

JUDICIAL CROSSROADS TASK FORCE ACCESS TO JUSTICE COMMITTEE

Findings:

- **Coordination** The network of processes and services aimed at providing justice connects with, but is larger than, the court system itself. Lack of coordination throughout this larger network undermines the quality of justice and increases costs. Strains on the system as the result of ongoing economic and demographic changes are likely to exacerbate the negative effects of lack of coordination.
- **Self-help** A large and growing number of people represent themselves in civil matters, and most have no help doing so.
- **Disparate Treatment** Perceptions of discrimination, insensitivity and lack of cultural competence in relation to non-minority groups challenge the credibility, effectiveness and equitable nature of our judicial process.
- **Language** Interpretation services in Michigan courts are underfunded and inconsistently applied across courts, in many cases in violation of constitutional requirements.
- **Child Welfare** Measures taken to prevent children from ending up in the juvenile justice system and abuse and neglect system are cost-effective. Children and families of color experience significantly worse outcomes in the child welfare system than do non-minority children.
- **Indigent Defense** Michigan has tolerated an indigent defense system so lacking in resources that assigned counsel can only occasionally provide the effective assistance of counsel guaranteed by the U.S. and Michigan constitutions, causing large downstream costs and the risk of costly litigation.
- **Indigence, Fees, Fines and Costs** Imposing legal financial obligations on people who can't afford to pay limits access to justice and increases taxpayer costs. The absence of clear standards for determining indigence and for enforcing payment orders leads to inconsistency about who qualifies for waiver and for appointed counsel.
- **Problem-solving (Specialty) Courts** Problem-solving courts reduce recidivism, increasing public safety and saving tax dollars.

Recommendations:

- **Coordination** Create a Justice Advisory Board for Access and Fairness that meets biannually and includes members from key judicial and extra-judicial stakeholders.
- **Self-Help** Establish a pilot statewide self-help website linked to established and pilot on-the-ground self-help centers, complemented by a comprehensive self-help curriculum for judges and judicial staff and appropriate rule and ethics changes. ■
- **Disparate Treatment**
 - Promulgate a Commitment to Service and Procedural Fairness pledge.
 - Educate judges and quasi-judicial officers about implicit and explicit bias, procedural fairness, and the impact of discrimination and stereotyping on court processes. ■
 - Evaluate all relevant written court system documents for Plain English and cross-cultural and bias issues. ■
- **Language**
 - Advocate for revisions to statutes concerning use of foreign language interpreters and for adequate funding. In the interim, direct all judges to appoint state certified/approved interpreters for limited English proficient and non-English speaking litigants in as many court proceedings as possible, recognizing fiscal and other limitations, and establish a process for enforcing judicial compliance. ■
 - Use technology to identify, collect data, track needs, and monitor use of interpreters. ■
- **Child Welfare**
 - Direct scarce resources to early childhood community-based services.

- Use judicial leadership and case docket management more effectively to ensure quality representation and reduce the length of time children wait for a permanent home. 🏛️
- Mandate training for judges and CLE for lawyers. 🏛️ 📖
- Collect, analyze, and report data that can be used to improve the performance of the system as measured by outcomes for families and children at each critical decision-making point. 🏛️
- Review child welfare policies, procedures, programs and contracts to determine if they disadvantage children, youths and families of color, and develop and enforce policies and practices that create a culture of inclusion, embrace diversity, and engage families and communities of color.
- Institutionalize partnerships between the Michigan Supreme Court/SCAO and tribal courts, the Michigan Indian Judicial Association, lawyers, and other stakeholders in Indian/First Nation issue to improve meaning access to justice in Michigan state courts. 🏛️
- Support the enactment of federal Indian Child Welfare Act concepts into Michigan law.
- **Indigent Defense**
 - Make indigent defense reform in support of the 11 Principles for an Effective Public Defense System the top legislative priority.
 - Advocate for the state’s full assumption of funding for the constitutionally mandated right to counsel for indigent defendants.
 - Facilitate collaboration of indigent defense service providers with civil legal aid providers to help defendants and their families have access to necessary civil assistance.
- **Indigence, Fees, Fines and Costs** 🏛️
 - Establish clear and consistent standards, court rules and legislation about indigence and enforcement, and reinforce with SCAO policies and MJI training. 🏛️
 - Ensure that any statewide court data system includes information the number of fee waivers requested and granted, when fees and fines are imposed, and collection/enforcement efforts. 🏛️
 - Limit the extent to which court fines, fees, and costs are relied upon to address budget problems.
 - Reform the driver responsibility law.
- **Problem-solving (Specialty) Courts** 🏛️
 - Expand eligibility criteria for specialty courts to include nonresidents of the court’s jurisdiction, allow transfer to a specialty court closer to the defendant’s residence. 🏛️
 - Expand eligibility criteria for specialty courts to include and target high risk offenders, and/or restrict local control by modifying the definition of “violent offender,” and make admission contingent on completion of a risk and needs assessment. 🏛️
 - Encourage shared funding unit resources for specialty courts and/or regional specialty courts. 🏛️
 - Make access to mental health and substance abuse easier in all specialty courts. 🏛️
 - Refer only high-risk offenders and those with special needs to probation for presentence reports.
 - Convene stakeholders to identify gaps and reduce duplication of services, and coordinate and train across systems to save costs and improve outcomes. 🏛️
 - Change the law to allow some OWI defendants to receive a limited restricted license while they are participating in sobriety/OWI court. 🏛️
 - Amend the Michigan Code of Judicial Conduct to make it clear that judges may engage in ex parte communications expressly authorized by law when serving on therapeutic or problem-solving courts, mental health courts, or drug courts.

Structure and Resources 🏛️
Technology 📖