

Report: Indigent defendants need funds

By The Associated Press

GRAND ISLAND — Nebraska has come a long way in ensuring the poor receive fair legal representation — but it also has a long way to go, according to a report recently issued by the Nebraska Minority and Justice Task Force.

Specifically, Nebraska's system for representing those who can't afford to hire an attorney needs more money, the report said.

Indigent defense was completely funded by the individual budgets of Nebraska's 93 counties until 1995, when the Nebraska Commission on Public Advocacy was created.

Since then, the state has picked up about 4 percent of indigent defense costs. The Nebraska Commission on Public Advocacy is funded by filing fees and court costs in the state.

"The Legislature will have to be involved in becoming a financial part of funding the indigent defense system," said Dennis Keefe, Lancaster County public defender.

The commission provides a base of experienced criminal defense attorneys to help indigent defendants anywhere in the state, the report said.

But it also said cuts in the commission's funding make it difficult to ensure impoverished defendants get experienced, trained attorneys.

About \$850,000 initially was put in the commission's incentive fund to reimburse participating counties up to 25 percent of their indigent expenses, but the funding was cut two years ago amid state budget woes.

Hall County Public Defender Gerry Piccolo said if the fund had been left intact, his county would have been eligible for between \$50,000 and \$75,000 annually.

That money could be used to increase the hourly pay for court-appointed attorneys — an issue that the report said is keeping some experienced attorneys from representing impoverished defendants.

The report also suggested Nebraska implement a minimal representation fee for impoverished defendants to pay. It's believed the fee — suggested to be a \$40 waivable fee — could help in the psychology of representation.

"I'm 100 percent for it," Piccolo said. "If you don't pay me anything, I'm not worth anything."

Other suggestions in the report included requirements for continuing legal education and a more formalized method of determining if a defendant is truly indigent.

While at least one Nebraska county, Lancaster, does have staff to conduct indigence tests on defendants, Hall County Judge David Bush said he feels the practice most courts use — simply asking about indigence — works well.

Bush said he asks about income, number of dependents, outstanding debt and other assets. In some cases, he requires a defendant to fill out an indigence form just to make sure taxpayer dollars are being wisely spent.

"But in most cases, I can do this from the bench," Bush said.

Keefe, the Lancaster County public defender, said he thinks the state offers good representation for impoverished defendants overall. But he is often reminded of horror stories of those who needed representation and didn't get it.

"When you're dealing with people's lives and people's freedoms, you don't want holes there," Keefe said.