

LETTER SPOTLIGHT**Norm Lefstein****Defense vital for fair system of justice**

I applaud the Dec. 24 Star editorial concerning the lack of a pay raise in seven years for judges and prosecutors. We should not be satisfied that the salaries of Indiana's judges rank 47th in the nation. However, the editorial neglects to mention the woeful lack of financial support in Indiana for defense representation of the poor in criminal and juvenile cases.

Former U.S. Supreme Court Justice Warren Burger once compared the criminal justice system to a three-legged stool, consisting of judges, prosecutors and defense lawyers. If any leg of the stool is not adequately supported, the fair administration of justice in our courts is jeopardized.

Data compiled this past fall by the American Bar Association show that indigent defense expenditures per capita rank Indiana 46th among the 50 states. Only Arkansas, Mississippi, North Dakota and Utah lag behind our state. Moreover, the state's financial support for judges and prosecutors far exceeds the sum provided for indigent defense trial and appellate representation.

During the 1990s, the legislature established the Indiana Public Defender Commission and authorized it to reimburse Indiana's counties if they adopted standards designed to improve their systems of defense representation. The statutory scheme in Indiana has often been cited as a national model illustrating how a state can enhance indigent defense services by encouraging counties to improve their defense representation programs while reducing the burden on local taxpayers.

However, the commission's annual appropriation of \$7 million is totally inadequate for the task it has been assigned, and re-cent attempts to augment its appropriation have been unsuccessful. As a result, starting last fiscal year, as required by law, the commission began reducing its reimbursements to the more than 50 Indiana counties that have adopted standards and sought to improve their defense services.

The year 2003 marked the 40th anniversary of the U.S. Supreme Court's decision in Gideon v. Wainwright, which established the right of poor persons to attorneys at government expense in state felony prosecutions. Since Gideon and the Supreme Court's subsequent "right to counsel" cases were decided, Indiana has struggled to provide effective defense services for those unable to afford counsel.

Well-trained and adequately supported defense lawyers are essential to achieve fairness in our justice system and to protect innocent persons from wrongful conviction. Repeatedly in recent years, we have witnessed in Indiana and in other states, thanks to DNA evidence, the release of prisoners who were not guilty of the crimes for which they were convicted. When these wrongful convictions are examined, too often we discover the defendants had lawyers who were neither sufficiently trained nor well compensated, and were not provided investigative or other vital support services necessary to mount an effective defense.

Of course, we need to do better for Indiana's judges and prosecutors. But let us not forget the defense leg of the criminal justice stool, which has been, and continues to be, too often neglected in our society.

- **Lefstein is chairman of the Indiana Public Defender Commission.**