

A PROPOSED WITNESS RESOLUTION¹

IMPROVING LEGAL JUSTICE IN MICHIGAN

1 WHEREAS, in the last three decades, over 400 innocent American defendants have been
2 exonerated and freed including more than a hundred who had been sentenced to death;²

3 WHEREAS, people from lower economic strata are less likely to have the financial means for
4 adequate legal defense;

5 WHEREAS, inadequate legal defense is a major cause of wrongful convictions;³

6 WHEREAS, the United States Supreme Court's 1963 decision in *Gideon v Wainwright* imposed
7 on the states the responsibility for providing counsel to indigent persons in any case that may
8 result in a loss of liberty;

9 WHEREAS, The State Bar of Michigan's Representative Assembly in 2002 adopted
10 fundamental national standards⁴ for a public defense delivery system to provide effective,
11 efficient, quality, and ethical representation to those in criminal proceedings who cannot afford
12 to hire an attorney;

13 WHEREAS, the Campaign for Justice is a broad-based group of organizations and individuals
14 fighting for a fair and effective public defense system in Michigan;

15 **BE IT RESOLVED that Michigan Conference of the United Church of Christ supports**
16 **the establishment of a state-funded public defense delivery system in Michigan that meets**
17 **national standards;**

18 **BE IT FURTHER RESOLVED that Michigan Conference of the United Church of Christ**
19 **will join and will encourage its members to participate in the Michigan Conference of the**
20 **United Church of Christ.**

¹ Resolution proposed by Rev. RJ Hronek; Co-facilitator of the Prophetic Integrity Mission Area Team

² Samuel R. Gross, *Convicting the Innocent*, Annual Review of Law and Social Science, 2008.4:173-192

³ The Innocence Project, *Understand the Causes: Bad Lawyering* (January 2011). Retrieved on June 30, 2011 from <http://www.innocenceproject.org/understand/Bad-Lawyering.php>

⁴ Michigan Campaign for Justice, *Eleven Principles of a Public Defense Delivery System* (2011). Retrieved on June 30, 2011 from http://www.michigancampaignforjustice.org/eleven_principles.php

BACKGROUND: In the United States, 2% of death sentences are based on false convictions.⁵ The 2% false conviction rate in those cases where the penalty is the most severe suggests that these rates may even be higher for lesser crimes. In fact, from 1979 through 2003, capital cases which represent less than 0.1% of prison sentences, accounted for about 22% of known exonerations.⁶ Furthermore, over 95% of the individual exonerations are in murder or rape cases, which together account for about 2% of all felony convictions and a smaller proportion of all criminal convictions.⁷ The truth is that beyond murder and rape cases, very little is known about any aspect of false convictions. There is no way to know how many prisoners were convicted wrongfully for lesser crimes.

In their research on wrongful convictions, The Innocence Project (www.innocenceproject.org), an organization dedicated to freeing wrongfully imprisoned people, has identified seven major causes of false convictions.⁸ One of these causes is what The Innocence Project describes as “Bad Lawyering”. More specifically, “Bad Lawyering” is described as an attorney who is ineffective, incompetent and/or overburdened. The Innocence Project states that the legal system is “stacked” against poor defendants. The Innocence Project concludes that shrinking funds and access to resources for public defenders makes the situation even more difficult for the indigent.

The public defense system in our state is particularly woeful. In a 2008 study conducted by the National Legal Aid and Defender Association, Michigan ranked 44th of the 50 states – just ahead of Texas and just behind South Carolina- in per capita spending for public defense at \$7.35/person. The national average was \$11.86/person.⁹ In 2002, the Michigan Bar adopted the “Eleven Principles of a Public Defense Delivery System”¹⁰. The Michigan Campaign for Justice released a “report card” for Michigan’s Public Defense System based on these 11 principles in June 2008. The highest grade Michigan’s Public Defense System received was a “C” or average. The state received a failing grade (“F”) in 5 of the 11 categories and was below average (“D”) in five others.¹¹

The CFJ is a group of organizations and individuals fighting for a fair and effective public defense system in Michigan. Since 2008, CFJ has been raising awareness in our state of the issues with the public defense system. The organization has been active in lobbying efforts, organizing community events and conversations, media and other communications efforts as well as developing legislation that has been introduced into the state legislature. In addition, CFJ has organized statewide conferences on Michigan’s public defense system. In its three years of existence, CFJ has gained the endorsement of over seventy different organizations here in the state. Several faith-based organizations have joined the coalition including the Michigan Catholic Conference, Michigan Jewish Conference, and American Friends Service Committee Criminal Justice Program.¹² CFJ is a 501(c)(4) non-partisan, not-for profit funded by The Atlantic Philanthropies.

