According to the ACLU-PA, indigent defense attorneys are overwhelmed with caseloads that far exceed national standards, leading to situations where indigent defendants are effectively denied proper counsel. The complaint states that attorneys lack the time, resources, and training to provide adequate defense, resulting in many defendants facing prosecution without sufficient legal support.
4. **Systemic Failures:** The ACLU-PA maintains that the lack of state-based funding has produced numerous system deficiencies, including lack of communication between defendants and their attorneys, inadequate investigation and preparation for cases, absence of expert witnesses, and plea deals made without proper understanding of the defendants' circumstances. The complaint argues that these failures undermine the constitutional right to effective legal representation.
5. **Historical and Ongoing Issues:** The ACLU-PA states that both the Supreme Court's Committee on Racial and Gender Bias in the Justice System and the General Assembly's Task Force and Advisory Committee on Services to Indigent Criminal Defendants have previously



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identified these deficiencies. Despite recognition of these issues, the ACLU-PA contends that fundamental systemic problems persist.

6. **Individual Cases:** The ACLU-PA complaint includes specific examples of individuals who have suffered due to the inadequacies of the indigent defense system. These cases are designed to underscore the tangible impact of systemic failures, with defendants experiencing long periods of pretrial detention due to insufficient legal representation.

The ACLU-PA is seeking declaratory judgment from the court providing that the Commonwealth has an obligation under both the Pennsylvania and United States Constitutions to provide effective assistance of counsel to indigent defendants.

History of Interbranch Commission’s Efforts to Secure Effective Indigent Defense Services

The Interbranch Commission has diligently advocated for the funding and reform of indigent defense services in our Commonwealth for nearly two decades. In 1999, the Supreme Court of Pennsylvania appointed a special committee to study racial and gender bias in the Pennsylvania justice system. After three and a half years, that study culminated in a report containing nearly 200 recommendations to address inequities.

The Interbranch Commission was specifically created to implement the recommendations from that report. An appreciable number of these recommendations focused on the provision of adequate indigent defense counsel by securing sufficient funding and other resources, statewide professional standards and oversight, and uniform methods of data collection statewide.

Recognizing that the impact of system deficiencies falls disproportionately upon racial and ethnic minorities, the Interbranch Commission began convening – and continues to convene – meetings with legislators and relevant stakeholders to secure funding and support for recommended reforms.

At the request of bipartisan legislative leaders, the Commission also drafted and submitted a first-of-its-kind report, entitled *Memorandum in Support of Reform of the Provision of Criminal Indigent Defense Services in Pennsylvania*, in October 2020. The memorandum sets forth a detailed plan for reform of Pennsylvania’s indigent defense system and contains an analysis of the costs and benefits of implementing those reforms.

Efforts and Responsibilities of the Indigent Defense Advisory Committee

The Indigent Defense Advisory Committee, established by Act 34 of 2023 within the Pennsylvania Commission on Crime and Delinquency (“PCCD”), develops statewide standards for indigent defense services and allocates funding to judicial districts across the Commonwealth. A historic \$7.5 million of indigent defense funding was included in the 2023-24 budget for indigent defense services. Executive Director Maraleen Shields of the Interbranch Commission serves as an *ex officio* member of



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the Committee, providing guidance. Sara Jacobson, Executive Director of the Public Defender Association of Pennsylvania and a member of the Interbranch Commission's LGBTQ+ Rights Committee, has played an instrumental role in supporting the work of the Advisory Committee.

During its June meeting, the Advisory Committee achieved a significant milestone, approving over \$6.6 million in indigent defense funding to Pennsylvania's counties pursuant to Act 34's Indigent Defense Grant Program. This funding, which marks the first time that state-based dollars have supplemented county expenditures, is an important step forward in ensuring that all Pennsylvanians have access to effective legal counsel. Counties plan to use the funds to recruit and retain staff, upgrade technology and equipment, and improve data collection and reporting capacity. These efforts aim to enhance the capacity and effectiveness of indigent defense services across the state. Governor Shapiro's administration proposed an additional \$10 million for indigent defense services in the 2024-25 budget.

"Despite these crucial advancements, we recognize that the battle for sufficient indigent defense funding is far from over," said Executive Director Shields. She continued, "The Commission remains steadfast in its commitment to advocating for additional resources and legislative support. Efforts will be continued to ensure this critical issue stays at the forefront of public and governmental attention. The provision of effective indigent defense services will require sufficient funding, sustained institutional support, and a commitment to empowering Pennsylvanians with knowledge of their rights."

About the Pennsylvania Interbranch Commission for Gender, Racial, and Ethnic Fairness

The Interbranch Commission for Gender, Racial, and Ethnic Fairness was established in 2005 by the three branches of Pennsylvania government. The purpose of the Interbranch Commission is to promote equal application of the law. The Interbranch Commission fulfills its purpose by implementing the findings and recommendations of the 2003 Final Report by the Pennsylvania Supreme Court Committee on Racial and Gender Bias in the Justice System; investigating and implementing new initiatives that may not have been addressed by that Report; suggesting ways to reduce bias in all three branches of Pennsylvania government; raising both public and professional awareness of its work; and increasing public confidence in Pennsylvania government.

For more information, please contact:

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