**You Have the Right to an Attorney, but It Might Cost You**

***Nicholas Miller The Nation 30 October 2023***

Joshua Sedgeman thought his court-appointed lawyer would be free. He was indigent after all, meaning his financial circumstances qualified him for public representation after he was arrested in 2015 for allegedly robbing a medical marijuana caregiver in Michigan. But in 2020, after a drawn-out trial and retrial process in which Sedgeman was convicted and sentenced to at least 20 years in prison, he was hit with his attorney bill: $21,070.

Public representation for indigent defendants is a right guaranteed by the Constitution according to the landmark Supreme Court ruling *Gideon v. Wainwright*. Despite the common perception of public defenders as free, approximately 40 states allow courts to charge indigent defendants for the use of a public defender or court-appointed counsel. Since 80 percent of defendants in the U.S. qualify for a court-appointed attorney, these fees are assessed frequently. “I was very surprised that I was being charged—and especially the amount that I was charged for attorneys that I honestly didn’t even use,” Sedgeman said before adding he was charged for investigators that he never met or spoke with.  After Sedgeman was sentenced and transferred to the Michigan Department of Corrections, the money began to be slowly taken out of his prisoner account. When his brother sent him $100, the court seized it all. That meant Sedgeman couldn’t buy things he needed: deodorant, clothing, toothpaste, or phone calls to communicate with his family.

Critics of public defense fees argue that they act as an additional punishment for exercising one’s constitutional right to an attorney, placing an unfair financial burden on the neediest members of society. They also encourage a defendant to waive the right to an attorney. And because most states have higher fees in cases that go to trial, the fees also motivate defendants to take a plea deal as opposed to “having their day in court,” he said.

Proponents defend the fees as an important source of revenue for a public defense system with skyrocketing expenditures. Judge Dee Johnson of Texas said she doesn’t support assessing fees on those who would never be able to pay them, but that the fees can be a valuable support to the justice system. “I do think that when someone commits a crime, they should have some responsibility for the cost to get them through the system,” she said. […]

Whether someone is assessed attorney fees that they can’t afford frequently depends on where they were arrested. Within states, different jurisdictions can vary wildly on their implementation of state attorney fee statutes. In Texas for example, judges in Harris County rarely assess the fees. In 2022, the county collected just $6,712 from indigent defendants even though the cost of representation totalled almost $97 million,. But Bell County, north of Austin, recouped over $500,000 from indigent defendants of the $2.6 million it spent on public defense.

Assessing and collecting these fees is expensive and time-consuming. “We spend a lot of time dealing with this,” said Pollard, a North Carolina public defender. “Time is money and there are so many people spending time to put all of this largely uncollectable debt on people.” […]

Public defender expenditures have spiked in recent years. Collectively, the U.S. now spends more than $6.5 billion on public defense, which is double what it spent in 2012, even when adjusted for inflation. However, criminal justice reform advocates point to the fact that public defense expenditure is still dwarfed by funding for police and prosecutors.  Young, a Ohio public defender, attributed that increase to the creation of workload standards for public defenders, which has forced offices to hire more attorneys. He also said that since there is more information and evidence available for attorneys to review as a result of technology, defenders have to spend more time on each case.

 “The right to an attorney should be a universal right for those who are navigating our criminal justice system,” said New Jersey Governor Phil Murphy after signing a bill eliminating public defender fees. “For too long, we have witnessed many residents suffer from the steep prices of a public defender, many times causing them to go into debt just to cover their legal fees, and disproportionately affecting people of color.” […]