

June 25th, 2019

Dear Members of the Ohio Conference Committee:

We represent a network throughout the state that empowers and supports low-income Ohioans to address the root causes of poverty on critical issues that impact their lives. We have been listening to the experiences of graduates from the *Getting Ahead* programs to learn more about their experiences with the justice system in Ohio, surfacing a clear need for increased funding and additional reforms within the public defender system.

We want to encourage the General Assembly to maintain the budget increases for indigent defense. These funds increase the percentage the state covers for public defenders, relieving cash strapped counties and freeing County funds to meet other local needs. The increased funding will also increase staffing within the Office of the Public Defender to meet the demand for services, something critically needed after two decades of ongoing underfunding.

We also support the task force to study the efficacy of the current public defender system, which has been included in the budget bills. However, it is typical that users of the systems are included on these types of task forces. Mental Health, Substance Abuse, and Reentry advisory groups have always included “consumers of the system.” Recovery Ohio is a recent example from this administration that included such persons. Therefore, we request that the composition of the task force ensure that one person serving on the task force be a member of the public that has used a public defender for representation. We work directly with individuals who fit this category and are willing to work with the task force so their voices can be heard.

These issues matter to our network because the state is constitutionally required to ensure that poor defendants receive a fair trial and due process. This right has been greatly challenged by understaffing. Approximately 80% of criminal defendants charged with felonies rely on public counsel for their defense.ⁱ Public defenders are under resourced and must keep up with unending demand. As testified by the Office of the Public Defender, Lawyers are pleading innocent people guilty because they only make \$800 to take a felony case to trial.ⁱⁱ Local rates remained so low that appointed counsel in one Ohio county refused to take any more cases until the rates and caps were raised.ⁱⁱⁱ We thank you for recognizing this and urge you to support funding increases as outlined by the Ohio Public Defender’s Office.

Under the current system, public defenders also may resort to simply processing people through the system, resulting in higher rates of incarceration and costs to the state. Low-income Ohioans also report systemic struggles obtaining time and attention with counsel on their cases. The following testimonies from our network demonstrate the need for the additional funding and a task for to further suggest improvements for indigent defense:

“I was arrested for theft at my minimum wage workplace during a time when I was facing homelessness with a newborn child. I was held in jail a week. The only time I saw my public defender was briefly on the day of court. I wasn’t contacted before the case or sent any information in advance. I didn’t really know how anything worked because it was my first time getting in trouble. At the court date, I just signed the paper that the public defender gave me. He didn’t tell me I had an option to sign. He just told me, “this is for the probation,” “this is for the restitution,” but he didn’t tell me how much I would owe. I just put my name on the paper because I was going through so much stress being homeless, being jailed, having kids

-- I was just trying to get everything done. I didn't know what to ask, what my rights were, or if I could ask to see the judge myself to explain and ask questions. I didn't realize until four years later, when my probation officer was looking at my case and explained it to me, that I realized I had pled to the theft of nearly \$30k! I really had only stolen around \$6k. They had no evidence either. I would have not have signed those papers if I had known this. I owe so much in restitution. I believe people in my situation should have more time with their attorney to fully understand what is going on. More funding for the system could help make some changes that could result in better outcomes." -- Getting Ahead Graduate

"Public defenders are important, but they are so overloaded. I have called public defenders for my son and they don't even know who he is. I think it is extremely important they have more resources. My son has had 30 cases linked to his severe mental illness. The public defenders never call me to get medical information in advance. I have to call them. Unless I call and give them information, they expect the information sharing and to happen right as they are going in to defend him -- just moments before court. They should have access to -- like his medical records, his extensive mental health records -- but they need time to get it, look it over, and bring it to court to explain everything. It seems they don't have time to do it. Without me bringing it up, they don't often know my son's history. They have sometimes switched lawyers on his cases as well, which also adds to complications. It is very unfortunate for others with mental illness who do not have a family member helping them and getting critical medical histories to their attorneys. These attorneys' need more time to adequately respond to the needs of those on their caseloads." -- Getting Ahead Graduate, Mother of a son with mental illness

"If I could change anything about our system it's that I need more time. The courts are jammed up and they don't always want to give you more time. I always try to do the best job that I can for clients. I think the judges treat people fairly in my county, attorneys and defendants get treated fairly well, but it is just about dealing with the workload. The prosecutors have support staff, they have multiple paralegals, assistants, investigators, victim's advocates etc., But I am on my own with just one secretary. I don't have an investigator to go out and track down information or find someone for me. . . . I have advised clients that you can get a good result or a quick result, sometimes not the both at the same time. Many people want to just get it over with, and they don't have the time or money to come back to court and after a while their resolve weakens. They have to take off work. They can't afford the gas, and the time is cumbersome. The stress is off people in the community and in their house (after posting bond). But there is a lot of pressure on the people who are in the jail who cannot afford bond." -- Public Defender with 17 years' experience

Thank you again for the work you do and for the efforts you are taking in this budget to improve the justice system in Ohio.