⁵ Gross,(2008).

⁶ Samuel R. Gross and Barbara O’Brien, *Frequency and Predictors of False Conviction: Why We Know So Little, and New Data on Capital Cases*, Journal of Empirical Legal Studies 5, no. 4 (2008): 927-62.

⁷ Durose, Matthew and Patrick A. Langan , *Felony Sentences in State Courts, 2000*, Bureau of Justice Statistics, Office of Justices Programs, U.S. Department of Justice, NCJ 198821 (2003).

⁸ The Innocence Project, *Understand the Causes* (January 2011). Retrieved on June 30, 2011 from <http://www.innocenceproject.org/understand/>.

⁹ National Legal Aid and Defender Association, *Evaluation of Trial-Level Indigent Defense Systems in Michigan A Race to the Bottom Speed & Savings Over Due Process: A Constitutional Crisis*, June 2008, p. iii.

¹⁰ Michigan Campaign for Justice, (2011).

¹¹ Michigan Campaign for Justice, *Michigan Report Card*, Retrieved on July 5, 2011 from http://www.michigancampaignforjustice.org/michigan_report_card.php.

¹² Michigan Campaign for Justice, *The Coalition* (2011). Retrieved on July 12, 2011 from http://www.michigancampaignforjustice.org/the_coalition.php

BIBLICAL/THEOLOGICAL RATIONALE: In Luke's Gospel, at the beginning of his Galilean ministry, Jesus stands up in the synagogue at Nazareth during Sabbath services. The attendant gives him the scroll of the prophet Isaiah. Jesus takes the scroll, unrolls it, and looks for a specific passage. After finding the passage, he reads it to them, "The Spirit of the Lord is upon me, because he has anointed me to bring good news to the poor. He has sent me to proclaim release to the captives and recovery of sight to the blind, to let the oppressed go free" (Luke 4:18, NRSV). Who is more oppressed than an innocent prisoner? What captive deserves release more than a wrongfully convicted human being?

After reading this passage Jesus tells the congregation, "Today this scripture has been fulfilled in your hearing" (Luke 4:21b, NRSV). Here in our country, innocent people go to jail nearly every day. As was mentioned previously, 2% of death sentences are based on false convictions with little data available on lesser crimes. If in the most serious of crimes, we still get it wrong, how much more will we miss the mark in lesser crimes? No one wants to send an innocent person to jail. The legal justice system does convict the right person - most of the time. Due to the high rate of proper convictions, once a person is wrongfully convicted, it makes even more difficult to prove their innocence. The track record here in the U.S. and the state tells us that our legal justice system has made mistakes as well. The work of the Campaign for Justice will help us to avoid making these mistakes in the first place. In this work, we, as Jesus' disciples, will fulfill his mission. We will prevent people from wrongfully becoming captives in our prisons; from being wrongfully oppressed by our state.

Given the difficulty of overturning a conviction, to avoid having innocent people in prison is the best way to approach this issue. In our legal justice system, many indigent find themselves in the situation similar to an indigent, itinerant Galilean rabbi before the power of Rome in ancient Jerusalem. Jesus was asked to speak for himself before Pilate. However, in a modern court of law, an indigent person cannot very well speak for him/herself. Given the weak public defense system here in our state, too many times the indigent have no one who can adequately speak for them. As a result of inadequate representation, we too many times end up with a miscarriage of legal justice just as happened in Jerusalem nearly 2000 years ago. We, too, end up denying an innocent person the right to fulfill their life in a meaningful way based on the freedom of their own choices.

In his letter to the Galatians, St. Paul writes, "There is no longer Jew or Greek, there is no longer slave or free, there is no longer male and female; for all of you are one in Christ Jesus" (Galatians 3:28, NRSV). In Luke 10:27, Jesus tells us that we are to love our neighbor as ourselves. While each of us has our own unique set of gifts, we are all children of God. As children of God, the indigent should have the right to equal protection and adequate defense as prescribed in the laws of our nation. To do otherwise is not merely a gross injustice, but a moral outrage that goes to the core of our Christian identity. Our society teaches us that the value of a person's life is based on how much he or she achieves, owns, or earns. Those who are poor or indigent are seen as less valuable. However, as Abraham Lincoln once said, "God must love the poor. That is why He made so many of them." Based on Luke 4:18, Jesus himself has a preferential option for the poor. The least that we can do as Jesus' later day disciples is to ensure that the poor receive adequate legal representation.

Implementation: The Prophetic Integrity Mission Area Team will be responsible for implementation.

Financial Implications: Funding for this resolution will be made in accordance with the overall mandate of the Prophetic Integrity Mission Area Team and the funds available.