Sincerely,

Philip DeVol

President, DeVol & Associates LLC
Author: *Getting Ahead in a Just-Gettin'-By World, Bridges to Sustainable Communities*; Co-Author: *Bridges Across Every Divide, Bridges out of Poverty*

Wendy Tarr

Executive, Director, Vincentian Ohio Action Network (VOAN) & Program Director, Accompanying Returning Citizens with Hope (ARCH)

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Franklin County

Sonia Holycross

Education & Family Development Coordinator
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Miami County

Newark Think Tank on Poverty

Lancaster Think Tank on Poverty

Perry County Think Tank on Poverty

Zanesville Think Tank on Poverty

Mitch Libster

Attorney
Co-author: *Getting Ahead While Getting Out*
Marion County

Hancock County Getting Ahead Graduates and Allies

Marion County Getting Ahead Graduates and Allies

Licking County Getting Ahead Graduates and Allies

Franklin County Getting Ahead Graduates and Allies

Delaware County Getting Ahead Graduates and Allies

Lucas County Getting Ahead Graduates and Allies

ABOUT US:

Bridges Out of Poverty: In Ohio there are people in sixty-six counties who are familiar with and use *Bridges Out of Poverty* (Bridges) concepts to help people get out of poverty. Under the Bridges umbrella there are books, workshops, and strategies for people from all classes and many sectors including business, workforce development, education, post-secondary education, corrections and reentry, first responders, health, faith, and social services. *Getting Ahead in a Just-Gettin'-By World (GA)* is a learning experience for people in poverty. GA participants, called investigators, meet 16 times in focus groups to analyze the impact of poverty on individuals and the community and to make SMART goals to stabilize their lives and build resources. Thirty counties in Ohio have formed collaboratives made up of the individuals from all classes and various sectors to improve outcomes at the organization level and to build communities where everyone can live well. In 2017 and 2018 approximately 4,633 people in poverty in Ohio completed Getting Ahead focus groups. Getting Ahead graduates typically want to give back to their communities; many are willing to serve on planning committees and boards and to conduct focus groups on poverty issues in Ohio.

Society of St. Vincent de Paul, Diocesan Council (SVdP) is a Catholic lay organization that enables its members to live out the values of their faith and grow spiritually through person-to-person service to the needy and the suffering. Our Columbus SVdP has over 3,000 volunteers in 60 parish based conferences who daily run food pantries, clothing centers, homeless shelters, and provide other direct services to aid those in need. SVdP also operated a microloan program for those in need as an alternative to exploitative pay day lending companies. St. Vincent de Paul uses Bridges out of Poverty Trainings which are offered to our members and provides Getting Ahead classes in the region. SVdP locally supports the ARCH program, Accompanying Returning Citizens with Hope, a collaborative program with the Office for Social Concerns of the Catholic Diocese, that is working to equip and mobilize parishes around issues of reentry and criminal justice. Reentry and criminal justice issues are a national priority for the Society.

Vincentian Ohio Action Network was formed by the Society of St. Vincent de Paul, Diocesan Council of Columbus (SVDP) in 2015. VOAN works on long term systemic change and leadership development to address poverty that moves beyond individual charitable responses. VOAN has developed Think Tanks on Poverty in 5 Counties in Central Ohio – including the Newark Think Tank on Poverty, Zanesville Think Tank on Poverty, Perry

County Think Tank on Poverty, and Lancaster Think Tank on Poverty giving voice to those directly to low income Ohioans and helping to gain a seat at the table where decisions are being made. Our Think Tanks include individuals, organizations and various stakeholders in local communities committed to working together to advance systemic change efforts the address the challenges of poverty. VOAN also works with various networks in the Columbus area on larger issues impacting the state including reentry, criminal justice reform, affordable and safe housing, addiction and recovery, and various safety net services. VOAN has educated and engaged thousands of Central Ohioans in collaborative poverty alleviation and educational efforts.

ⁱ Robert P. Mosteller, "Failures of the American Adversarial System to Protect the Innocent and Conceptual Advantages in the Inquisitorial Design for Investigative Fairness." North Carolina Journal of International Law & Commercial Regulation. Vol. 36, No. 2. 2011.

ⁱⁱ <https://serialpodcast.org/season-three/1/a-bar-fight-walks-into-the-justice-center> - The series Serial Podcast, Season 3, focuses on the Cuyahoga County Justice System. The first installment tells the story of an innocent client and her lawyer who pleads her guilty despite her innocence, acknowledging that he will only make \$800 on the case and that he cannot be seen as 'rocking the boat' by taking the case to trial as he makes approximately 50% of his income by being appointed to cases.

ⁱⁱⁱ <https://www.dispatch.com/news/20180723/licking-county-defense-attorneys-refusing-new-cases-due-to-pay-issues> More than 40 attorneys sent a letter to all the judges in the county saying they would not accept new cases until the courts and county commissioners agree to a recommendation for a rate increase.